

**2021 ANNUAL REPORT  
TO THE  
SPEAKER OF THE  
HOUSE OF REPRESENTATIVES**

**Statement of Action Taken**

**by the**

**Patient's Compensation Fund Oversight Board**

**with Respect to Adoption, Amendment, or Repeal of Rules**

**Submitted By:**

**By Attorneys,**

**ALEXANDER · SIDES**



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***General Counsel to the Louisiana Patient's  
Compensation Fund Oversight Board***

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## **PATIENT'S COMPENSATION FUND OVERSIGHT BOARD**

Since the last report was submitted to the Legislature in early February 2020, the Patient's Compensation Fund Oversight Board (the "Oversight Board"):

- (i) "finalized" Chapter 21 of its rules ("Rules"; found in LAC 37:III, §101 *et seq.*) by publishing it in final rule form in the February 20, 2020 *Louisiana Register* (copy attached hereto). Chapter 21 outlines the process for considering rulemaking petitions filed by any interested person with the Oversight Board seeking (1) adoption of new rules within the Oversight Board's purview; or (2) changes to its existing Rules. Chapter 21 was added to comply with Act 454 of the 2018 Regular Legislative Session amending and reenacting La. R.S. 49:953(C); and
- (ii) amended its Rules and enacted Emergency Rule 6 (added §§121 - 125 to LAC 37:III, Chapter 1), to provide emergency relief to certain *affected* (as defined therein) healthcare providers who are qualified with the Patient's Compensation Fund ("PCF") by providing additional time in which to pay their annual renewal surcharge. (copy of the May 20, 2020 *Louisiana Register* attached hereto).

- v. Calcasieu;
- vi. Cameron;
- vii. Grant;
- viii. Jackson;
- ix. Jefferson Davis;
- x. LaSalle;
- xi. Lincoln;
- xii. Morehouse;
- xiii. Natchitoches;
- xiv. Ouachita;
- xv. Rapides;
- xvi. Sabine;
- xvii. St. Landry;
- xviii. Union;
- xix. Vermilion;
- xx. Vernon; or
- xxi. Winn.

11. For the purposes of this Subsection, home of record is the domiciliary address of the recipient who is in repayment status.

12. The loans repayments for displaced students are deferred and accrual of interest is suspended from August 26, 2020, through August 31, 2021.

13. For the period August 26, 2020, through August 31, 2021, recipients of the Rockefeller State Wildlife Scholarship or the TOPS Teacher Award who are not displaced students, but who, due to the effects of Hurricane Laura, are unable to repay their loan may submit a request for exception in accordance with §2103.D based on the circumstances provided in §2103.E.12.

C. - H.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3042.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998), LR 26:1603 (August 2000), repromulgated LR 27:1868 (November 2001), amended LR 28:775 (April 2002), LR 30:781 (April 2004), LR 30:1167, 1168 (June 2004), LR 33:442 (March 2007), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:566 (March 2018), LR 46:

Robyn Rhea Lively  
Senior Attorney

2010#011

#### DECLARATION OF EMERGENCY

Office of the Governor  
Boxing and Wrestling Commission

Class "B" Wrestling—Lab Reports  
(LAC 46:XI.525)

The Louisiana State Boxing and Wrestling Commission does hereby exercise the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B). By this Emergency Rule, the commission will amend Chapter 5, Subchapter B. Class "B" Wrestling to provide small event wrestling promoters' relief from the responsibility of verifying bloodwork lab reports. This responsibility was formerly held by ring doctors and/or event coordinators under Chapter 1. General Rules. Due to the promulgation of R.S. 4.83(B) in 2018, Class B events are not required to have

a doctor, event coordinator or commissioner in attendance at these events to review and verify bloodwork lab reports to ensure the validity and negative results of HIV, Hepatitis B and C. The commission will provide an avenue for collection of these Class "B" lab reports and establish a database whereupon the commission will become responsible for the review and verification of these lab reports for a fee of \$150 per event. The database will contain no personal medical information. This database will be restricted to the name of the contestant, date of blood testing, the negative or positive results and expiration date so as to track when contestants require new testing every six months in accordance with §108.A, Medical Requirements, under this title.

This Emergency Rule is effective October 20, 2020, and will remain in effect for a period of 120 days, unless renewed by the Commissioner or until adoption of the final Rule, whichever occurs first.

#### Title 46

#### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Chapter 5. Professional Wrestling

#### Subchapter B. Class "B" Wrestling

#### §525. Wrestling Promoters Class "B" Licensing

A. - F. ...

G. Blood work laboratory results for Class "B" contestants, as required by §108.A, Medical Requirements, will be reviewed and verified by the commission and the results entered into an established database.

1. Class "B" contestant's lab reports will be submitted to the commission directly from the testing physician's laboratory or independent laboratory via hard copy, fax or other electronic submission to confirm negative results and verification of legitimacy.

2. A fee of \$150 per Class "B" event will be collected by the commission from the promoter to cover the costs of this verification process.

AUTHORITY NOTE: Promulgated in accordance with 4:64, 4:65 and 4:83(B)

HISTORICAL NOTE: Adopted by the Office of the Governor, Boxing and Wrestling Commission, LR 45:541 (April 2019) amended LR 46:

Addie L. Fields  
Administrative Assistant

2010#027

#### DECLARATION OF EMERGENCY

Office of the Governor  
Division of Administration  
Patient's Compensation Fund Oversight Board

Qualified Health Care Provider Services (LAC 37:III.127)

A state of emergency for the state of Louisiana was declared by President Donald J. Trump both in August and September 2020 due to the devastation caused by Hurricane Laura and its aftermath. In addition, pursuant to Proclamation Nos. 108, 115, and 124 JBE 2020, Governor John Bel Edwards declared a state of emergency for Louisiana due to the effects of Hurricane Laura on Louisiana and its citizens.

Under Section 2 of Proclamation No. 115 JBE 2020, the Commissioner of Insurance for the State of Louisiana, James J. Donelon (Commissioner Donelon), shall have limited transfer of authority from Governor John Bel Edwards to suspend provisions of any statute of the Louisiana Insurance Code, Title 22 of the Louisiana Revised Statutes of 1950, concerning the cancellation, termination, nonrenewal, and reinstatement provisions of Title 22. Proclamation No. 124 JBE 2020 extended the limited transfer of authority from Governor John Bel Edwards to Commissioner Donelon to October 19, 2020.

Pursuant to said Proclamations, Commissioner Donelon caused the promulgation of Emergency Rule 45, entitled "Suspension of Certain Statutes Regarding Cancellations, Termination, Non-Renewals, and Nonreinstatements, Premium Payments, Claim Filings and Related Provisions Regarding Any and All Insurance Matters Affecting Insureds in Louisiana Caused by the state of emergency Declared by Governor John Bel Edwards on August 31, 2020, Due to Hurricane Laura", which addressed the devastation caused by Hurricane Laura and its aftermath that created emergency conditions threatening the health, safety and welfare of the citizens of Louisiana who are insureds and who either reside in, have insured property located in or whose primary place of employment is or was in, one of the following 16 parishes, to wit: Acadia, Allen, Beauregard, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lincoln, Natchitoches, Ouachita, Rapides, Sabine, Vermilion, Vernon, or Winn. Emergency Rule 45 suspends certain statutes and regulations regarding cancellations, non-renewals, reinstatements, premium payments, claim filings and related provisions regarding any and all insurance matters affecting these certain insureds, including healthcare providers, and was published in the September 2020 issue of the *Louisiana Register*.

Upon finding that imminent peril to the public health, safety or welfare required adoption of an emergency rule, the Patient's Compensation Fund Oversight Board (oversight board), under authority of the Louisiana Medical Malpractice Act, R.S. 40:1231.1 et seq. (MMA), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., adopted this Emergency Rule 7 at its meeting held on October 1, 2020.

Many qualified healthcare providers (QHCPs) enrolled in the Patient's Compensation Fund (fund or PCF) are being severely impacted by Hurricane Laura and the disruptions therefrom. It is believed that these disruptions have affected and will continue to affect for some time, the ability of these QHCPs to timely pay their annual renewal PCF surcharges in full and, as such, may seriously affect the provision of health care services by QHCPs to patients in Louisiana. This public health emergency has undoubtedly created a mass disruption to the normalcy previously enjoyed by QHCPs and patients and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens, both patients and QHCPs alike.

Accordingly, Emergency Rule 7 was adopted by the Oversight Board and shall apply to all QHCPs as set forth in this Emergency Rule.

In the ordinary course of business and pursuant to LAC 37:III.517, a QHCP is allowed a grace period of 30 days in which to pay the annual renewal PCF surcharge in full to the insurer, the PCF or to the self-insurance trust, as applicable, to extend PCF coverage for another year. Hurricane Laura and its aftermath and the public health emergency resulting therefrom have produced a disruption in the ability of many QHCPs to timely pay the annual renewal PCF surcharge in full to maintain their enrollment in the fund. This could result in a QHCP being without PCF coverage or having a gap in PCF coverage. Emergency Rule 7 was adopted to provide emergency relief to QHCPs as set forth therein.

#### Title 37

### INSURANCE

#### Part III. Patient's Compensation Fund

#### Chapter 1. General Provisions

#### §127. Qualified Health Care Provider Services (Emergency Rule 7)

A.1. Emergency Rule 7 shall apply to all QHCPs:

a. who either reside in or whose primary place of employment is or was in, one of the following 16 parishes, to wit: Acadia, Allen, Beauregard, Calcasieu, Cameron, Grant, Jackson, Jefferson Davis, Lincoln, Natchitoches, Ouachita, Rapides, Sabine, Vermilion, Vernon, or Winn; and

b. whose renewal date or 30-day grace period for payment of the PCF annual renewal surcharge occurs on or after August 27, 2020 but prior to the expiration of this Emergency Rule.

2. For purposes of this Emergency Rule 7, QHCPs who meet the above criteria shall be referred to herein as affected QHCPs. The provisions of this Emergency Rule 7 shall not apply to any health care provider not previously enrolled in the PCF prior to August 27, 2020.

3. The Oversight Board's rules, previously promulgated in the *Louisiana Register*, and the applicable provisions of the PCF's Rate Manual, to the extent that said regulatory provisions impose upon QHCPs a time limit to pay the applicable annual PCF renewal surcharges, shall be suspended for Affected QHCPs during the effective periods set forth in this Emergency Rule 7. Except as provided for in Paragraph A.5 of this Section, the cancellation of PCF qualification for affected QHCPs for failure to timely pay an annual PCF renewal surcharge is hereby suspended until the earlier of October 24, 2020 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Laura and its aftermath, inclusive of any renewal thereof.

a. PCF surcharges for all affected QHCPs whose renewal date or 30 day grace period for payment of the annual PCF renewal surcharge occurs on or after August 27, 2020 but prior to or on the earlier of October 24, 2020 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Laura and its aftermath, inclusive of any renewal thereof (suspension period), shall be due and owing on the date that is 30 days immediately following the earlier of October 24, 2020 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Laura and its aftermath, inclusive of any renewal thereof. affected QHCPs shall also furnish the

required proof of financial responsibility concurrently with the payment of the appropriate surcharge. PCF surcharges for all other QHCPs shall be due, owing and payable consistent with the oversight board's previously promulgated rules.

b. The executive director is hereby granted continuing authority to reasonably extend the suspension period for those affected QHCPs who certify to the oversight board in writing that said affected QHCP was impacted by the state of emergency in a manner, including but not limited to, evacuation, displacement, business interruption, or temporary relocation, sufficient to prevent the timely payment of the renewal surcharge (extended suspension period).

c. The 30 day grace period provided for in LAC 37:III.517 for payment of the annual PCF renewal surcharge by affected QHCPs who have been granted an extension of the suspension period shall commence on the day immediately following the end of the extended suspension period; the 30 day grace period for all other affected QHCPs shall commence on the day immediately following the earlier of October 24, 2020 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Laura and its aftermath, inclusive of any renewal thereof.

4. In the event an insurer, agent or trust fund collects a renewal surcharge during the suspension period from an affected QHCP, then the renewal surcharge shall be timely remitted to the PCF consistent with the MMA and the Oversight Board's applicable rules.

5. A cancellation of PCF qualification for an affected QHCP shall not occur prior to the earlier of October 24, 2020 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Laura and its aftermath, inclusive of any renewal thereof, unless upon the documented written request or written concurrence of the affected QHCP.

6. Unless otherwise cancelled pursuant to the provisions of Paragraph 5 herein, nothing in this Emergency Rule 7 shall be construed to exempt or excuse an affected QHCP from the obligation to pay the applicable PCF surcharge for renewal or for an extended reporting endorsement otherwise due for actual PCF qualification provided during the suspension period or the extended suspension period.

7. Emergency Rule 7 shall not relieve an affected QHCP from compliance with the MMA and the applicable Oversight Board's rules upon receiving notice of the filing of a medical review panel request (claim) against the affected QHCP.

8. The provisions of Emergency Rule 7 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum protection for the affected QHCPs and the citizens of Louisiana.

9. Emergency Rule 7 became effective on August 27, 2020 and shall continue in full force and effect to the earlier of October 24, 2020 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Laura and its aftermath, inclusive of any renewal thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 45 of the Louisiana Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 46:

#### **§129. Termination; Survival**

A. Emergency Rule 7 shall terminate on the earlier of October 24, 2020 or the date the governor lifts the state of emergency presently in effect as a result of Hurricane Laura and its aftermath, inclusive of any renewal thereof. However, Paragraphs A.3 and A.6 through A.8 of §127 shall survive the termination of this Emergency Rule 7.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 45 of the Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 46:

#### **§131. Severability Clause**

A. If any section or provision of Emergency Rule 7, as originally adopted and/or amended, is held invalid, such invalidity or determination shall not affect other Sections or provisions, or the application of Emergency Rule 7, as originally adopted and/or amended, to the affected QHCPs or circumstances that can be given effect without the invalid Sections or provisions and the application to affected QHCPs or circumstances shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 45 of the Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 46:

Ken Schnauder  
Executive Director

2010#020

## **DECLARATION OF EMERGENCY**

**Office of the Governor  
Used Motor Vehicle Commission**

**Suspension of Renewal Fees for Businesses Reopening  
or Recovering from COVID-19 (LAC 46:V.4301)**

The Louisiana Used Motor Vehicle Commission is promulgating this rule change as an Emergency Rule pursuant to R.S. 49:953(B) to avoid imminent peril to the public health, safety, or welfare of businesses reopening or recovering from COVID-19 and to comply with the time periods established by House Concurrent Resolution No. 71 of the 2020 Regular Session of the Louisiana Legislature.

### **Title 46**

## **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

### **Part V. Automotive Industry Subpart 2. Used Motor Vehicles**

#### **Chapter 43. License Renewal**

#### **§4301. Period for Renewals**

A. Applications should be submitted by November 1 of each year. If applications have not been made for renewal of existing licenses, such licenses shall expire December 31

The board has the authority to compel each and every individual pilot to be available for and accept orders for pilotage assignments in declared emergency situations or in other overriding operational conditions. This Emergency Rule amends LAC 46:LXX.6311 to provide for an increased mandatory rest period for New Orleans-Baton Rouge Steamship Pilots during time periods of extreme Mississippi River gauge levels and river currents.

This Emergency Rule becomes effective upon the signature of the President of the Board of Examiners for New Orleans-Baton Rouge Steamship Pilots for the Mississippi River and shall remain in effect for 120 days, unless rescinded, renewed or until permanent rules and regulations become effective.

#### **Title 46**

### **PROFESSIONAL AND OCCUPATIONAL STANDARDS**

#### **Part LXX. River Pilots**

#### **Subpart 3. Board of Examiners for the New Orleans and Baton Rouge Steamship Pilots**

#### **Chapter 63. Standards of Conduct**

#### **§6311. Mandatory Rest Period**

A. For the purpose of this rule, a turn is the time period from dispatch to the termination of the allotted travel time.

B. All pilots shall have a minimum of 12 hours rest period between turns.

C. For the purpose of this rule, the rest period begins at the termination of the allotted travel time at the completion of one turn and ends at the time of dispatching for the next turn.

D. Notwithstanding Subsection B, the captain of the station and shift pilots shall be exempt from the minimum 12 hours rest period in between turns. However, in no case shall the captain of the station and shift pilots exceed 12 bridge hours in any 24-hour period.

E. Notwithstanding Subsection B, any pilot completing a turn lasting less than 4 bridge hours or receiving a discharge, shall not be required to comply with the mandatory 12 hours rest period. However, in no case shall any pilot acquire more than 12 hours in a 24-hour period. Pilots requesting 12 hours rest period shall not be called or dispatched in less than 12 hours from the completion of their finishing time.

F. Notwithstanding Subsection B, during a state of declared emergency all pilots shall be exempt from the minimum 8 hours rest period in between turns. However, in no case shall any pilot exceed 12 bridge hours in any 24-hour period.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 34:1041 et seq.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots, LR 31:56 (January 2005), amended by the Office of the Governor, Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, LR 36:500 (March 2010), LR 38:3167 (December 2012), LR 46:

Captain Robert D. Heitmeier  
President

2005#020

## **DECLARATION OF EMERGENCY**

### **Office of the Governor Division of Administration Patient's Compensation Fund Oversight Board**

Qualified Health Care Provider Services  
(LAC 37:III.121, 123, and 125)

Upon finding that imminent peril to the public health, safety or welfare required adoption of an emergency rule, the Patient's Compensation Fund Oversight Board (Oversight Board), under authority of the Louisiana Medical Malpractice Act, R.S. 40:1231.1 et seq. (MMA), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., adopted this Emergency Rule 6 at its meeting held on April 16, 2020.

On January 31, 2020, the Secretary for the United States Department of Health and Human Services declared a public health emergency (PHE) for the United States (US) to aid the US healthcare community in responding to the worldwide global effect caused by the COVID-19 pandemic. On March 13, 2020, President Donald Trump declared a national emergency regarding the spread of COVID-19. As of the date of this Emergency Rule, a large number of Louisiana residents have tested positive for COVID-19, thereby posing a significant risk of substantial harm to a large number of Louisiana citizens.

In response to the statewide public health emergency and the emergency conditions threatening the lives and health of the citizens of Louisiana, Governor John Bel Edwards issued a number of proclamations, including but not limited to, Proclamation Nos. JBE 2020-25, 29, 33, 37 and 41, which, *inter alia*, declared a state of emergency for Louisiana (State of Emergency), issued a stay-at-home order and closed nonessential businesses.

To address and minimize the threats of mass disruption to normalcy previously enjoyed by Louisianans and the immediate threat to the public health, safety, and welfare of Louisiana citizens, the State of Louisiana has imposed significant measures that will have a negative economic impact and result in financial hardship for the citizens of Louisiana. In response thereto and to protect and safeguard the public health, safety, and welfare of Louisiana citizens, the Department of Insurance originally issued Emergency Rule 40 (EMR 40) on March 26, 2020, entitled "Moratorium on Policy Cancellations/Non-Renewals for Policyholders in Louisiana during the Outbreak of Coronavirus (COVID-19)". Subsequently, on April 3, 2020, EMR 40 was rescinded by the Department of Insurance and replaced with an "amended" EMR 40 (Amended EMR 40). Amended EMR 40, which became effective on March 12, 2020 and will be published in the April edition of the *Louisiana Register*, suspends certain statutes and regulations regarding cancellations, non-renewals, reinstatements, premium payments, claim filings and related provisions regarding any and all insurance matters affecting insureds, including healthcare providers.

Many qualified healthcare providers (QHCPs) enrolled in the Patient's Compensation Fund (Fund or PCF) are being severely impacted by the COVID-19 pandemic and the disruptions therefrom. It is believed that these disruptions have affected and will continue to affect for some time, the ability of these QHCPs to timely pay their annual renewal PCF surcharges in full and, as such, may seriously affect the provision of health care services by QHCPs to patients in Louisiana. This public health emergency has undoubtedly created a mass disruption to the normalcy previously enjoyed by QHCPs and patients and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens, both patients and QHCPs alike.

Accordingly, Emergency Rule 6 was adopted by the oversight board and shall apply to all QHCPs as set forth in this Emergency Rule.

In the ordinary course of business and pursuant to LAC 37:III.517, a QHCP is allowed a "grace" period of 30 days in which to pay the annual renewal PCF surcharge in full to the insurer, the PCF or to the self-insurance trust, as applicable, to extend PCF coverage for another year. The COVID-19 pandemic and the public health emergency resulting therefrom have produced a disruption in the ability of many QHCPs to timely pay the annual renewal PCF surcharge in full to maintain their enrollment in the Fund. This could result in a QHCP being without PCF coverage or having a gap in PCF coverage. Emergency Rule 6 was adopted to provide emergency relief to QHCPs as set forth therein.

#### Title 37

### INSURANCE

#### Part III. Patient's Compensation Fund Oversight Board Chapter 1. General Provisions

##### §121. Qualified Health Care Provider Services

A.1. Emergency Rule 6 shall apply to all QHCPs whose renewal date or 30 day grace period for payment of the PCF annual renewal surcharge occurs on or after March 12, 2020 but prior to the expiration of this Emergency Rule.

2 For purposes of this Emergency Rule 6, QHCPs who meet the above criteria shall be referred to herein as *affected QHCPs*. The provisions of this Emergency Rule 6 shall not apply to any health care provider not previously enrolled in the PCF prior to March 12, 2020.

3. The oversight board's rules, previously promulgated in the *Louisiana Register*, and the applicable provisions of the PCF's rate manual, to the extent that said regulatory provisions impose upon QHCPs a time limit to pay the applicable annual PCF renewal surcharges, shall be suspended for affected QHCPs during the effective periods set forth in this Emergency Rule 6. Except as provided for in paragraph A(5) of this §121, the cancellation of PCF qualification for affected QHCPs for failure to timely pay an annual PCF renewal surcharge is hereby suspended until the earlier of July 9, 2020 or the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof.

a. PCF surcharges for all affected QHCPs whose renewal date or 30 day grace period for payment of the annual PCF renewal surcharge occurs on or after March 12, 2020 but prior to or on the earlier of July 9, 2020 or the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof (suspension period), shall be due and owing on the date that is 30 days immediately

following the earlier of July 9, 2020 or the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof. Affected QHCPs shall also furnish the required proof of financial responsibility concurrently with the payment of the appropriate surcharge. PCF surcharges for all other QHCPs shall be due, owing and payable consistent with the oversight board's previously promulgated rules.

b. The executive director is hereby granted continuing authority to reasonably extend the suspension period for those Affected QHCPs who certify to the Oversight Board in writing that said Affected QHCP was impacted by the State of Emergency in a manner, including but not limited to, contraction of COVID-19, evacuation, displacement, business interruption, or temporary relocation, sufficient to prevent the timely payment of the renewal surcharge (extended suspension period).

c. The 30-day grace period provided for in LAC 37:III.517 for payment of the annual PCF renewal surcharge by Affected QHCPs who have been granted an extension of the suspension period shall commence on the day immediately following the end of the extended suspension period; the 30-day grace period for all other Affected QHCPs shall commence on the day immediately following the earlier of July 9, 2020 or the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof.

4. In the event an insurer, agent or trust fund collects a renewal surcharge during the suspension period from an affected QHCP, then the renewal surcharge shall be timely remitted to the PCF consistent with the MMA and the oversight board's applicable rules.

5. A cancellation of PCF qualification for an affected QHCP shall not occur prior to the earlier of July 9, 2020 or the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof, unless upon the documented written request or written concurrence of the Affected QHCP.

6. Unless otherwise cancelled pursuant to the provisions of Paragraph 5 herein, nothing in this Emergency Rule 6 shall be construed to exempt or excuse an affected QHCP from the obligation to pay the applicable PCF surcharge for renewal or for an extended reporting endorsement otherwise due for actual PCF qualification provided during the suspension period or the extended suspension period.

7. Emergency Rule 6 shall not relieve an affected QHCP from compliance with the MMA and the applicable oversight board's rules upon receiving notice of the filing of a medical review panel request (claim) against the affected QHCP.

8. The provisions of Emergency Rule 6 shall be liberally construed to effectuate the intent and purposes expressed herein and to afford maximum protection for the Affected QHCPs and the citizens of Louisiana.

9. Emergency Rule 6 became effective on March 12, 2020 and shall continue in full force and effect to the earlier of July 9, 2020 or the date the Governor lifts the State of Emergency presently in effect, inclusive of any renewal thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 40 (amended) of the Louisiana Department of Insurance.



HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 46:

**§123. Termination; Survival**

A. Emergency Rule 6 shall terminate on the earlier of July 9, 2020 or the date the governor lifts the state of emergency presently in effect, inclusive of any renewal thereof. However, Paragraphs A.3 and A.6 through A.8 of §121 shall survive the termination of this Emergency Rule 6.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 40 (amended) of the Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 46:

**§125. Severability Clause**

A. If any section or provision of Emergency Rule 6, as originally adopted and/or amended, is held invalid, such invalidity or determination shall not affect other Sections or provisions, or the application of Emergency Rule 6, as originally adopted and/or amended, to the affected QHCPs or circumstances that can be given effect without the invalid Sections or provisions and the application to Affected QHCPs or circumstances shall be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1231.4(D)(3) and to be consistent with Emergency Rule No. 40 (amended) of the Department of Insurance.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Patient's Compensation Fund Oversight Board, LR 46:

Ken Schnauder  
Executive Director

2005#009

**DECLARATION OF EMERGENCY**

**Department of Insurance  
Office of the Commissioner**

**Emergency Rule 44—Extension of Renewal Date**

On January 31, 2020, the United States Department of Health and Human Services Secretary Alex A. Azar declared a public health emergency (PHE) for the United States to aid the nation's healthcare community in responding to the coronavirus disease (COVID-19). The United States Centers for Disease Control and Prevention (CDC) has declared COVID-19 a worldwide pandemic due to its global effect. Furthermore, on March 13, 2020, President Donald Trump invoked the Stafford Act and declared a national emergency regarding the COVID-19 outbreak. COVID-19 has been detected in the state of Louisiana with a growing number of residents testing positive for the disease. There is reason to believe that COVID-19 may spread among the population by various means of exposure, therefore posing a significant risk of substantial harm to a large number of citizens.

Emergency Rule 44 is issued to address the mass disruption to the normalcy previously enjoyed by citizens of Louisiana as a result of the effects of COVID-19. Specifically, Proclamation No. JBE 2020-33 and Proclamation No. JBE 2020-41, declaring a stay at home order, inhibit the ability for producers and adjusters to obtain continuing education and process renewals in association

with producer and adjuster license applications. Emergency Rule 44 is issued under the authority of the Commissioner of Insurance for the State of Louisiana, pursuant to the following: Proclamation No. JBE 2020-25 issued on March 11, 2020, by Governor John Bel Edwards declaring a State of Emergency extending from March 11, 2020, through April 9, 2020, unless terminated sooner; Proclamation No. JBE 2020-29 issued on March 14, 2020, transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon; Proclamation No. JBE 2020-37 issued on March 26, 2020, transferring authority over certain insurance matters to Commissioner of Insurance James J. Donelon. Additionally, Proclamation No. JBE 2020-33 issued on March 22, 2020, declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner and Proclamation No. JBE 2020-41 issued on April 2, 2020, extending the stay at home order and closure of nonessential businesses until April 30, 2020 unless terminated sooner.

COVID-19 has created a mass disruption to the normalcy previously enjoyed by Louisianans and is an immediate threat to the public health, safety, and welfare of Louisiana citizens. In order to respond to the emergency and to protect and safeguard the public, health, safety and welfare of the citizens of this state, it is necessary to issue Emergency Rule 44.

**Title 37  
INSURANCE**

**Part XI. Regulations**

**Chapter 44. Emergency Rule 44—Extension of  
Renewal Date**

**§4401. Purpose**

A. Emergency Rule 44 provides for the extension of renewal dates for licenses of insurance producers and adjusters held by individuals who have been negatively impacted by the related commercial and economic impacts of COVID-19, in accordance with Proclamation No. JBE 2020-33, issued on March 22, 2020, by Governor John Bel Edwards declaring a stay at home order and closure of nonessential businesses until April 13, 2020 unless terminated sooner and Proclamation No. JBE 2020-41 issued on April 2, 2020, declaring a stay at home order and closure of nonessential businesses until April 30, 2020 unless terminated sooner.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

**§4403. Applicability and Scope**

A. Emergency Rule 44 shall apply to insurance producer and adjuster licensees with an expiration date of April 30, 2020.

AUTHORITY NOTE: Promulgated in accordance with Proclamation No. JBE 2020-25, Proclamation No. JBE 2020-29, Proclamation No. JBE 2020-33, Proclamation No. JBE 2020-37, Proclamation No. JBE 2020-41, R.S. 22:2, and R.S. 22:11.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 46:

**§4405. Definitions**

A. For the purposes of Emergency Rule 44 the following terms are defined as follows: