

- I. EXECUTIVE ORDERS**
 - JBE 21-08 Flags at Half-Staff—Former Governor Charles Elson “Buddy” Roemer, III 702
- II. EMERGENCY RULES**
 - Agriculture and Forestry**
 - Office of Agro-Consumer Services—Suspension of Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends (LAC 7:XXXV.303) 703
 - Suspension of Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends (LAC 7:XXXV.303) 703
 - Suspension of Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends (LAC 7:XXXV.303) 704
 - Education**
 - Board of Elementary and Secondary Education—Minimum Reopening Standards (LAC 28:LXXIX.1105 and 1107; CXV.401 and 403; CXXXIX.4101 and 4103) 705
 - Health**
 - Bureau of Health Services Financing—Abortion Facilities—Licensing Standards (LAC 48:I.4431)..... 708
 - Emergency Telemedicine (LAC 50:I.505)..... 710
 - Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency 711
 - Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency 713
 - Licensed Professional Counselors Board of Examiners—Teletherapy Guidelines for Licensees (LAC 46: LX.505) 714
 - Teletherapy Guidelines for Licensees (LAC 46: LX.505) 714
 - Office of Aging and Adult Services—Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency 711
 - Office of Behavioral Health—Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency 711
 - Treasury**
 - Deferred Compensation Commission—Administration and Distributions (LAC 32:VII.701, 707, 711, 1105) 714
 - State**
 - Elections Division—Opportunity to Cure Deficiencies in Absentee By Mail Ballots (LAC 31:I:Chapter 3) 716
- III. RULES**
 - Agriculture and Forestry**
 - Office of Agriculture and Environmental Sciences—Examinations, Certifications, and Licensing (LAC 7:XXIII.701) 717
 - Civil Service**
 - Board of Ethics—Third Party Ethics Training (LAC 52:I.Chapter 24)..... 718
 - Education**
 - Board of Elementary and Secondary Education—Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:Xl.5105, 5107, 5305, 5701, 597, 6151, 6153, 6803, 6819, 6823, 6825, 6829, 6901, 6913, 7209, 7301, 7501, 7701, 7703, 8301, 8303, 8306, 8307, 8501, and 8507) 721
 - Bulletin 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students (LAC 28:XXXV. Chapter 1) 722
 - Governor**
 - Division of Administration, Office of State Procurement—Procurement (LAC 34:V.Chapters 1-17, 19, 21, and 23-31) 725
 - Health**
 - Board of Medical Examiners—Assessment of Costs and Fines (LAC 46:XLV.9935)..... 726
 - Continuing Medical Education (LAC 46:XLV.433-439)..... 730
 - Licensure and Application (LAC 46:XLV.Chapter 3)..... 728
 - Licensure and Certification (LAC 46:XLV.1307) 729
 - Licensure and Certification—Physicians (LAC 46:XLV Chapter 3) 738
 - Petitions for Rulemaking (LAC 46:XLV.Chapter 93)..... 733
 - Rules of Procedure—Complaints and Investigations (LAC 46:XLV.402) 735
 - Rules of Procedure—Complaints and Investigations (LAC 46:XLV.9714) 736

This public document was published in accordance with R.S. 49:954.1. The publication date for this issue of the Louisiana Register is June 20, 2021. The Office of the State Register is the official state entity for all certified copies of the *Louisiana Register* and the content contained herein.

The Office of the State Register provides auxiliary aids for the *Louisiana Register* for visually impaired individuals. By appointment, oral presentation of the *Louisiana Register* is available at the Office of the State Register, or an audio cd of requested sections of the *Louisiana Register* can be provided for the production cost incurred. For more information, contact the Office of the State Register

Bureau of Health Services Financing—Medicaid Eligibility—Twelve-Month Continuous Eligibility (LAC 50:III.2525).....	737
School-Based Health Services (LAC 50:XV.Chapter 95).....	737
Office of Public Health—Automated External Defibrillators (LAC 48:I.Chapter 61).....	742
Mandatory Tuberculosis (TB) Testing (LAC 51:II.503 and 505).....	743
Insurance	
Office of the Commissioner—Regulation 109—Producer, Adjuster and Related Licenses (LAC 37:XIII.Chapter 155).....	745
Rule 14—Records Management; General (LAC 37:XI.Chapter 25).....	746
Wildlife and Fisheries	
Wildlife and Fisheries Commission—Establishment of Recreational Reef Sites and Restriction of Oyster Harvest (LAC 76:VII.537).....	746
IV. NOTICES OF INTENT	
Education	
Board of Elementary and Secondary Education—Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations (LAC 28: CLXI.103, 303, 701, 703, 709, 903, 1103, 1105, 1305, 1507, 1509, 1515, 1711, 1715, 1717, 1719, 1721, 1723, 1725, 1727, 1805, 1811, 1813, 1901, 1903, 1907, 1911, 1919 and 2105).....	748
Bulletin 139—Louisiana Child Care and Development Fund Programs—CCAP Household Eligibility (LAC 28:CLXV.103, 309, 311 and 313).....	754
Bulletin 140—Louisiana Early Childhood Care and Education Network (LAC 28:CLXVII.509, 511 and 512) ...	761
Minimum Reopening Standards (LAC 28:LXXIX.1105 and 1107; CXV.401 and 403; CXXXIX.4101, and 4103).....	763
Board of Regents, Office of Student Financial Assistance—2021-2022 Chafee ETV Award Amount (LAC 28:IV.1801 and 1809).....	767
Tuition Trust Authority, Office of Student Financial Assistance—START Saving Program (LAC 28:VI.315).....	768
Health	
Bureau of Health Services Financing—Case Management—Licensing Standards (LAC 48:I.Chapter 49).....	769
Hospice Licensing Standards (LAC 48:I.8201 and 8217).....	771
Intermediate Care Facilities for Persons with Developmental Disabilities—Licensing Standards (LAC 48:I.8519 and 8591).....	773
Nursing Facilities—Licensing Standards (LAC 48:I.9769 and 9771).....	775
Reimbursement for Coronavirus Disease 2019 (COVID-19) Laboratory Testing (LAC 50:V.117 and XI.7503).....	778
Insurance	
Office of the Commissioner—Regulation 17—Reinstatement of Policies (LAC 37:XIII.Chapter 63).....	780
Regulation 56—Credit for Reinsurance (LAC 37:XIII.Chapter 35).....	781
Regulation 65—Bail Bond Licensing Requirements/Bounty Hunter (LAC 37:XIII.Chapter 49).....	796
Regulation 115—Title Insurance Record Retention (LAC 37:XIII.Chapter 167).....	799
Rule 12—Transmission of Forms and Documents (LAC 37:XI.Chapter 9).....	801
Revenue	
Policy Services Division—Abatement of Presumed Accuracy-Related Penalties (LAC 61.III.2121-2125).....	803
Claim for Refund Requirements (LAC 61.I.4909).....	805
State	
Elections Division—Opportunity to Cure Deficiencies in Absentee By Mail Ballots (LAC 31:I:Chapter 3).....	807
Treasury	
Board of Trustees of the Teachers' Retirement System—Optional Retirement Plan (ORP) (LAC 58:III.Chapter 15).....	808
Voluntary Deductions from Retiree Benefits Payroll (LAC 58:III.Chapter 11).....	811
V. POLICY AND PROCEDURE MEMORANDA	
Office of the Governor, Division of Administration—PPM 49—General Travel Regulations (LAC 4:V.Chapter 15).....	814
VI. POTPOURRI	
Health	
Bureau of Health Services Financing—2021 Fourth Quarter Hospital Stabilization Assessment.....	829
Insurance	
Office of Health, Life and Annuity Insurance—Annual HIPAA Assessment Rate.....	829
Natural Resources	
Office of Conservation—Orphaned Oilfield Sites.....	829
Workforce	
Office of Workers' Compensation Administration—Weekly Compensation Benefits Limits.....	829
VII. INDEX	831

Executive Orders

EXECUTIVE ORDER JBE 21-08

Flags at Half-Staff—Former Governor Charles Elson
“Buddy” Roemer, III

WHEREAS, former Governor Charles Elson “Buddy” Roemer, III died on May 17, 2021, at the age of 77;

WHEREAS, on March 14, 1988, Buddy Roemer was sworn in as the 52nd governor of the State of Louisiana;

WHEREAS, Buddy Roemer was born on October 4, 1943, in Shreveport, Louisiana, the son of Charles Elson “Budgie” Roemer, II, and the former Adeline McDade;

WHEREAS, after graduating in 1960 as valedictorian of Bossier High School, he earned a Bachelor of Arts and then a Master’s of Business Administration from Harvard University;

WHEREAS, Roemer returned home to Louisiana and served as a delegate to the Louisiana Constitutional Convention in 1973;

WHEREAS, in 1980, Roemer was elected to represent Louisiana’s Fourth District as a member of the House of Representatives in the United States Congress and was re-elected three times without opposition;

WHEREAS, in his tenure in Congress, Roemer served on the House Banking Committee and the Small Business Committee; and he founded and co-chaired the House Grace Caucus, a bipartisan group focused on federal cost-saving measures;

WHEREAS, after running a campaign promising to deliver a “Roemer Revolution,” Buddy Roemer was elected to the office of Governor of Louisiana on October 24, 1987;

WHEREAS, as Governor, Roemer was a champion of political, budgetary, and environmental reform; he issued an executive order appointing the Louisiana’s first inspector general, and he fought to toughen the state’s campaign finance laws; he successfully eliminated deficits in the state’s budget for three years, increased salaries for teachers, and championed ambitious tax and fiscal reform measures; further, he prioritized environmental protections in the state,

increasing enforcement of regulations on industrial pollution and passing laws to clean up the State;

WHEREAS, in 2000, he was inducted into the Louisiana Political Hall of Fame;

WHEREAS, Governor Roemer is survived by his wife Scarlett, his three children, and five grandchildren; and

WHEREAS, a businessman, entrepreneur, and visionary leader, Governor Roemer was a man of great intellect, determination, vision, and integrity; and while he will be greatly missed, the legacy of his work on behalf of the people of Louisiana will live on for generations to come.

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

SECTION 1: As an expression of respect and to honor former Charles Elson “Buddy” Roemer, III, the flags of the United States and the State of Louisiana shall be flown at half-staff over the State Capitol and all state buildings from sunrise on May 17, 2021 through the day of his interment.

SECTION 2: This Order is effective upon signature and shall remain in effect until sunset on the day of his interment.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 17th day of May, 2021.

John Bel Edwards
Governor

ATTEST BY
THE GOVERNOR
R. Kyle Ardoin
Secretary of State
2106#060

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agro-Consumer Services

Suspension of Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends (LAC 7:XXXV.303)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:4608 and 4680, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached regulations for the suspension of rules governing the sale of gasoline with greater than 9.0 psi Reid vapor pressure (RVP) and a minimum temperature for Vapor-to-Liquid ratio (V/L) equal to 20 of 116 degrees Fahrenheit or 47 degrees Centigrade (Class 3).

On May 12, 2021, Governor John Bel Edwards declared a state of emergency in Louisiana in response to the cyberattack on the Colonial Pipeline system resulting in difficulty in the transportation of refined oil products and in providing an adequate supply of fuel to our state. The Commissioner of Agriculture and Forestry is granting a temporary emergency waiver so that summer CBOB, summer conventional gasoline (CG), winter CBOB, winter CB, winter RBOB, and winter RGF may be used in Louisiana as long as the BOB or gasoline does not have an RVP that exceeds 13.5 pounds per square inch (psi) after the addition of ethanol. Further, under this waiver, fuel manufacturers, distributors, resellers, terminal owners and operators, and carriers may commingle RBOB and CBOB, and RFG and CG, for the duration of this waiver. Furthermore, regulated parties may produce, sell, and distribute winter gasoline (including BOBs) with an RVP of no more than 13.5 psi after the addition of ethanol. This waiver is effective immediately and will continue to through the termination date of May 26, 2021.

After May 26, 2021, gasoline that does not meet the RFG requirements for Louisiana may not be introduced into terminal storage tanks from which gasoline has dispensed into trucks for distribution to retail outlets in Louisiana. However, any gasoline meeting the conditions for this waiver that had already been placed in the terminal storage tanks for distribution to retail and wholesale purchasers-consumers before the expiration date of this waiver may be distributed until the supply is depleted. Likewise, retailers and wholesaler purchasers-consumers in Louisiana may continue to sell or dispense gasoline after the above expiration date until their supplies are depleted. This emergency rule will rescind and replace any previous emergency rule that has not yet expired.

The Department of Agriculture and Forestry has adopted rules and regulations concerning the ASTM International Standards for gasoline Reid vapor pressure and temperatures at which certain gasoline classes have a V/L ratio that equals

20. A temporary suspension of these rules and regulations during this emergency is necessary to provide for an adequate supply of gasoline. Failure to suspend these rules and regulations creates an imminent peril to the public health, safety, and welfare of the citizens of this state.

This emergency rule shall become effective upon the signature of the Commissioner and shall remain effective through the termination date of May 26, 2021.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products and Motor Fuels

Subchapter A. Standards

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. - A.8. ...

9. The ASTM D4814, "Standard Specifications for Automotive Spark-Ignition Fuel" Seasonal volatility standards for all parishes in the state of Louisiana are hereby suspended to immediately allow the statewide use of gasoline with an RVP of 9.0 psi and a minimum temperature for a Vapor-to-Liquid ratio (V/L) equal to 20 of 116 degrees Fahrenheit or 47 degrees Centigrade (Class 3) through May 26, 2021.

10. The ASTM D4814, "Standard Specifications for Automotive Spark-Ignition Fuel" base gasoline and blending requirements are hereby suspended for all parishes in the state of Louisiana through May 26, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:29 (January 2005); amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008); LR 47:

Mike Strain, DVM
Commissioner

2105#001

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agro-Consumer Services

Suspension of Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends (LAC 7:XXXV.303)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:4608 and 4680, the Commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached regulations for the suspension of rules governing the sale of gasoline with greater than 9.0 psi Reid vapor pressure (RVP) and a minimum temperature for Vapor-to-Liquid ratio (V/L) equal to 20 of 116 degrees Fahrenheit or 47 degrees Centigrade (Class 3).

On May 12, 2021, Governor John Bel Edwards declared a state of emergency in Louisiana in response to the cyberattack on the Colonial Pipeline system resulting in difficulty in the transportation of refined oil products and in providing an adequate supply of fuel to our state. On May 13, 2021, the Commissioner of Agriculture and Forestry granted a temporary emergency waiver so that summer CBOB, summer conventional gasoline (CG), winter CBOB, winter CB, winter RBOB, and winter RFG may be used in Louisiana as long as the BOB or gasoline does not have an RVP that exceeds 13.5 pounds per square inch (psi) after the addition of ethanol. Further, under this waiver, fuel manufacturers, distributors, resellers, terminal owners and operators, and carriers may commingle RBOB and CBOB, and RFG and CG, for the duration of this waiver. Furthermore, regulated parties may produce, sell, and distribute winter gasoline (including BOBs) with an RVP of no more than 13.5 psi after the addition of ethanol. This waiver was effective immediately and initially was set to expire on May 27th at 12:01 a.m. Due to ongoing issues with national supply levels, the Commissioner of Agriculture and Forestry hereby orders the extension of the waiver until May 31, 2021.

On June 1, 2021, gasoline that does not meet the RFG requirements for Louisiana may not be introduced into terminal storage tanks from which gasoline has dispensed into trucks for distribution to retail outlets in Louisiana. However, gasoline that meets the conditions for this waiver that have already been placed in the terminal storage tanks for distribution to retail and wholesale purchasers-consumers before the expiration date of this waiver may be distributed until the supply is depleted. Likewise, retailers and wholesale producer-consumers in Louisiana may continue to sell or dispense gasoline after the above expiration date until their supplies are depleted. This emergency rule will rescind and replace any previous emergency rule that has not yet expired.

The Department of Agriculture and Forestry has adopted rules and regulations concerning the ASTM International Standards for gasoline Reid vapor pressure and temperatures at which certain gasoline classes have a V/L ratio that equals 20. A temporary suspension of these rules and regulations during this emergency is necessary to provide for an adequate supply of gasoline. Failure to suspend these rules and regulations creates an imminent peril to the public health, safety, and welfare of the citizens of this state.

This emergency rule shall become effective upon the signature of the Commissioner and shall remain effective through the termination date of May 31, 2021.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products and Motor Fuels

Subchapter A. Standards

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. - A.8. ...

9. The ASTM D4814, "Standard Specifications for Automotive Spark-Ignition Fuel" Seasonal volatility standards for all parishes in the state of Louisiana are hereby suspended to immediately allow the statewide use of gasoline with an RVP of 9.0 psi and a minimum temperature

for a Vapor-to-Liquid ratio (V/L) equal to 20 of 116 degrees Fahrenheit or 47 degrees Centigrade (Class 3) through May 31, 2021.

10. The ASTM D4814, "Standard Specifications for Automotive Spark-Ignition Fuel" base gasoline and blending requirements are hereby suspended for all parishes in the state of Louisiana through May 31, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:29 (January 2005); amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008), LR 47:

Mike Strain, DVM
Commissioner

2105#005

DECLARATION OF EMERGENCY

Department of Agriculture and Forestry Office of Agro-Consumer Services

Suspension of Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends (LAC 7:XXXV.303)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and under the authority of R.S. 3:4608 and 4680, the commissioner of Agriculture and Forestry declares an emergency to exist and adopts by emergency process the attached regulations for the suspension of rules governing the sale of gasoline with greater than 9.0 psi Reid vapor pressure (RVP) and a minimum temperature for Vapor-to-Liquid ratio (V/L) equal to 20 of 116 degrees Fahrenheit or 47 degrees Centigrade (Class 3).

On May 12, 2021, Governor John Bel Edwards declared a state of emergency in Louisiana in response to the cyberattack on the Colonial Pipeline system resulting in difficulty in the transportation of refined oil products and in providing an adequate supply of fuel to our state. On May 13, 2021, the commissioner of Agriculture and Forestry granted a temporary emergency waiver so that summer CBOB, summer conventional gasoline (CG), winter CBOB, winter CB, winter RBOB, and winter RFG may be used in Louisiana as long as the BOB or gasoline does not have an RVP that exceeds 13.5 pounds per square inch (psi) after the addition of ethanol. Further, under this waiver, fuel manufacturers, distributors, resellers, terminal owners and operators, and carriers may commingle RBOB and CBOB, and RFG and CG, for the duration of this waiver. Furthermore, regulated parties may produce, sell, and distribute winter gasoline (including BOBs) with an RVP of no more than 13.5 psi after the addition of ethanol. This waiver was effective immediately and initially was set to expire on May 27th at 12:01 a.m. Due to ongoing issues with national supply levels, the Commissioner of Agriculture and Forestry ordered the extension of the waiver through May 31, 2021. Due to those same issues with national supply levels, the commissioner of Agriculture and Forestry hereby orders the extension of this waiver to extend through June 6, 2021.

On June 7, 2021, gasoline that does not meet the RFG requirements for Louisiana may not be introduced into terminal storage tanks from which gasoline has dispensed into trucks for distribution to retail outlets in Louisiana. However, gasoline that meets the conditions for this waiver that have already been placed in the terminal storage tanks for distribution to retail and wholesale purchasers-consumers before the expiration date of this waiver may be distributed until the supply is depleted. Likewise, retailers and wholesale producer-consumers in Louisiana may continue to sell or dispense gasoline after the above expiration date until their supplies are depleted. This emergency rule will rescind and replace any previous emergency rule that has not yet expired.

The Department of Agriculture and Forestry has adopted rules and regulations concerning the ASTM International Standards for gasoline Reid vapor pressure and temperatures at which certain gasoline classes have a V/L ratio that equals 20. A temporary suspension of these rules and regulations during this emergency is necessary to provide for an adequate supply of gasoline. Failure to suspend these rules and regulations creates an imminent peril to the public health, safety, and welfare of the citizens of this state.

This Emergency Rule shall become effective upon the signature of the Commissioner and shall remain effective through the termination date of June 6, 2021.

Title 7

AGRICULTURE AND ANIMALS

Part XXXV. Agro-Consumer Services

Chapter 3. Petroleum Products and Motor Fuels

Subchapter A. Standards

§303. Standard Fuel Specifications for Gasoline and Gasoline-Oxygenate Blends

A. - A.8. ...

* * *

9. The ASTM D4814, "Standard Specifications for Automotive Spark-Ignition Fuel" Seasonal volatility standards for all parishes in the state of Louisiana are hereby suspended to immediately allow the statewide use of gasoline with an RVP of 9.0 psi and a minimum temperature for a Vapor-to-Liquid ratio (V/L) equal to 20 of 116 degrees Fahrenheit or 47 degrees Centigrade (Class 3) through June 6, 2021.

10. The ASTM D4814, "Standard Specifications for Automotive Spark-Ignition Fuel" base gasoline and blending requirements are hereby suspended for all parishes in the state of Louisiana through June 6, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4671, 4673, 4680, and 4681.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, Division of Weights and Measures, LR 31:29 (January 2005); amended by the Department of Agriculture and Forestry, Office of Agro-Consumer Services, LR 34:2549 (December 2008); LR 47:

Mike Strain, DVM
Commissioner

2106#010

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Minimum Reopening Standards
(LAC 28:LXXIX.1105 and 1107;
CXV.401 and 403; CXXXIX.4101 and 4103)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education has amended LAC 28:LXXIX in Bulletin 741 (Nonpublic)—*Louisiana Handbook for Nonpublic School Administrators*; LAC 28:CXV in Bulletin 741—*Louisiana Handbook for School Administrators*; and LAC 28:CXXXIX in Bulletin 126—*Charter Schools*. Per Act 9 of the 2020 First Extraordinary Session, BESE approved emergency rules, informed by the Centers for Disease Control and Prevention (CDC) guidelines, to provide minimum standards, policies, medical exceptions, and regulations to govern the reopening of schools for the 2020-2021 school year. These revisions clarify policy contained in the aforementioned bulletins for which there have been questions regarding the minimum reopening standards. This Declaration of Emergency, effective May 12, 2021, is for a period of 120 days from adoption, or until finally adopted as Rule.

Title 28

EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

Chapter 11. Health

Subchapter B. Reopening School Facilities for the 2020-2021 School Year

§1105. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical. These minimum standards regarding the reopening of schools for the 2020-2021 school year expire on June 30, 2021. Any future requirements for schools related to a statewide pandemic will be communicated as needed.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1674 (December 2020), amended LR 47:

§1107. Minimum Requirements for Reopening and Operating School Facilities

A. - D.2. ...

E. Face Coverings

1. BESE minimum reopening standards, pertaining to face coverings, are superseded by any statewide or district specific mandate issued by the governor. If there is a

statewide or district specific mandate in place, the lifting of the mask requirement will be determined by an executive order or proclamation of the governor. If there is no statewide or district mandate in place, the lifting of this requirement will be determined by the Local Education Agency (LEA) at the appropriate time, based on the recommendation issued of the LDH.

a. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

b. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

c. While inside the school facility, children under two years old and individuals with breathing difficulties should not wear a face covering.

F. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

G. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;

b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and

c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

H. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

I. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

a. conduct CLASS® observations;

b. observe teacher candidates as part of the teacher preparation quality rating system; or

c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

J. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1672 (December 2020).

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 4. Reopening School Facilities for the 2020-2021 School Year

§401. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical. These minimum standards regarding the reopening of schools for the 2020-2021 school year expire on June 30, 2021. Any future requirements for schools related to a statewide pandemic will be communicated as needed.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1672 (December 2020), amended LR 47:454 (April 2021).

§403. Minimum Requirements for Reopening and Operating School Facilities

A. - D.2. ...

E. Face Coverings

1. BESE minimum reopening standards, pertaining to face coverings, are superseded by any statewide or district specific mandate issued by the governor. If there is a statewide or district specific mandate in place, the lifting of the mask requirement will be determined by an executive order or proclamation of the governor. If there is no statewide or district mandate in place, the lifting of this requirement will be determined by the Local Education Agency (LEA) at the appropriate time, based on the recommendation issued of the LDH.

a. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

b. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

c. While inside the school facility, children under two years old and individuals with breathing difficulties should not wear a face covering.

F. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to

the role and the number and age of students or adults served by that employee.

G. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

- a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;
- b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and
- c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

- a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and
- b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

H. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

I. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

- a. conduct *CLASS*[®] observations;
- b. observe teacher candidates as part of the teacher preparation quality rating system; or
- c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

J. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1672 (December 2020).

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 41. Reopening School Facilities for the 2020-2021 School Year

§4101. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical. These minimum standards regarding the reopening of schools for the 2020-2021 school year expire on June 30, 2021. Any future requirements for schools related to a statewide pandemic will be communicated as needed.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1670 (December 2020), amended LR 47:

§4103. Minimum Requirements for Reopening and Operating School Facilities

A. - D.2. ...

E. Face Coverings

1. BESE minimum reopening standards, pertaining to face coverings, are superseded by any statewide or district specific mandate issued by the governor. If there is a statewide or district specific mandate in place, the lifting of the mask requirement will be determined by an executive order or proclamation of the governor. If there is no statewide or district mandate in place, the lifting of this requirement will be determined by the Local Education Agency (LEA) at the appropriate time, based on the recommendation issued of the LDH.

a. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

b. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

c. While inside the school facility, children under two years old and individuals with breathing difficulties should not wear a face covering.

F. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

G. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

- a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;
- b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and
- c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

H. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

I. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in

accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

- a. conduct CLASS[®] observations;
- b. observe teacher candidates as part of the teacher preparation quality rating system; or
- c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

J. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1670 (December 2020), amended LR 47:

Sandy Holloway
President

2105#002

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Abortion Facilities—Licensing Standards (LAC 48:I.4431)

The Department of Health, Bureau of Health Services Financing amends LAC 48:I.4431 as authorized by R.S. 36:254 and R.S. 40:2175.1 et seq. 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 and replaced the provisions governing the licensing standards for abortion facilities in order to incorporate the changes imposed by legislation, and further revise and clarify those provisions (*Louisiana Register*, Volume 41, Number 4).

Act 97 of the 2016 Regular Session of the Louisiana Legislature increased the time period required for certain pre-operative services. Act 563 of the 2016 Regular Session of the Louisiana Legislature provides that at least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of certain printed information, including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality, and given printed information about resources, programs and services for infants and children born with disabilities, as well as other related matters. Act 593 of the 2016 Regular Session of the Louisiana Legislature provides for the disposal, by interment or cremation, of fetal remains and designates procedures for giving patients options for arrangements. The department promulgated an Emergency Rule which amended the provisions governing outpatient abortion facilities in order to comply with the provisions of Acts 97, 563 and 593 (*Louisiana Register*, Volume 42, Number 12).

The department determined that it was necessary to amend the provisions of the December 3, 2016 Emergency Rule governing the length of retention of the certification of minors and the disposition of fetal remains (*Louisiana Register*, Volume 47, Number 3). This Emergency Rule is being promulgated in order to continue the provisions of the March 20, 2021 Emergency Rule. This action is being taken to protect the health and welfare of Louisiana citizens by assuring the health and safety of women seeking health care services at licensed abortion facilities.

Effective July 19, 2021, the Department of Health, Bureau of Health Services Financing amends the provisions governing the licensing standards for abortion facilities.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 44. Abortion Facilities

Subchapter C. Pre-operative, Intra-operative, and Post-Operative Procedures

§4431. Screening and Pre-Operative Services

A. - E.1. ...

2. Requirements

a. Except as provided in Subparagraph b below, at least 72 hours prior to the pregnant woman having any part of an abortion performed or induced, and prior to the administration of any anesthesia or medication in preparation for the abortion on the pregnant woman, the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the following requirements:

i. perform an obstetric ultrasound on the pregnant woman, offer to simultaneously display the screen which depicts the active ultrasound images so that the pregnant woman may view them and make audible the fetal heartbeat, if present, in a quality consistent with current medical practice. Nothing in this Section shall be construed to prevent the pregnant woman from not listening to the sounds detected by the fetal heart monitor, or from not viewing the images displayed on the ultrasound screen;

ii. provide a simultaneous and objectively accurate oral explanation of what the ultrasound is depicting, in a manner understandable to a layperson, which shall include the presence and location of the unborn child within the uterus and the number of unborn children depicted, the dimensions of the unborn child, and the presence of cardiac activity if present and viewable, along with the opportunity for the pregnant woman to ask questions;

iii. offer the pregnant woman the option of requesting an ultrasound photograph or print of her unborn child of a quality consistent with current standard medical practice that accurately portrays, to the extent feasible, the body of the unborn child including limbs, if present and viewable;

iv. from a form that shall be produced and made available by the department, staff will orally read the statement on the form to the pregnant woman in the ultrasound examination room prior to beginning the ultrasound examination, and obtain from the pregnant woman a copy of a completed, signed, and dated form; and

v. retain copies of the election form and certification prescribed above. The certification shall be placed in the medical file of the woman and shall be kept by the outpatient abortion facility for a period of not less than seven years. If the woman is a minor, the certification shall be placed in the medical file of the minor and kept for at least seven years or for five years after the minor reaches the age of majority, whichever is greater. The woman's medical files shall be kept confidential as provided by law.

b. If the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or a qualified person who is the physician's agent shall comply with all of the requirements of §4431.E.2.a at least 24 hours prior to the woman having any part of an abortion performed or induced.

c. - e. Repealed.

E.3. - G.1. ...

a. Except as provided in Subparagraph b below, at least 72 hours before the abortion the physician who is to perform the abortion or the referring physician shall provide informed consent to the pregnant woman seeking an abortion, pursuant to all laws, rules and regulations regarding informed consent. The informed consent shall be communicated both orally and in-person, and in writing, and shall be provided in a private room. Documentation of all such informed consent provided shall be maintained in the patient's medical record.

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion or the referring physician shall comply with all of the requirements of §4431.G.1 at least 24 hours prior to the abortion.

1.c. - 3....

a. Except as provided in Subparagraph b below, at least 72 hours before a scheduled abortion the physician who is to perform the abortion, the referring physician, or a qualified person shall inform the pregnant woman seeking an abortion, orally and in-person that:

i. - iv. ...

b. If the woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, then the physician who is to perform the abortion the referring physician, or a qualified person shall comply with all of the requirements of §4431.G.3 at least 24 hours prior to the abortion.

4. ...

a. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of the printed materials, pursuant to any applicable state laws, rules, and regulations, by the physician who is to perform the abortion, the referring physician, or a qualified person. These printed materials shall include any printed materials necessary for a voluntary and informed consent, pursuant to R.S. 40:1061.17. However, if the pregnant

woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of the printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

i. - NOTE. Repealed.

b. At least 72 hours before the abortion, the pregnant woman or minor female considering an abortion shall be given a copy of the department's *Point of Rescue* pamphlet and any other materials described in R.S. 40:1061.16 by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws. However, if the pregnant woman or minor female considering an abortion certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 72 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c), except in the case of medical emergency defined by applicable state laws.

i. The physician or qualified person shall provide to the woman, or minor female seeking an abortion, such printed materials individually and in a private room for the purpose of ensuring that she has an adequate opportunity to ask questions and discuss her individual circumstances.

ii. The physician or qualified person shall obtain the signature of the woman or minor female seeking an abortion on a form certifying that the printed materials were given to the woman or minor female.

iii. In the case of a minor female considering an abortion, if a parent accompanies the minor female to the appointment, the physician or qualified person shall provide to the parent copies of the same materials given to the female.

iv. The signed certification form shall be kept within the medical record of the woman or minor female for a period of at least seven years.

c. At least 72 hours before the abortion, the pregnant woman seeking an abortion shall be given a copy of a printed informational document including resources, programs and services for pregnant women who have a diagnosis of fetal genetic abnormality and resources, programs and services for infants and children born with disabilities. However, if the pregnant woman certifies in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy, she shall be given a copy of these printed materials at least 24 hours prior to an elective abortion procedure by the physician who is to perform the abortion or a qualified person as defined in R.S. 40:1061.17(B)(4)(c).

d. If the pregnant woman seeking an abortion is unable to read the materials, the materials shall be read to her. If the pregnant woman seeking an abortion asks

questions concerning any of the information or materials, answers shall be provided to her in her own language.

NOTE: The provisions of this Section requiring a physician or qualified person to provide required printed materials to a woman considering an abortion shall become effective 30 days after the department publishes a notice of the availability of such materials.

5. ...

a. Prior to the abortion, the outpatient abortion facility shall ensure the pregnant woman seeking an abortion has certified, in writing on a form provided by the department that the information and materials required were provided at least 72 hours prior to the abortion, or at least 24 hours prior to the abortion in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy. This form shall be maintained in the woman's medical record.

b. ...

c. The pregnant woman seeking an abortion is not required to pay any amount for the abortion procedures until the 72-hour period has expired, or until expiration of the 24-hour period applicable in the case of a woman who has given prior certification in writing that she currently lives 150 miles or more from the nearest licensed outpatient abortion facility that is willing and able to perform the abortion at the particular woman's stage of pregnancy.

6. - 7.b....

8. Disposition of Fetal Remains

a. Each physician who performs or induces an abortion which does not result in a live birth shall ensure that the remains of the fetus are disposed of by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq., and the provisions of LAC 51:XXVI.102 of the *Sanitary Code*.

b. Prior to an abortion, the physician shall orally and in writing inform the pregnant woman seeking an abortion in the licensed abortion facility that the pregnant woman has the following options:

i. the option to make arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.; or

ii. the option to have the outpatient abortion facility/physician make the arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.

c. The pregnant woman shall sign a consent form attesting that she has been informed of these options; if the pregnant woman wants to make arrangements for the disposition of fetal remains, she will indicate so on the form; if no such indication is made on the form by the pregnant woman, the outpatient abortion facility/physician shall make the arrangements for the disposition and/or disposal of fetal remains by interment or cremation, in accordance with the provisions of R.S. 8:651 et seq.

d. the requirements of §4431.G.8 regarding dispositions of fetal remains, shall not apply to abortions induced by the administration of medications when the evacuation of any human remains occurs at a later time and not in the presence of the inducing physician or at the

facility in which the physician administered the inducing medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2175.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 41:700 (April 2015), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes 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.

Dr. Courtney N. Phillips
Secretary

2106#030

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Emergency Telemedicine
(LAC 50:I.505)

The Department of Health, Bureau of Health Services Financing adopts LAC 50:I.505 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, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions governing coverage of telemedicine during a declared disaster (*Louisiana Register*, Volume 46, Number 4). This Emergency Rule is being promulgated in order to continue the provisions of the March 16, 2020 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by ensuring continued and expanded access to telemedicine services during a declared emergency.

Effective July 13, 2021, the Department of Health, Bureau of Health Services Financing adopts provisions governing the coverage of telemedicine during a declared emergency.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 1. General Provisions

Chapter 5. Telemedicine

§505. Telemedicine in the Event of an Emergency

A. In the event of a declared emergency, Medicaid may temporarily cover services provided through the use of an interactive audio telecommunications system, without the requirement of video, if such action is determined to be necessary to ensure sufficient services are available to meet recipients' needs.

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, Bureau of Health Services Financing, LR 47:

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.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc 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.

Dr. Courtney N. Phillips
Secretary

2106#031

DECLARATION OF EMERGENCY

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

Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency, effective as of January 27, 2020, for the United States in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of a national emergency due to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), and the Office of Behavioral Health (OBH) promulgated an Emergency Rule which amended the provisions of Title 50 of the *Louisiana Administrative Code* in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. (*Louisiana Register*, Volume 46, Number 4). This Emergency Rule is being promulgated to continue the provisions of the Emergency Rule adopted on March 19, 2020. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the duration

of the COVID-19 public health emergency declaration, whichever comes first.

Effective July 16, 2021, the department amends Title 50 of the *Louisiana Administrative Code* to continue the following provisions of the Emergency Rule adopted on March 19, 2020 throughout the duration of the COVID-19 public health emergency declaration:

Nursing Facilities—Reimbursement Methodology Reimbursement Adjustment (LAC 50:II.20006)

The per diem rate paid to non-state nursing facilities shall contain an add-on of \$12 for the period of the COVID-19 public health emergency declaration.

Nursing Facilities—Reimbursement Methodology— Leave of Absence Days (LAC 50:II.20021)

For each Medicaid recipient, nursing facilities shall be reimbursed for up to seven hospital leave of absence days per occurrence and 15 home leave of absence days per calendar year.

For dates of service during the COVID-19 public health emergency declaration, the state may allow the reimbursement paid for leave of absence days to be equal to 100 percent of the applicable per diem rate.

Intermediate Care Facilities for Persons with Intellectual Disabilities—Emergency Awareness—Payment Limitations (LAC 50:VII.33101)

For dates of service during the COVID-19 public health emergency declaration, the state may waive the annual 45 day limit on the client's leave of absence, the limitation of 30 consecutive days, and the inclusion of the leave in the written individual habilitation plan for recipients that return to the facility for at least 24 hours prior to any discharge/transfer.

Payments to providers for these days will not include any enhanced rate add-ons (i.e., Complex Care, Pervasive Plus), and providers will appropriately submit them as leave days when billing for payment.

Services for Special Populations—Personal Care Services (LAC 50:XV.Subpart 9)

Relaxation of long term-personal care services (LT-PCS) provisions during the COVID-19 public health emergency declaration:

Recipients of long term-personal care services (LT-PCS) may receive more weekly service hours than what is assigned for his/her level of support category;

The state may increase the maximum number of LT-PCS hours received per week;

Recipients may receive LT-PCS in another state without prior approval of OAAS or its designee;

Recipients may receive LT-PCS while living in a home or property owned, operated or controlled by a provider of services who is not related by blood or marriage to the recipient;

Individuals may concurrently serve as a responsible representative for more than two recipients without an exception from OAAS;

The following individuals may provide services to the recipient of LT-PCS: the recipient's spouse; the recipient's curator; the recipient's tutor; the recipient's legal guardian; the recipient's responsible representative; or the person to whom the recipient has given representative and mandate authority (also known as power of attorney);

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation;

The state may allow exceptions to LT-PCS prior authorization requirements;

The state may increase and/or modify reimbursement rates for LT-PCS;

Recipients may orally designate/authorize or make changes to the responsible representative during the emergency. However, once the emergency declaration is over, the recipient must submit a written designation on the appropriate OAAS form to designate a responsible representative;

The state may offer recipients the freedom to choose another LT-PCS provider if the designated provider is not able to provide services;

The state may modify the minimum age requirement for direct care workers; and

The state may allow exceptions to the requirement that the place(s) of service must be documented in the plan of care.

Home and Community-Based Services Waivers—Adult Day Health Care Waiver (LAC 50:XXI.Subpart 3)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Adult Day Health Care (ADHC) Waiver are relaxed during the COVID-19 public health emergency declaration:

Adult Day Health Care (ADHC) Waiver participants are allowed to receive ADHC services in his/her home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA and/or CNA);

The current assessments/re-assessments remain in effect past the annual (12-month) requirement;

Participants are not discharged if services are interrupted for a period of 30 consecutive days as a result of not receiving or refusing ADHC services;

Participants are not discharged for failure to attend the ADHC center for a minimum of 36 days per calendar quarter;

The state may elect to make retainer payments to ADHC providers when the ADHC center is closed;

Individuals may concurrently serve as a responsible representative for more than two participants without an exception from OAAS;

The state may allow exceptions to prior authorization requirements;

The state may increase and/or modify reimbursement rates for ADHC providers; and

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation.

Home and Community-Based Services Waivers

Community Choices Waiver (LAC 50:XXI.Subpart 7)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Community Choices Waiver (CCW) are relaxed during the COVID-19 public health emergency declaration:

Community Choices Waiver (CCW) participants are allowed to receive personal assistance services (PAS) in

another state without prior approval of OAAS or its designee;

Participants may receive PAS while living in a home or property owned, operated or controlled by a provider of services who is not related by blood or marriage to the participant without prior approval of OAAS or its designee;

The current assessment/re-assessment remains in effect past the annual (12 month) requirement;

CCW participants are not discharged if services are interrupted for a period of 30 consecutive days as a result of not receiving and/or refusing services;

Participants are not discharged from CCW self-directed services for failure to receive those services for 90 days or more;

Individuals may concurrently serve as a responsible representative for more than two participants without an exception from OAAS;

Participants may receive an increase in his/her annual services budget;

The following individuals may provide services to the participant: the participant's spouse; the participant's curator; the participant's tutor; the participant's legal guardian; the participant's responsible representative; or the person to whom the participant has given representative and mandate authority (also known as power of attorney);

Participants may receive Adult Day Health Care (ADHC) services in his/her home by licensed and/or certified ADHC staff (i.e. RN, LPN, PCA and/or CNA);

The state may elect to make retainer payments to ADHC providers when the ADHC center is closed;

The state may allow exceptions to the requirements that services must be provided in accordance with the approved plan of care and/or supporting documentation;

The state may allow exceptions to prior authorization requirements;

Participants may receive more than two home delivered meals per day;

The state may allow monitored in-home caregiving (MIHC) providers to monitor participants via frequent telephone contacts and/or telehealth;

The state may modify the minimum age requirement for direct care workers; and

The state may increase and/or modify reimbursement rates for CCW providers.

Behavioral Health Services—Home and Community Based Services Waiver (LAC 50:XXXIII.Subpart 9)

With approval from the Centers for Medicare and Medicaid Services (CMS) as applicable, the following provisions of the Coordinated System of Care (CSoC) Waiver are relaxed during the COVID-19 public health emergency declaration:

Coordinated System of Care (CSoC) Waiver participants are allowed to receive CSoC waiver services in another state;

The current level of care evaluation/re-evaluation remains in effect beyond the semi-annual requirement;

CSoC participants are not discharged for failing to receive a face-to-face visit from the wraparound facilitator for 60 consecutive calendar days or more;

Services may be provided telephonically or through videoconferencing means in accordance with LDH-issued guidance;

Providers and wraparound facilitators are required to document all service activities in accordance with guidance issued by LDH and the CSoC contractor; and

Plan of care reviews and timelines may be extended.

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.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc 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.

Dr. Courtney N. Phillips
Secretary

2106#032

DECLARATION OF EMERGENCY

Department of Health Bureau of Health Services Financing

Programs and Services Amendments Due to the Coronavirus Disease 2019 (COVID-19) Public Health Emergency

On January 30, 2020, the World Health Organization declared a public health emergency of international concern and on January 31, 2020, U.S. Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States, effective as of January 27, 2020, in response to the recent coronavirus disease 2019 (hereafter referred to as COVID-19) outbreak. On March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency to exist in the State of Louisiana as a result of the imminent threat posed to Louisiana citizens by COVID-19. Likewise, the presidential declaration of a national emergency due to COVID-19 has an effective date of March 1, 2020.

In response to these public health emergency declarations and the rapid advancement of COVID-19 throughout Louisiana, the Department of Health, Bureau of Health Services Financing, the Office of Aging and Adult Services (OAAS), the Office of Behavioral Health (OBH), and the Office for Citizens with Developmental Disabilities (OCDD) promulgated Emergency Rules which amended the provisions of Title 50 of the Louisiana Administrative Code in order to adopt temporary measures to provide for the continuation of essential programs and services to ensure the health and welfare of the citizens of Louisiana in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq. (*Louisiana Register*, Volume 46, Number 4). The department subsequently promulgated an Emergency Rule, adopted on June 24, 2020, which further amended Title 50 of the Louisiana Administrative Code due to the COVID-19 public health emergency (*Louisiana Register*, Volume 46, Number 7). This Emergency Rule is being promulgated to continue the provisions of the

Emergency Rule adopted on June 24 2020. This Emergency Rule shall be in effect for the maximum period allowed under the Act or the duration of the COVID-19 public health emergency declaration, whichever comes first.

Effective June 22, 2021, the Department of Health, Bureau of Health Services Financing hereby amends Title 50 of the *Louisiana Administrative Code* to continue the following provisions of the Emergency Rule adopted on June 24, 2020 throughout the duration of the COVID-19 public health emergency declaration:

Medicaid Eligibility (LAC 50:III.Subpart 1)

For the duration of the COVID-19 public health emergency declaration, the following requirements for coverage under the Medical Assistance Program (Medicaid) will be relaxed:

§101.C. General Provisions—Fair Hearings

The 30-day requirement for the applicant and enrollee to request a fair hearing shall be waived.

Applicants and enrollees must request a fair hearing within 120 days of the date of the adequate and/or timely decision notice issued by the Medicaid Program or its designee.

§301. Asset Verification Program—General Provisions

Asset verification for aged, blind, and disabled applicants will be performed through a post-eligibility review following the certification.

Chapter 23. Eligibility Groups and Medicaid Programs

The department shall provide coverage under the Medical Assistance Program for uninsured individuals described at section 1902(a)(10)(A)(ii)(XXIII) and 1902(ss) of the Social Security Act as follows:

In accordance with section 1902(a)(10)(XVIII) of the Social Security Act, the medical assistance made available to uninsured individuals (as defined in subsection 1902(ss)) eligible for medical assistance only because of subparagraph (A)(ii)(XXIII) is limited to medical assistance for any in vitro diagnostic product described in section 1905(a)(3)(B) administered during the COVID-19 public health emergency declaration (and the administration of such product) and any visit described in section 1916(a)(2)(G) furnished during the emergency period.

Services for Special Populations—Hospice Recipient Eligibility—Waiver of Payment for Other Services (LAC 50:XV.3503)

During the COVID-19 public health emergency declaration, the department waives the provisions requiring daily visits by the hospice provider to all clients under the age of 21 in order to facilitate continued care while maintaining the safety of staff and beneficiaries. Visits will still be completed based on clinical need of the beneficiary and family, and availability of staff as requested by the family. The use of telemedicine visits as an alternative is allowed.

Medical Transportation Program—Emergency Medical Transportation—Ground Transportation Reimbursement (LAC 50:XXVII.325)

For the duration of the COVID-19 public health emergency declaration, reimbursement will be allowed for ambulance providers for allowable services on site without

transport. Services provided by the ambulance provider shall be within established treatment protocols, under the direct supervision of a licensed physician.

**Pharmacy—Copayment and Maximum Quantity
(LAC 50:XXIX.111 and 119)**

During the period of state or federal declared emergency, member co-pays may be waived and select pharmacy edits may be revised to encourage recipients to get all necessary maintenance medications during one pharmacy visit.

Members are able to start receiving up to a 90-day supply, as appropriate, of maintenance medications that are not controlled substances. These include cardiovascular drugs (hypertension, coronary artery disease, thrombosis), diabetes drugs, respiratory drugs (inhaled and oral), contraceptives, antiretrovirals, direct-acting antivirals for hepatitis C, immunosuppressives, antipsychotics, and antidepressants, among others.

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.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. Ms. LeBlanc 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.

Dr. Courtney N. Phillips
Secretary

2106#033

DECLARATION OF EMERGENCY

**Department of Health
Licensed Professional Counselors Board of Examiners**

Teletherapy Guidelines for Licensees (LAC 46: LX.505)

On April 28, 2021, the Louisiana Department of Health, Louisiana Licensed Professional Counselors Board of Examiners, exercised the emergency provisions of the Administrative Procedures Act, specifically R.S. 49:953(B), to rescind rules relative to the Practice of Mental Health Counseling, specifically Section 505, Teletherapy Guidelines for Licensees. Effective June 1, 2021, the board's emergency rule will expire as the governor's emergency orders expired effective May 24, 2021.

Jamie S. Doming, MBA
Executive Director

2106#007

DECLARATION OF EMERGENCY

**Department of Health
Licensed Professional Counselors Board of Examiners**

Teletherapy Guidelines for Licensees (LAC 46: LX.505)

On May 26th, 2021, the governor's extension of emergency provisions was signed and published as JBE 2021-94. Thereby, this emergency action was taken in error and is not effective on June 1, 2021 as previously published. Rules remain in accordance with current emergency orders as requested by the governor's office in JBE 2021-94.

Jamie S. Doming, MBA
Executive Director

2106#007

DECLARATION OF EMERGENCY

**Department of Treasury
Deferred Compensation Commission**

Administration and Distributions
(LAC 32:VII.701, 707, 711, 1105)

The Louisiana Deferred Compensation Commission has exercised the emergency provision in accordance with the Administrative Procedure Act, R.S. 49:953(B) and pursuant to the authority set forth in R.S. 42:1303, to amend LAC 32:VII.701, 707, 711 and 1105 regarding qualified birth and adoption distributions, required minimum distributions, the age at which participants may make in-service distributions, and repayment of certain loans to qualified participants. This Emergency Rule is necessary to allow plan participants who qualify for the relief provided by the Setting Every Community Up for Retirement Enhancement ("SECURE") Act (effective December 20, 2019) and the Coronavirus Aid, Relief, and Economic Security ("CARES") Act (effective March 27, 2020).

The Louisiana Deferred Compensation Commission hereby finds that the following circumstances constitute an immediate danger to the public health, safety, or welfare: Due to public health threat created by COVID-19, on March 11, 2020, Governor John Bel Edwards declared a public health emergency in the State of Louisiana (Proclamation No. JBE 2020-25). In addition, on March 13, 2020, President Donald J. Trump declared a national emergency. As of May 21, 2021, 467,815 cases of COVID-19 have been confirmed in Louisiana, resulting in 10,522 deaths. The economic impact to individuals in Louisiana, including plan participants has also been devastating. Many businesses and governmental entities have been forced to furlough or lay off employees, resulting in even greater financial hardship. The COVID-19 pandemic has caused an immediate threat to the public health, safety, and welfare of many participants in the Louisiana Deferred Compensation Plan.

In order to provide relief to those plan participants who have been adversely affected by the COVID-19 pandemic, the following emergency rule is necessary so that qualifying plan participants may take advantage of the relief provided in the SECURE Act and CARES Act.

This Emergency Rule was adopted on May 18, 2021, and shall be effective on May 18, 2021. This Emergency Rule shall remain in effect 120 days, unless renewed by the Louisiana Deferred Compensation Commission, or until permanent rules are promulgated in accordance with the law.

Title 32

EMPLOYEE BENEFITS

PART VII. Public Employee Deferred Compensation

Subpart 1. Deferred Compensation Plan

Chapter 7. Distributions

§701. Conditions for Distributions

A. Payments from the participants §457 Deferred Compensation Plan account to the participant or beneficiary shall not be made, or made available, earlier than:

1. - 4. ...

5. the participant makes a qualified birth or adoption distribution pursuant to Section 113 of the Setting Every Community Up for Retirement Act of 2019. Any such qualified birth or adoption distribution shall not exceed \$5,000 per birth or adoption. The commission or plan administrator may rely upon a participant's birth or adoption certificate for purposes of determining eligibility; or

6. the calendar year in which an in-service participant attains age 59 1/2.

B. ...

C. In order to implement the provisions of the Setting Every Community Up for Retirement Enhancement (SECURE) Act, enacted on December 20, 2019, relating to required minimum distributions, including but not limited to §707 and §711 of the Plan, the Commission is hereby authorized to enter into any and all agreements with the Plan Administrator so that the Plan is in compliance with all federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1497 (June 2002), LR 32:121 (January 2006), LR 46:

§707. Deferred Commencement Date at Separation from Service

A. Following the date in which the participant severs employment, the participant may select a deferred commencement date for all or a portion of the participant's account balance. If the participant elects to defer the entire account balance, the future commencement date may not be later than April 1 of the calendar year following the calendar year in which the participant attains age 72.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006), LR 46:

§711. Death Benefits

A. - B. ...

C. Death of Participant before Participant's Required Beginning Date. If the participant dies before the required beginning date, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows.

1. If the participant's surviving spouse is the participant's sole designated beneficiary, then, except as provided in this §711, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 72, if later.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998), amended LR 28:1498 (June 2002), LR 32:122 (January 2006), LR 46:

Chapter 11. Participant Loans

§1105. Repayment of Loan

A. Each loan shall mature and be payable, in full and with interest, within five years from the date such loan is made, unless:

1. the loan is used to acquire any dwelling unit that within a reasonable time (determined at the time the loan is made) will be used as the principal residence of the participant; or

2. loan repayments are, at the employer's election, suspended as permitted by IRC §414(u)(4) (with respect to qualified military service); or

3. the loan is made to a qualified participant, is outstanding on or after March 27, 2020, and is due during the period beginning March 27, 2020, and ending December 31, 2020. The due date for any such loan shall be delayed for a period of one year, and any subsequent repayments pursuant to that loan shall be appropriately adjusted to reflect the delayed due date.

a. For purposes of LAC 32:VII.1105.A.3, the term *qualified participant* shall mean the same as *qualified individual* under Sec. 2202(a) of the CARES Act, which defines a qualified individual as an individual:

i. who is diagnosed with the virus SARS-CoV-2 or with coronavirus disease 2019 (COVID-19) by a test approved by the Centers for Disease Control and Prevention;

ii. whose *spouse* or *dependent* (as defined in section 152 of the Internal Revenue Code of 1986) is diagnosed with such virus or disease by such a test; or

iii. who experiences adverse financial consequences as a result of being quarantined, being furloughed or laid off or having work hours reduced due to such virus or disease, being unable to work due to lack of child care due to such virus or disease, closing or reducing hours of a business owned or operated by the individual due to such virus or disease, or other factors as determined by the Secretary of the U.S. Treasury.

AUTHORITY NOTE: Promulgated in accordance with R.S. §42:1301-1308 and IRC §457.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 28:1500 (June 2002), amended LR 46:

Whit Kling
Chairman

2105#004

DECLARATION OF EMERGENCY

**Department of State
Elections Division**

**Opportunity to Cure Deficiencies in Absentee
By Mail Ballots (LAC 31:I:Chapter 3)**

The Louisiana Department of State has exercised the emergency provisions of the Administrative Procedure Act, specifically R.S. 18:18(A)(3) and R.S. 36:742, the Louisiana Department of State, Elections Division, is requesting the extension of Emergency Rules, which will add language to Part I, Chapter 3. The added chapter will allow a procedure for absentee by mail ballot envelope flaps with deficiencies to be cured. An emergency rule is necessary so that a procedure may be provided for curing absentee by mail ballot envelope flaps with deficiencies prior to the June 12, 2021 and July 10, 2021 elections. A prior rule of a similar nature was made effective on June 15, 2020, and expired on October 12, 2020; another emergency rule was effective October 12, 2020, and expired on February 9, 2021. The Emergency Rule in effect now was effective February 9, 2021, and will expire on June 9, 2021, The absence of such a procedure for the June 12, 2021 and July 10, 2021 elections creates an imminent peril to the welfare of the citizens of Louisiana and their right to vote, thereby making this Emergency Rule necessary. This Emergency Rule shall have the force and effect of law on June 9, 2021, and will remain in effect for the maximum days allowed by the Administrative Procedure Act, unless renewed by the Department of State, or until permanent rules, the promulgation of which is in progress, are promulgated in accordance with law.

Title 31

ELECTIONS

Part I. Election Process

**Chapter 3. Opportunity to Cure Deficiencies in
Absentee by Mail Ballots**

**§301. Absentee by Mail Ballot Deficiencies that May
Be Cured**

A. Each registrar of voters shall review the absentee by mail ballot envelope flap for the following deficiencies:

1. Missing voter signature;
2. Missing witness signature; and
3. Incomplete affidavit information, including but not limited to missing election date and voter information.

B. This review shall be conducted immediately upon receipt of the absentee by mail ballot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:

§303. Absentee Ballot Deficiency Notification

A. Upon receipt of an absentee by mail ballot envelope flap with one or more of the above identified deficiencies, the registrar of voters shall segregate the ballot envelope and promptly notify the voter of the ballot envelope flap deficiency and of the opportunity to cure the deficiency.

B. The registrar of voters shall identify the ballot in the voter’s absentee record and notate it as “deficient with opportunity to cure.”

C. The registrar shall contact the voter using the telephone number and email address available in the voter’s registration record. The registrar shall also mail a written notice of the ballot envelope flap deficiency and the opportunity to cure the deficiency.

D. All deficiency notifications shall inform the voter of the type of deficiency, the process for curing the deficiency, and the deadline and method to cure the deficiency. The registrar shall make a log of the date and methods of contact for each voter.

E. Voters are required to appear in person at their registrar of voters office during normal business hours until 4:30 p.m. the day before the election to cure the ballot envelope flap deficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:

§305. Curing Absentee by Mail Ballot Deficiencies

A. To cure a missing voter signature, the voter shall appear at the office of the registrar and sign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall also sign the ballot envelope flap as witness.

B. To cure a missing witness signature, the voter shall appear at the office of the registrar and resign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall sign the ballot envelope flap as witness.

C. To cure an incomplete affidavit, the voter shall appear at the office of the registrar and complete the affidavit on the ballot envelope flap.

D. If the voter appears at the office of the registrar to cure the deficiency, the notation in the voter’s absentee record shall be updated to so reflect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:

Interested persons may submit written comments to Ray Wood, attorney for Department of State, 8585 Archives Ave., Baton Rouge, LA 70809.

R. Kyle Ardoin
Secretary of State

2106#044

Rules

RULE

Department of Agriculture and Forestry Office of Agriculture and Environmental Sciences

Examinations, Certifications, and Licensing (LAC 7:XXIII.701)

Editor's Note: Section 701 is being repromulgated to correct citation errors. The original Rule may be viewed on pages 437-438 of the April 20, 2021 edition of the *Louisiana Register*.

In accordance with the Administrative Procedure Act, R.S. 49:950, et seq., and pursuant to the authority set forth in R.S. 3:3203 and R.S. 3:3251, the Department of Agriculture and Forestry ("Department"), through the Office of Agricultural and Environmental Sciences, has amended LAC 7:XXIII.701 and 901. The amendment to LAC 7:XXIII.701 removes the requirement that applicants for the private applicator, commercial applicator, or pesticide salespersons examinations who fail to receive a passing score on an exam wait a minimum of 10 days before being eligible for re-examination. The requirement that no person shall be allowed to take a private applicator examination, commercial applicator examination, or pesticide salesperson examination more than three times in a 12-month period is also removed. Louisiana is the only state with restrictions on the time intervals between testing and limitations on the amount of re-testing permitted per year for private applicator, commercial applicator and salesperson examinations. These changes are being made to align with current practices of other states and the industry.

The amendment to LAC 7:XXIII.901 is being made pursuant to the authority set forth in 3:3251, which allows the Commissioner to establish examination fees by rule in an amount not to exceed \$200. The amendment to LAC 7:XXIII.901 increases the examination fees from \$25 to \$50 for commercial applicator examinations, pesticide salesperson examinations, and agricultural consultant examinations taken in Baton Rouge and examinations taken at meetings outside Baton Rouge. The amendment also includes a \$50 fee to take the private applicator examination. Currently, there is no fee for the private applicator examination and Louisiana is the only state that does not charge a fee to take the private applicator examination. The amendments to LAC 7:XXIII.901 ensures consistency of the examinations fees for all areas of Louisiana. This Rule is hereby adopted on the day of promulgation.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 7. Examinations, Certification and Licensing

Subchapter A. Examinations

§701. Examinations of Private Applicators, Commercial Applicators, Pesticide Salespersons, and Agricultural Consultants

A. - C. ...

D. Each applicant for the agricultural consultant examination who fails to receive a passing score shall wait a minimum of 10 days before being eligible for re-examination.

E. No person shall be allowed to take an agricultural consultant examination more than three times in a 12-month period.

F. Applicants who fail to receive a passing score on the private applicator examination, commercial applicator examination, or pesticide salesperson examination shall be eligible for re-examination after completing and submitting an application for retesting.

G. An applicant who took and did not pass an examination in this state under these standards shall not be permitted to receive certification in the occupation or category for which the examination was taken under a reciprocal agreement with another state.

H. All applicants for private applicators' certification must be at least 16 years of age or an emancipated minor. All applicants for salesperson certification must be at least 18 years of age or an emancipated minor.

I. An applicant shall be disqualified from completing an examination or taking any other examination administered under these rules and regulations if the applicant is caught or found to be cheating on an examination or using any written materials, electronic devices, or other means during an examination, which have not been authorized or allowed by the director or person administering the examination.

1. Any such applicant shall not be allowed to finish the examination and shall receive a score of zero. If an applicant finished the examination prior to the discovery of the cheating or use of unauthorized written materials, electronic devices, or other means the applicant's examination shall be voided and the applicant shall receive a score of zero.

2. Any applicant who is not allowed under this subsection to finish an examination, or whose examination is voided, or who is disqualified from taking the examination or any other examination administered under these rules and regulations may appeal the action to the commission.

a. The appeal must be in writing, state the grounds for the appeal, and filed with the director within 30 days of the date of the action complained of.

b. The appeal will be placed on the agenda for the next meeting of the commission and the applicant will be notified of the date and place of the next meeting.

c. The appeal will be heard by the commission, which will make a recommendation to the commissioner. The decision of the commissioner shall be the final administrative decision in the matter.

d. An appeal from the decision of the commissioner shall be in accordance with the Administrative Procedure Act.

e. The action or administrative decision shall become final if no appeal is timely filed at any step in the proceedings or if the action is upheld on appeal.

3. During the pendency of any appeal or during the time limit for the filing of any appeal the applicant shall not be allowed to take any examination administered under these rules and regulations.

4. If the action or administrative decision is not appealed or is upheld on appeal then the applicant shall not be allowed to take or re-take the examination or any other examination administered under these rules and regulations for a period of three years from the examination date without the approval of the commission given at a meeting of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3241 and 3:3249.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 9:178 (April 1983), amended LR 11:943 (October 1985), amended by the Department of Agriculture and Forestry, amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 15:76 (February 1989), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 28:39 (January 2002), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Advisory Commission on Pesticides, LR 35:626 (April 2009), repromulgated by Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, LR 37:3471 (December 2011), LR 47:437 (April 2021), repromulgated LR 47:717 (June 2021).

Mike Strain, DVM
Commissioner

2106#052

RULE

Department of Civil Service Board of Ethics

Third Party Ethics Training (LAC 52:I.Chapter 24)

The Department of Civil Service, Board of Ethics, in accordance with R.S. 42:1134(A) and with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended regulations for Third Party Ethics Training. The changes allow certified ethics trainers to use virtual training and account for attendance by individuals taking such training. This Rule is hereby adopted on the day of promulgation.

Title 52 Ethics

Part I. Board of Ethics

Chapter 24. Third-Party Ethics Training

§2401. In General

A. It is of primary importance to the public that each public servant in the state of Louisiana undergoes education and training on the Code of Governmental Ethics during each year of his term of public employment or term in office, as the case may be, in accordance with R.S. 42:1170. These rules establish the procedure to certify persons and programs to deliver education regarding the laws within the jurisdiction of the Board of Ethics (board) to public servants required to receive education regarding those laws. These rules do not apply to persons who are employed by the ethics administration program.

B. State agency ethics liaisons designated pursuant to R.S. 42:1170(C)(2) are certified trainers and not required to comply with §2405.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1209 (May 2012), amended LR 47:718 (June 2021).

§2403. Definitions

A. For purposes of Chapter 24 of these rules, the following definitions apply.

Additional Material—public servant ethics training material which has not yet been approved by the Board of Ethics for presentations. Such material requires board approval prior to being presented to public servants.

Certified Trainer—any person who is approved to educate and train the state's public servants on the Code of Governmental Ethics and who is not an employee of the Board of Ethics.

Liaison—the person designated by each agency head to provide all public servants of that agency information and instruction relative to ethics and conflicts of interest.

Preapproved Training Material—public servant ethics training materials that do not require approval from the Board of Ethics in order for the certified trainer to present the material to public servants.

Proctor—a person who does not teach a public servant ethics training program, but administers the training by recorded presentation, which may include, but is not limited to, a DVD or electronic presentation requiring computer software provided by the Board of Ethics.

Program—a specific session of public servant ethics training.

Public Servant Ethics Training—the mandatory one hour of ethics training that all public servants in the State of Louisiana are required to attend annually pursuant to R.S. 42:1170(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1209 (May 2012), amended LR 47:718 (June 2021).

§2405. Certification of Trainers

A. In order for an applicant to be an approved certified trainer, he must meet the following requirements.

1. Required Training. Certified trainer applicants are required to undergo a minimum of four hours of training within the past three years that can be verified with attendance records maintained by the ethics administration program prior to submitting an application seeking certified trainer status. Courses that may count toward an applicant's four-hour training requirement include:

a. two-hour training course(s) developed for liaisons pursuant to R.S. 42:1170(C);

b. public servant ethics training offered by an employee of the ethics administration program or any other trainer who has been previously certified to deliver public servant ethics training programs by the ethics administration program; or

c. public servant ethics training offered via the Board of Ethics website; however, no more than one hour will count toward an applicant's four-hour training requirement.

2. Application Submission. All persons who seek approval as a certified trainer to deliver a public servant ethics training program must submit an application for trainer certification following the completion of the required training pursuant to Subsection A of this Section. The application can be found on the board's website.

3. Ongoing Training. A certified trainer who wishes to maintain certified status in subsequent years is required to undergo two hours of continuing education within 90 days of the beginning of each calendar year; this requirement can be met through attendance at any of the courses enumerated in Subsection A of this Section. A certified trainer who does not undergo his two hour continuing education training course to maintain his certified status will be required to attend four hours of training and submit an application for trainer certification, which must be approved by the ethics administrator, or his designee, to renew his certified trainer status.

B. Certified trainer applicants must not have been found to have been in violation of any of the laws within The Code of Governmental Ethics, R.S. 42:1101 et seq., prior to submission of an application for trainer certification unless approval has been obtained by the board in accordance with §2405.B.3.

1. Subsection B does not include persons who have been subject to a per day late fee pursuant to the laws under the jurisdiction of the board, if said fee has been paid.

2. Subsection B does not apply to any persons who have been found in violation of any other laws under the board's supervision or jurisdiction including, but not limited to, the Campaign Finance Disclosure Act, R.S. 18:1481 et seq., or the Lobbyist Disclosure Acts, R.S. 24:50 et seq., R.S. 49:71 et seq., and R.S. 33:9661 et seq.

3. A person who has been found in violation of the Code of Governmental Ethics, as set forth in Subsection B, may seek approval from the board to become a certified trainer three years from the date the decision finding the violation is final.

C. Certified trainer applicants who are licensed to practice law may not be approved if currently representing a client in connection with an ongoing investigation, if representing a client in a matter in which charges have been filed by the board, or if an attorney of record in a civil lawsuit in which the board is named as an opposing party.

1. Subsection C shall not prohibit an attorney from becoming a certified trainer if he is representing a client in relation to an advisory opinion request before the board.

2. Subsection C shall only be read to apply to the individual attorney and shall not be read to be imputed upon an attorney's firm.

D. Only upon approval by the ethics administrator, or his designee, will an applicant become a certified trainer. The ethics administrator, or his designee, retains the right to refuse approval of applicants, or suspend or revoke the status of certified trainers as set forth in §2413.H, who do not comply with the requirements or standards of these rules. A person not approved as a certified trainer under this Section may appeal the decision of the ethics administrator, or his designee, to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1209 (May 2012), amended LR 47:718 (June 2021).

§2407. Training and Education Materials

A. Certified trainers are required to use training and education materials approved by the ethics administration program.

B. Access to preapproved training materials will be made available to trainers pending completion of training requirements set forth in §2405 and upon trainer certification.

C. Additional material may be used by certified trainers if the material has been approved by the ethics administrator, or his designee, pursuant to the standards and expectations set out in §2409.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1210 (May 2012), amended LR 47:719 (June 2021).

§2409. Standards and Expectations for Approval; Additional Material

A. Application for Approval. Certified trainers who wish to utilize material that has not been preapproved by the board must submit an application for approval of material for public servant ethics training to the Board of Ethics with a copy of the materials for the proposed program.

B. Process. The ethics administration program will evaluate the application and material pursuant to the standards and expectations in Subsection C of this Section. An application for such program and materials must be submitted to the board at least 30 days in advance of the program.

C. Standards and Expectations. The following standards will govern the approval of materials by the board.

1. The materials for the program must have significant intellectual or practical content, and its primary objective must be to maintain or increase the public servant's awareness of the ethical standards set forth in the code of governmental ethics.

2. Materials submitted with the application shall include a copy of high quality and carefully prepared materials that shall be given to all public servants at the program. Materials submitted may include written material to be distributed to participants as well as videos, slideshows or other electronic media.

D. Additional Material. Materials that have been approved by the ethics administration program for use in a public servant ethics training program are valid for the remainder of the calendar year and are not required to undergo an approval process until the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1210 (May 2012), amended LR 47:719 (June 2021).

§2411. Notification of Ethics Training Program

A. Prior to conducting a public servant ethics training program, a certified trainer must notify the ethics administration program and request approval of the session. An application for public servant ethics training program can

be found on the board's website and shall be submitted to the ethics administration program electronically for approval.

B. Preapproved Training Material. A certified trainer must submit an Application for public servant ethics training program to the Board of Ethics at least 5 days prior to the program if the material to be used in the presentation is preapproved training material.

C. Additional Material. A certified trainer must submit an application for public servant ethics training program in conjunction with an application for approval of material for public servant ethics training pursuant to §2409 at least 30 days prior to the program if the material to be used in the presentation is not preapproved training material. An application for approval of material for public servant ethics training need not be submitted if the material to be used has already been approved pursuant to §2409.D for the calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1210 (May 2012), amended LR 47:719 (June 2021).

§2413. Ethics Training Program Requirements

A. Programs must be a minimum of one hour in order for the public servant to receive credit for his public servant ethics training, and the public servant must be present for at least 90% of the presentation.

B. The program must be offered by a certified trainer.

C. The costs of the program, if any, to the attending public servant must be reasonable considering the subject matter, level of instruction, supporting documentation, and educational material.

D. No examination or testing shall be required at any public servant ethics training program, unless for the sole purpose of attendance verification.

E. The program must be

1. conducted in a physical setting conducive to learning at a time and place free of interruptions.

2. conducted in a virtual environment using software that allows the certified trainer to obtain login information for the user.

F. The certified trainer of an approved public servant ethics training program must announce or indicate as follows:

1. This course has been approved by the Louisiana Board of Ethics to meet the ethics training requirement pursuant to R.S. 42:1170. The person delivering this program is not employed by the Board of Ethics, and any advice given is informational in nature. No opinions given are those of the Board of Ethics. If you have any questions regarding this program or the Code of Governmental Ethics, do not hesitate to contact the board with your inquiry.

G. At the conclusion of an approved program, each attending public servant must be given the opportunity to complete an evaluation questionnaire addressing the quality, effectiveness, and usefulness of the particular program. Within 30 days of the conclusion of the program, a summary of the results of the questionnaires must be forwarded to the board. If requested, copies of the questionnaires must also be forwarded to the board. Certified trainers must maintain the questionnaires for one year following a program.

H. To ensure all requirements are met in accordance with this Chapter, the board or its staff may at any time evaluate a program and suspend approval of it. The board and its staff may also at any time evaluate a trainer and suspend or revoke his status as a certified trainer. The certified trainer will be given written reasons for suspension or revocation and an opportunity to appear before the board at its next regularly scheduled monthly meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1210 (May 2012), amended LR 47:720 (June 2021).

§2415. Public Servant Attendance Information and Submission; Certified Trainers

A. Each public servant attending a certified program shall provide information requested by the trainer.

B. For in person trainings, attendance forms will be provided by the certified trainer, which shall include an area for the attendee's name, date of birth, agency, signature, course number, certified trainer name, time of beginning of attendance and time of end of attendance. The attendance form must be completed and turned into the trainer at completion of the training.

C. For trainings conducted in a virtual environment, the following information for the attendee must be captured by the software used by the trainer: name, date of birth, agency, course number, name of certified trainer, time of log on, and time of log off.

D. The certified trainer must maintain attendance documentation for a minimum of four years; in the event a request is ever made by the board to view the forms by the board for the purposes of an audit, hearing, investigation, or any other purposes the board deems necessary and proper.

E. The certified trainer shall submit a certification of attendance to the board of Ethics within 30 days after the date of the program. The submission shall be made electronically on the board's website, and shall include the course number, certified trainer's name, the date of the program, and a list of only those attendees who attended 90 percent of the training, along with the attendee's date of birth and agency.

F. Attendance forms, or any other certification of attendance, will not be accepted by the Board of Ethics from an individual public servant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1211 (May 2012), amended LR 47:720 (June 2021).

§2417. Ethics Liaisons; Proctors

A. A state agency ethics liaison may deliver information, as a proctor, to the public servants in his agency regarding the education and training required pursuant to R.S. 42:1170.A of the code of governmental ethics, provided the liaison has the training required by R.S. 42:1170.C.

B. A political subdivision ethics liaison may deliver information, as a proctor, to the public servants under his agency's supervision or jurisdiction regarding the education and training required pursuant to R.S. 42:1170.A of the code of governmental ethics, provided the liaison has been designated by his agency head and the liaison has attended a

minimum of 2 hours of education and training designed for such persons or for persons set out in R.S. 42:1170.C regarding the provisions of the code of governmental ethics. In addition, each liaison shall be required to have at least 2 hours of ethics education and training annually.

1. A *political subdivision*, for purposes of this Section, is defined by R.S. 42:1102(17) as any unit of local government, including a special district, authorized by law to perform governmental functions.

C. If a request is made to the Board of Ethics, the board will provide the proctor, as defined in Subsections A and B access to a recorded presentation regarding the Code of Governmental Ethics, which may include, but is not limited to, a DVD or other presentation through the use of computer software.

D. In order for the public servant to receive credit for his public servant ethics training, the recorded presentation must be a minimum of one hour, and the public servant must be present for the entirety of the presentation.

E. Proctors for a public servant ethics training program shall announce or indicate as follows, prior to beginning the presentation.

1. This course has been approved by the Louisiana Board of Ethics to meet the ethics training requirement pursuant to R.S. 42:1170. The person delivering this program is not employed by the Board of Ethics, and any advice given is informational in nature. No opinions given are those of the Board of Ethics. If you have any questions regarding this program or the Code of Governmental Ethics, do not hesitate to contact the board with your inquiry.

F. Proctors must adhere to the following when submitting information to the Ethics Administration Program regarding the public servants in their agency.

1. Each public servant shall complete a public servant ethics training attendance form while in attendance at a recorded presentation by the proctor.

2. Attendance forms will be provided by the proctor.

3. Attendance forms shall include an area for the attendees' name, date of birth, agency, signature, course number, and proctor name and shall also include a clause that states:

Your signature on this attendance form is your attestation that you attended the entire presentation and that you are the person whose identity this form declares. You understand that evidence brought to the attention of the Board of Ethics to the contrary may result in disciplinary action from the board for failure to comply with R.S. 42:1170.

4. The public servant must complete a form while in attendance and leave the form with the proctor to be filed and stored by the political subdivision for a minimum of four years; in the event a request is ever made by the board to view the forms by the board for the purposes of an audit, hearing, investigation, or any other purposes the board deems necessary and proper.

5. The proctor shall submit information regarding the attendees to the Board of Ethics within 30 days after the date of the program. The submission shall be made electronically on the board's website, and shall include the course number, proctor's name, the date of the program, and a list of the

attendees with each public servant's date of birth and agency.

6. Attendance forms, or any other certification of attendance, will not be accepted by the Board of Ethics from an individual public servant.

G. Proctors are required to be present for the entirety of the program. If the proctor is not in the room with the attendees, the class size shall be limited to less than 10 attendees. Also, the proctor must be able to visually see the attendees and monitor their attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1211 (May 2012), amended LR 47:720 (June 2021).

Kathleen M. Allen
Ethics Administrator

2106#024

RULE

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment
Standards and Practices

(LAC 28:XI.5105, 5107, 5305, 5701, 597, 6151, 6153, 6803, 6819, 6823, 6825, 6829, 6901, 6913, 7209, 7301, 7501, 7701, 7703, 8301, 8303, 8306, 8307, 8501, and 8507)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 118—Statewide Assessment Standards and Practices*. The revisions adjust timelines to allow for flexibility in the event of a future pandemic or natural disaster; update assessments that are included in statewide administrations and the corresponding achievement levels to transition from End-of-Course (EOC) tests to LEAP 2025 high school and from LAA1 to LEAP Connect; align accommodations to new assessments; eliminate language related to LEAP grade 4 and 8 summer retests; and simplify requirements for promotion of students in fourth and eighth grades. This Rule is hereby adopted on the day of promulgation.

**Title 28
EDUCATION**

Part XI. Accountability/Testing

**Subpart 3. Bulletin 118—Statewide Assessment
Standards and Practices**

Chapter 57. Assessment Program Overview

**§5701. Overview of Assessment Programs in Louisiana
[Formerly LAC 28:CXI.701]**

A. Norm-Referenced and Criterion-Referenced Testing Programs Since 1986

Name of Assessment Program	Assessment Population	Administered

Name of Assessment Program	Assessment Population	Administered
EOCT	English III	fall 2011-summer 2019 (available for students who have entered a high school cohort prior to 2017-2018 school year-state administered) (fall 2019-district administered)

Special Population Assessments		
LEAP Connect	Students with Individualized Education Programs (IEPs) who meet participation criteria in grades 3–11	ELA and Math Grades 3 to 8: Spring 2018- ELA and Math Grade 11: Spring 2019- Science grades 4, 8, 11: Spring 2020

LAA 1	ELA and Mathematics (grade spans 3-4; 5-6; 7-8; 9-10); Science (grades 4, 8, and 11)	Revised spring 2008-2017 (ELA and Math) (available for high school students who need to participate in 2017-2018 only) Spring 2008-2019 (Science) (no longer administered)

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1534 (July 2005), amended LR 32:235 (February 2006), LR 34:66 (January 2008), LR 34:1352 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 37:858 (March 2011), LR 38:34 (January 2012), LR 39:74 (January 2013), LR 39:1019 (April 2013), LR 40:1319 (July 2014), LR 40:2512 (December 2014), LR 44:465 (March 2018), LR 44:2127 (December 2018), LR. 46:15 (January 2020), LR 47:721 (June 2021).

Shan N. Davis
Executive Director

2106#026

RULE

Board of Elementary and Secondary Education

Bulletin 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students (LAC 28:XXXV. Chapter 1)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has repealed *Bulletin 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students* and re-established Bulletin 1903 in accordance with Act 206 of the 2020 Regular Legislative Session and R.S. 17:7. This Rule is hereby adopted on the day of promulgation.

Title 28 EDUCATION

Part XXXV. Bulletin 1903—Louisiana Handbook for Students with Dyslexia

Chapter 1. General Provisions

§101. Definitions

Accommodation—any technique that alters the academic setting or environment but generally does not change the information or amount of information learned to enable a student to exhibit knowledge more accurately.

Assessment—the act or process of gathering data in order to better understand the strengths and weaknesses of student learning through observation, testing, interviews, screening, and evaluation.

Developmental Auditory Imperception—difficulties in perceiving and using what is heard such that the student may have difficulty with auditory processing, auditory discrimination, and learning sound-symbol associations.

Dysgraphia—difficulty with producing written symbols, usually resulting in slow and poor quality handwriting.

Dyslexia—an unexpected difficulty in reading for an individual who has the intelligence to be a much better reader, most commonly caused by a difficulty in phonological processing, which affects the ability of an individual to speak, read, and spell, noting that phonological processing is the appreciation of the individual sounds of spoken and written language.

Dysphasia—severe difficulty with expressive and receptive oral language.

Evaluation—the in-depth process of review, examination, and interpretation of intervention efforts, test results, interviews, observations, and other assessment information relative to predetermined criteria.

Expressive Language—the act of conveying information through writing, speaking, or gesturing.

Fluency—the clear, easy, written or spoken expression of ideas.

Grapheme—a written or printed representation of a phoneme (e.g., t, ch, z).

IDEA—Individuals with Disabilities Education Act (Public Law 105-17), also referred to as the special education statute.

Linguistics—the science of language, including phonology, morphology, syntax, and semantics.

Morphology—the study of words and how they are formed.

Phoneme—the smallest unit of sound capable of signaling semantic distinction or meaning (e.g./sh/, /i/, /p/).

Phoneme Manipulation—dropping, adding, or moving phonemes to create new words or detached syllables.

Phoneme Segmentation—the ability to separately articulate the sounds of a spoken word in order.

Phonemic Awareness—the awareness that spoken words or syllables can be divided into a sequence of phonemes which pertains to the rule system and is a subcategory of phonological awareness.

Phonics—an approach to teaching reading and spelling that stresses symbol-sound relationships, especially in beginning reading instruction.

Phonological Awareness—an understanding that words are made up of individual speech sounds as distinct from word meaning and that those sounds can be manipulated.

Phonology—the study of the speech sounds of a language and the underlying rules of usage.

Receptive Language—the act of understanding information by listening, reading, or gesturing.

Related Disorders—disorders similar to or related to dyslexia such as developmental auditory imperceptions, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

Screening—a brief examination which determines the presence or absence of an important impediment to learning.

Section 504 of the Rehabilitation Act of 1973—federal law found at 29 U.S.C. Secs. 706(7), 794, 794a, 794b. "No otherwise qualified disabled individual...shall, solely by the reason of his/her handicap, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

Semantics—the study of meaning in language.

Syntax—the study of how sentences are formed and of the grammatical rules that govern sentence formation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:722 (June 2021).

§103. Local Education Agency (LEA) Responsibilities

A. LEAs shall employ school personnel to oversee student screening, assessment, and evaluation for determination of program eligibility.

B. LEAs shall implement programs for students with characteristics of dyslexia and other related disorders in accordance with state and federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:723 (June 2021).

§105. School Level Responsibilities

A. School leaders shall select a School Building Level Committee (SBLC) comprised of members knowledgeable of student data and assessment processes.

B. SBLC members shall include, but are not limited to:

1. a teacher of student identified for review,
2. at least two additional education professionals knowledgeable about the student data and history, as well as indicators of condition in the individual school setting.

C. School leaders shall appoint a chairperson of the committee who is tasked with data collection, maintenance of records, scheduling and planning meetings, monitoring progress, obtaining necessary consent, and disseminating information to the committee members, educators, and parents.

D. Professional development shall be provided about state and federal regulations regarding dyslexia, the characteristics of dyslexia, and the LEA policies for implementation of the assessment and program process.

E. Educator training shall include information necessary to implement specialized instructional interventions and strategies for students with characteristics of dyslexia.

F. An intervention plan shall be established for students identified as demonstrating characteristics of dyslexia according to assessment and program determinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:723 (June 2021).

§107. School Building Level Committee (SBLC) Responsibilities

A. Request for SBLC review from a parent or educator shall initiate the preliminary gathering of data to assist in addressing the educational progress of a student who is consistently struggling or having difficulty attaining expected academic progress, despite receiving instruction in a high quality curriculum with the implementation of additional instructional intervention strategies within the framework of a multi-tiered system of support.

B. Data gathering and review may include, but is not limited to, the following information to establish a profile of the whole child:

1. student and family history, including relevant developmental, health, or home information;
2. speech and language information, including assessment of phonological awareness;
3. academic, cognitive, and behavior records;
4. teacher observations of aptitude, behavior, and concerns;
5. criterion referenced, norm referenced, and/or standardized test results;
6. interventions implemented;
7. formal and/or informal assessment and progress monitoring data;
8. samples of student work;
9. observations of student effort at home and/or school;
10. student academic and non-academic strengths and interests;
11. most recent vision and hearing screening results;

C. The SBLC will determine if relevant data indicates the need for further action that may include:

1. additional assessment;
2. continuation of specialized instructional interventions and progress monitoring;
3. development of a 504 Plan to provide classroom accommodations;
4. referral to pupil appraisal for evaluation to determine eligibility for special services as provided by IDEA;
5. return to regular classroom without further strategies or interventions.

D. The SBLC may repeat the review process should characteristics of dyslexia become evident or emerge at a later date.

E. Private evaluation results and documentation submitted by a parent or guardian must be reviewed by the SBLC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:723 (June 2021).

§109. Screening Requirements

A. In accordance with Bulletin 741: *Louisiana Handbook for School Administrators*, all students enrolled in kindergarten through third grade shall be administered an early literacy screener within the first 30 days of the school year.

B. Students in kindergarten and fall semester of first grade shall be screened with an early literacy instrument to measure:

1. Phonemic awareness,
2. Letter naming fluency, and
3. Letter sound recognition.

C. Students in spring semester of first grade through third grade shall be screened with an early literacy instrument to measure:

1. Decoding skills for blending and reading real and nonsense words accurately; and
2. Oral reading fluency rate and accuracy in connected text.

D. A score that indicates deficits shall result in additional screening to include:

1. Kindergarten and fall semester of first grade students:

- a. phonological awareness such as rhyming and syllable manipulation; and/or
- b. rapid automatic naming skills such as colors, objects, and numbers.

2. spring semester of first grade through third grade students

- a. phonological/phonemic awareness such as syllable manipulation, phoneme segmentation, or phoneme manipulation;
- b. rapid automatic naming skills such as colors, objects, letters, and/ or numbers;
- c. encoding skills using spontaneous spelling;
- d. oral and written language skills.

E. A student demonstrating deficits after additional screening is considered to have characteristics of dyslexia and shall be provided appropriate structured language and literacy interventions.

F. Screening is not limited to students in kindergarten through third grade and may be administered at any grade level if a student exhibits impediments to a successful school experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:724 (June 2021).

§111. Multisensory Structured Language and Literacy Program Criteria

A. A multisensory structured language and literacy program shall consist of specific content components to include:

1. phonological awareness;
2. phoneme-grapheme association;
3. phonics;

4. syllable instruction;
5. linguistics;
6. language-based instruction that integrates all aspects of language and comprehension

- a. receptive language skills of listening and reading,
- b. oral expression in word selection and sequencing,
- c. written expression in spelling, mechanics, and coherence, and
- d. handwriting;

7. Meaning-based instruction provided in words and sentences to extract meaning in addition to teaching isolated letter-sound correspondence.

B. Instructional methodology for a multisensory structured language and literacy program must be:

1. Explicit. Literacy instruction requires direct teaching of concepts with continuous student-teacher interaction and does not assume students deduce concepts.

2. Systematic. Material is organized and taught in a way that is logical and fits the nature of language which refers to the way sounds combine to form words and words combine to form sentences to represent knowledge. The ways are determined by a system of rules.

3. Sequential. The learner moves step by step, in order, from simple, well-learned material to that which is more complex, as the student masters the necessary body of language skills.

4. Cumulative. Each step is incremental and based on the skills already learned.

5. Individualized. Teaching is planned to meet the differing needs of individual learners, but may be of similar scope and sequencing.

6. Diagnostic. Teachers must be adept at individualizing instruction (even within groups) based on careful and continuous assessment, both informal (e.g., observation) and formal (e.g., with standardized measures). Content must be mastered to the degree of automaticity needed to free attention and cognitive resources for comprehension and oral/written expression.

7. Automaticity of Performance. Fluent processing of information that requires little effort or attention as in sight word recognition. Adequate practice with decodable text is to be provided for mastery of skills and application of concepts.

8. Simultaneous Multisensory. Instructional approaches use a simultaneous combination of internal visual, auditory, kinesthetic, and tactile learning pathways to achieve proficiency in language processing.

9. Synthetic to Analytic Phonics. A process of teaching letter sounds to create words.

a. Synthetic phonics first teaches letter sounds and then combines or blends the sounds to create words.

b. Analytic phonics uses prior knowledge of letters and the corresponding sounds to decode and form new words.

C. Program Implementation

1. Multisensory structured language and literacy programs are to be routinely provided within the regular school day within the framework of multi-tiered systems of support in:

- a. regular classroom setting;
- b. separate classroom setting;
- c. individual or small group instruction;
- d. any additional accommodations that are developed by the SBLC; or
- e. any combination thereof.

D. Review of Student Progress

1. Progress monitoring data shall be maintained on students receiving instruction in a multisensory structured language and literacy program.

2. The SBLC shall conduct a periodic review of the data to determine the effectiveness of the program for the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:724 (June 2021).

Shan N. Davis
Executive Director

2106#025

RULE

**Office of the Governor
Division of Administration
Office of State Procurement**

Procurement

(LAC 34:V.Chapters 1-17, 19, 21, and 23-31)

Editor's Note: Section 2521 is being repromulgated to correct a citation error. The original Rule may be viewed in its entirety on pages 578-590 of the May 20, 2021 *Louisiana Register*.

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., as authorized pursuant to R.S. 39:1561 and 39:1581, the Office of the Governor, Division of Administration, Office of State Procurement, has amended Chapters 1-17, 19, 21, and 23-31, and adopted Chapters 24 and 26 of LAC 34:V, Procurement. The Rules are revised to align with Act 312 of the 2019 Regular Legislative Session, Act 273 of the 2020 Regular Legislative Session, further align together provisions for purchasing and professional service contracting more consistently, reduce redundancy and potential for disagreement with the *Louisiana Procurement Code*, and make other policy revisions and clarifications consistent with the goal of ensuring full, fair, and open competition within public procurement activities. This Rule is hereby adopted on the day of promulgation.

Title 34

GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY CONTROL

Part V. Procurement

Chapter 25. Procurement of Professional, Personal, Consulting, Social Services, and Energy Efficiency Contracts

Subchapter A. General Provisions

§2521. Contractual Review Process

A. - D.2. ...

E. Legal and Content Review. There are a number of different types of contracts, and content requirements may vary. All contracts shall contain the following:

1. - 3. ...

4. beginning and termination dates for the contract. Contracts shall not include a clause permitting automatic renewal or extension of the original beyond a three-year period, unless authorized by the funding statute. Per R.S. 39:1622(C)(1) performance-based energy efficiency contracts shall have a term not to exceed 10 years;

5. - 10.b.ii. ...

F. Each contract submitted for approval which exceeds the value specified in R.S. 39:1623(A) shall be accompanied by a certification letter as described in R.S. 39:1623, signed by the using agency's representative.

G. - G.5. ...

H. If a contract is subject to the provisions of R.S. 39:1621(B), it must have been awarded pursuant to the requirements of R.S. 39:1595(B), unless exempt in accordance with Chapter 9 or Chapter 11 of this Part. Failure to so comply shall result in the using agency having to reconduct the process. Prior to approval of a contract for consulting services pursuant to this Subsection, the Office of State Procurement shall verify that the requirements of §2605 of this Part have been met.

I. Information technology consulting service contracts whose value exceeds the maximum amount specified in R.S. 39:1621(C) shall be procured in accordance with Subchapter B of this Chapter.

J. If a contract is for services defined as social services in R.S. 39:1556(54) it must have been awarded pursuant to the requirements of R.S. 39:1595(B) unless exempt by R.S. 39:1619. Failure to so comply shall result in the using agency having to reconduct the process. Prior to approval of a contract for social services pursuant to this Subsection, the Office of State Procurement shall verify that the requirements of §2605 of this Part have been met.

K. A formal, dated board resolution, disclosure of ownership or annual report filed with the Louisiana Secretary of State's office identifying the signatory as an officer, or equivalent document signed by one or more owners of the contractor must be secured and attached to the contract indicating that the signatory is a representative of the contractor and authorized to sign said contract.

L. ...

M. A performance evaluation for every personal, professional, consulting or social services contract shall be conducted by the using agency in accordance with R.S. 39:1569.1. This performance evaluation shall be retained by the using agency for all contracts approved under delegated authority. For all other contracts, this performance evaluation shall be submitted to the Office of State Procurement within 120 days after the termination of the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39: 1490(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Contractual Review, LR 7:182 (April 1981), amended LR 8:592 (November 1982), LR 10:456 (June 1984), LR 11:1069 (November 1985), LR

13:87 (February 1987), LR 13:653 (November 1987), LR 15:81 (February 1989), repromulgated by the Office of the Governor, Division of Administration, Office of State Procurement, LR 40:2562 (December 2014), amended LR 40:2545 (December 2014), LR 41:671 (April 2015), repromulgated LR 41:1669 (September 2015), amended by the Office of the Governor, Division of Administration, Office of State Procurement, LR 44:764 (April 2018), LR 47:585 (May 2021), repromulgated LR 47:725 (June 2021).

Paula Tregre
Director

2106#022

RULE

Department of Health Board of Medical Examiners

Assessment of Costs and Fines (LAC 46:XLV.9935)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board proposes to amend its rules governing adjudication, by inserting a new section (§9935), dealing with the assessment of costs and fines in board proceedings. The proposed amendments are set forth below. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions Subpart 5. Rules of Procedure

Chapter 99. Adjudication

§9935. Assessment of Costs and Fines

A. Assessment. As part of a decision, consent order, or other agreed order, the board may require a respondent to pay all costs of the board proceedings. If costs are assessed in a consent or other agreed order, the amount shall be stated in the order.

B. Special Definition. *Costs of the Proceedings*—for the purposes of this rule, shall mean a reasonable charge to meet all obligations incurred by the board in the performance of its duties, including but not limited to investigators', stenographers', and attorney fees, witness fees and expenses, and the per diem and expenses of the members of the board's hearing panel.

C. Notice. Notice of the application of this Section shall be provided to a respondent with the written notice of filing of an administrative complaint, pursuant to 9905.

D. Timing; Content; Service; Scope and Limitations; Exceptions and Requests for Modification; Disposition. Statements of Costs shall be processed as follows:

1. Timing. A statement of costs shall be compiled by the board within 20 days from the date on which the board's decision is served on the respondent.

2. Content. A statement of costs must state with particularity the nature and amount of the costs assessed. The statement must be signed and certify that all reasonable attempts have been made to ensure the statement's accuracy.

3. Service. A statement of costs shall be served on respondent by regular and certified mail at the last known address on file with the board not later than 20 days from the date on which the board's decision is served on the respondent.

4. Scope and Limitations. A statement of costs shall be assessed in any decision following an administrative hearing, in which a respondent is found guilty of a violation of a law or rule administered by the board. The statement shall include those costs actually incurred by the board from the time of filing of an administrative complaint until the issuance of a final decision or order; provided, however, and except as provided below, that such costs shall not exceed for a respondent:

a. physician, the sum of \$75,000;

b. allied health care practitioner, as to whom the board is authorized by law to assess the costs of the proceeding, the sum of \$25,000.

5. Exceptions; Requests for Modification. Within 20 days of the date of service of the statement of costs:

a. the respondent may file an exception to, or submit a request for modification of, a statement of costs. Each such exception or request shall be accompanied by a concise statement of the grounds on which the exception or request is based and any supporting legal or other authority. Within 10 days of such filing or submission, a response may be filed by the complainant;

b. the complainant may request an assessment of costs above the amounts specified above. Such a request shall be made only when the complainant contends a respondent unreasonably increased the costs of the proceedings by activities undertaken to harass or create undue burden, or by the repetitive, unduly burdensome, or unwarranted filing of meritless motions or discovery requests. Within 10 days of the filing of such a request, a response may be filed by the respondent.

6. Disposition of Exceptions and Requests for Modification. Upon timely filing:

a. an exception or request shall be referred to the presiding officer of the hearing panel with respect to the proceeding for a ruling. The presiding officer, in his or her discretion, may refer an exception or request to the entire hearing panel which considered the case for disposition, and any party aggrieved by the ruling of a presiding officer may request, within 10 days of receipt of the ruling, that the exception or request be reconsidered by the entire panel which heard the case;

b. the matter shall be ordinarily be decided on by the presiding officer or the hearing panel, as the case may be, on the papers filed, without hearing. On the written request of respondent or complainant, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing by oral argument;

c. the president of the board or presiding officer of the hearing panel, as the case may be, may delegate the task of ruling on such exceptions or request to the board's independent legal counsel appointed pursuant to §9921D, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case.

E. Payment of Costs and Expenses; Periodic Payment Plan; Waiver

1. A statement of costs must be satisfied within 30 days of receipt unless the statement of costs provides otherwise or the respondent enters into a periodic payment plan with the board's compliance officer assigned to the matter or with another individual designated by the board.

2. The board's compliance officer or designee may enter into an agreement with a respondent for a reasonable periodic payment plan if the respondent demonstrates in writing the present inability to pay such costs or provides other satisfactory cause to support the request.

3. A respondent may ask the board to review an adverse determination by its compliance officer or designee regarding specific conditions for a periodic payment plan. Such review shall be conducted in accordance with §9935.D.6.

F. Fine. As part of a decision, consent order, or other agreed order, the board may require the payment of a fine; provided, however, that such fine shall not exceed, as to a respondent:

a. physician, the sum of \$5,000;

b. allied health care practitioner, the amount authorized by law, but in no event more than \$5,000.

G. Waiver; Adjustment. A statement of costs or amount of a fine, or both, may be waived or reduced by the board, in its discretion, in whole or part, upon a request submitted in writing that evidences to the board's satisfaction a significant medical, physical, financial or similar extenuating circumstance precluding the individual's payment of costs or fine or where it appears to the board in the interests of justice to do so.

H. Failure to Comply with Assessment of Costs or Fine. A respondent who fails to timely pay a statement of costs or fine, or who fails to comply with the terms of a periodic payment plan, shall be notified of non-compliance by first class and certified mail at his or her last known address on file with the board. A respondent's failure to comply with such notice within 30 days of mailing may provide a basis for further action by the board.

I. Nothing in this Section shall delay, suspend, extend, or otherwise affect the time authorized by law within which

a respondent may file a petition for judicial review of a final decision or order issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:726 (June 2021).

Vincent A. Culotta, Jr., MD
Executive Director

2106#020

RULE

Department of Health Board of Medical Examiners

Licensure and Certification—Physician (LAC 46:XLV.315, 415, and 417)

Pursuant to the authority vested in it by the Louisiana Medical Practice Act, R.S. 37:1261-1292, and in accordance with the applicable provisions of the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Board of Medical Examiners (board) intends to amend its rules governing Licensure and Certification of Physicians, LAC 46:XLV, Subpart 2, Chapter 3, Subchapter B, §315 and Subchapter I, §415.B and §417.B.

The proposed amendments to §315.A expand the existing discretionary waiver of certain license requirements for applicants appointed to a full-time position by a medical school or college, at a rank of assistant professor or above, to an applicant who would be a full-time employee of an academic medical center whose duties and responsibilities are devoted primarily to training residents and fellows and other academic endeavors within post-graduate medical education. As with medical school professors, the proposed amendments would limit the applicant's practice to the *academic medical center*, as defined in §315.B, for which he or she has been approved by the board and affiliated hospitals and clinics of such center within the same geographic area of the state. As is the case under the existing rules (§327), the proposed amendments would be available to medical educators who graduated from either U.S. or international medical schools and the waiver of qualifications would expire upon termination of the appointment (§415.B).

The proposed changes to §417.B are intended to conform the rules governing notification of license renewal to current agency practices (e.g. electronic notification), which resulted from the board's transition from sending out paper license renewals to electronic renewals and courtesy notices over the past several years. The proposed amendments are set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

**Subchapter B. Graduates of American and Canadian
Medical School and Colleges**

§315. Waiver of Qualifications

A. Upon request by an applicant, supported by certification from the dean of a medical school or college or chief medical officer of an academic medical center within the state of Louisiana which is approved by the board, the board may, in its discretion, waive the qualifications for licensure otherwise required by §311.A.5 or 6, in favor of an applicant who has been formally appointed by a medical school or college to a full-time position at a rank of assistant professor or above or to a full-time position as an employee of an academic medical center whose duties and responsibilities are devoted primarily to training residents and fellows and other academic endeavors within post-graduate medical education. The practice of such an individual shall be limited to the medical school or college or academic medical center for which such person has been approved by the board, and to hospitals and clinics affiliated with such medical school or college or academic medical center within the same geographic area of the state.

B. Special Definition. For purposes of this Section, the term *academic medical center* shall be a hospital located in this state that sponsors four or more post-graduate medical education programs approved by the ACGME. At least two of such programs shall be in medicine, surgery, obstetrics and gynecology, pediatrics, family practice, emergency medicine or psychiatry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271, 37:1272, 37:1274 and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:837 (June 2001), LR 35:1110 (June 2009), amended by the Department of Health, Board of Medical Examiners, LR 46:728 (June 2021).

**Subchapter I. License Issuance, Termination, Renewal,
Reinstatement and Exemptions**

§415. Expiration of Licenses and Permits

A. ...

B. A license issued pursuant to the waiver of qualifications provided by §315 of this Chapter shall become null and void on the earlier of the date prescribed by §415.A or the date on which the physician's appointment as a professor to the medical school or college, upon which the waiver was granted by the board, is terminated.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:1500 (August 1998), LR 27:848 (June 2001), LR 31:1584 (July 2005), amended by the Department of Health, Board of Medical Examiners, LR 47:728 (June 2021).

§417. Renewal of License; Prerequisite Condition

A. ...

B. A courtesy renewal notice shall be mailed or electronically transmitted by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be transmitted to the most recent address of the licensee reflected in the official records of the board.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), 37:1271, 37:1272, 37:1274, 37:1275.1, 37:1280 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:1500 (August 1998), LR 26:695 (April 2000), LR 27:848 (June 2001), amended by the Department of Health, Board of Medical Examiners, LR 44:587 (March 2018), amended by the Department of Health, Board of Medical Examiners, LR 47:728 (June 2021).

Vincent A. Culotta, Jr., MD
Executive Director

2106#021

RULE

**Department of Health
Board of Medical Examiners**

Licensure and Application
(LAC 46:XLV.Chapter 3)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board has amended its rules governing licensure of foreign medical graduates, by adding additional language to a subsection (§323.A.4), involving an alternative method for licensure for international medical graduates, and by repealing other subsections (§§361.G and 363.B). The proposed amendments are set forth below. This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLV. Medical Professions

Subpart 2. Licensure and Certification
Chapter 3. Physicians
Subchapter C. International Medical Graduates

§323. Qualifications for License

A. To be eligible for a license, an international medical graduate applicant shall:

1. - 4. ...

5. or, alternative to the requirements of §323A.4, if the IMG is a graduate of a medical school or college which was, at the time of graduation, recognized by the World Federation for Medical Education (WFME) or another organization accepted by the ECFMG for the recognition of medical school accrediting agencies, and found to use standards comparable to those used to accredit medical schools in the United States by the National Committee on Foreign Medical Education and Accreditation (NCFMEA) of the U.S. Department of Education, have completed post-graduate clinical training in the manner prescribed by §311A.6.b of these rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272 and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984, amended LR 12:528 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:514 (June 1990), LR 27:837 (June 2001), LR 47:729 (June 2021).

Subchapter F. Application

§361. Application Procedure

A. - F. ...

G. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1277, 37:1278 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 27:839 (June 2001), LR 47:730 (June 2021).

§363. Additional Requirements for International Medical Graduates

A. ...

B. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:517 (June 1990), LR 27:840 (June 2001), LR 47:730 (June 2021).

Vincent A. Culotta, Jr., MD
Executive Director

2106#016

RULE

Department of Health
Board of Medical Examiners

Licensure and Certification
(LAC 46:XLV.1307)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board has amended its rules governing the taking of a complete history and physical by a podiatrist certified for advanced practice (§1307). The proposed amendments are set forth below. This Rule is hereby adopted on the day of promulgation.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 13. Podiatrists
Subchapter B. Requirements and Qualifications for Licensure, Scope of Practice
§1307. Qualifications for Certification for Advanced Practice; Scope of Practice

A. Certification of an applicant for advanced practice may be issued by the board for either the conservative treatment of the ankle or the surgical treatment of the ankle, or both, depending upon an applicant's education and training.

B. Qualifications for Certification in Conservative Treatment of the Ankle. To be eligible for certification for the conservative treatment of the ankle an applicant who possesses and meets the qualifications and requirements of §1305A.1.-5 of this Chapter shall have completed at least one year of postgraduate podiatric training in an internship or equivalent program accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association or its successor association, and approved by the board.

C. Scope of Practice for Conservative Treatment of the Ankle. The scope of practice for the conservative treatment of the ankle shall be limited to the following:

1. the prevention, examination, diagnosis, medical, surgical, and adjuvant treatment of the human foot, as defined in §1303.A, which is authorized for a doctor of podiatric medicine without certification in advanced practice;

2. the medical treatment of the ankle to include the muscles or tendons of the lower leg governing the functions of the foot and ankle;

3. surgical treatment of the superficial conditions of the ankle involving the skin and overlying tissues and extending proximally; and

4. assisting an orthopedic surgeon or a doctor of podiatric medicine whose practice prerogatives include surgical treatment of the ankle, as defined in this Section.

D. Qualifications for Certification in Surgical Treatment of the Ankle. To be eligible for certification in the surgical treatment of the ankle, whether for initial licensure or annual renewal, an applicant who possesses and meets the qualifications and requirements of §1305.A.1-5 of this Chapter shall:

1. have completed a surgical residency approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, consisting of:

a. a three-year podiatric surgery residency (PSR 36) program or greater; or

b. a three-year podiatric medicine and surgery residency (PM and S 36) program or greater; or

c. a two-year podiatric surgery residency (PSR 24) program and:

i. be board-certified in reconstructive rear foot and ankle surgery (RRA) by the American Board of Foot and Ankle Surgery (ABFAS), formerly the American Board of Podiatric Surgery (APBS); or

ii. be board-certified in foot surgery and board qualified in reconstructive rear foot/ankle surgery (RRA) by the ABFAS.

E. Scope of Practice for Surgical Treatment of the Ankle. The scope of practice for surgical treatment of the ankle shall be limited to the following:

1. the scope of practice as described in this Section for the conservative treatment of the ankle; and

2. surgical treatment of the ankle and muscles or tendons of the lower leg governing the functions of the foot and ankle, limited to procedures listed by the Council on Podiatric Medical Education (CPME) and the American Board of Podiatric Surgery (ABPS) as found in the CPME 320 and ABPS 220 documents (and their successors) as being required for graduate podiatric medical education and board certification at the time that an applicant's application for initial licensure or annual renewal is filed with the board.

F. Surgical procedures authorized under this Section shall only be performed in the following types of facilities:

1. a licensed and accredited hospital as defined in R.S. 40:2102(A) and R.S. 37:611(3)(a), if the podiatrist is granted privileges to do the procedures;

2. a licensed and accredited trauma center as defined in R.S. 40:2171(3) and R.S. 37:611(3)(a), if the podiatrist is granted privileges to do the procedures; or

3. a licensed and accredited ambulatory surgical center as defined in R.S. 40:2133(A) and R.S. 37:611(3)(a) if the podiatrist is granted privileges to do the same procedure in a hospital as described in §1307F.1 or a trauma center as described in §1307F.2 of this Subsection.

G. Patient history and examination. A podiatrist certified for advanced practice under this Section:

1. with two or more years of postgraduate training, may independently perform a complete history and physical

(H and P) on his or her patients for the purpose of pre-operative evaluation and diagnosis before a podiatric procedure the podiatrist is authorized to perform under the scope of his or her license

2. may independently perform a complete H and P for Institutional Review Board approved research studies.

H. The burden of satisfying the board as to the qualifications and eligibility of the applicant for certification of practice prerogatives shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:241 (February 2009), amended by the Department of Health, Board of Medical Examiners, LR 42:1519 (September 2016), amended by the Department of Health, Board of Medical Examiners, LR 42:2197 (December 2016), LR 47:729 (June 2021).

Vincent A. Culotta, Jr., MD
Executive Director

2106#018

RULE

Department of Health Board of Medical Examiners

Continuing Medical Education
(LAC 46:XLV 433-439)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board proposes to amend its rules governing all licensees (443) as to the method of providing the board with proof of continuing medical education by use of an electronic education tracker (435 and 439), and the rules on renewal ineligibility where the licensee fails to satisfy the continuing medical education requirement (441). The proposed amendments are set forth below. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 3. Physicians

Subchapter K. Continuing Medical Education

§433. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing medical education ("CME") requisite to the renewal or reinstatement of licensure, as provided by §§417

and 419 of these rules and prescribe the procedures applicable to satisfaction and documentation of continuing medical education in connection with applications for renewal or reinstatement of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000), amended by the Department of Health, Board of Medical Examiners LR 47:730 (June 2021).

§435. Continuing Medical Educational Requirement

A. Subject to the waiver of and exceptions to CME prescribed by §§445 and 447 and the special requirements attendant to initial renewal of licensure specified in §449, every physician seeking the renewal or reinstatement of licensure shall annually evidence and document, in a manner specified by the board, the successful completion of not less than 20 hours of board approved CME.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000), amended by the Department of Health, Board of Medical Examiners LR 47:731 (June 2021).

§437. Qualifying Continuing Medical Education Programs

A. Any program, course, seminar or other activity offering Category 1 CME shall be deemed approved for purposes of satisfying the continuing medical education requirements under this Subchapter, if sponsored or offered by:

1. an organization or entity accredited by the Accreditation Council for Continuing Medical Education (ACCME);
2. a member board of the American Board of Medical Specialties or a specialty board recognized by the AOA;
3. the American Academy of Family Physicians (AAFP);
4. the American College of Obstetricians and Gynecologists (ACOG);
5. the American Osteopathic Association (AOA); or
6. an organization or entity accredited by the Louisiana State Medical Society or any other ACCME recognized state medical society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000), amended LR 31:1584 (July 2005), amended by the Department of Health, Board of Medical Examiners LR 47:731 (June 2021).

§439. Documentation Procedure

A. Licensees shall insure that documentation of CME (or continuing education) sufficient to satisfy the annual continuing education requirement is submitted to the board. Each licensee shall request the organization or entity sponsoring or offering the activity to submit proof of the licensee's completion of a continuing education activity to the board's designated electronic education tracker (EET).

In the event the sponsoring or offering organization fails or refuses to do so, the licensee shall submit such proof directly to the EET.

B. Each licensee shall be:

1. sent a transcript of the hours/credits/units of qualifying continuing education, which the board has then received from its designated EET for the licensee. The transcript shall reflect the amount of continuing education needed to satisfy the continuing education requirement for license renewal. The transcript shall be electronically transmitted to the licensee's preferred email address on file with the board at periodic intervals in advance of the date for licensure renewal;

2. obligated and responsible for reviewing his/her continuing education transcript for accuracy and resolving any discrepancies in the amount of credit awarded, lack of reporting to the board, or other issues, with the organization or entity sponsoring or offering the continuing education activity. If issues remain unresolved, the licensee shall attempt resolution by way of the board's designated EET. If still unsuccessful, the licensee may then supply documentation of his/her efforts to resolve the discrepancy or other issues to the board and request its assistance;

3. A licensee's failure to notify the board of a change in preferred email address will not absolve the licensee from his/her obligations and responsibilities under this Section.

C. A physician shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing medical education activity. Satisfactory evidence shall consist of a certificate or other documentation which shall, at a minimum, contain the:

1. program title;
2. sponsor's name;
3. physician's name;
4. inclusive date or dates and location of the CME event; and
5. documented verification of successful completion of 20 hours of Category 1 CME by stamp, signature, official or other proof acceptable to the board.

D. In addition, the board has the right to audit any questionable documentation of activities.

E. Verification of continuing medical education satisfying the requirements of this Subchapter shall be submitted by a physician to the board within 30 days of the date of mailing of notification of audit or such longer period as the board may designate in such notification. A physician's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

F. Any certification of continuing medical education which is not approved by the board pursuant to §437 shall not be considered as qualifying for CME recognition by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000), amended by the Department of Health, Board of Medical Examiners LR 47:731 (June 2021).

§441. Failure to Satisfy Continuing Medical Education Requirements

A. Non-Compliance; Reinstatement of Licensure. A licensee:

1. who fails to satisfy the continuing education requirement shall not be eligible for licensure renewal consideration;

2. whose license has not been renewed for failure to satisfy the continuing education requirement may be reinstated upon application to the board, accompanied by payment of the renewal fee required by Subpart 1 of these rules, in addition to all other applicable fees and costs, together with confirmation of completion of the continuing education requirement.

B. The license of a physician which has expired for nonrenewal or been revoked for failure to satisfy the CME requirements of §435 of these rules, may be reinstated pursuant to §419 upon written application to the board, accompanied by payment of the reinstatement fee required by §419, in addition to all other applicable fees and costs, together with documentation and certification that the applicant has, for each year since the date on which the applicant's license was last issued or renewed, completed an aggregate of 20 hours of board approved CME.

C. The license of a physician which has expired, has not been renewed or been revoked for failure to meet the requirements of §449, or one which has expired, has not been renewed or revoked on more than one occasion for failure to satisfy the CME requirements of §435 of these rules shall be deemed in violation of R.S. 37:1285.A(30), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000), amended LR 47:732 (June 2021).

§443. Application of Requirements to All Licensees; Resolution of Conflict

A. Sections 439 and 441 of this Chapter shall apply to physicians and all allied health care providers licensed by the board who are required to complete continuing education as a prerequisite to the renewal of a license or other authority to practice a profession regulated by the board. All references to CME or continuing education and credits or hours, shall apply equally to any word or term utilized in this Part to describe the requirement for or amount of continuing education required for the renewal of such license or other authority. In the event of a conflict between §439 and §441, and those of any other Section in this Part, §439 and §441 shall govern and control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners LR 47:732 (June 2021).

§444. Falsification of Continuing Medical Education (Formerly §443)

A. Any licensee or applicant who falsely certifies attendance at and/or completion of the required continuing medical education requirements of §§433-449 shall be deemed in violation of R.S. 37:1285.A(3), (4), (13) and/or (30), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000), amended by the Department of Health, Board of Medical Examiners, LR 47:732 (June 2021).

§445. Waiver of Requirements

A. The board may, in its discretion, waive all or part of the CME required by these rules in favor of a physician who makes written request to the board and evidences to its satisfaction a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the individual's satisfaction of CME requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000), amended by the Department of Health, Board of Medical Examiners LR 47:732 (June 2021).

§447. Exceptions to the Continuing Medical Education Requirements

A. Except as provided in §449, the CME requirements prescribed by this Subchapter prerequisite to renewal or reinstatement of licensure shall not be applicable to a physician:

1. engaged in military service longer than one year's duration outside of Louisiana;

2. who has held an initial Louisiana license on the basis of examination for less than one year;

3. who has within the past year been certified or recertified by a member board of the American Board of Medical Specialties or a specialty board recognized by the AOA;

4. who is in a residency training program approved by the board; or

5. who is a retired physician in accordance with §418 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:697 (April 2000), amended LR 31:1585 (July 2005), amended by the Department of Health, Board of Medical Examiners LR 47:732 (June 2021).

§449. CME Requirement for Initial Renewal of License

A. Effective on and after January 1, 2002, every physician seeking the initial renewal of medical licensure, whether such license was originally issued by the board on the basis of examination, reciprocity or reinstatement shall, as part of the continuing medical education required by this Subchapter as a condition prerequisite to licensure renewal, evidence and document upon forms supplied by the board attendance at an orientation program sponsored and/or approved by the board.

B. The program required pursuant to §449.A shall be conducted at such locations, on such dates and at such times as may be designated by the board, shall consist of not less than two hours in duration and involve such content, topic and structure as the board may from time to time deem appropriate.

C. Notification of the dates, times and locations at which such programs will be offered, as well as the enrollment procedure, shall be mailed to the most recent address of each applicant subject to the requirements of §449.A as reflected in the official records of the board. A physician's failure to notify the board of a change of mailing address will not absolve the applicant of the requirement to attend a board sponsored/approved orientation program as a condition of approval of an initial request for licensure renewal.

D. A physician required to attend an orientation program pursuant to §449.A shall, for each hour of attendance as may be required by the board, be granted an hour-for-hour credit towards the annual CME requirement specified by §435.

E. A physician who at the time of the initial renewal of medical licensure resides and practices medicine exclusively outside of Louisiana or who has held an unrestricted license to practice medicine in any state for at least 10 years may, in lieu of personal attendance, satisfy the mandatory requirements of Subsection A of this Section by successfully completing the board's orientation program on-line in a manner specified by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:697 (April 2000), amended LR 27:850 (June 2001), LR 36:1243 (June 2010), amended by the Department of Health, Board of Medical Examiners LR 47:733 (June 2021).

Vincent A. Culotta, Jr., MD
Executive Director

2106#014

RULE

**Department of Health
Board of Medical Examiners**

Petitions for Rulemaking
(LAC 46:XLV.Chapter 93)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et. seq., specifically, R.S.

49:952(2) and R.S. 49:953C(1), and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board has adopted the following rules to provide the procedures for requesting and consideration of the adoption, amendment, or repeal of a board rule. This Rule is hereby adopted on the day of promulgation.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLV. Medical Professions
Subpart 5. Rules of Procedure**

Chapter 93. Miscellaneous Provisions

Subchapter A. Petitions for Rulemaking

§9301. Scope of Subchapter

A. This Subchapter prescribes the procedures by which interested persons may petition the Board of Medical Examiners to exercise its rulemaking authority to adopt, amend or repeal administrative rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953C(1), R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:733 (June 2021).

§9303. Definitions as Used in This Subchapter

A. As used in this Subchapter, the following terms shall have the meanings specified.

Interested Person—a person who or which:

- a. holds or has applied for any license, certificate, permit or registration issued by the board; or
- b. is subject to the regulatory jurisdiction of the board; or
- c. is or may be affected by the practice of individuals regulated by the board.

Person—an individual natural person, partnership, corporation, company, association, governmental subdivision or other public or private organization or entity.

Rulemaking—the process by which the board exercises its authority under the laws of the state of Louisiana, including the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Medical Practice Act, R.S. 37:1261 et seq., and the other acts administered by the board, to formulate, propose and adopt, amend or repeal and promulgate administrative rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953C(1), R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:733 (June 2021).

§9305. Petitions for Rulemaking

A. General Form. A petition for rulemaking must be submitted to the board in writing, legibly printed or typed.

B. Title and Signature. The petition shall be plainly and prominently titled as such and manually signed by an individual petitioner, authorized officer or representative of the petitioner, or attorney representing the petitioner. The full name, title or office, if any, address and telephone number of a person signing a petition shall be printed or typed under the person's signature. Signees signing in a representative capacity must be clearly identified.

C. Required Contents. A petition for rulemaking shall:

- 1. clearly identify each petitioner by name and address of residence or principal place of business;

2. describe the legal status or nature of the petitioner to establish that the petitioner is an *interested person*, within the meaning of Section 9303 of this Subchapter;

3. if a petition for adoption of a new rule, set forth a concise statement of the substance, nature, purpose and intended effect of the proposed rule and citation to the statutory authority for the board's rulemaking authority in the manner and on the subject requested;

4. if a petition for amendment of an existing rule, specify, by citation to the *Louisiana Administrative Code*, the rule or rules which the petitioner requests that the board amend, together with a concise statement of the manner in which it is proposed that the rule or rules be amended, the purpose and intended effect of the requested amendment, and citation to the statutory authority for the board's exercise or rulemaking authority in the manner and on the subject requested;

5. if a petition for repeal of an existing rule, specify, by citation to the *Louisiana Administrative Code*, the rule or rules which the petitioner requests that the board repeal, together with a concise statement of the purpose and intended effect of such repeal;

6. set forth a concise statement of the facts, circumstances, and reasons which warrant exercise of the board's rulemaking authority in the manner requested.

7. set forth a statement or prayer expressing the action sought by the petition; and

8. contain any other information deemed necessary by the board, in its discretion, in order that it may properly consider the petition.

D. Submission and Filing. A petition for rulemaking shall be filed with the board by delivery, U.S. mail to the attention of the board's executive director at the offices of the board.

E. Nonconforming Petitions. The board may refuse to accept for filing, or may defer consideration of, any petition for rulemaking that does not conform to the requirements of this Section.

F. Public Record. A petition for rulemaking shall be deemed a public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953C(1), R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:733 (June 2021).

§9307. Consideration

A. Consideration by the Board. A petition for rulemaking may be considered and acted on at any regular or special meeting of the board. Within the time prescribed by Section 9309 of this Subchapter, the board may request additional information from the petitioner or interested persons other than the petitioner as it may deem relevant to its consideration.

B. Presentations. Within the time prescribed by Section 9309 of this Subchapter, the board may, on its own initiative or at the request of the petitioner or any other interested person, permit petitioner and other interested persons to appear before the board to make an oral presentation of

information, data, views, comments and arguments in support of or opposition to the requested rulemaking.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953C(1), R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:734 (June 2021).

§9309. Disposition

A. Form of Determination. The board may grant or deny a petition for rulemaking, in whole or in part. The board's determination shall be stated in writing and transmitted by U.S. mail to the person signing the petition. If the board denies a petition for rulemaking, in whole or in part, its determination shall state the reasons. If the board grants a petition for rulemaking, in whole or in part, it shall initiate rulemaking proceedings in accordance with the Louisiana Administrative Procedure Act. However, nothing in this Subchapter shall be construed to require that the board, in granting a petition for the adoption or amendment of a rule, employ or use the specific form or language requested by the petitioner, provided that the rule or amendment proposed by the board gives effect to the substance and intent of the petition.

B. Time for Determination. The board will render its determination with respect to a petition for rulemaking:

1. within 90 days of the date on which a complete petition conforming to the requirements of §9305 of this Subchapter is filed with the board; or

2. within 60 days of the date on which, at the request of the petitioner, the board entertains an oral presentation by the petitioner, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953C(1), R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:734 (June 2021).

§9311. Construction and Effect

A. Board Discretion in Rulemaking. The provisions of this Subchapter are intended to provide an orderly and reasonable means for interested persons to petition the board to exercise its rulemaking authority under law and to provide for board consideration of such petitions. Petitions for rulemaking are addressed to the board's discretion as to the necessity or appropriateness of the adoption, amendment or repeal of a rule in the discharge of its licensing and regulatory responsibilities under the law. Nothing in this Subchapter shall be deemed to create any right or entitlement in any person to require the board to exercise its rulemaking authority.

B. Nature and Effect of Determination. The board's disposition of a petition for rulemaking by a determination made under §9309 of this Subchapter does not constitute, and shall not be deemed to constitute, a decision or order within the meaning of Louisiana Administrative Procedure Act, R.S. 49:951(3) or a declaratory order or ruling within the meaning of R.S. 49:962 and the procedures prescribed by this Subchapter do not constitute an adjudication within the meaning of R.S. 49:951(1). A determination by the board

with respect to a petition for rulemaking is final and not subject to judicial review or other appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953C(1), R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:734 (June 2021).

Vincent A. Culotta, Jr., MD
Executive Director

2106#017

RULE

Department of Health Board of Medical Examiners

Rules of Procedure;
Complaints and Investigations (LAC 46:XLV.402)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board has amended its rules governing provisional temporary permits so as to provide for an emergency temporary permit to issue for previously licensed practitioners who meet certain criteria (46:XLV.412) and to provide that the board may waive obtaining a criminal history on such a temporary permit during a declared emergency (46:XLV.402). The proposed amendments are set forth below. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Subchapter H. Restricted Licensure, Permits

§402. Provisional Temporary Permit Pending Results of Criminal History Record Information

A. - C.2. ...

D. The board may waive the procedures and requirements for submitting, requesting and obtaining criminal history record information, specified in §402.A, for a non-renewable provisional temporary permit issued under this Subchapter that is effective for not more than 90 days or an emergency temporary permit issued under §412 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275 and R.S. 37:1277, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:843 (June 2001), amended LR 33:1344 (July 2007), LR 36:1243 (June 2010); amended by the Department of Health, Board of Medical Examiners, LR 47:735 (June 2021).

§412. Emergency Temporary Permits

A. - G.3. ...

H. The board may, in its discretion, extend or renew an expired emergency temporary permit for additional 60-day periods provided all conditions prerequisite to original issuance are satisfied.

I. - K. ...

L. The board may, upon its electronic receipt of a completed application and/or such information as may be required to verify the individual as a former licensee, issue a permit under this Section to an individual who does not possess a current license to practice medicine or as allied health care practitioner in this state, provided:

1. such individual:

a. was formerly licensed by the board;

b. was not, in the preceding 15 years, disciplined by the board;

c. at the time his or her license last expired, held an unrestricted license in-good standing with the board and was not subject to board order, investigation or disciplinary proceedings;

d. affirms that there is no known condition that would impair his/her ability to practice safely;

e. practices within the scope and expertise of his/her education, training and experience and that of the formerly held license issued by the board;

f. has made arrangements and registered to provide health care services with a hospital, institution or facility licensed by the Louisiana Department of Health (LDH) or at another site approved by LDH or the board, that:

i. is registered as a host entity pursuant to the Uniform Emergency Volunteer Health Practitioners Act, R.S. 29:781, et seq.; and

ii. initiated the individual's application process by providing electronic confirmation to LDH and the board that it supports permit issuance and will accept, credential and grant privileges to the individual to provide voluntary health care services for the facility.

g. limits the provision of health care services to patients of the hospital, institution or facility licensed by LDH or at another site specified or approved by LDH or the board, at which he is registered to provide services pursuant to the Uniform Emergency Volunteer Health Practitioners Act, R.S. 29:781, et seq.;

2. a permit issued under §412.L shall be available to a physician who holds a reduced-fee license pursuant to §418 of these rules without the necessity of satisfying the requirements of §418,C;

3. permit issuance under this Section may be verified from the board's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 1275; R.S. 37:3301-3312; R.S. 37:3421-3433; R.S. 37:1311-1329; R.S. 37:3240-3257; R.S. 37:3001-3014; R.S. 37:1331-1343; R.S. 37:1360.21-1360.38; R.S. 37:611-628; R.S. 37:2861-2870; R.S. 37:1292; R.S. 37:3351-3361 and R.S. 29:769(E), R.S. 29:785 and R.S. 29:788.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR

Vincent A. Culotta, Jr., MD
Executive Director

2106#015

RULE

Department of Health Board of Medical Examiners

Rules of Procedure; Complaints and Investigations (LAC 46:XLV.9714)

In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board proposes to amend its rules governing adjudication, by inserting a new section (§9714), dealing with guidelines for determining whether to issue public or non-public actions. The proposed amendments are set forth below. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions Subpart 5. Rules of Procedure

Chapter 97. Complaints and Investigations

§9714. Guidelines for Determining Whether to Issue Public or Non-Public Actions

A. The board has the responsibility to consider and determine appropriate action as to all conduct alleged to violate the Louisiana Medical Practice Act, R.S. 37:1261-1292 et seq., other practice acts respecting allied health care practitioners governed by the board, and the rules and regulations promulgated by the board in carrying out the provisions of this Part.

B. This Section provides guidance as to the criteria the board may consider in determining whether informal complaint disposition is non-disciplinary (not public) or disciplinary (public).

C. This Section is intended to compliment, but not limit the board's authority to make such dispositions as it may deem appropriate under the particular facts and circumstances presented in any matter.

D. In determining whether informal complaint disposition is non-disciplinary or disciplinary, as well as the terms and conditions of disciplinary dispositions, the board may consider aggravating or mitigating circumstances. A list of aggravating and mitigating circumstances is set forth below but is neither intended to be nor shall it be construed as an exclusive listing of circumstances.

1. Aggravating circumstances may warrant a disciplinary disposition or, in the case of a disciplinary disposition, justify revocation, the duration of suspension and enhancement of the period and type of probationary terms, conditions and/or restrictions of a consent or other board order. Aggravating circumstances include, but are not limited to:

- a. a danger to public health, safety and welfare;
- b. patient(s) harm or one or more violations that involve more than one patient;
- c. severity of patient harm;
- d. prior similar violations or board disciplinary action;
- e. disciplinary action in another jurisdiction or by a government agency, peer review or professional organization or health care entity;
- f. conduct involving patient exploitation;
- g. failure to provide professional service to a person because of such person's race, creed, color or national origin;
- h. failure to cooperate with board investigation or failure to adhere/comply with previous board order;
- i. dishonesty or selfish motive;
- j. attempt to conceal, or refusal to acknowledge nature of conduct;
- k. financial benefit to licensee or applicant;
- l. other relevant circumstances increasing the seriousness of the misconduct.

2. Mitigating circumstances may result in a non-disciplinary disposition or, in the case of a disciplinary disposition, justify reduction of the duration of suspension or period and type of probationary terms, conditions and/or restrictions of a consent or other board order. Mitigating circumstances include, but are not limited to:

- a. those that do not constitute an aggravating circumstance as set forth in this Section;
- b. practice-related or other professional or competency concerns that do not rise to a level of a violation of the practice act or board rules;
- c. isolated, minor or technical violation with adequate explanation that is not likely to recur;
- d. steps taken to insure nonoccurrence of future similar violation;
- e. timely and good faith efforts to rectify or mitigate consequences of misconduct;
- f. remorse, recognition/acknowledgment of wrongdoing;
- g. cooperation with board and board staff;
- h. potential for rehabilitation;
- i. voluntary participation in board approved continuing medical or professional education;
- j. absence of adverse patient impact;
- k. remoteness of misconduct;
- l. other relevant circumstances reducing the seriousness of the misconduct.

E. By setting forth the above guidelines the board does not intend to restrict, and indeed reserves unto itself, its authority and discretion to take such action it may determine appropriate in any particular matter with respect to informal and formal complaint disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 47:736 (June 2021).

Vincent A. Culotta, Jr., MD
Executive Director

2106#019

RULE

Department of Health Bureau of Health Services Financing

Medicaid Eligibility Twelve-Month Continuous Eligibility (LAC 50:III.2525)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:III.2525 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. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part III. Eligibility

Subpart 3. Eligibility Groups and Factors

Chapter 25. Eligibility Factors

§2525. Twelve-Month Continuous Eligibility

A. - B. ...

C. Twelve months of continuous eligibility is not available to the following children:

1. children excepted from continuous eligibility under 42 CFR §435.926(d);

2. children enrolled in the Medically Needy Program;

3. children enrolled in the LaCHIP Affordable Plan who obtain creditable coverage;

4. children enrolled in the Act 421 Medicaid Children's Option who discontinue pre-existing health insurance coverage;

5. children whose parent/guardian fails to pay a monthly premium, if applicable; or

6. children whose parent/guardian fails to provide verification of citizenship or immigration status after a reasonable opportunity has been allowed.

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 34:253 (February 2008), amended by the Department of Health, Bureau of Health Services Financing, LR 47:737 (June 2021).

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.

Dr. Courtney N. Phillips
Secretary

2106#040

RULE

Department of Health Bureau of Health Services Financing

School-Based Health Services (LAC 50:XV.Chapter 95)

The Department of Health, Bureau of Health Services Financing has amended LAC 50:XV.Chapter 95 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. The Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. This Rule is hereby adopted on the day of promulgation.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XV. Services for Special Populations

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

Chapter 95. School-Based Health Services

Subchapter A. School-Based Medicaid Medical Direct Services

§9501. General Provisions

A. EPSDT school-based medical services are provided pursuant to an individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, or are otherwise medically necessary services provided by a licensed medical provider (physician, optometrist, respiratory therapist, registered nurse, licensed practical nurse, dentist, and dental hygienist) within a local education agency (LEA). The goal of these services is to prevent or mitigate disease, enhance care coordination, and reduce costs by preventing the need for tertiary care. Providing these services in the school increases access to health care for children and youth resulting in a more efficient and effective delivery of care.

B. All participating LEAs are required to maintain an active status with Medicaid. Should an LEA's Medicaid provider number become inactive or one LEA from a group

that shares a tax identification becomes inactive, it may cause the entire cost report to be denied and the cost settlement forfeited.

C. All medical service providers providing school-based medical services are required to maintain an active license that is necessary for the applicable service within the state of Louisiana.

D. School-based medical services shall be covered for all recipients in the school system who are eligible according to Subsection A above.

E. Effective for the fiscal year ended June 30, 2021 cost report year, the individual cost settlement amounts for each program (therapy services, behavioral health services, nursing services, personal care services and other medical direct services) will be combined into one cost settlement for the LEA. Settlement letters will be sent to the LEA with the individual final cost reports for its records. Medicaid administrative claiming (MAC) cost reports are derived by using the MAC-related time study results and cost related to each of the EPSDT programs. All costs will have been certified by the LEA with the EPSDT cost report, so no additional signatures or certifications are required for MAC. Therefore, MAC cost reports shall remain separate.

F. LEAs that terminate business must notify the Louisiana Medicaid fiscal intermediary, immediately. Instructions will need to be provided to Department of Health/Rate Setting and Audit and/or Department of Education as to the final disposition of cost settlements and previous dollars owed to or from Louisiana Medicaid.

1. For LEAs that transfer to new management companies and owe the department, the new owners shall assume all obligations of repayment for the new LEA. Overpayments will be recouped from future earnings of the new management company.

2. For separating LEAs that are owed reimbursements, the department will cut a supplemental check to the LEA or the new management company. However, failure to provide instructions to the department within 10 days of closure may result in forfeiture of payment.

G. Dollars owed will be assessed to all future cost settlements for the LEA and will be applied to the earliest cost report year with an overpayment. For example, if an LEA has an overpayment for nursing services and an amount due to them for therapy services, the payment for therapy services will be applied to the LEA's overpayment for the nursing services. The net balance from this offset will:

1. be used to offset overpayments in other periods (from oldest period moving forward to the current period);
2. create a net overpayment that will be carried forward and offset against future billings and/or payments; and
3. be remitted to the LEA.

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 39:2760 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 42:1298 (August 2016), LR 45:561 (April 2019), LR 47:737 (June 2021).

§9503. Covered Services

A. The following school-based medical services shall be covered.

1. Chronic Medical Condition Management and Care Coordination. This is care based on one of the following criteria.

a. The child has a chronic medical condition or disability requiring implementation of a health plan/protocol (e.g., children with asthma, diabetes, or cerebral palsy). There must be a written health care plan based on a health assessment performed by the medical services provider. The date of the completion of the plan and the name of the person completing the plan must be included in the written plan. Each health care service required and the schedule for its provision must be described in the plan.

b. ...

c. Implementation of Physician's Orders. These services shall only be provided as a result of receipt of a written plan of care from the child's physician or included in the student's IEP, IHP, 504 plan, or are otherwise medically necessary for students with disabilities.

2. - 4.a....

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 39:2760 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:562 (April 2019), LR 47:738 (June 2021).

§9505. Reimbursement Methodology

A. Payment for EPSDT school-based medical services shall be based on the most recent school year's actual costs as determined by desk review and/or audit for each LEA provider.

1. ...

2. Direct costs shall be limited to the amount of total compensation (salaries, vendor payments and fringe benefits) of current medical service providers as allocated to medical services for Medicaid recipients. The direct costs related to the electronic health record shall be added to the compensation costs to arrive at the total direct costs for medical services. There are no additional direct costs included in the rate.

3. Indirect costs shall be derived by multiplying the cognizant agency indirect cost unrestricted rate assigned by the Department of Education to each LEA by the allowable costs. There are no additional indirect costs included.

4. To determine the amount of medical services costs that may be attributed to Medicaid; the ratio of total Medicaid students in the LEA to all students in the LEA is multiplied by total direct cost. Cost data are subject to certification by each LEA. This serves as the basis for obtaining federal Medicaid funding.

B. For the medical services, the participating LEA's actual cost of providing the services shall be claimed for Medicaid federal financial participation (FFP) based on the following methodology.

1. - 2. ...

3. Adjust the Payroll Cost Base. The payroll cost base shall be reduced for amounts reimbursed by other funding sources (e.g., federal grants). The payroll cost base shall not include any amounts for staff whose compensation is 100 percent reimbursed by a funding source other than state/local funds. This application results in total adjusted salary cost.

4. ...

a. A sufficient amount of medical service personnel's time shall be sampled to ensure results that will have a confidence level of at least 95 percent with a precision of plus or minus five percent overall.

b. Time study moments are to be completed and submitted by all participating LEA participants. Participants will have 48 hours from the time of the moment to complete each moment. Reminder emails will be sent to the participant and the Medicaid coordinator each morning until the moment expires. Once a time study moment has expired, it will no longer be able to be completed and will be deemed not returned. Any LEA that fails to return at least 85 percent of its moments from the time study for two quarters in a cost report year for any program, will be suspended from that program for the entire cost report year.

c. The time study percentage used for cost reimbursement calculation is an average of the four quarterly statewide time study results for each school based Medicaid program. LEAs must participate in all four time study quarters to be reimbursed all costs for the fiscal year. Any LEA that does not submit a cost report for any program for which any billings were submitted will be required to pay back any billing dollars received for that cost report year. This will be handled in the school based claiming cost settlement process.

5. Determine Indirect Costs. Indirect costs shall be determined by multiplying each LEA's indirect unrestricted rate assigned by the cognizant agency (the Department of Education) by total adjusted direct costs as determined under Paragraph B.3 above. No additional indirect costs shall be recognized outside of the cognizant agency's indirect rate. The sum of direct costs and indirect costs shall be the total direct service cost for all students receiving medical services.

6. Allocate Direct Service Costs to Medicaid. To determine the costs that may be attributed to Medicaid, total cost as determined under Paragraph B.5 above shall be multiplied by the ratio of Medicaid students in the LEA to all students in the LEA. This results in total cost that may be certified as Medicaid's portion of school-based medical services cost.

C. - D.2. ...

3. LEAs must bill for all Medicaid services provided. Medicaid eligibility will automatically terminate if there are no claim submissions within an 18 month period. Ineligible LEAs will have all interim claims denied and cost reports for all the programs in which the LEA participated may be rejected.

4. The department shall adjust the affected LEA's payments no less than annually, when any reconciliation or final settlement results in significant underpayments or overpayments to any LEA. By performing the reconciliation and final settlement process, there shall be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

a. - c. Repealed.

5. If the interim payments exceed the actual, certified costs of an LEA's Medicaid services, the department shall recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

6. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the department will pay this difference to the LEA in accordance with the final actual certification agreement.

7. Cost reports must be submitted annually. The due date for filing annual cost reports is November 30. There shall be no automatic extension of the due date for filing of cost reports. If an LEA experiences unavoidable difficulties in preparing its cost report by the prescribed due date, one 30-day extension may be permitted, upon written request submitted to the department prior to the due date. The request must explain in detail why the extension is necessary. Extensions beyond 30 days may be approved for situations beyond the LEA's control. Cost reports that have not been received by the due date will be deemed non-compliant and may be subject to a non-refundable reduction of 5 percent of the total cost settlement. This reduction may be increased an additional 5 percent each month until the completed cost report is submitted or the penalties total 100

percent. LEAs that have not filed their cost report by six months or more beyond the due date cannot bill for services until the cost report is filed.

8. Type 1 and 3 charter schools in Orleans Parish will be required to submit acceptable documentation (board minutes, letter from the school board, etc.) that authorizes the charter to act as its own LEA, upon enrollment. Likewise, in order to receive a cost settlement, confirmation that the authorization is still in good standing with the school board will be required to accompany the submission of the cost report. Failure to provide this documentation at the time the cost report is filed may cause the cost report to be rejected and not be considered as timely filed.

9. Vendors will be reimbursed based on a rate per service. This rate shall include all of the vendor's direct and indirect costs. This service rate should cover the time spent providing the direct service, administrative time and any other time related to tasks related to that service. Vendors will not be subject to the time study process due to them only being at a school to provide the direct services enumerated in the contract. Vendors will not be expected to perform any additional general and administrative (G and A) tasks for the LEA.

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 39:2761 (October 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 45:562 (April 2019), LR 47:738 (June 2021).

Subchapter B. School-Based EPSDT Transportation Services

§9511. General Provisions

A. A special transportation trip is only billable to Medicaid on the same day that a Medicaid-eligible child is receiving IDEA services included in the child's individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan (IHP), or are otherwise medically necessary and the transportation is provided in a vehicle that is part of special transportation in the LEA's annual financial report certified and submitted to the Department of Education. The need for transportation must be documented in the child's IEP, IHP, 504 plan, or are otherwise medically necessary.

B. ...

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, Bureau of Health Services Financing, LR 45:563 (April 2019), amended LR 47:740 (June 2021).

Subchapter C. School-Based Medicaid Personal Care Services

§9521. General Provisions

A. EPSDT school-based personal care services (PCS) are provided by a personal care assistant pursuant to an individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan, or are otherwise medically necessary within a local education agency (LEA).

B. School-based personal care services shall be covered for all Medicaid recipients in the school system.

C. Personal care services must meet medical necessity criteria.

D. Early and periodic screening, diagnosis, and treatment personal care services must be prescribed by a licensed practitioner within the scope of their practice initially and every 180 days thereafter (or rolling six months) and when changes in the plan of care occur.

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, Bureau of Health Services Financing, LR 45:564 (April 2019), amended LR 47:740 (June 2021).

§9523. Covered Services

A. The following school-based personal care services shall be covered:

1. basic personal care, toileting, diapering, and grooming activities;

2. assistance with bladder and/or bowel requirements or problems, including helping the child to and from the bathroom, but excluding catheterization;

3. assistance with eating and food, nutrition, and diet activities;

4. accompanying, but not transporting, the recipient to and from his/her physician and/or medical facility for necessary medical services; and

EXAMPLES: Repealed.

5. provides assistance with transfers, positioning and repositioning.

B. Documentation for EPSDT PCS provided shall include, at a minimum, the following:

1. daily notes by PCS provider denoting date of service;

2. services provided;

3. total number of hours worked;

4. time period worked;

5. condition of recipient;

6. service provision difficulties;

7. justification for not providing scheduled services; and

8. any other pertinent information.

C. There must be a clear audit trail between:

1. the prescribing physician;

2. the local education agency;

3. the individual providing the personal care services to the recipient; and

4. the services provided and reimbursed by Medicaid.

C.5 – D.4. 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, Bureau of Health Services Financing, LR 45:565 (April 2019), amended LR 47:740 (June 2021).

§9525. Reimbursement Methodology

A. - A.4. ...

B. For the personal care services, the participating LEAs' actual cost of providing the services shall be claimed for

Medicaid federal financial participation (FFP) based on the following methodology:

B.1 - D.5....

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, Bureau of Health Services Financing, LR 45:565 (April 2019), amended LR 47:740 (June 2021).

Subchapter D. School-Based Therapy Services

§9531. General Provisions

A. EPSDT school-based therapy services are provided pursuant to an individualized education plan (IEP), a section 504 accommodation plan, an individualized health care plan, or are otherwise medically necessary within a local education agency (LEA). School-based services include physical therapy, occupational therapy and other services, including services provided by audiologists and services for individuals with speech, hearing and language disorders, performed by, or under the direction of, providers who meet the qualifications set forth in the speech language pathologist licensing requirement.

B. Professionals providing school-based therapy services are required to meet the requirements of licensure for their discipline according to the state of Louisiana.

C. Licensed master social workers practicing under the supervision of a licensed clinical social worker; and certified school psychologists practicing under the supervision of a licensed psychologist that has the authority to practice in the community/outside of schools will be required to show proof of verification when the cost report is monitored.

D. School-based services shall be covered for all recipients who are eligible for EPSDT in accordance with §9501.B.

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, Bureau of Health Services Financing, LR 45:566 (April 2019), amended LR 46:343 (March 2020), LR 47:741 (June 2021).

§9533. Covered Services

A. The following school-based therapy services shall be covered:

1. - 4. ...

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, Bureau of Health Services Financing, LR 45:566 (April 2019), amended by the Department of Health, Bureau of Health Services Financing, LR 46:343 (March 2020), LR 47:741 (June 2021).

§9535. Reimbursement Methodology

A. - D.4.a ...

b. Time study moments participation will be handled in accordance with §9505.B.4.b.

D.5. - F.2. ...

3. LEA Medicaid ineligibility will be handled in accordance with §9505.D.3.

4. The department shall adjust the affected LEA's payments no less than annually, when any reconciliation or final settlement results in significant underpayments or

overpayments to any LEA. By performing the reconciliation and final settlement process, there shall be no instances where total Medicaid payments for services exceed 100 percent of actual, certified expenditures for providing LEA services for each LEA.

a. - c. Repealed.

5. If the interim payments exceed the actual certified costs of an LEA's Medicaid services the department shall recoup the overpayment in one of the following methods:

a. offset all future claim payments from the affected LEA until the amount of the overpayment is recovered;

b. recoup an agreed upon percentage from future claims payments to the LEA to ensure recovery of the overpayment within one year; or

c. recoup an agreed upon dollar amount from future claims payments to the LEA to ensure recovery of the overpayment within one year.

6. If the actual certified costs of an LEA's Medicaid services exceed interim Medicaid payments, the department will pay this difference to the LEA in accordance with the final actual certification agreement.

7. Cost report compliance will be handled in accordance with Section 9505.D.7.

8. Vendors' reimbursement will be handled in accordance with §9505.D.9.

9. Type 1 and 3 charter schools in Orleans Parish will be handled in accordance with §9505.D.8.

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, Bureau of Health Services Financing, LR 45:567 (April 2019), amended by the Department of Health, Bureau of Health Services Financing, LR 46:343 (March 2020), LR 47:741 (June 2021).

Subchapter E. School-Based Applied Behavior Analysis-Based Services

§9541. General Provisions

A. ...

B. ABA services provided by local education agencies (LEAs) to eligible Medicaid recipients must be medically necessary and included on the recipient's individualized service plan (IEP), a section 504 accommodation plan, an individualized health care plan or medical need documentation.

C. - D. ...

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, Bureau of Health Services Financing, LR 46:185 (February 2020), amended LR 47:741 (June 2021).

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.

Dr. Courtney N. Phillips
Secretary

2106#041

RULE

**Department of Health
Office of Public Health**

Automated External Defibrillators
(LAC 48:I.Chapter 61)

Under the authority of R.S. 36:254(B)(7) and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Louisiana Department of Health, Office of Public Health (LDH-OPH) has amended Chapter 61 (Automated External Defibrillators) of Subpart 3 (Licensing and Certification) of Part I (General Administration) of Title 48 (Public Health—General) of the Louisiana Administrative Code (LAC). The amendments are necessary to update the LAC to match the amended R.S. 40:1137.3.

In 2016, R.S. 40:1137.3 was amended to no longer require any person or entity which possesses an Automated External Defibrillator (AED) to notify the Bureau of Emergency Medical Services in LDH-OPH. As of 2016, it is required that such notification be made only to a local provider of emergency medical services, such as 911 service, local ambulance service, or the fire department of the acquisition, location, and type of AED. This Rule is hereby adopted on the day of promulgation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 61. Automated External Defibrillators

§6101. Purpose and Definitions

A. Purpose. These rules establish standards for the maintenance of automated external defibrillators for the owner of or the entity responsible for a physical fitness facility, any institution of higher education that competes in intercollegiate athletics, and any high school that possesses an automated external defibrillator.

B. Definitions. The Louisiana Department of Health, Office of Public Health (LDH-OPH), Bureau of Emergency Medical Services (BEMS), in the exercise of its regulatory authority, defines the following words and terms applicable to this Chapter.

Athletic Department—the division or department of an institution of higher education, including colleges, universities, or community colleges, which schedules and competes in intercollegiate athletics.

Automated External Defibrillator (AED) —a medical device heart monitor and defibrillator that:

a. has received approval of its pre-market notification filed pursuant to 21 U.S.C. 360(k) from the United States Food and Drug Administration;

b. is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining whether defibrillation should be performed;

c. upon determining that defibrillation should be performed, the AED automatically charges and requests delivery of an electrical impulse to an individual’s heart;

d. is capable of delivering the electrical impulse to an individual’s heart; and

e. pediatric AED capabilities are required.

Bureau—the LDH-OPH, BEMS.

Cardiopulmonary Resuscitation (CPR)—the process of providing oxygen while circulating blood to a patient in cardiopulmonary arrest usually, but not exclusively, in a combination of mouth-to-mouth breaths with external chest compressions.

Certification—adult and pediatric expected CPR providers and expected AED users who have been certified after successful completion of an adult and pediatric CPR and AED course recognized by a nationally recognized organization or association such as the American Heart Association (AHA), the American Red Cross (ARC), the National Safety Council and the Emergency Medical Physicians of America, or the equivalent cardiopulmonary resuscitation certification that has been approved by the Louisiana Department of Health.

Health Club—Repealed.

Physical Fitness Facility—a facility for profit or nonprofit with a membership of over 50 persons that offers physical fitness services. This includes but is not limited to clubs, studios, health spas, weight control centers, clinics, figure salons, tanning centers, athletic or sport clubs, and YWCA and YMCA organizations.

Sudden Cardiac Arrest—a medical emergency where a person is unconscious, not breathing and has no pulse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:258(B) and R.S. 40:1137.3(F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Bureau of Emergency Medical Services, LR 38:2928 (November 2012), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 47:742 (June 2021).

§6103. General Provisions

A. Possessor’s Program

1. The possessor’s responsibility and requirements are as follows.

a. The AED must be maintained and tested according to the manufacturer’s guidelines; in accordance with state and federal rules and polices, including review of product warranty expirations for AED machine, pads and batteries.

b. A licensed physician or advanced practice registered nurse in the state of Louisiana who is authorized to prescribe in the state of Louisiana must be involved in the possessor’s program to ensure compliance with the requirements for training, emergency medical services (EMS) notification, and maintenance.

c. Expected AED users regularly, on the premises of a particular entity, such as a work site or users, who carry an AED in a private security patrol vehicle, must receive appropriate training in CPR and in the use of an AED by the American Heart Association, American Red Cross, or the equivalent cardiopulmonary resuscitation certification that has been approved by LDH.

d. The local provider of emergency medical services (EMS) (such as a 911 service, local ambulance service, or fire department) must be activated by the possessor as soon as possible when an individual renders emergency care to an individual in cardiac arrest by using CPR or an AED. It is the responsibility of the individual

rendering the emergency care to activate the local EMS provider.

e. Any clinical use of the AED is reported to the licensed physician or advanced practice registered nurse involved in the possessor's program.

2. Every possessor shall notify a local provider of emergency medical services, such as a 911 service, local ambulance service, or fire department of the acquisition, location and type of AED.

3. Any manufacturer, wholesale supplier, or retailer of an AED must notify purchasers of AED's intended for use in the state of Louisiana of the requirements of R.S. 40:1137.3.

4. The owner of or the entity responsible for either a physical fitness facility or a physical fitness center, must keep an AED on its premises.

5. Any institution of higher education that competes in intercollegiate athletics must have an AED on its premises in its athletic department, with posters approved by AHA/ARC on how to safely perform CPR and use the AED. The AED must be placed in open view within 2 feet of a telephone to readily enable a call to 911 from within the athletic department. It must also be placed in an area with easy access to coaches and athletic personnel where athletes are training and/or competing.

6. Each high school must have an AED on its premises, if funding is available, subject to appropriation. Per R.S. 40:1137.3(E)(2), each high school is authorized to accept donations of AEDs or funds to acquire AEDs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1137.3(F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Bureau of Emergency Medical Services, LR 38:2929 (November 2012), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 47:742 (June 2021).

§6105. Required Plan and Review of Use/Penalties

A. Plan and Usage Review

1. A written CPR/AED protocol or plan must exist for use in a sudden cardiac arrest (SCA) occurring at a physical fitness facility or a physical fitness center.

2. Every event in which an AED is used in a physical fitness facility or physical fitness center must be reviewed by the medical oversight of the possessor, in accordance with the CPR/AED protocol/plan and further determine if the CPR/AED protocol or plan should be modified. The review of use by medical oversight shall be privileged and confidential.

B. Failure to Possess Required AED

1. The BEMS shall inspect the premises in response to a complaint which specifies the name, address and telephone number of the alleged violator filed with the BEMS alleging a violation of R.S. 40:1137.3(D) or (E). The BEMS may inspect facilities or premises at other times to ensure compliance with this Rule.

a. If a physical fitness facility, physical fitness center, collegiate athletic department or appropriately funded high school violates this rule by failing to have on the premises an accessible and operational AED or to adopt or implement a plan for responding to medical emergencies as required by this Chapter, then the following actions, inclusive of the issuance of assessing monetary penalties on a per violation basis, is hereby authorized.

i. Voluntary Compliance Effort.

(a). The BEMS or its designee shall issue to a physical fitness facility, athletic department or appropriately funded high school a written administrative warning without monetary penalty upon determining that an initial violation of either of the requirements in this Subparagraph exists. The written notification of violation shall state that the physical fitness facility, athletic department or high school will be provided with a 30-day grace period from the date of the violation determination to voluntarily comply.

ii. Mandatory Compliance Penalties.

(a). at least \$100 but less than \$150 per violation upon determination that one or more violations continues to exist after the 30-day voluntary compliance grace period has expired;

(b). at least \$150 but less than \$200 per violation upon determination that one or more violations continues to exist for the third or subsequent times; and

(c). upon determination that a fourth violation exists, the BEMS or its designee may report said violations to the Louisiana attorney general's office or other governing authorities requesting issuance of further warning and/or the institution of judicial enforcement procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1137.3(F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, Bureau of Emergency Medical Services, LR 38:2930 (November 2012), amended by the Department of Health, Office of Public Health, Bureau of Emergency Medical Services, LR 47:743 (June 2021).

Dr. Courtney N. Phillips
Secretary

2106#050

RULE

**Department of Health
Office of Public Health**

**Mandatory Tuberculosis (TB) Testing
(LAC 51:II.503 and 505)**

Under the authority of R.S. 40:4(A)(2) and R.S. 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the state health officer, acting through the Louisiana Department of Health, Office of Public Health (LDH-OPH), has enacted and amended Sections 503 and 505 of Chapter 5 (Health Examinations for Employees, Volunteers and Patients at Certain Medical Facilities) of Part II (The Control of Diseases) of Title 51 (Public Health—Sanitary Code) of the Louisiana Administrative Code (LAC). Following guidance from the Centers for Disease Control and Prevention (CDC), as well as data monitored by LDH-OPH's Tuberculosis (TB) Control Program, this Rule eliminates the current requirement for annual TB testing for most employees, students or volunteers at any medical or 24-hour residential facility requiring licensing by the Louisiana Department of Health (LDH), or at any LDH-OPH parish health unit or an LDH-OPH out-patient health care facility. In lieu of annual TB testing for these persons, the rule requires that certain educational materials be provided to these persons annually.

For the reasons set forth above, the following amendments to LAC 51 are adopted. This Rule is hereby adopted on the day of promulgation.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part II. The Control of Diseases

Chapter 5. Health Examinations for Employees, Students, Volunteers and Patients at Certain Medical Facilities

§503. Mandatory Tuberculosis Testing

A. [formerly paragraph 2:022] All persons, including employees, students or volunteers, having no history of latent tuberculosis infection or tuberculosis disease, prior to or at the time of employment, beginning clinical rotations in the healthcare profession, or volunteering at any hospital or nursing home (as defined in Parts XIX and XX of the Sanitary Code, respectively, herein, and including intermediate care facilities for the developmentally disabled) requiring licensing by the Louisiana Department of Health or at any Louisiana Department of Health, Office of Public Health (LDH-OPH) parish health unit or an LDH-OPH out-patient health care facility, whose duties include direct patient care, shall be free of tuberculosis in a communicable state as evidenced by either:

1. a negative purified protein derivative skin test for tuberculosis, 5 tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration;

2. a normal chest X-ray, if the skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration is positive; or

3. ...

B. [formerly paragraph 2:023] Any employee, student or volunteer at any medical or 24-hour residential facility requiring licensing by the Louisiana Department of Health or at any LDH-OPH parish health unit or an LDH-OPH out-patient health care facility who has a positive purified protein derivative skin test for tuberculosis, 5 tuberculin unit strength, given by the Mantoux method, or a positive blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration; or a chest X-ray other than normal, in order to remain employed, remain in clinical rotations, or continue work as a volunteer, shall complete an adequate course of medical treatment for tuberculosis as prescribed by a Louisiana licensed physician, or shall present a signed statement from a Louisiana licensed physician stating that medical treatment for tuberculosis is not indicated.

C. [formerly paragraph 2:024] All persons with a history of latent tuberculosis infection or tuberculosis disease prior to or at the time of employment, including employment as a student in clinical rotations, or volunteering at any medical or 24-hour residential facility requiring licensing by the LDH, at any hospital or nursing home (as defined in Parts XIX and XX of the Sanitary Code, respectively, herein, and including intermediate care facilities for the developmentally disabled) requiring licensing by the LDH, at any LDH-OPH parish health unit, or at any LDH-OPH out-patient health care facility, whose duties include direct patient care, must present a statement from a Louisiana licensed physician that he or she has been satisfactorily treated for tuberculosis and

is non-infectious or, for persons with a history of untreated latent tuberculosis infection, a statement that he or she is non-infectious.

1. Further, for persons with a history of untreated latent tuberculosis infection an annual symptom screen shall be done, including, but not limited to, the following questions.

a. Do you have a productive cough that has lasted at least 3 weeks? (Yes or No)

b. Are you coughing up blood (hemoptysis)? (Yes or No)

c. Have you had unexplained weight loss recently? (Yes or No)

d. Have you had fever, chills, or night sweats for 3 or more days? (Yes or No)

2. Any employee, student, or volunteer with a history of untreated latent tuberculosis infection giving a positive response to any one of the questions under Paragraph 1 of this Subsection shall be referred to a physician for medical evaluation as soon as possible.

3. All initial screening test results and all follow-up screening test results shall be kept in each employee's, student's, or volunteer's health record or facility's personnel record.

D. Annually, but no sooner than 6 months since last receiving tuberculosis educational information (more fully described at the end of this sentence) or symptom screening, all employees, students in the healthcare professions, or volunteers at any medical or 24-hour residential facility requiring licensing by LDH or at any hospital or nursing home (as defined in Parts XIX and XX of the Sanitary Code, respectively, herein, and including intermediate care facilities for the developmentally disabled) requiring licensing by the LDH or at any LDH-OPH parish health unit or and LDH-OPH out-patient health care facility shall receive, at a minimum, educational information explaining the health concerns, signs, symptoms, and risks of tuberculosis.

E. [formerly paragraph 2:033] All persons with acquired immunodeficiency syndrome (AIDS) or known to be infected with the human immunodeficiency virus (HIV), in the process of receiving medical treatment related to such condition, shall be screened for tuberculosis, with screening to include a chest X-ray. Sputum smear and culture shall be done if the chest X-ray is abnormal or if the patient exhibits symptoms of tuberculosis disease. Screening for tuberculosis shall be repeated as medically indicated.

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 32:98 (January 2006), LR 33:93 (January 2007), LR 37:598 (February 2011), LR 40:1942 (October 2014), amended by the Department of Health, Office of Public Health, LR 47:744 (June 2021).

§505. Required Medical Examinations of All Persons Admitted to Nursing Homes and Residential Facilities

[formerly paragraph 2:026]

A. Any person (adult or child) admitted to any nursing home or other residential facility shall have a complete history and physical examination, including symptoms and signs of pulmonary tuberculosis, by a licensed physician

within 30 days prior to or up to 72 hours after admission, except that any resident/patient who has complied with this provision shall be exempt from re-examination if transferred to another residential facility provided the record of examination is transferred to the new facility. This examination shall include laboratory tests as indicated by the history and physical examination. A United States Food and Drug Administration approved screening test for tuberculosis, i.e., a purified protein derivative skin test for tuberculosis, 5 tuberculin unit strength, given by the Mantoux method or a blood assay for *Mycobacterium tuberculosis* shall be given to all residents/patients. A chest X-ray shall be given to all residents/patients whose screening test for tuberculosis is positive, or who have signs and/or symptoms of tuberculosis no more than 30 days prior to admission to any nursing home or other residential facility. If the skin test or a blood assay for *Mycobacterium tuberculosis* is not done prior to admission, it may be done within 72 hours after admission and interpreted at the appropriate time. A repeat skin test or a blood assay for *Mycobacterium tuberculosis* is not required if the resident/patient has a chest X-ray with no abnormalities indicative of tuberculosis and has had a negative skin test or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, documented within 1 year of admission or if the resident/patient has a previously documented positive skin test or a positive result of a blood assay for *Mycobacterium tuberculosis* and had a chest X-ray with no abnormalities indicative of tuberculosis. A record of the admission history, physical examination, purified protein derivative skin test for tuberculosis, 5 tuberculin unit strength, given by the Mantoux method, or a blood assay for *Mycobacterium tuberculosis* approved by the United States Food and Drug Administration, chest X-ray, and any other laboratory tests shall be a part of the permanent record of each resident/patient. No resident/patient with evidence of active tuberculosis shall be admitted unless the examining physician states that the resident/patient is on an effective drug regimen, is responding to treatment, and presents no imminent danger to other residents/patients or employees, or unless the facility has been specifically approved by the LDH-OPH to house residents/patients with active tuberculosis. The approval by the LDH-OPH will include the provision that the nursing home or residential facility has a designated isolation (negative pressure) room.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with the provisions of R.S. 40:4(A)(2) and R.S. 40:5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1220 (June 2002), amended LR 33:94 (January 2007), LR 38:2928 (November 2012), amended by the Department of Health, Office of Public Health, LR 47:744 (June 2021).

Joseph Kanter, MD, MPH
State Health Officer
and
Dr. Courtney N. Phillips
LDH Secretary

2106#051

RULE

Department of Insurance Office of the Commissioner

Regulation 109—Producer, Adjuster and Related Licenses
(LAC 37:XIII.Chapter 155)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 and 22:11 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., has amended Regulation 109—Producer, Adjuster and Related Licenses. Regulation 109 sets forth requirements and procedures for applying for and maintaining a license as an insurance producer, claims adjuster, public adjuster, insurance consultant and business entity acting as a producer. Regulation 109 also sets forth the time periods for expiration and renewal of insurance licenses. The purpose of the amendment to Regulation 109 is to update the renewal dates for insurance producer appointments pursuant to Acts 2019, No. 226 §1. This Rule is hereby adopted on the day of promulgation.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 155. Regulation Number 109—Producer, Adjuster and Related Licenses

§15501. Purpose

A. Regulation 109 implements the provisions of Act 154, of the 2017 Regular Session of the Louisiana Legislature, specifically R.S. 22:821(B)(3) and 22:1546(B)(1)(a), in addition to 22:1547(C)(1), 22:255, 22:1545, 22:1554, 22:1558, 22:1563, 22:1671, 22:1694, 22:1808.8 and 22:1922 which provide for the licensing of insurance producers, claims adjusters, public adjusters, insurance consultants and business entities acting as producers. Regulation 109 implements the provisions of Act 226, of the 2019 Regular Session of the Louisiana Legislature, specifically R.S. 22:821(B)(3)(b) which provides for renewal dates for insurance producer appointments.

B. - B.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821(B)(3), 22:1546(B)(1)(a), 22:1547(C)(1), 22:255, 22:1545, 22:1550, 22:1554, 22:1558, 22:1678, 22:1708 22:1808.8 and 22:1922 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:68 (January 2018), amended LR 47:745 (June 2021).

§15517. Expiration of Producer Appointments

A. Individual insurance producer appointments shall expire on January 1 of each year. Business entity producer appointments shall expire on August 1 of each year. Appointments shall be renewed by payment of the renewal fee. The commissioner shall issue a renewal invoice for all active appointments to insurers at least 30 days prior to the appointment expiration date in a manner determined by the commissioner. Failure to timely pay the renewal fee invoice shall result in the expiration of the appointments.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:821(B)(3), 22:1546(B)(1)(a), 22:1547(C)(1), 22:255, 22:1545, 22:1550, 22:1554, 22:1558, 22:1678, 22:1708 and 22:1808.8 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 44:70 (January 2018), amended LR 47:745 (June 2021).

James J. Donelon
Commissioner

2106#009

RULE

Department of Insurance Office of the Commissioner

Rule 14—Records Management; General (LAC 37:XI.Chapter 25)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance has repealed Rule 14—Records Management; General. The Department of Insurance is repealing Rule 14 as all agencies in Louisiana are regulated as it relates to records management by Revised Statutes Title 44 Chapter 5 (R.S. 44:401 and following), and the guidance found in Rule 14 is obsolete. This Rule is hereby adopted on the day of promulgation.

Title 37 INSURANCE Part XI. Rules

Chapter 25. Rule Number 14—Records Management; General

§2501. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq.; R.S. 44:1 et seq.; R.S. 22:1 et seq.; R.S. 22:2.1.A; R.S. 14:67; R.S. 14:132; and R.S. 9:2601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 29:42 (January 2003), repealed LR 47:746 (June 2021).

James J. Donelon
Commissioner

2106#027

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Establishment of Recreational Reef Sites and Restriction of Oyster Harvest (LAC 76:VII.537)

Editor's Note: This Rule is being repromulgated to correct a citation error. The original rule may be viewed in the May 2021 edition of the *Louisiana Register* on page 605.

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 56:805, that the Wildlife and Fisheries Commission has amended LAC 76:VII.537 to designate and set aside four

new artificial reef sites as recreational reefs in the coastal waters of Plaquemines and St. Bernard Parishes, restricting all harvest of oysters. Oyster resources on public water bottoms in these areas are at historic lows and development of additional reef resources, and restricting the take of oysters, will provide long-term benefits to the ecosystem and oyster community. Oysters that settle or are seeded on the recreational reefs can possibly mature, grow the reef, and increase spawning to naturally re-seed adjacent oyster areas that could be available for oyster harvest. These reefs will enhance habitat for fish and other marine organisms, including oysters. This Rule is hereby adopted on the day of promulgation.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§537. Establishment of Recreational Reef Sites and Restriction of Oyster Harvest

A. The Wildlife and Fisheries Commission hereby establishes the following recreational reef sites as that area within the following coordinates (North America Datum 1983):

1. - 33.d. ...

34. Lake Machias Reef-Plaquemines Parish

a. 29 degrees 42 minutes 33.415 seconds N
89 degrees 29 minutes 01.696 seconds W

b. 29 degrees 42 minutes 33.198 seconds N
89 degrees 28 minutes 53.531 seconds W

c. 29 degrees 42 minutes 27.307 seconds N
89 degrees 28 minutes 53.737 seconds W

d. 29 degrees 42 minutes 27.514 seconds N
89 degrees 29 minutes 01.902 seconds W

35. Mozambique Point Reef-Plaquemines Parish

a. 29 degrees 37 minutes 13.742 seconds N
89 degrees 29 minutes 24.861 seconds W

b. 29 degrees 37 minutes 13.558 seconds N
89 degrees 29 minutes 17.914 seconds W

c. 29 degrees 37 minutes 06.54 seconds N
89 degrees 29 minutes 18.158 seconds W

d. 29 degrees 37 minutes 06.713 seconds N
89 degrees 29 minutes 25.119 seconds W

36. Petit Pass Reef-Saint Bernard Parish

a. 30 degrees 07 minutes 01.066 seconds N
89 degrees 29 minutes 35.34 seconds W

b. 30 degrees 07 minutes 04.314 seconds N
89 degrees 29 minutes 25.295 seconds W

c. 30 degrees 07 minutes 00.11 seconds N
89 degrees 29 minutes 23.50 seconds W

d. 30 degrees 06 minutes 56.873 seconds N
89 degrees 29 minutes 33.544 seconds W

37. Karako Bay Reef-Saint Bernard Parish

a. 30 degrees 01 minutes 29.507 seconds N
89 degrees 19 minutes 09.207 seconds W

b. 30 degrees 01 minutes 29.278 seconds N
89 degrees 19 minutes 01.029 seconds W

c. 30 degrees 01 minutes 23.388 seconds N
89 degrees 19 minutes 01.235 seconds W

d. 30 degrees 01 minutes 23.618 seconds N
89 degrees 19 minutes 09.438 seconds W

B. Any and all harvest of oysters from these recreational reefs is prohibited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:805.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 41:1309 (July 2015), amended LR 43:91 (January 2017), LR

46:363 (March 2020), LR 47:605 (May 2021), repromulgated LR 47:746 (June 2021).

Jack Montoucet
Secretary

2106#006

Notices of Intent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 137—Louisiana Early Learning
Center Licensing Regulations
(LAC 28: CLXI.103, 303, 701, 703, 709, 903, 1103,
1105, 1305, 1507, 1509, 1515, 1711, 1715, 1717,
1719, 1721, 1723, 1725, 1727, 1805, 1811, 1813,
1901, 1903, 1907, 1911, 1919 and 2105)

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 to revise Bulletin 137—Louisiana Early Learning Center Licensing Regulation. In accordance with Louisiana R.S. 17:407.40, the Board of Elementary and Secondary Education (BESE) shall conduct a comprehensive review of all standards, rules, and regulations for licenses every three years. As required, the Louisiana Department of Education (LDE) launched a workgroup comprised of providers and child advocates to review and provide input on updates to Bulletin 137—Louisiana Early Learning Center Licensing Regulations. Draft revisions of Bulletin 137 regarding early learning center licensing, child health and safety, and technical edits were endorsed by the Early Childhood Care and Education (ECCE) Advisory Council in January 2021.

Title 28 EDUCATION

Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

Chapter 1. General Provisions

§103. Definitions

CBC—Repealed.

Child Day Care Center—in accordance with R.S. 17:407.33(3), any place or center operated by any institution, political subdivision, 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 legal custodian, on a regular basis for at least 12 1/2 hours in a continuous 7-day week.

1. If a child day care center provides transportation or arranges for transportation to and from the center, either directly or by contract with third parties, all hours that a child is being transported shall be included in the calculation of the hours of operation.

2. A child day care center that remains open for more than 12 1/2 hours in a continuous 7-day week, and in which no individual child remains for more than 24 hours in one continuous stay shall be known as a full-time child day care center.

3. A child day care center that remains open after 9 p.m. shall meet the appropriate regulations established for nighttime care.

Criminal Background Check (CBC)—Repealed.

Key Orientation Training Module 1—a self-paced, online training provided by the department for new early learning staff that addresses early childhood professionalism, health and safety, licensing and hazards.

Key Orientation Training Module 2—a self-paced, online training provided by the department for new early learning staff that addresses child development, early learning and development standards (ELDS), and learning activities.

Key Orientation Training Module 3—a self-paced, online training provided by the department for new early learning staff that addresses teacher-child interaction, child guidance, and classroom management.

Office of Public Health—Louisiana Department of Health, Office of Public Health.

Right to Review (RTR)—Repealed.

Student Trainee—a student who is at least age 16 and present in the center as an educational course requirement. A student trainee shall not be left alone with children and shall not be counted in the child to staff ratio.

Transportation—the arranging or providing of transportation of children, whether center-provided or contract-provided, for any reason, including daily transportation, transportation for field trips, including parent-provided transportation for field trips, or transportation for any other activity that takes place away from the licensed center.

Written—includes hard-copies and electronic form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.31 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:616 (April 2015), effective July 1, 2015, amended LR 41:2103 (October 2015), LR 43:638 (April 2017), LR 44:247 (February 2018), effective March 1, 2018, LR 44:1858 (October 2018), LR 47:

Chapter 3. Licensure

§303. Exemptions from Licensure

A. - C. ...

D. Nothing in this bulletin shall apply to children in programs licensed or operated by the Louisiana Department of Health (LDH) or the Department of Children and Family Services (DCFS), and the United States Department of Defense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.35.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:619 (April 2015), effective July 1, 2015, LR 47:

Chapter 7. Licensing Process and Procedures

§701. Initial Application Process

A. - D.1.c. ...

2. If the application is complete, the department will notify the applicant and will request the Office of State Fire Marshall, city fire (if applicable), Louisiana Department of Health, and the academic approval section to make an inspection of the center, as per agency standards. However, the applicant is responsible for obtaining the required inspections and approvals.

D.2.a. - E.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:622 (April 2015), effective July 1, 2015, amended LR 41:2104 (October 2015), LR 44:248 (February 2018), effective March 1, 2018, LR 44:1860 (October 2018), LR 47:

§703. Initial Inspection Process

A. An initial licensing inspection, including a measurement of the indoor and outdoor enclosed space, shall be conducted at the center to assure compliance with all licensing laws, regulations and minimum standards.

1. If the center in operation is in violation of the law, the application may be denied, and the department may pursue appropriate legal remedies.

A.2. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.39.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:623 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 44:248 (February 2018), effective March 1, 2018, LR 44:1860 (October 2018), LR 47:

§709. Validity of Licenses

A. - G. ...

H. All new construction or renovation of a center requires approval from the Office of State Fire Marshal, the Louisiana Department of Health and the LDE prior to occupying the new or renovated space.

I. A single license may be issued for a center with multiple buildings at the same location at the sole discretion of the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.39(C), and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:624 (April 2015), effective July 1, 2015, amended LR 42:554 (April 2016), LR 44:1861 (October 2018), LR 47:

Chapter 9. Changes Requiring a New License

§903. Change of Ownership

A. - B. ...

C. Any of the following may constitute a change of ownership:

C.1. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.39 and R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 47:

Chapter 11. Operating Violations and Incidents; Fines; Appeals

§1103. Critical Incidents and Required Notifications

A. - A.2. ...

3. and a child left unsupervised for any amount of time;

4. use of prohibited behavior management as described in Section 1509.A.8.b. of this Part;

5. allegations or suspicion of child abuse or neglect by center staff;

6. an accident involving the transportation of children; or

7. any other significant event relating to the health, safety, or well-being of any child, including but not limited to a lost child, an emergency situation, fire or other structural damage, or closure of the center.

B. ...

C. The LDE and other appropriate agencies, such as DCFS, LDH and the Office of State Fire Marshall, as applicable, shall be notified via email within 24 hours of the incident.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:625 (April 2015), effective July 1, 2015, amended LR 44:1862 (October 2018), LR 47:

§1105. Identified Violations and Fines

A. - A.5. ...

B. Where such a violation does not result in the revocation of or refusal to renew a license, the LDE may issue a written warning/notice of violation of the standards listed in Subsection A of this Section that may include:

B.1. - B.2. ...

C. Second Violation or Deficiency. If the CAP is not timely implemented or if a second violation related to the same standard occurs within a 24-month period and does not result in the revocation of or refusal to renew a license, the department may issue a written notice of violation that:

C.1. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.46.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:626 (April 2015), effective July 1, 2015, amended LR 41:2105 (October 2015), LR 44:249 (February 2018), effective March 1, 2018, LR 44:1862 (October 2018), LR 47:

Chapter 13. Denial, Revocation or Non-Renewal of License

§1305. Posting of Notice of Revocation or Refusal to Renew

A. The LDE shall prominently post notice of a revocation or refusal to renew action at each public entrance of the center within one business day of such action.

B. Such notice of revocation or refusal to renew shall remain posted and visible to parents of children at the center throughout the pendency of any appeals of the revocation.

C. The center shall not permit the destruction or removal of a notice of revocation or refusal to renew action and shall ensure that the notice continues to be visible to any person entering the center throughout the pendency of any appeals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.44.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:627 (April 2015), effective July 1, 2015, amended LR 44:1863 (October 2018), LR 47:

Chapter 15. Minimum General Requirements and Standards

§1507. Daily Attendance Records

A. - E. ...

F. Records Retention. Daily attendance records shall be maintained on site for two years and shall be available for inspection, whether as hard copies or in electronic form upon request by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015, amended LR 44:1864 (October 2018), LR 47:

§1509. Policies

A. An early learning center shall establish in writing, prominently post or show parent's signature of receipt, implement, and implement, the following policies:

1. child abuse and neglect policy:

a. as mandated reporters, all staff and owners shall report any allegation or suspicion of abuse or neglect of a child to the Louisiana Child Protection Statewide Hotline (855) 4LA-KIDS [(855) 452-5437];

A.1.b. - A.12.d....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:629 (April 2015), effective July 1, 2015, amended LR 44:250 (February 2018), effective March 1, 2018, LR 44:1864 (October 2018), LR 47:

§1515. Child Records and Cumulative Files

A. - A.1.d. ...

e. any special concerns, including but not limited to allergies, chronic illnesses, and any special needs of the child, if applicable; and

f. any special dietary needs, restrictions or food allergies or intolerances, if applicable. See Paragraph 4;

A.2. - C. ...

D. Retention of Records. Records of children shall be maintained by a center for a minimum of two years from the date of termination of the child's enrollment at the center and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 44:250 (February 2018), effective March 1, 2018, LR 47:

Chapter 17. Minimum Staffing Requirements and Standards

§1711. Child-to-Staff Minimum Ratios

A. ...

B. Minimum child to staff ratios shall be met at all times.

1. There shall be a minimum of two staff members present at an early learning center when more than four children are present.

B.2. - N.2.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:633 (April 2015), effective July 1, 2015, amended LR 43:638 (April 2017), LR 44:250 (February 2018), effective March 1, 2018, LR 44:1865 (October 2018), LR 45:525 (April 2019), LR 47:

§1715. Staff Records and Personnel Files

A. - A.4. ...

B. Records Retention. Staff records and personnel files shall be maintained for a minimum of two years from the date of termination of employment and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:

§1717. Records for Independent Contractors and Student Trainees

A. - B.3. ...

C. Records Retention. Records for independent contractors and student trainees shall be maintained for a minimum of two years from the date the contractor or student was last present at the center and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.40(A)(1), 17:407.40, and 17:407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:

§1719. Orientation Training

A. Within seven calendar days of the first day present at the center, and prior to assuming sole responsibility for any children, each staff member shall receive center-specific orientation to the policies and practices of the center that at a minimum shall include information on the center:

1. child abuse identification and reporting, including phone numbers for mandatory reporting and suspected child abuse and neglect;

2. location of emergency exits and emergency preparedness plans;

3. handling of emergencies due to food/allergic reactions;

4. location of first-aid supplies;

5. list of children with allergies and special needs;

6. identification of critical staff including but not limited to staff trained in CPR and first aid and staff who can administer medicine;

7. child release policies and restrictions;

8. child-to-staff ratio policies;

9. daily schedules;

10. opening policy;

11. closing policy; and

12. transportation policy and vehicle inspection procedures.

B. Within seven calendar days of the first day present at the center, and prior to assuming sole responsibility for any children, each staff member shall complete the LDE Key Training Module 1 and the DCFS online Mandated Reporter

Training. Key Training Module 1 shall at a minimum include information on the following:

1. general emergency preparedness, including natural disasters and man-caused events;
2. professionalism;
3. health and safety, which includes: daily observations, supervision regulations, daily attendance, child to staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks recognition and reporting of child abuse and neglect;
4. administration of medication consistent with standards for parental consent;
5. prevention and response to emergencies due to food and allergic reactions;
6. appropriate precautions in transporting children, if applicable;
7. public health policies, prevention and control of infectious diseases, including immunization information;
8. handling and storage of hazardous materials and the appropriate disposal of bio-contaminants;
9. pediatric first aid and cardiopulmonary resuscitation (CPR);
10. prevention of sudden infant death syndrome and use of safe sleep practices;
11. outdoor play practices;
12. environmental safety; and
13. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;
14. child release practices; and
15. critical incident practices and licensing regulations

C. Within 30 calendar days of the first day present at the center and prior to assuming sole responsibility for any children, each staff member shall complete the LDE Key Orientation Training Modules 2 and 3, that at a minimum shall include information on the following:

1. child development;
2. child guidance;
3. learning activities;
4. health and safety; and
5. early learning development standards.

D. All staff members responsible for transporting children shall receive additional orientation training in the following areas prior to assuming transportation duties:

1. transportation regulations, including the modeling of how to properly conduct a vehicle passenger check and demonstration by staff to director on how to conduct a vehicle passenger check;
2. proper use of child safety restraints required by state law;
3. proper loading, unloading, and tracking of children as required by state law;
4. location of first aid supplies; and
5. emergency procedures for the vehicle, including actions to be taken in the event of accidents or breakdowns.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:635 (April 2015), effective July 1, 2015, amended LR 42:555 (April 2016), LR 44:1866 (October 2018), LR 47:

§1721. Continuing Education

A. - G. ...

H. Copies of certificates of completion or transcripts shall be maintained at the center and shall be available for on-site inspection, whether as hard copies or in electronic form, by the LDE upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1) and (3).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 42:555 (April 2016), LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:

§1723. CPR and First Aid Certifications

A. - D. ...

E. Certification. A copy of the certification for each such staff member shall be on-site at all times and available for inspection, whether as hard copies or in electronic form, upon request by the department.

F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:

§1725. Medication Management Training

A. - C. ...

D. Documentation of current completion of such training shall be maintained by the center and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:

§1727. Child Neglect and Abuse Mandatory Reporter Training

A. All staff members shall annually complete the online child abuse and neglect Mandated Reporter Training provided by DCFS.

B. Documentation of completion of the course shall be maintained by the center for all staff and shall be available for on-site inspection, whether as hard copies or in electronic form, upon request by the LDE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

Chapter 18. Child Care Criminal Background Checks (CCCBC)

§1805. Persons Ineligible for Child Care Purposes

A. - B.1. ...

C. A person may also be ineligible for child care purposes if upon the LDE request for information from another state, municipality or federal agency, the department receives from the state, municipality or federal agency written notice that the person's name is recorded on that state's registry or repository of child abuse and neglect as having a finding of child abuse or neglect or written notice that the person has been convicted of or plead guilty or nolo

contendere to any of the crimes listed in R.S. 15:587.1(C), or crimes of a jurisdiction other than Louisiana which would constitute a crime under the provisions cited in R.S. 15:587.1(C), or is otherwise ineligible for child care purposes.

D. - D.1. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43 and R.S. 15:587.1, 17:6, and 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:252 (February 2018), effective March 1, 2018, amended LR 44:1866 (October 2018), amended LR 45:224 (February 2019), LR 47:

§1811. Requests for CCCBC-Based Determinations of Eligibility for Child Care Purposes from the Department

A. - D.2.g. ...

3. The center shall have a log, either handwritten or in electronic form, or other written documentation of the monitoring of provisionally-employed staff members that identifies each provisionally-employed staff member, the designated monitor for each, and the times of the visual observations.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:253 (February 2018), effective March 1, 2018, LR 47:

§1813. Transitional Provisions for Newly Required CCCBC-Based Determinations of Eligibility

Repealed

AUTHORITY NOTE: Promulgated in accordance with 45 CFR 98.43, R.S. 15:587.1, and R.S. 407.42.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:254 (February 2018), effective March 1, 2018. Repealed, LR 47:

Chapter 19. Minimum Health, Safety, and Environment Requirements and Standards

§1901. General Safety Requirements

A. Telephones and Emergency Numbers

1. A dedicated working phone, with a number dedicated to the center, that is capable of incoming and outgoing calls shall be readily available at the center at all times.

2. When a center has multiple buildings and does not have a dedicated a phone in each building where children are present, the center shall establish and follow written procedures for securing emergency help. The written procedures shall be posted in each building.

A.3. - R. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 42:555 (April 2016), LR 44:1867 (October 2018), LR 47:

§1903. Physical Environment

A. - C. ...

D. Indoor Space

1. A minimum of 35 square feet of usable indoor space shall be available per child until June 1, 2022.

a. Effective June 1, 2022, a minimum of 35 square feet of usable indoor space shall be available per child for children ages birth to 4. For children ages 4 and above, a

minimum of 25 square feet of usable indoor space shall be available per child.

b. If any child in a space is less than age 4, a minimum of 35 square feet of usable indoor space shall be available for every child in the space, regardless of age.

c. The space shall not include toilet facilities, hallways, lofts, storage spaces, stairways, lockers, offices, storage or food preparation areas, rooms used exclusively for dining or sleeping, or rooms used exclusively for the care of ill children.

D.2. - E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:637 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 44:256 (February 2018), effective March 1, 2018, LR 47:

§1907. Furnishings and Equipment

A. - C.1. ...

2. Individual sleeping accommodations shall be assigned to a child on a permanent basis and labeled, and the cots, cribs and mats shall be sanitized daily.

C.3. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 44:256 (February 2018), effective March 1, 2018, LR 47:

§1911. Care of Children

A. - D. ...

E. Daily Reports for Infants. Written or electronic reports that include the liquid intake, food intake, disposition, bowel movements and eating and sleeping patterns shall be given to the parents of infants on a daily basis. Reports shall be kept current throughout the day.

F. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:638 (April 2015), effective July 1, 2015, LR 47:

§1919. Food Service and Nutrition

A. - B.1. ...

2. be prominently posted, written or electronically, by the first day of each week and remain posted throughout the week; and

3. have substitutions or additions posted, written or electronically, on or near the menu.

C. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(4).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:640 (April 2015), effective July 1, 2015, amended LR 44:257 (February 2018), effective March 1, 2018, LR 44:1867 (October 2018), LR 47:

Chapter 21. Minimum Transportation Requirements and Standards

§2105. Field Trips

A. - D. ...

E. A written or electronic record for each field trip shall be maintained and shall include the following:

E.1. - E.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:642 (April 2015), effective July 1, 2015, LR 47:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, 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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m. (noon), July 9, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may be hand-delivered to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no estimated costs or savings to state or local governmental units as a result of this proposed revision. The proposed revisions provide clarification and flexibility for employees of early learning centers.

The proposed revisions allow the Department of Education (LDE) to use discretion in determining changes of ownership and issuing notices of violations. They reduce the record retention period from three years after the termination of enrollment to two years. They allow a single staff member to care for up to four children, rather than one. They also reduce the minimum required usable indoor space from 35 square feet per child to 25 square feet if every child in the space is age 4 or above.

The proposed revisions require employees to complete online training modules provided by LDE, as well as the Mandated Reporter training course provided by the Department of Children and Family Services (DCFS).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed policy revisions will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

There may be an increased workload for child care staff to take the required online orientation training provided by LDE as well as the mandated reporter training provided by DCFS. While the training is available at no cost, the three LDE training modules take approximately one hour each to complete. The extent to which these modules will take longer to complete than any center-provided training they may replace is indeterminable.

There may be cost savings to early child care centers associated with the revisions to staffing requirements and ratios. Current policy requires there be a minimum of two staff members present at an early learning center when more than

one child is present. The proposed revision provides that a minimum of two staff members be present at an early learning center when more than four children are present. This revision will result in the need for fewer staff members in early learning centers, which will result in cost savings to early learning centers. The revisions also reduce the indoor useable space requirements from 35 square feet to 25 square feet per child if every child in the space is age 4 or above. However, the extent of such impacts is indeterminable at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2106#046

Alan Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs—CCAP Household Eligibility (LAC 28:CLXV.103, 309, 311 and 313)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend Bulletin 139—Louisiana Child Care and Development Fund Programs. The proposed amendments include updates in response to recent federal monitoring findings, early learning center requirements, and additional clarification for providers. Draft revisions of Bulletin 139 were endorsed by the Early Childhood Care and Education (ECCE) Advisory Council in January 2021.

Title 28 EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 1. Child Care Assistance Program

§103. Definitions

Child Care Health Consultant—qualified health and safety professional approved by LDH to provide training, consultation, and technical assistance to in- and out-of-home child care facilities and early childhood education staff (and parents) on health and safety topics.

Group Size—the number of children assigned to a teacher or team of teachers occupying an individual classroom or well-defined space within a large room.

Key Orientation Training Module 1—a self-paced, online training provided by the LDE for new providers and staff that addresses early childhood professionalism, health and safety, licensing and hazards.

Key Orientation Training Module 2—a self-paced, online training provided by the LDE for new providers and staff that addresses child development, early learning and development standards (ELDS), and learning activities.

Key Orientation Training Module 3—a self-paced, online training provided by the LDE for new providers and staff

that addresses teacher-child interaction, child guidance, and classroom management.

Non-Vehicular Excursions—any activity that takes place away from the home that is within a safe, reasonable, walking distance from the home, and that does not require transportation in a motor vehicle and does not include walking with children to and from schools.

Supervision—the function of observing, overseeing, and guiding a child or group of children, that includes awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed.

Unexplained Absence—an absence for which the head of household has not provided verbal or written notification to the provider or the department about the absence.

Water Activity—a water-related activity in which children are in, on, near and accessible to, or immersed in, a body of water, including but not limited to a swimming pool, wading pool, water park, river, lake, or beach.

Water Play Activity—water-related activity in which there is no standing water, including but not limited to fountains, sprinklers, water slip-and-slides and water tables.

Written—includes hard-copy and electronic form.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR part 98 and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2109 (October 2015), amended LR 42:42 (January 2016), LR 42:1870 (November 2016), LR 43:1279 (July 2017), LR 44:257 (February 2018), effective March 1, 2018, LR 44:800 (April 2018), LR 47:

Chapter 3. CCAP Provider Certification

§309. Specific Certification and Registration

Requirements for Family Child Care Providers

A. - A.9. ...

10. Medication Administration Training. Provide documentation of current medication administration training with a child care health consultant approved by LDH.

11. Pre-Service Orientation Training. Complete four hours of pre-service orientation training that includes the LDE Key Orientation Training Modules 1, 2 and 3 and DCFS' online Mandate Reporter training prior to initial certification, maintain documentation verifying completion of the training, and submit the documentation with the application for certification to the LDE.

a. The pre-service orientation training shall at a minimum include information on the following:

i. general emergency preparedness, including natural disasters and man-caused disasters;

ii. professionalism;

iii. health and safety, including daily observations, supervision regulations, daily attendance, child-to-staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks, and recognition and reporting of child abuse and neglect;

iv. administration of medication consistent with standards for parental consent;

v. prevention and response to emergencies due to food and allergic reactions;

- vi. appropriate precautions in transporting children, if applicable;
- vii. public health policies, including prevention and control of infectious diseases and immunization information;
- viii. handling and storage of hazardous materials and appropriate disposal of bio-contaminants;
- ix. pediatric first aid and cardiopulmonary resuscitation (CPR);
- x. prevention of sudden infant death syndrome and use of safe sleep practices;
- xi. outdoor play practices;
- xii. environmental safety;
- xiii. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;
- xiv. child release procedures; and
- xv. critical incident procedures.

12. Continuing Training

- a. Annually complete 12-clock hours of training in safety and health topics and job-related subject areas approved by the LDE. Continuing training shall be completed with LDE approved trainers.
- b. Annually complete DCFS' online Mandated Reporter Training.
- c. Documentation verifying completion of all required trainings shall be maintained onsite by the provider, whether as hard copies or in electronic form, and made available for inspection upon request by the LDE.
- d. Pre-service orientation training, infant/child/adult CPR, pediatric first aid training, and medication administration training may count as annual training requirements in the certification period in which the training is completed.

13. Child Daily Attendance. A daily attendance record for children shall be maintained that shall:

- a. include the child's first and last name, arrival and departure times, and first and last name of person or entity to whom the child is released;
- b. accurately reflect children in care at any given time; and
- c. be used to sign in and out if a child leaves and returns to the home during the day.

14. Transportation. If transportation is provided, the provider shall:

- a. use child safety restraints, such as car seat belts, child restraining seats, infant carrier seats, etc., as required by law in the transportation of children;
- b. take precautions necessary to ensure the safety of children being transported;
- c. develop written emergency procedures and actions to be taken in the event of an accident or breakdown;
- d. maintain a current driver's license and current automobile insurance as required by law;
- e. obtain written permission from a parent to transport the child; and
- f. maintain a transportation log for each trip to be used to track children during transportation, which shall include the child's name, the date, time and place of pick up and drop off, and the name of the person to whom a child is released.

15. Medication Administration

a. No medication or special medical procedure shall be administered to a child unless authorized in writing by the parent.

b. Such authorization shall include the name of the child, drug name and strength, date(s) to be administered, directions for use, including route, dosage, frequency, time and special instructions if applicable, and signature of parent and date of signature.

16. Immunizations. Obtain satisfactory evidence of immunization against, or an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health and Hospitals:

a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or

b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

17. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

18. Building and Physical Premises. Identify and protect children from safety hazards in the residence and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

19. Emergency Preparedness Disaster Plan. Develop, practice and train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;

b. procedures for all adults living in, or working in the residence where care is provided, or working on the property where care is provided; and

c. posting in a visibly accessible area all appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the residence in which care is provided.

20. First Aid Supplies. Maintain first aid supplies in the residence.

21. Inspections. Allow inspection of the residence where care is provided by department staff and other authorized inspection personnel and parents of children in care, during normal working hours or when children are in care.

22. Supervision. Children shall be supervised at all times in the home, on the property, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

23. Behavior Management

a. Provider shall develop, implement and follow a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center.

- b. The behavior management policy shall prohibit:
 - i. physical or corporal punishment which includes but is not limited to yelling, slapping spanking, yanking, pinching or other measures producing physical pain, putting anything in the mouth of the child, requiring a child to exercise, or placing a child in an uncomfortable position;
 - ii. verbal abuse;
 - iii. the threat of prohibitive action even if there is no intent to follow through with the threat;
 - iv. being disciplined by another child, being bullied by another child or being deprived of food or beverages;
 - v. being restrained in high chairs or feeding tables for disciplinary purposes; and
 - vi. having active play time withheld for disciplinary purposes, except timeout may be used during active play time for an infraction incurred during the playtime.
 - c. Time out:
 - i. time out shall not be used for children under age two;
 - ii. a time out shall take place within sight of staff;
 - iii. the length of each time out shall be based on the age of the child and shall not exceed one minute per year of age.
24. Group Size. A provider may care for a maximum of six children.
25. Child-to-Staff Ratios. The maximum child-to-staff ratio shall be 6:1.
26. Safe Sleep Practices
- a. Only one infant shall be placed in a crib.
 - b. All infants shall be placed on their backs for sleeping.
 - i. Written authorization from a physician is required for any other sleeping position.
 - ii. Written notice of the specifically authorized sleeping position shall be posted on or near the crib.
 - c. Infants shall not be placed in positioning devices, unless the provider has written authorization from a physician to use a positioning device.
 - d. Written authorization from a physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is allowed to remain in said device.
 - e. "Back to Sleep" signs shall be posted in the room where infants sleep.
 - f. Infants who use pacifiers shall be offered their pacifier when they are placed to sleep, but it shall not be placed back in the mouth once the child is asleep.
 - g. Bibs shall not be worn by any child while asleep.
 - h. Nothing shall be placed over the head or face of an infant.
 - i. A safety approved crib shall be available for each infant.

27. Health Related Policies. The provider shall have a written copy of all health-related policies including policies regarding accidents, allergic reactions, fever, illness, immunizations, and infection and injuries, and shall provide a copy to the parent or guardian of each child in care.

28. Immediate Parental Notification. The parent shall be immediately notified in the following circumstances:

- a. blood not contained in an adhesive strip;
- b. head or neck or eye injury;
- c. human bite that breaks the skin;
- d. animal bite;
- e. impaled object;
- f. broken or dislodged teeth;
- g. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);
- h. unusual breathing;
- i. symptoms of dehydration;
- j. temperature reading over 101 degrees oral, 102 degrees rectal, or 100 degrees axillary; or
- k. injury or illness requiring professional medical attention.

29. Items that Can Be Harmful to Children. Items such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils that can be harmful to children shall kept in a locked cabinet or other secure place that ensures they are inaccessible to children

B. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1, and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015), amended LR 42:2173 (December 2016), LR 43:1279 (July 2017), LR 44:258 (February 2018), effective March 1, 2018, LR 47:

§311. Specific Certification Requirements for In-Home Child Care Providers

A. - A.8. ...

9. Medication Administration Training. Provide documentation of current medication administration training with a child care health consultant approved by LDH.

10. Pre-Service Orientation Training. Complete the following four hours of pre-service orientation training that includes the LDE Key Orientation Training Modules 1, 2, and 3 and DCFS Mandated Reporter training prior to initial certification, maintain documentation verifying completion of the training and submit the documentation with the application for certification to the LDE.

a. The pre-service orientation training shall at a minimum include information on the following:

- i. general emergency preparedness, including natural disasters and man-caused disasters;
- ii. professionalism;
- iii. health and safety, including daily observations, supervision regulations, daily attendance, child-to-staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks, and recognition and reporting of child abuse and neglect;
- iv. administration of medication consistent with standards for parental consent;
- v. prevention and response to emergencies due to food and allergic reactions;
- vi. appropriate precautions in transporting children, if applicable;
- vii. public health policies, including prevention and control of infectious diseases and immunization information;
- viii. handling and storage of hazardous materials and appropriate disposal of bio-contaminants;
- ix. pediatric first aid and cardiopulmonary resuscitation (CPR);

- x. prevention of sudden infant death syndrome and use of safe sleep practices;
- xi. outdoor play practices;
- xii. environmental safety;
- xiii. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;
- xiv. child release practices; and
- xv. critical incident practices and licensing regulations;

11. Continuing Training

a. Annually complete 12-clock hours of training in safety and health topics and job-related subject areas approved by the LDE. Continuing training shall be conducted by LDE approved trainers. The LDE shall keep a registry of approved trainers.

b. Annually complete DCFS' online Mandated Reporter Training.

c. Documentation verifying completion of required trainings shall be maintained onsite by the provider, whether as hard copies or in electronic form, and made available for inspection upon request by the department.

d. Pre-service orientation training, infant/child/adult CPR, pediatric first aid training, and medication administration training may count as annual training requirements in the certification period in which completed.

12. Children's Daily Attendance. A daily attendance record for children shall be maintained that shall accurately reflect children in care at any given time.

13. Transportation. If transportation is provided, the provider shall:

a. use child safety restraints, such as car seat belts, child restraining seats, infant carrier seats, etc., as required by law in the transportation of children in care;

b. take precautions necessary to ensure the safety of children being transported;

c. develop written emergency procedures and actions to be taken in the event of an accident or breakdown.;

d. maintain a current driver's license and current automobile insurance as required by law;

e. obtain written permission from a parent to transport the child; and

f. maintain a transportation log for each trip to be used to track children during transportation, which shall include the child's name, the date, time and place of pick up and drop off, and the name of the person to whom a child is released.

14. Medication Administration

a. No medication or special medical procedure shall be administered to a child unless authorized in writing by the parent.

b. Such authorization shall include the name of the child, drug name and strength, date(s) to be administered, directions for use, including route, dosage, frequency, time and special instructions if applicable, signature of parent and date of signature.

15. Immunizations. Obtain satisfactory evidence of immunization against, or of an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health:

a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or

b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

16. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

17. Building and Physical Premises. Identify and protect children from safety hazards in the home and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

18. Emergency Preparedness Disaster Plan. Develop, practice and train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;

b. procedures for all adults living in, or working in the residence where care is provided, or working on the property where care is provided; and

c. posting in a visibly accessible area all appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the residence in which care is provided.

19. First Aid Supplies. Maintain first aid supplies in the home.

20. Inspections. Allow inspection of the home where care is provided by LDE staff and other authorized inspection personnel during normal working hours or when children are in care.

21. Supervision. Children shall be supervised at all times in the home, on the property, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

22. Behavior Management.

a. Provider shall develop, implement and follow a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center.

b. The behavior management policy shall prohibit:

i. physical or corporal punishment which includes but is not limited to yelling, slapping spanking, yanking, pinching or other measures producing physical pain, putting anything in the mouth of the child, requiring a child to exercise, or placing a child in an uncomfortable position;

ii. verbal abuse;

iii. the threat of prohibitive action even if there is no intent to follow through with the threat;

iv. being disciplined by another child, being bullied by another child or being deprived of food or beverages;

v. being restrained in high chairs or feeding tables for disciplinary purposes; and

vi. having active play time withheld for disciplinary purposes.

- c. Time out:
 - i. time out shall not be used for children under age two;
 - ii. a time out shall take place within sight of staff;
 - iii. the length of each time out shall be based on the age of the child and shall not exceed one minute per year of age;

23. Group Size. A provider may care for a maximum of six children.

24. Child-to-Staff Ratios. The maximum child-to-staff ratio shall be 6:1.

25. Safe Sleep Practices

- a. Only one infant shall be placed in a crib.
- b. All infants shall be placed on their backs for sleeping.
 - i. Written authorization from a physician is required for any other sleeping position.
 - ii. Written notice of the specifically authorized sleeping position shall be posted on or near the crib.
- c. Infants shall not be placed in positioning devices, unless the provider has written authorization from a physician to use a positioning device.
- d. Written authorization from a physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is allowed to remain in said device.
- e. "Back to Sleep" signs shall be posted in the room where infants sleep.
- f. Infants who use pacifiers shall be offered the pacifier when placed to sleep, but shall not be placed back in the mouth once the child is asleep.
- g. Bibs shall not be worn by any child while asleep.
- h. Nothing shall be placed over the head or face of an infant.
- i. A safety approved crib shall be available for each infant.

26. Health Related Policies. The provider shall have a written copy of all health-related policies including policies regarding accidents, allergic reactions, fever, illness, immunizations, and infection and injuries, and shall provide a copy to the parent or guardian of each child in care.

27. Immediate Parental Notification. The parent shall be immediately notified in the following circumstances:

- a. blood not contained in an adhesive strip;
- b. head or neck or eye injury;
- c. human bite that breaks the skin;
- d. animal bite;
- e. impaled object;
- f. broken or dislodged teeth;
- g. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);
- h. unusual breathing;
- i. symptoms of dehydration;
- j. temperature reading over 101 degrees oral, 102 degrees rectal, or 100 degrees axillary; or
- k. injury or illness requiring professional medical attention.

28. Items that Can Be Harmful to Children. Items such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils that can be harmful to children shall kept in a locked

cabinet or other secure place that ensures items are inaccessible to children.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1, and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2112 (October 2015), amended LR 42:2174 (December 2016), LR 43:1280 (July 2017), LR 44:260 (February 2018), effective March 1, 2018.

§313. Specific Certification Requirements for Public School and BESE-Approved Nonpublic School Child Care Centers

A. To be certified as a CCAP provider, in addition to the requirements in §305 of this Part, a public school or BESE-approved nonpublic school day care center must meet the following requirements:

1. *Brunfield v Dodd* Approval. a BESE-approved nonpublic school day care center must also be *Brunfield v. Dodd*-approved.
2. State Fire Marshal. Provide written verification of current State Fire Marshal approval.
3. Determination of Eligibility for Child Care Purposes. Provide documentation of a CCCBC-based determination of eligibility for child care purposes by the LDE for required persons in compliance with Chapter 18 of Bulletin 137, Louisiana. Early Learning Center Licensing Regulations.
4. CPR. Provide documentation of current certification in infant, child and adult CPR.
5. Pediatric First Aid. Provide documentation of current certification in pediatric first aid.
6. Medication Administration Training. Provide documentation of current medication administration training with a child care health consultant approved by LDH.
7. Pre-Service Orientation Training. Each staff member shall complete four hours of pre-service orientation training that includes the LDE Key Orientation Training Modules 1, 2 and 3 and DCFS' online Mandate Reporter training prior to initial certification, maintain documentation verifying completion of the training, and submit the documentation with the application for certification to the LDE.
 - a. The pre-service orientation training shall at a minimum include information on the following
 - i. general emergency preparedness, including natural disasters and man-caused disasters;
 - ii. professionalism;
 - iii. health and safety, including daily observations, supervision regulations, daily attendance, child-to-staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks, and recognition and reporting of child abuse and neglect;
 - iv. administration of medication consistent with standards for parental consent;
 - v. prevention and response to emergencies due to food and allergic reactions;
 - vi. appropriate precautions in transporting children, if applicable;
 - vii. public health policies, including prevention and control of infectious diseases and immunization information;

- viii. handling and storage of hazardous materials and appropriate disposal of bio-contaminants;
- ix. pediatric first aid and cardiopulmonary resuscitation (CPR);
- x. prevention of sudden infant death syndrome and use of safe sleep practices;
- xi. outdoor play practices;
- xii. environmental safety;
- xiii. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;
- xiv. child release practices; and
- xv. critical incident practices and licensing regulations;

8. Continuing Training.

a. Annually complete 12-clock hours of training in safety and health topics and job-related subject areas approved by the LDE. Continuing training shall be conducted by LDE approved trainers. The LDE shall keep a registry of approved trainers.

b. Annually complete DCFS' online Mandated Reporter Training.

c. Documentation verifying completion of all required trainings shall be maintained onsite by the center, whether as hard copies or in electronic form, and made available for inspection upon request by the LDE.

d. Pre-service orientation training, infant/child/adult CPR, pediatric first aid training, and medication administration training may count as annual training requirements in the certification period in which completed.

e. The three hours of training by a child care health consultant on infectious diseases, health and safety, and/or food service preparation required in LAC 51:XXI.301.A.9 shall not count towards the annual training requirements.

9. Children's Daily Attendance. A daily attendance record for children shall be maintained that shall:

a. include the child's first and last name, arrival and departure times, and first and last name of person or entity to whom the child is released;

b. accurately reflect children in care at any given time; and

c. be used to sign in and out if a child leaves and returns to the home during the day.

10. Transportation. If transportation is provided, the center shall:

a. use child safety restraints, such as car seat belts, child restraining seats, infant carrier seats, etc., as required by law in the transportation of children in care;

b. take precautions necessary to ensure the safety of children being transported;

c. develop written emergency procedures and actions to be taken in the event of an accident or breakdown;

d. maintain a current driver's license and current automobile insurance as required by law;

e. obtain written permission from a parent to transport the child; and

f. maintain a transportation log for each trip to be used to track children during transportation, which shall include the child's name, the date, time and place of pick up and drop off, and the name of the person to whom a child is released.

11. Medication Administration

a. No medication or special medical procedure shall be administered to a child unless authorized in writing by the parent.

b. Such authorization shall include the name of the child, drug name and strength, date(s) to be administered, directions for use, including route, dosage, frequency, time and special instructions if applicable, signature of parent and date of signature.

12. Immunizations. Obtain satisfactory evidence of immunization against, or an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health and Hospitals:

a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or

b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

13. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

14. Building and Physical Premises. Identify and protect children from safety hazards in the residence and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

15. Emergency Preparedness Disaster Plan. Develop, practice, train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;

b. procedures for all adults living in, working in, or working on the residence or property where care is provided; and

c. posting in a visibly accessible area all appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, as well as the physical address and phone number for the residence in which care is provided.

16. First Aid Supplies. Maintain first aid supplies at the center.

17. Supervision. Children shall be supervised at all times in the facility, in the yard, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

18. Behavior Management.

a. Center shall develop, implement and follow a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center.

b. The behavior management policy shall prohibit:

- i. physical or corporal punishment which includes but is not limited to yelling, slapping spanking, yanking, pinching or other measures producing physical

pain, putting anything in the mouth of the child, requiring a child to exercise, or placing a child in an uncomfortable position;

- ii. verbal abuse;
 - iii. the threat of prohibitive action even if there is no intent to follow through with the threat;
 - iv. being disciplined by another child, being bullied by another child or being deprived of food or beverages;
 - v. being restrained in high chairs or feeding tables for disciplinary purposes; and
 - vi. having active play time withheld for disciplinary purposes.
- c. Time out:
- i. time out shall not be used for children under age two;
 - ii. a time out shall take place within sight of staff; and
 - iii. the length of each time out shall be based on the age of the child and shall not exceed one minute per year of age.

19. Child to Staff Maximum Ratios. The maximum child to staff ratios are as follows.

Maximum Child-to-Staff Ratios	
Ages of Children	Ratio
3 years	13:1
4 years	15:1
5 years	19:1
6 years and up	23:1

20. Group Size—The maximum group sizes are as follows.

Maximum Group Sizes	
Age of Children	Maximum Group Size
3 years	26
4 years	30
5 years	38
6 years and up	46

21. Health-Related Policies. The center shall have a written copy of all health-related policies including policies regarding accidents, allergic reactions, fever, illness, immunizations, and infection and injuries, and shall provide a copy to the parent or guardian of each child in care.

22. Immediate Parental Notification. The parent shall be immediately notified in the following circumstances:

- a. blood not contained in an adhesive strip;
- b. head or neck or eye injury;
- c. human bite that breaks the skin;
- d. animal bite;
- e. impaled object;
- f. broken or dislodged teeth;
- g. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);
- h. unusual breathing;
- i. symptoms of dehydration;
- j. temperature reading over 101 degrees oral, 102 degrees rectal, or 100 degrees axillary; or
- k. injury or illness requiring professional medical attention.

23. Items that Can Be Harmful to Children. Items such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils that can be harmful to children shall kept in a locked cabinet or other secure place that ensures the items are inaccessible to children.

24. Inspections. Allow inspection of the facility where care is provided by LDE staff and other authorized inspection personnel during normal working hours and when children are in care.

25. Monitoring. LDE will monitor compliance at a minimum annually.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2113 (October 2015), amended LR 42:2174 (December 2016), LR 44:261 (February 2018), effective March 1, 2018.

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

- 1. Will the proposed Rule affect the household income, assets, and financial authority? No.
- 2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
- 3. Will the proposed Rule affect employment and workforce development? No.
- 4. Will the proposed Rule affect taxes and tax credits? No.
- 5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, 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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m. (noon), July 9, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may be hand-delivered to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: **Bulletin 139—Louisiana Child Care and Development Fund Programs**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule change is not anticipated to increase expenditures for state or local governmental units.
The proposed regulations address changes to correct findings resulting from on-site federal monitoring of the Department of Education (LDE) conducted in March 2019 and to clarify existing regulations. These provide for definitions and changes to specific certification and registration requirements for Family and In-Home Child Care Providers.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no estimated impacts on revenue collections of state or local governmental units as a result of the proposed policy revisions.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)
There may be an increased workload for child care providers for staff to take the required online orientation training provided by LDE as well as the Mandated Reporter training provided by DCFS. While the training is available at

no cost to providers, the three LDE training modules take approximately one hour each to complete. The extent to which these modules will take longer to complete than any training they may replace is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy revisions will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2106#047

Alan Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network
(LAC 28:CLXVII.509, 511 and 512)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:CLXVII, *Bulletin 140—Louisiana Early Childhood Care and Education Network*. As a result of the COVID-19 pandemic, the proposed revisions: extend 2019-2020 Performance Scores and Ratings for sites where this score is higher than the 2020-2021 Performance Score; mandate Site Improvement Planning (SIP) participation for sites that score below 3.75 in 2020-2021; ensure classrooms are equally weighted and provide unique treatment for classrooms that were not required to receive a spring local observation; and abstain from publishing Community Network Performance Scores as well as honor rolls for sites rated “excellent” as well as those making significant growth.

Title 28

EDUCATION

Part CLXVII. **Bulletin 140—Louisiana Early Childhood Care and Education Network** Chapter 5. **Early Childhood Care and Education Accountability System** §509. **Performance Rating Calculations for Publicly-Funded Sites**

A. - A.2. ...

a. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, the performance rating for each site which received at least one observation during 2020-2021 shall be based on the higher of the published 2019-2020 performance rating and the 2020-2021 performance rating calculated for the site.

i. The LDE shall share performance summaries based on 2020-2021 observations for informational purposes only.

ii. Sites not receiving any observations during the 2020-2021 school year shall not receive a performance rating.

A.3. - B.3. ...

4. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, a classroom that does not have a second observation because the classroom received a fall CLASS® score of 4.50 or higher

after third party replacement shall have their fall CLASS® score after third party replacement duplicated and treated as the spring local observation for the purposes of performance rating. A classroom that does not have a second observation for any other reason shall have their score replaced consistent with Subsection B of this Section.

C. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), amended LR 42:1873 (November 2016), LR 44:1442 (August 2018), LR 45:1453 (October 2019), LR 47:

§511. Performance Rating Calculations for Community Networks

A. - H. ...

I. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, the LDE shall not publish community network ratings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1874 (November 2016), LR 44:1442 (August 2018), LR 45:1454 (October 2019), LR 47:

§512. Performance Ratings for Publicly-Funded Sites

A. - B.1.c. ...

d. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, publicly-funded sites where the score calculated from observations conducted during the 2020-2021 school year is lower than 3.75 shall be required to participate in an early childhood school or center improvement planning process.

C. - C.2. ...

3. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, the LDE shall not publish annual honor rolls nor label sites as “top gains.”

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:1874 (November 2016), amended LR 44:1442 (August 2018), LR 47:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, 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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m. (noon), July 9, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may be hand-delivered to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be

date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 140—Louisiana Early
Childhood Care and Education Network**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

There may be increased state costs as a result of the proposed rule; however, the likelihood is indeterminable. Type III early learning centers receive annual performance ratings that determine the amount of quarterly bonus payments received through the state and federally funded Child Care Assistance Program (CCAP). The proposed rule will extend the 2019-2020 performance ratings for centers whose 2020-2021 ratings are lower than their prior year scores. In absence of the proposed rule, it is possible that the Department of Education would have reduced CCAP bonus payments for child care centers that received lower performance ratings; however, this is indeterminable. Any CCAP expenditure reductions that do not occur as a result of the proposed rule will result in state and federal costs. However, because such costs will not exceed base level appropriations, there is no net increase to the state.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed revisions may decrease state revenue by an indeterminable amount. Type III early learning centers are eligible to receive a School Readiness Tax Credit (SRTC) based on the center's quality rating, which in turn is derived from a center's performance rating. In addition, the center's quality rating determines the amount of the SRTC that can be claimed by taxpayers who have enrolled dependents in these centers and businesses that support these centers.

The proposed revisions provide that the 2020-2021 performance rating will be based on the higher of the published 2019-2020 performance rating and the calculated 2020-2021 performance rating. This may allow some centers to avoid a drop in their rating and subsequent reduction in tax credit amount due to COVID-19.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR
NONGOVERNMENTAL GROUPS (Summary)**

The proposed revisions will benefit Type III early learning centers whose 2020-2021 performance scores are lower than their 2019-2020 performance scores, as the centers will instead be assigned their 2019-2020 performance scores for accountability purposes. This may prevent a decrease in the performance rating of the center, which would otherwise lead to a loss of SRTC credits and quarterly bonus payments through the Child Care Assistance Program (CCAP). In addition, taxpayers who have enrolled dependents in these centers and businesses that support these centers may benefit by avoiding a decrease in their SRTC credit amounts.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
2106#048

Alan Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Minimum Reopening Standards
(LAC 28:LXXIX.1105 and 1107;
CXV.401 and 403; CXXXIX.4101 and 4103)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:LXXIX in Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators; LAC 28:CXV in Bulletin 741—Louisiana Handbook for School Administrators; and LAC 28:CXXXIX in Bulletin 126—Charter Schools. The aforementioned revisions clarify policy contained in the aforementioned bulletins for which there have been questions regarding the minimum reopening standards.

Title 28

EDUCATION

**Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana
Handbook for Nonpublic School Administrators**

Chapter 11. Health

**Subchapter B. Reopening School Facilities for the 2020-
2021 School Year**

§1105. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical. These minimum standards regarding the reopening of schools for the 2021-2021 school year expire on June 30, 2021. Any future requirements for schools related to a statewide pandemic will be communicated as needed.

B - E.1.b. ...

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of at least three feet from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1674 (December 2020), amended LR 47:

**§1107. Minimum Requirements for Reopening and
Operating School Facilities**

A. - A.2.a. ...

b. The group composition may change if students are able to maintain physical distance from other students and adults. In this case, students must maintain physical distance, in accordance with current Louisiana Department of Health Guidelines as informed by the Centers for Disease Control and Prevention (CDC), from other students and adults in any classroom or indoor setting to the maximum extent possible.

B. - D.2. ...

E. Face Coverings

1. BESE minimum reopening standards, pertaining to face coverings, are superseded by any statewide or district specific mandate issued by the governor. If there is a statewide or district specific mandate in place, the lifting of the mask requirement will be determined by an executive order or proclamation of the governor. If there is no statewide or district mandate in place, the lifting of this requirement will be determined by the Local Education Agency (LEA) at the appropriate time, based on the recommendation issued of the LDH.

a. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

b. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

c. While inside the school facility, children under two years old and individuals with breathing difficulties.

F. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

G. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;

b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and

c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

H. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

I. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

a. conduct CLASS® observations;

b. observe teacher candidates as part of the teacher preparation quality rating system; or

c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

J. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7, R.S. 17:439.1 and R.S. 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1674 (December 2020), amended LR 47:

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 4. Reopening School Facilities for the 2020-2021 School Year

§401. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical. These minimum standards regarding the reopening of schools for the 2021-2021 school year expire on June 30, 2021. Any future requirements for schools related to a statewide pandemic will be communicated as needed.

B - E.1.b. ...

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of at least three feet from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1672 (December 2020), amended LR 47:

§403. Minimum Requirements for Reopening and Operating School Facilities

A. - A.2.a. ...

b. The group composition may change if students are able to maintain physical distance from other students and adults. In this case, students must maintain physical distance, in accordance with current Louisiana Department of Health Guidelines as informed by the Centers for Disease Control and Prevention (CDC), from other students and adults in any classroom or indoor setting to the maximum extent possible.

B. - D.2. ...

E. Face Coverings

1. BESE minimum reopening standards, pertaining to face coverings, are superseded by any statewide or district specific mandate issued by the governor. If there is a statewide or district specific mandate in place, the lifting of the mask requirement will be determined by an executive order or proclamation of the governor. If there is no statewide or district mandate in place, the lifting of this requirement will be determined by the Local Education

Agency (LEA) at the appropriate time, based on the recommendation issued of the LDH.

a. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

b. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

c. While inside the school facility, children under two years old and individuals with breathing difficulties.

F. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

G. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;

b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and

c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

H. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

I. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

a. conduct CLASS[®] observations;

b. observe teacher candidates as part of the teacher preparation quality rating system; or

c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

J. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7, R.S. 17:439.1 and R.S. 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1673 (December 2020), amended LR 47:

Part CXXXIX. Bulletin 126—Charter Schools Chapter 41. Reopening School Facilities for the 2020-2021 School Year

§4101. Purpose and Background

A. This Chapter provides minimum health and safety standards regarding the reopening of school facilities for the 2020-2021 school year in response to the coronavirus disease (COVID-19) pandemic in order to ensure that students, faculty, staff, and others on school property are protected to the maximum extent possible and practical. These minimum standards regarding the reopening of schools for the 2021-2021 school year expire on June 30, 2021. Any future requirements for schools related to a statewide pandemic will be communicated as needed.

B - E.1.b. ...

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of at least three feet from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1670 (December 2020), amended LR 47:

§4103. Minimum Requirements for Reopening and Operating School Facilities

A. - A.2.a. ...

b. The group composition may change if students are able to maintain physical distance from other students and adults. In this case, students must maintain physical distance, in accordance with current Louisiana Department of Health Guidelines as informed by the Centers for Disease Control and Prevention (CDC), from other students and adults in any classroom or indoor setting to the maximum extent possible.

B. - D.2. ...

E. Face Coverings

1. BESE minimum reopening standards, pertaining to face coverings, are superseded by any statewide or district specific mandate issued by the governor. If there is a statewide or district specific mandate in place, the lifting of the mask requirement will be determined by an executive order or proclamation of the governor. If there is no statewide or district mandate in place, the lifting of this requirement will be determined by the Local Education Agency (LEA) at the appropriate time, based on the recommendation issued of the LDH.

a. While inside the school facility, all adults and students in grades 3 through 12 must wear a face covering to the greatest extent possible and practical within the local community context.

b. While inside the school facility, students in grades prekindergarten through 2 may wear a face covering.

c. While inside the school facility, children under two years old and individuals with breathing difficulties.

F. Hygienic Supplies

1. School employees must be provided adequate access to hygienic supplies, including soap, hand sanitizer with at least 60 percent alcohol, disinfectant wipes or spray, paper towels, and tissues. Face coverings should also be provided when needed.

2. The quantity of hygienic supplies must be appropriately provided to the school employee, according to the role and the number and age of students or adults served by that employee.

G. Transportation

1. School buses used to transport students must not exceed the following maximum capacity requirements:

a. phase 1—25 percent, including adults, of the school bus manufacturer capacity;

b. phase 2—50 percent, including adults, of the school bus manufacturer capacity; and

c. phase 3—75 percent, including adults, of the school bus manufacturer capacity.

2. Passengers on a school bus must be spaced to the greatest extent possible as follows:

a. phase 1—passengers must ride one per seat. Every other seat must remain empty. Members of the same household may sit in the same seat or adjacent seats; and

b. phase 2 and 3—passengers must be dispersed throughout the bus to the greatest extent possible.

H. Student Programming Determinations

1. Student placement determinations in a distance or in-person education program should be made in consultation with the parent or custodian.

2. Student placement determinations should take into consideration a student's unique academic, social, emotional, familial, and medical needs of a student, as identified by the student's parent or custodian.

I. Essential Visitors to School Facilities

1. Essential visitors are individuals who must enter schools or early learning centers in order to conduct visits in accordance with Louisiana law or policy. Essential visitors include, but are not limited to, individuals who:

a. conduct CLASS[®] observations;

b. observe teacher candidates as part of the teacher preparation quality rating system; or

c. provide essential supports and services including, but not limited to, early intervention services, special education services, or mental health consultation.

J. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:1670 (December 2020), amended LR 47:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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.

Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, 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.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m. (noon), July 9, 2021, to Shan N. Davis, Executive Director, Board of Elementary and

Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may be hand-delivered to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Minimum Reopening Standards

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed revisions will not have a fiscal impact on state or local governmental units.

The proposed revisions clarify language regarding school reopening for the 2020-2021 school year and state that the minimum standards for the reopening of schools expire on June 30, 2021.

With regard to social distancing, the proposed revisions clarify that even if the composition of a group that convenes indoors changes, students must maintain distance from other students and adults in accordance with the Louisiana Department of Health (LDH) guidelines to the maximum extent possible. The revisions further clarify that BESE minimum reopening standards pertaining to face coverings are superseded by mandates from the governor's office. In the absence of such mandates, the lifting of the mask requirement will be determined by the Local Education Agency (LEA) at the appropriate time, based upon the recommendation issued by the LDH.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no impacts on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will not result in costs or benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux
Deputy Superintendent
2106#049

Alan Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Regents Office of Student Financial Assistance

2021-2022 Chafee ETV Award Amount
(LAC 28:IV.1801 and 1809)

The Louisiana Board of Regents announces its intention to amend 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).

This rulemaking implements provisions of the Consolidated Appropriations Act of 2021 which increase the maximum Chafee Educational and Training Voucher award amount from \$5,000 to \$9,000 for the 2021 and 2022 federal fiscal years. (SG21199NI)

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs Chapter 18. Chafee Educational and Training Voucher Program

§1801. General Provisions

- A. - D. ...
E. Award Amount.

1. A Chafee ETV recipient may receive up to \$5,000 during the academic year. The award amount is determined by the recipient's financial need as calculated in accordance with the Higher Education Act of 1965, as amended.

2. For the 2021-2022 academic year only, a Chafee ETV recipient may receive up to \$9,000 during the academic year. The award amount is determined by the recipient's financial need as calculated in accordance with the Higher Education Act of 1965, as amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2547 (November 2010), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:554 (March 2018), LR 47:

§1809. Responsibilities of Participating Institutions of Higher Education

- A. - B.2. ...
C. Award Amount Determination

1. Institutions of higher education will determine the student's Chafee ETV amount based upon his financial need in accordance with the Higher Education Act of 1965, as amended, and will report that award amount to LOSFA.

2. Institutions of higher education shall provide students the opportunity to appeal the amount of the Chafee ETV amount if the award to the student is less than the maximum annual award amount. Such appeals shall be conducted in accordance with the institution of higher education's procedures for appealing title IV student aid eligibility. Immediately upon receipt of an appeal, the institution of higher education shall notify LOSFA of the appeal, the student's name, and the reason for awarding less than the full grant amount. In the event the student is not satisfied with the school's final decision on the appeal, the institution of higher education shall advise the student that he may appeal the institution of higher education's decision to the Department of Children and Family Services.

- D. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3031 and R.S. 17:3129.7.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 36:2549 (November 2010), repromulgated by the Board of Regents, Office of Student Financial Assistance, LR 44:556 (March 2018), LR 47:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in LSA-R.S. 49:965.2 *et seq.*

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG21199NI) until 4:30 p.m., July 12, 2021, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: 2021-2022 Chafee ETV Award Amount

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will have no effect on costs or savings to state or local governmental units. The Chafee Education and Training Voucher (ETV) provides federal grants to students from the foster care system to access post-secondary education or training. This is an existing program paid with federal funds. This rulemaking implements a required Chafee ETV maximum payment change for the 2021-2022 Academic Year only to comply with the federal Consolidated Appropriations Act of 2021.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The Chafee ETV program provides funds to disadvantaged students to access postsecondary education. Many of these students will attend an in-state school to further their education and remain in Louisiana upon completion of their education. This will provide Louisiana employers a better-educated workforce and may also attract out-of-state employers to Louisiana, thus providing additional better paying jobs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Students attending post-secondary institutions will increase the number of educated/trained workers in the state, which will have a positive impact on competition and employment.

Robyn Rhea Lively
Senior Attorney
2106#013

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Tuition Trust Authority Office of Student Financial Assistance

START Saving Program
(LAC 28:VI.315)

The Louisiana Tuition Trust Authority announces its intention to amend its START Saving Program rules (R.S. 17:3091 *et seq.*).

This rulemaking adds the applicable interest rates for the START Saving Program for the 2020 calendar year. (ST21198NI)

Title 28

EDUCATION

Part VI. Student Financial Assistance—Higher Education Savings

Chapter 3. Education Savings Account

§315. Miscellaneous Provisions

A. - B.42. ...

43. For the year ending December 31, 2020, the Louisiana Education Tuition and Savings Fund earned an interest rate of 1.40 percent.

44. For the year ending December 31, 2020, the Louisiana Savings Enhancement Fund earned an interest rate of 1.97 percent.

C. - S.2. ...

AUTHORITY NOTE: Promulgated in accordance with 17:3091-3099.2.

HISTORICAL NOTE: Promulgated by the Tuition Trust Authority, Office of Student Financial Assistance, LR 23:718 (June 1997), amended LR 24:1274 (July 1998), LR 26:1263 (June 2000), repromulgated LR 26:2267 (October 2000), amended LR 27:1221 (August 2001), LR 27:1884 (November 2001), LR 28:1761 (August 2002), LR 28:2335 (November 2002), LR 29:2038 (October 2003), repromulgated LR 29:2374 (November 2003), amended LR 30:791 (April 2004), LR 30:1472 (July 2004), LR 31:2216 (September 2005), LR 32:1434 (August 2006), LR 32:2240 (December 2006), LR 33:2359 (November 2007), LR 34:1886 (September 2008), LR 35:1492 (August 2009), LR 36:492 (March 2010), LR 36:2030 (September 2010), LR 38:1954 (August 2012), LR 39:2238 (August 2013), LR 40:1926 (October 2014), LR 41:1487 (August 2015), LR 42:1082 (July 2016), LR 42:1658 (October 2016), LR 43:1731 (September 2017), LR 44:1888 (October 2018), LR 45:1177 (September 2019), LR 47:

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule will have no adverse impact on small businesses as described in LSA-R.S. 49:965.2 *et seq.*

Provider Impact Statement

The proposed Rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Public Comments

Interested persons may submit written comments on the proposed changes (SG21198NI) until 4:30 p.m., July 12, 2021, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

Robyn Rhea Lively
Senior Attorney

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: START Saving Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in any costs or savings to state or local governmental units. The proposed rule changes codify the actual earnings realized on Student Tuition Assistance and Revenue Trust (START) Saving Program accounts that are invested in the Louisiana Principal Protection investment option and the actual earnings realized on the investment of Earnings Enhancements for the 2020 calendar year as required by LSA-R.S. 17:3093.D(1)(f).

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes adopt actual interest rates for deposits and earnings enhancements for the year ending December 31, 2020. As determined by the State Treasurer, the interest rate earned for the 2020 calendar year by the Louisiana Education Tuition and Savings Fund was 1.4%, and by the Savings Enhancements Fund was 1.97%. These interest rates are less than the actual rates realized in the previous year and are the property of the account owners.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not affect competition and employment.

Robyn Rhea Lively
Senior Attorney
2106#012

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Case Management
Licensing Standards
(LAC 48:I.Chapter 49)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 49 as authorized by R.S. 36:254. This proposed rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of case management providers in order to amend

the training and education requirements to address current staff shortages and ensure sufficient access to services.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 49. Case Management

§4901. Personnel Standards

A. Staff Qualifications

1. Case managers hired or promoted between August 20, 1994 and September 30, 2021, must meet the following criteria for education and experience:

a. - e. ...

2. Case managers hired or promoted on or after October 1, 2021, shall meet the following criteria for education and experience:

a. a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education; or

b. a currently licensed registered nurse; or

c. a bachelor's or master's degree in a human services related field which includes psychology, education, counseling, social services, sociology, philosophy, family and consumer sciences, criminal justice, rehabilitation services, child development, substance abuse, gerontology, and vocational rehabilitation; or

d. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields listed in accordance with §4901.A.2.c.

e. Repealed.

3. Case management supervisors hired or promoted between August 20, 1994 and September 30, 2021, must meet the following qualifications for education and experience:

a. a master's degree in social work, psychology, nursing, counseling, rehabilitation counseling, education with certification in special education, occupational therapy, speech or physical therapy from an accredited institution; and two years of paid post-degree experience in a human services related field providing direct consumer services or case management; and one year of this experience must be in providing direct consumer services to the targeted population to be served; or

b. a bachelor's degree in social work from a social work program accredited by the Council on Social Work Education; and three years of paid post-degree experience in a human services related field providing direct consumer services or case management. Two years of this experience must be in providing direct consumer services to the targeted population to be served; or

c. a licensed registered nurse; and three years of paid post-licensure experience as a registered nurse in public health or a human services related field providing direct consumer services or case management. Two years of this experience must be in providing direct consumer services or case management to the target population to be served; or

d. a bachelor's degree in a human services field including but not limited to psychology, education, rehabilitation counseling, or counseling from an accredited institution; and four years of paid post-degree experience in a human services related field providing direct consumer

services or case management. Two years of this experience must be in providing direct consumer services to the targeted population to be served.

4. Case management supervisors hired or promoted on or after October 1, 2021, shall meet the following qualifications for education and experience:

a. a bachelor's or master's degree in social work from a program accredited by the Council on Social Work Education, and two years of paid post degree experience in providing Support Coordination services; or

b. a currently licensed registered nurse with at least two years of paid nursing experience; or

c. a bachelor's or master's degree in a human services related field which includes psychology, education, counseling, social services, sociology, philosophy, family and consumer sciences, criminal justice, rehabilitation services, child development, substance abuse, gerontology, and vocational rehabilitation, and two years of paid post degree experience in providing support coordination services; or

d. a bachelor's degree in liberal arts or general studies with a concentration of at least 16 hours in one of the fields listed in §4901.A.4.c, and two years of paid post degree experience in providing support coordination services.

B. - B.5. ...

6. A case manager must complete a minimum of 20 hours of training per calendar year. For new employees, the orientation training cannot be counted toward the 20 hour minimum annual training requirement. The 16 hours of training for new case managers required in the first 90 days of employment may be counted toward the 20-hour minimum annual training requirement. Appropriate updates of topics covered in orientation and training for a new case manager must be included in the required 20 hours of annual training. The following is a list of suggested additional topics for annual training:

a. - z. ...

7. A case management supervisor must satisfactorily complete 20 hours of training per year. A new supervisor must satisfactorily complete a minimum of 16 hours on all of the following topics prior to assuming case management supervisory responsibilities:

B.7.a. - C.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

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 Health and Hospitals, Office of the Secretary, LR 20:885 (August 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§4903. Caseload Size Standards

A. ...

B. Each case management supervisor may only have a maximum of eight full-time case managers or a combination of full-time case managers and other human service staff under their direct supervision.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

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 Health and Hospitals, Office of the Secretary, LR 20:887 (August 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

§4951. Records—Administrative and Consumer

A. - C. ...

D. A provider must have a written record for each consumer which must minimally include:

1. identifying data recorded on a standardized form including the following:

a. - l. ...

m. names, addresses, and phone numbers of other persons or providers involved with the consumer's service plan. This shall include the consumer's qualified, licensed physician or other licensed health care practitioner who is acting within the scope of practice of his/her respective licensing board(s) and/or certification(s);

D.l.n. - L. ...

M. The records are maintained until audited and all audit questions answered or for six years from the time of payment, whichever is longer.

N. - T. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254.

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 Health and Hospitals, Office of the Secretary, LR 20:891 (August 1994), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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 as it will ensure continued access to case management services.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 as it will ensure continued access to case management services.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses, as described in R.S. 49:965.2 et seq. because it reduces the barriers to hiring staff.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on the staffing level and

qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, but will have a positive impact on the provider's ability to provide the same level of service as described in HCR 170 because it reduces the barriers to hiring staff.

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on July 30, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on July 12, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on July 29, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after July 12, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Case Management Licensing Standards

- 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 20-21. It is anticipated that \$1,080 will be expended in FY 20-21 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 since the licensing fees, in the same amounts, will continue to be collected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule amends the provisions governing the licensing of case management providers in order to amend the

training and education requirements to address current staff shortages and ensure sufficient access to services. This Rule will be beneficial to recipients as it will ensure continued access to needed case management services. Providers and small businesses will benefit from implementation of this proposed Rule since the change in education and training requirements for case managers and supervisors reduces hiring barriers. It is anticipated that implementation of this proposed Rule will not result in costs to case management providers in FY 20-21, FY 21-22, and FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and a positive effect on employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2106#034

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Hospice Licensing Standards
(LAC 48:I.8201 and 8217)

The Department of Health, Bureau of Health Services Standards proposes to amend LAC 48:I.8201 and §8217 as authorized by R.S. 36:254 and R.S. 40:2181-2192. This proposed rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing hospice licensing to include the definition of a public health emergency (PHE) and add exemptions relating to the qualifications required for certain nursing staff hired during a PHE.

Title 48

PUBLIC HEALTH-GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 82. Minimum Standards for Licensure of Hospice Agencies

Subchapter A. General Provisions

§8201. Definitions

A. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

Public Health Emergency (PHE)-a declaration made pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2181-2192.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 15:482 (June 1989), amended LR 24:2257 (December 1998), amended by the Department of Health, Bureau of Health Services Financing, LR 44:588 (March 2018), LR 46:344 (March 2020), LR 47:

Subchapter B. Organization and Staffing

§8217. Personnel Qualifications/Responsibilities

A. - G.7. ...

H. Licensed Practical Nurse (LPN). The LPN shall work under the direct supervision of a registered nurse (RN) and perform skilled nursing services as delegated by the RN. The role of the LPN in hospice is limited to stable hospice patients.

1. Qualifications. An LPN shall be currently licensed by the Louisiana State Board of Practical Nurse Examiners with no restrictions:

a. with at least two years of full time experience as an LPN;

EXCEPTION: The requirement in 1.a is waived for any LPN that becomes employed by a hospice provider during a declared public health emergency (PHE) which extends statewide and continues for more than 90 consecutive days. Any LPN hired under this exception may continue to be employed by the same hospice provider after the PHE is over.

b. - c. ...

2. Responsibilities. The LPN shall perform skilled nursing services under the supervision of an RN, in a manner consistent with standards of practice, including but not limited to, such duties as follows:

a. observe, record, and report to the RN or director of nurses on the general physical and mental conditions of the patient;

b. ...

c. assist the physician and/or RN in performing specialized procedures;

d. - i. ...

3. Restrictions. An LPN shall not:

a. - f. ...

g. function as a supervisor of the nursing practice of any RN; or

H.3.h. - N.2.c. ...

O. Registered Nurse (RN). The hospice shall designate an RN to coordinate the implementation of the POC for each patient.

1. Qualifications. A licensed RN shall be currently licensed to practice in the state of Louisiana with no restrictions:

a. have at least two years of full-time experience as an RN. However, two years of full-time clinical experience in hospice care as an LPN may be substituted for the required two years of experience as an RN; and

EXCEPTION: The requirement in 1.a is waived for any RN that becomes employed by a hospice provider during a declared PHE which extends statewide and continues for more than 90 consecutive days. Any RN hired under this exception may continue to be employed by the same hospice provider after the PHE is over.

b. be an employee of the hospice. If the RN is employed by more than one agency, he/she must inform all employers and coordinate duties to assure quality service provision.

O.2. - R.1.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2181-2191.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR:15:482 (June 1989), amended LR 24:2262 (December 1998), LR 25:2409 (December 1999), LR 29:2801 (December 2003), amended by the Department of Health, Bureau of Health Services Financing, LR 44:594 (March 2018), LR 47:

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 as it will ensure that sufficient hospice staff are available to provide services during public health emergencies.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973 because it will ensure that sufficient hospice staff are available to provide services during public health emergencies.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have a positive impact on small businesses, as described in R.S. 49:965.2 et seq. because it reduces the barriers to hiring during a public health emergency.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have a positive impact on the staffing level and qualifications required to provide the same level of service during a public health emergency, no direct or indirect cost to the provider to provide the same level of service, but will have a positive impact on the provider's ability to provide the same level of service as described in HCR 170 because it reduces the barriers to hiring during a public health emergency.

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on July 30, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on July 12, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on

July 29, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after July 12, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Hospice Licensing Standards**

- 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 20-21. It is anticipated that \$864 will be expended in FY 20-21 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 since the licensing fees, in the same amounts, will continue to be collected.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)
This proposed rule amends the provisions governing hospice licensing to include the definition of a public health emergency (PHE) and add exemptions relating to the qualifications required for certain nursing staff hired during a PHE. This Rule will be beneficial to recipients as it will ensure continued access to hospice services during a PHE. Providers and small businesses will benefit from implementation of this proposed Rule since the change in qualifications will alleviate potential nursing staff shortages during PHEs. It is anticipated that implementation of this proposed Rule will not result in costs to hospice providers in FY 20-21, FY 21-22, or FY 22-23.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
This rule has no known effect on competition but may improve employment by removing barriers to hiring during public health emergencies.

Tasheka Dukes, RN
Deputy Assistant Secretary
2106#035

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

**NOTICE OF INTENT
Department of Health
Bureau of Health Services Financing**

Intermediate Care Facilities
for Persons with Developmental Disabilities
Licensing Standards
(LAC 48:I.8519 and 8591)

The Department of Health, Bureau of Health Services Financing proposes to amend LAC 48:I.8519 and §8591 as authorized by R.S. 36:254 and R.S. 40:2180–2180.5. This proposed rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 27 of the 2020 Second Extraordinary Session of the Louisiana Legislature directed the Department of Health to promulgate rules that provide minimum standards in relation to the requirements for licensed intermediate care facilities for persons with developmental disabilities (ICF/DDs) to allow visitation of immediate family members or other designated persons during a public health emergency (PHE) declared in accordance with R.S. 29:766 or to address Coronavirus Disease 2019 (COVID-19). In compliance with Act 27, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of ICF/DDs in order to establish minimum requirements and limitations for visitations of immediate family members or other designated persons during a declared PHE or to address COVID-19.

**Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 85. Intermediate Care Facilities for Persons
with Developmental Disabilities
Subchapter A. General Provisions
§8519. Statement of Deficiencies**

A. - C.7. ...

8. Pursuant to R.S. 40:2180.2(11), determination of dispute resolutions regarding deficiencies related to visitation during a declared public health emergency or related to Coronavirus Disease 2019 (COVID-19), subject to federal requirements, shall be issued by the department to the facility within 35 calendar days after the receipt of the request from the intermediate care facilities for persons with developmental disabilities (ICF/DD) for an informal dispute resolution of the deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 38:3186 (December 2012), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

Subchapter F. Provider Responsibilities

§8591. Visitation by Close Family Members of a Resident During a Declared Public Health Emergency

A. For purposes of this Section, a public health emergency (PHE) means a declaration made pursuant to the Health Emergency Powers Act, R.S. 29:760 et seq.

B. ICF/DDs shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in ICF/DDs issued by any federal government agency during a declared PHE. The provisions of the licensing rules in §8591.C-G shall be preempted by any federal statute, federal regulation or guidance from a federal government agency that requires an ICF/DD to restrict resident visitation in a manner that is more restrictive than the rules.

C. ICF/DDs shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in ICF/DDs during a declared PHE.

D. ICF/DDs shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in ICF/DDs during a declared PHE.

E. The provisions of this Section regarding visitation by a close family member of a resident of an ICF/DD to visit the resident during any state of PHE shall apply to all ICF/DDs licensed by LDH.

F. For purposes of this Section, a close family member shall mean a parent, step-parent, sibling, step-sibling, aunt, uncle, child, step-child, spouse, mother-in-law, father-in-law, grandparent, grandchild, or legal representative of the ICF/DD resident.

G. Subject to compliance with the requirements of §8591.B-D, each ICF/DD shall allow close family members of the residents to visit a resident of the ICF/DD during a declared PHE when a resident, or his legal or designated representative, requests a visit with close family members of the resident, subject to the following conditions and requirements:

1. Each ICF/DD shall have a written policy and procedure addressing visitation by close family members of the resident. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The ICF/DD shall provide a link to an electronic copy of the policy and procedure to close family members of the residents, upon request.

2. An ICF/DD's policy and procedure regarding visitation by close family members may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the ICF/DD, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. An ICF/DD's policy and procedure on visitation by close family members shall, at a minimum, require the following:

a. that the ICF/DD give special consideration and priority for visitation by close family members and other designated persons to residents receiving end-of-life care;

b. that visitation by close family members and other designated persons will be screened for infectious agents or infectious diseases and will pass such screening prior to each visitation, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the ICF/DD shall utilize those methods and protocols;

c. that a close family member or other designated person not be allowed to visit an ICF/DD resident if such close family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such close family member or other designated person tests positive for an infectious agent or infectious disease;

d. that a close family member or other designated person not be allowed to visit an ICF/DD resident if the close family member and other designated person refuses to comply with the provisions of the ICF/DD's policy and procedure or refuses to comply with the ICF/DD's reasonable time, place, and manner restrictions;

e. that close family members and other designated persons be required to wear personal protective equipment as determined appropriate by the ICF/DD, considering the resident's medical condition or clinical considerations;

i. at the ICF/DD's discretion, personal protective equipment may be made available by the ICF/DD to close family members and other designated persons;

f. that an ICF/DD's policy and procedure include provisions for compliance with a Louisiana state health officer (SHO) order or emergency notice or governor's executive order or proclamation limiting visitation during a declared PHE;

g. that an ICF/DD's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines issued by any federal government agency regarding visitation in ICF/DDs during a declared PHE; and

h. that includes provisions for off-site visitation, allowing a close family member to visit an ICF/DD resident away from the facility campus; the policy and procedure shall include requirements for allowing the resident to return to the facility upon certain conditions, such as meeting testing and isolation requirements recommended by the CDC, the Centers for Medicare and Medicaid Services (CMS), a Louisiana SHO order or emergency notice, or a governor's executive order or proclamation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2180-2180.5.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

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 positively affect family functioning, stability and autonomy as described in R.S. 49:972 by allowing immediate family members or other designated persons to visit residents of intermediate care facilities for persons with developmental disabilities during declared public health emergencies.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on July 30, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on July 12, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, the department will conduct a public hearing at 8 a.m. on July 29, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. All interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after July 12, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, Parking is available to the public in the Galvez Parking Garage which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Intermediate Care Facilities for Persons with Developmental Disabilities Licensing Standards

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 20-21. It is anticipated that \$972 will be expended in FY 20-21 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 since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

In compliance with Act 27 of the 2020 Second Extraordinary Session, this proposed rule amends the provisions governing the licensing of intermediate care facilities for persons with developmental disabilities (ICF/DDs) in order to establish minimum requirements and limitations for visitations of immediate family members or other designated persons during a declared public health emergency (PHE) or to address COVID-19. This proposed Rule will be beneficial to ICF/DD residents by allowing visits by immediate family members during a PHE. It is anticipated that implementation of this proposed rule will not result in costs to ICF/DDs for FY 20-21, FY 21-22, and FY 22-23, and will be beneficial by establishing standards for visitation during a declared PHE.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tasheka Dukes, RN
Deputy Assistant Secretary
2106#036

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Nursing Facilities
Licensing Standards
(LAC 48:I.9769 and 9771)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 48:I.9769 and §9771 as authorized by R.S. 36:254 and 40:2009.1-2116. This proposed rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Acts 18 and 30 of the 2020 Second Extraordinary Session of the Louisiana Legislature directed the Department of Health to promulgate rules that provide minimum standards

in relation to the requirements for licensed nursing facilities to allow visitation of members of the clergy and immediate family members or other designated persons during a public health emergency (PHE) declared in accordance with R.S. 29:760 et seq. and to mitigate the transmission of any infectious agent or disease. In compliance with Acts 18 and 30, the Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing the licensing of nursing facilities in order to establish minimum requirements and limitations for visitation by clergy and immediate family members or other designated persons during a declared PHE.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 97. Nursing Facilities

Subchapter B. Organization and General Services

§9769. Visitation by Members of the Clergy During a Declared Public Health Emergency

A. For purposes of §9769 and §9771, a public health emergency (PHE) is a declaration made pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq.

B. For purposes of §9769 and §9771, clergy shall be defined as follows:

1. a minister, priest, preacher, rabbi, imam, Christian Science practitioner; or
2. other similar functionary of a religious organization; or
3. an individual reasonably believed to be such a clergy member by the person consulting him/her.

C. For purposes of §9769 and §9771, immediate family member shall mean the following of a resident in a nursing facility:

1. spouse;
2. natural or adoptive parent, child, or sibling;
3. stepparent, stepchild, stepbrother, or stepsister;
4. father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law or sister-in-law;
5. grandparent or grandchild;
6. spouse of a grandparent or grandchild; or
7. legal or designated representative of the resident.

D. For purposes of §9769 and §9771, resident shall mean a resident of a licensed nursing facility in Louisiana or the legal or designated representative of the resident.

E. A licensed nursing facility shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency. The provisions of the licensing rules in §9769.F-I shall be preempted by any federal statute, regulation, requirement, order, or guideline from a federal government agency that requires a nursing facility to restrict resident visitation in a manner that is more restrictive than the rules.

F. Nursing facilities shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in nursing facilities during a declared PHE.

G. Nursing facilities shall comply with any executive order or proclamation issued by the governor of the state of

Louisiana regarding visitation in a nursing facility during a declared PHE.

H. The provisions of this Section regarding visitation by members of the clergy shall apply to all nursing facilities licensed by the Department of Health.

I. Subject to the requirements of §9767.E-G, each nursing facility shall allow members of the clergy to visit residents of the nursing facility during a declared public health emergency (PHE) when a resident, or his legal or designated representative, requests a visit with a member of the clergy, subject to the following conditions and requirements:

1. Each nursing facility shall have a written policy and procedure addressing visitation by members of the clergy. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The nursing facility shall provide a link to an electronic copy of the policy and procedure to a member of the clergy, upon request.

2. A nursing facility's policy and procedure regarding clergy visitation may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the nursing facility, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. A nursing facility's policy and procedure on clergy visitation shall, at a minimum, require the following:

a. that the nursing facility give special consideration and priority for clergy visitation to residents receiving end-of-life care;

b. that a clergy member will be screened for infectious agents or infectious diseases, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the nursing facility shall utilize those methods and protocols;

c. that a clergy member not be allowed to visit a nursing facility resident if such clergy member has obvious signs or symptoms of an infectious agent or infectious disease, or if such clergy member tests positive for an infectious agent or infectious disease;

d. that a clergy member not be allowed to visit a nursing facility resident if the clergy member refuses to comply with the provisions of the nursing facility's policy and procedure or refuses to comply with the nursing facility's reasonable time, place, and manner restrictions; and

e. that a clergy member be required to wear personal protective equipment as determined appropriate by the nursing facility, considering the resident's medical condition or clinical considerations; at the nursing facility's discretion, personal protective equipment may be made available by the nursing facility to clergy members.

f. that a nursing facility's policy and procedure include provisions for compliance with any Louisiana SHO order or emergency notice and with any governor's

executive order or proclamation limiting visitation during a declared PHE; and

g. that a nursing facility's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

§9771. Visitation by Immediate Family Members and Other Designated Persons During a Declared Public Health Emergency

A. A licensed nursing facility shall comply with any federal law, regulation, requirement, order, or guideline regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency. The provisions of the licensing rules in §9771.B-E shall be preempted by any federal statute, regulation, requirement, order, or guideline from a federal government agency that requires a nursing facility to restrict resident visitation in a manner that is more restrictive than the rules.

B. Nursing facilities shall comply with any Louisiana state health officer (SHO) order or emergency notice regarding visitation in nursing facilities during a declared PHE.

C. Nursing facilities shall comply with any executive order or proclamation issued by the governor of the state of Louisiana regarding visitation in a nursing facility during a declared PHE.

D. The provisions of this Section regarding visitation by immediate family members of the resident and other designated persons shall apply to all nursing facilities licensed by the Department of Health.

E. Subject to the requirements of §9771.A-C, each nursing facility shall allow immediate family members and other designated persons to visit a resident of the nursing facility during a declared public health emergency (PHE) when a resident, or his legal or designated representative, requests a visit with immediate family members and other designated persons, subject to the following conditions and requirements:

1. Each nursing facility shall have a written policy and procedure addressing visitation by immediate family members and other designated persons. A copy of the written policy and procedure shall be available, without cost, to the resident and his legal or designated representative, upon request. The nursing facility shall provide a link to an electronic copy of the policy and procedure to immediate family members and other designated persons, upon request.

2. A nursing facility's policy and procedure regarding visitation by immediate family members and other designated persons may adopt reasonable time, place, and manner restrictions, provided that such restrictions are implemented by the nursing facility, in consultation with appropriate medical personnel, for the purpose of mitigating the possibility of transmission of any infectious agent or infectious disease or for the purpose of addressing the medical condition or clinical considerations of an individual resident.

3. A nursing facility's policy and procedure on visitation by immediate family members and other designated persons shall, at a minimum, require the following:

a. that the nursing facility give special consideration and priority for visitation by immediate family members and other designated persons to residents receiving end-of-life care;

b. that visitation by immediate family members of the residents and other designated persons will be screened for infectious agents or infectious diseases and will pass such screening prior to each visitation, utilizing at least the current screening or testing methods and protocols recommended by the Centers for Disease Control and Prevention, as applicable; if there is a current Louisiana SHO order or emergency notice that requires more rigorous screening or testing methods and protocols, then the nursing facility shall utilize those methods and protocols;

c. that an immediate family member or other designated person not be allowed to visit a nursing facility resident if such immediate family member or other designated person has obvious signs or symptoms of an infectious agent or infectious disease, or if such immediate family member or other designated person tests positive for an infectious agent or infectious disease;

d. that an immediate family member or other designated person not be allowed to visit a nursing facility resident if the immediate family member or other designated person refuses to comply with the provisions of the nursing facility's policy and procedure or refuses to comply with the nursing facility's reasonable time, place, and manner restrictions;

e. that immediate family members and other designated persons be required to wear personal protective equipment as determined appropriate by the nursing facility, considering the resident's medical condition or clinical considerations; at the nursing facility's discretion, personal protective equipment may be made available by the nursing facility to immediate family members and other designated persons;

f. that a nursing facility's policy and procedure include provisions for compliance with any Louisiana SHO order or emergency notice and with any governor's executive order or proclamation limiting visitation during a declared PHE;

g. that a nursing facility's policy and procedure include provisions for compliance with any federal law, regulations, requirements, orders, or guidelines regarding visitation in nursing facilities issued by any federal government agency during a declared public health emergency; and

h. that includes provisions for off-site visitation, allowing an immediate family member or other designated person to visit a nursing facility resident away from the facility campus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254 and R.S. 40:2009.1-2116.

HISTORICAL NOTE: Promulgated by the Department of Health, Bureau of Health Services Financing, LR 47:

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 allowing clergy and immediate family members, or other designated persons of a nursing facility resident to visit during a declared public health emergency.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments to Tasheka Dukes, RN, Health Standards Section, P.O. Box 3767, Baton Rouge, LA 70821. Ms. Dukes is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on July 30, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on July 12, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on July 29, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after July 12, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nursing Facilities—Licensing Standards

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 20-21. It is anticipated that \$1,080 will be expended in FY 20-21 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 since the licensing fees, in the same amounts, will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amends the provisions governing the licensing of case management providers in order to amend the training and education requirements to address current staff shortages and ensure sufficient access to services. This Rule will be beneficial to recipients as it will ensure continued access to needed case management services. Providers and small businesses will benefit from implementation of this proposed Rule since the change in education and training requirements for case managers and supervisors reduces hiring barriers. It is anticipated that implementation of this proposed Rule will not result in costs to case management providers in FY 20-21, FY 21-22, and FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and a positive effect on employment.

Tasheka Dukes, RN
Deputy Assistant Director
2106#037

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health Bureau of Health Services Financing

Reimbursement for Coronavirus Disease 2019 (COVID-19)
Laboratory Testing
(LAC 50:V.117 and XI.7503)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:V.117 and amend 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. This proposed rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health, Bureau of Health Services Financing proposes to amend the provisions governing inpatient hospital services and ambulatory surgical centers in order to provide for reimbursement of laboratory testing for Coronavirus Disease 2019 (COVID-19) separately from

inpatient hospital per diem payments and ambulatory surgical center flat fee reimbursement amounts.

Title 50

PUBLIC HEALTH-MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals Services

Chapter 1. General Provisions

§117. Laboratory Testing for Coronavirus Disease 2019 (COVID-19)

A. Effective for dates of service on or after September 20, 2021, the Medicaid Program shall provide reimbursement to acute care hospitals for COVID-19 laboratory testing provided to inpatients.

B. Reimbursement. Hospitals shall be reimbursed for such testing in addition to the hospital per diem payment for the inpatient 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, Bureau of Health Services Financing, LR 47:

Part XI. Clinic Services

Subpart 11. Ambulatory Surgical Centers

Chapter 75. Reimbursement

§7503. Reimbursement Methodology

A. - A.2. ...

3. Effective for dates of service on or after September 20, 2021, the Medicaid Program shall provide reimbursement for COVID-19 laboratory testing in addition to the ambulatory surgical center flat fee reimbursement amount.

B. - 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 35:1889 (September 2009), amended LR 36:2278 (October 2010), LR 37:1572 (June 2011), LR 39:317 (February 2013), amended by the Department of Health, Bureau of Health Services Financing, LR 47:

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.

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 and autonomy as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

Small Business Analysis

In compliance with Act 820 of the 2008 Regular Session of the Louisiana Legislature, the economic impact of this proposed Rule on small businesses has been considered. It is

anticipated that this proposed Rule will have no impact on small businesses, as described in R.S. 49:965.2 et seq.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, but may reduce the total direct and indirect cost to some providers to provide the same level of service, and may enhance those provider's ability to provide the same level of service as described in HCR 170 since this proposed Rule provides payments to providers for services they already render.

Public Comments

Interested persons may submit written comments to Tara A. LeBlanc, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. Ms. LeBlanc is responsible for responding to inquiries regarding this proposed Rule. The deadline for submitting written comments is at 4:30 p.m. on July 30, 2021.

Public Hearing

Interested persons may submit a written request to conduct a public hearing by U.S. mail to the Office of the Secretary ATTN: LDH Rulemaking Coordinator, Post Office Box 629, Baton Rouge, LA 70821-0629; however, such request must be received no later than 4:30 p.m. on July 12, 2021. If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, LDH will conduct a public hearing at 9:30 a.m. on July 29, 2021 in Room 118 of the Bienville Building, which is located at 628 North Fourth Street, Baton Rouge, LA. To confirm whether or not a public hearing will be held, interested persons should first call Allen Enger at (225) 342-1342 after July 12, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing. In the event of a hearing, parking is available to the public in the Galvez Parking Garage, which is located between North Sixth and North Fifth/North and Main Streets (cater-corner from the Bienville Building). Validated parking for the Galvez Garage may be available to public hearing attendees when the parking ticket is presented to LDH staff at the hearing.

Dr. Courtney N. Phillips
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Reimbursement for Coronavirus Disease 2019 (COVID-19) Laboratory Testing

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will result in increased state costs of approximately \$270 for FY 20-21, \$2,798,058 for FY 21-22 and \$3,632,696 for FY 22-23. It is anticipated that \$540 (\$270 SGF and \$270 FED) will be expended in FY 20-21 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 increase federal revenue collections by approximately \$270 for FY 20-21, \$10,103,209 for FY 21-22, and \$11,848,824 for FY 22-23. It is anticipated that \$270 will be collected in FY 20-21 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, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

This proposed Rule amends the provisions governing inpatient hospital services and ambulatory surgical centers in order to provide for reimbursement of laboratory testing for Coronavirus Disease 2019 (COVID-19) separately from inpatient hospital per diem payments and ambulatory surgical center flat fee reimbursement amounts. This proposed Rule will be beneficial to patients in inpatient hospitals and ambulatory surgical centers by improving access to COVID-19 testing. It is anticipated that implementation of this proposed Rule will increase payments to inpatient hospitals and ambulatory surgical centers by approximately \$12,901,267 for FY 21-22 and \$15,481,520 for FY 22-23.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Tara A. LeBlanc
Interim Medicaid Executive Director
2106#038

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 17—Reinstatement of Policies
(LAC 37:XIII.Chapter 63)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to repeal Regulation 17—Reinstatement of Policies.

Regulation 17 is being repealed because existing statutory language provides sufficient guidance, and regulatory clarification is no longer necessary.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 63. Regulation 17—Reinstatement of Policies

**§6301. Policy Directive Number Four to Non-Profit
Funeral Associations**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:336 and 22:259(6).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, December 3, 1958, repealed LR 47:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Small Business Analysis

The impact of the proposed regulation 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 regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary

Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., July 20, 2021.

James J. Donelon
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Regulation 17
Reinstatement of Policies**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The proposed rule repeals Regulation 17 in its entirety.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes may result in indeterminable additional costs for insurers to the extent they must amend their certificate of authority to comply with the new regulations.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Denise Gardner
Chief of Staff
2106#055

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 56—Credit for Reinsurance
(LAC 37:XIII.Chapter 35)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 56—Credit for Reinsurance. The purpose of the amendment to Regulation 56 is to implement the amendments to the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Regulation (#786) which incorporates relevant provisions of the *Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance*. These revisions provide for the establishment of credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in a reciprocal jurisdiction as defined and established by Regulation 56. Furthermore, Regulation 56 (1) provides parameters for capital and surplus requirements; (2) provides for risk based capital requirements; (3) provides for the requirement of monetary security; (4) imposes the requirement of the filing of annual audited financial statements; (5) provides for the prompt payment of claims under the reinsurance agreement and criteria to determine compliance; (6) provides for the publication of a list of reciprocal jurisdictions by the Commissioner; (7) establishes eligibility requirements in order for an assuming insurer to remain on the reciprocal jurisdiction list; (8) establishes the requirement of the RJ-1 form for assuming insurers to obtain eligibility; (9) provides for the requirement of security if an assuming insurer is placed in rehabilitation, liquidation or conservation; and (10) serves to reduce reinsurance collateral requirements for certified reinsurers that are licensed and domiciled in Qualified Jurisdictions.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 35. Regulation 56—Credit for Reinsurance
§3507. Credit for Reinsurance—Accredited Reinsurers**

A. ...

1. file a properly executed Form AR-1 (§3527.B) as evidence of its submission to this state's jurisdiction and to the authority of the commissioner to examine its books and records;

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1808 (July 2013), amended LR 47:

**§3509. Credit for Reinsurance—Reinsurers
Maintaining Trust Funds**

A. - B.4.a.ii. ...

iii. file a properly executed Form AR-1 (§3527.B) as evidence of the submission to the authority of the commissioner to examine the books and records of any of its members and shall certify that any member examined will bear the expense of any such examination.

B.4.b. - E.9.b. ...

F. A specific security provided to a ceding insurer by an assuming insurer pursuant to §3513 shall be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1808 (July 2013), amended LR 47:

§3510. Credit for Reinsurance—Certified Reinsurers

A. Pursuant to R.S. 22:651(E), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under this section. The credit allowed shall be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the commissioner. The security shall be in a form consistent with the provisions of R.S. 22:651(E) and 652 and §§3517, 3519 or 3521 of this regulation. The amount of security required in order for full credit to be allowed shall correspond with the following requirements.

A.1. - B.4.g. ...

h. for certified reinsurers not domiciled in the United States, the commissioner may consider audited financial statements, regulatory filings, and actuarial opinion (as filed with the non-United States jurisdiction supervisor, with a translation into English). Upon the initial application for certification, the commissioner will consider audited financial statements for the last two years filed with its non-United States jurisdiction supervisor;

4.i. - 5.b. ...

6. The assuming insurer must submit a properly executed Form CR-1 (§3527.C) as evidence of its submission to the jurisdiction of this state, appointment of the commissioner as an agent for service of process in this state, and agreement to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists

enforcement of a final United States judgment. The commissioner shall not certify any assuming insurer that is domiciled in a jurisdiction that the commissioner has determined does not adequately and promptly enforce final United States judgments or arbitration awards.

7. - 7.c. ...

d. annually, the most recent audited financial statements, regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor, with a translation into English). Upon the initial certification, audited financial statements for the last two years filed with the certified reinsurer's supervisor;

7.e. - 8.c. ...

d. Upon revocation of the certification of a certified reinsurer by the commissioner, the assuming insurer shall be required to post security in accordance with §3515 in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with §3509, the commissioner may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer may not be denied credit for reinsurance for a period of three months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the commissioner to be at high risk of uncollectibility.

C. - C.4. ...

D. Recognition of Certification Issued by an NAIC Accredited Jurisdiction

1. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 (§3527.C) and such additional information as the commissioner requires. The assuming insurer shall be considered to be a certified reinsurer in this state.

2. - 4. ...

E. **Mandatory Funding Clause.** In addition to the clauses required under §3523, reinsurance contracts entered into or renewed under this section shall include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1811 (July 2013), amended LR 47:

**§3511. Credit for Reinsurance—Reciprocal
Jurisdictions**

A. Pursuant to R.S. 22:651F, the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal

jurisdiction, and which meets the other requirements of this regulation.

B. A *reciprocal jurisdiction* is a jurisdiction, as designated by the commissioner pursuant to §3511. D, that meets one of the following:

1. a non-United States jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and the European Union, is a member state of the European Union. For purposes of §3511, a “covered agreement” is an agreement entered into pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance;

2. a United States jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program; or

3. a qualified jurisdiction, as determined by the commissioner pursuant to R.S. 22:651E(3) and §3510.C, which is not otherwise described in paragraph (1) or (2) above and which the commissioner determines meets all of the following additional requirements:

a. provides that an insurer which has its head office or is domiciled in such qualified jurisdiction shall receive credit for reinsurance ceded to a United States-domiciled assuming insurer in the same manner as credit for reinsurance is received for reinsurance assumed by insurers domiciled in such qualified jurisdiction;

b. does not require a United States-domiciled assuming insurer to establish or maintain a local presence as a condition for entering into a reinsurance agreement with any ceding insurer subject to regulation by the non-United States jurisdiction or as a condition to allow the ceding insurer to recognize credit for such reinsurance;

c. recognizes the United States state regulatory approach to group supervision and group capital, by providing written confirmation by a competent regulatory authority, in such qualified jurisdiction, that insurers and insurance groups that are domiciled or maintain their headquarters in this state or another jurisdiction accredited by the NAIC shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the commissioner or the commissioner of the domiciliary state and will not be subject to group supervision at the level of the worldwide parent undertaking of the insurance or reinsurance group by the qualified jurisdiction; and

d. provides written confirmation by a competent regulatory authority in such qualified jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such qualified jurisdiction, including but not limited to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or

other multilateral memoranda of understanding coordinated by the NAIC.

C. Credit shall be allowed when the reinsurance is ceded from an insurer domiciled in this state to an assuming insurer meeting each of the conditions set forth below.

1. The assuming insurer must be licensed to transact reinsurance by, and have its head office or be domiciled in, a reciprocal jurisdiction.

2. The assuming insurer must have and maintain on an ongoing basis minimum capital and surplus, or its equivalent, calculated on at least an annual basis as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, and confirmed as set forth in §3511.C.7 according to the methodology of its domiciliary jurisdiction, in the following amounts:

a. no less than \$250,000,000; or

b. if the assuming insurer is an association, including incorporated and individual unincorporated underwriters:

i. minimum capital and surplus equivalents (net of liabilities) or own funds of the equivalent of at least \$250,000,000; and

ii. a central fund containing a balance of the equivalent of at least \$250,000,000.

3. The assuming insurer must have and maintain on an ongoing basis a minimum solvency or capital ratio, as applicable, as follows:

a. if the assuming insurer has its head office or is domiciled in a reciprocal jurisdiction as defined in §3511.B.1, the ratio specified in the applicable covered agreement;

b. if the assuming insurer is domiciled in a reciprocal jurisdiction as defined in §3511.B.2 a risk-based capital (RBC) ratio of 300 percent of the authorized control level, calculated in accordance with the formula developed by the NAIC; or

c. if the assuming insurer is domiciled in a reciprocal jurisdiction as defined in §3511.B.3, after consultation with the reciprocal jurisdiction and considering any recommendations published through the NAIC committee process, such solvency or capital ratio as the commissioner determines to be an effective measure of solvency.

4. The assuming insurer must agree to and provide adequate assurance, in the form of a properly executed Form RJ-1 (§3527.D), of its agreement to the following:

a. The assuming insurer must agree to provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in §3511.C.2 or §3511.C.3, or if any regulatory action is taken against it for serious noncompliance with applicable law.

b. The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process.

i. The commissioner may also require that such consent be provided and included in each reinsurance agreement under the commissioner’s jurisdiction.

ii. Nothing in this provision shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except

to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

c. The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer, that have been declared enforceable in the territory where the judgment was obtained.

d. Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its estate, if applicable.

e. The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement, which involves this state's ceding insurers, and agrees to notify the ceding insurer and the commissioner and to provide 100 percent security to the ceding insurer consistent with the terms of the scheme, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of R.S. 22:651(E) and 652 and §§ 3517, 3519 or 3521 of this regulation. For purposes of this regulation, the term *solvent scheme of arrangement* means a foreign or alien statutory or regulatory compromise procedure subject to requisite majority creditor approval and judicial sanction in the assuming insurer's home jurisdiction either to finally commute liabilities of duly noticed classed members or creditors of a solvent debtor, or to reorganize or restructure the debts and obligations of a solvent debtor on a final basis, and which may be subject to judicial recognition and enforcement of the arrangement by a governing authority outside the ceding insurer's home jurisdiction.

f. The assuming insurer must agree in writing to meet the applicable information filing requirements as set forth in §3511.C.5.

5. The assuming insurer or its legal successor must provide, if requested by the commissioner, on behalf of itself and any legal predecessors, the following documentation to the commissioner:

a. for the two years preceding entry into the reinsurance agreement and on an annual basis thereafter, the assuming insurer's annual audited financial statements, in accordance with the applicable law of the jurisdiction of its head office or domiciliary jurisdiction, as applicable, including the external audit report;

b. for the two years preceding entry into the reinsurance agreement, the solvency and financial condition report or actuarial opinion, if filed with the assuming insurer's supervisor;

c. prior to entry into the reinsurance agreement and not more than semi-annually thereafter, an updated list of all disputed and overdue reinsurance claims outstanding for 90 days or more, regarding reinsurance assumed from ceding insurers domiciled in the United States; and

d. prior to entry into the reinsurance agreement and not more than semi-annually thereafter, information regarding the assuming insurer's assumed reinsurance by

ceding insurer, ceded reinsurance by the assuming insurer, and reinsurance recoverable on paid and unpaid losses by the assuming insurer to allow for the evaluation of the criteria set forth in §3511.C.6.

6. The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements. The lack of prompt payment will be evidenced if any of the following criteria is met:

a. More than 15 percent of the reinsurance recoverables from the assuming insurer are overdue and in dispute as reported to the commissioner;

b. More than 15 percent of the assuming insurer's ceding insurers or reinsurers have overdue reinsurance recoverable on paid losses of 90 days or more which are not in dispute and which exceed for each ceding insurer \$100,000, or as otherwise specified in a covered agreement; or

c. The aggregate amount of reinsurance recoverable on paid losses which are not in dispute, but are overdue by 90 days or more, exceeds \$50,000,000, or as otherwise specified in a covered agreement.

7. The assuming insurer's supervisory authority must confirm to the commissioner on an annual basis that the assuming insurer complies with the requirements set forth in §3511.C.2-3.

8. Nothing in this provision precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

D. The commissioner shall timely create and publish a list of reciprocal jurisdictions.

1. A list of reciprocal jurisdictions is published through the NAIC committee process. The commissioner's list shall include any reciprocal jurisdiction as defined under §3511.B.1-2, and shall consider any other reciprocal jurisdiction included on the NAIC list. The commissioner may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions as provided by applicable law, regulation, or in accordance with criteria published through the NAIC committee process.

2. The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets one or more of the requirements of a reciprocal jurisdiction, as provided by applicable law, regulation, or in accordance with a process published through the NAIC committee process, except that the commissioner shall not remove from the list a reciprocal jurisdiction as defined under §3511.B.1-2. Upon removal of a reciprocal jurisdiction from this list credit for reinsurance ceded to an assuming insurer domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to R.S. 22:651 et seq.

E. The commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit in accordance with this section.

1. If an NAIC accredited jurisdiction has determined that the conditions set forth in §3511.C have been met, the commissioner has the discretion to defer to that jurisdiction's determination, and add such assuming insurer to the list of assuming insurers to which cessions shall be granted credit in accordance with this subsection. The commissioner may accept financial documentation filed with another NAIC

accredited jurisdiction or with the NAIC in satisfaction of the requirements of §3511.C.

2. When requesting that the commissioner defer to another NAIC accredited jurisdiction's determination, an assuming insurer must submit a properly executed Form RJ-1 (§3527.D) and additional information as the commissioner may require. A state that has received such a request will notify other states through the NAIC committee process and provide relevant information with respect to the determination of eligibility.

F. If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this section, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this section.

1. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with §3515.

2. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of §3515.

G. Before denying statement credit or imposing a requirement to post security with respect to §3511.F or adopting any similar requirement that will have substantially the same regulatory impact as security, the commissioner shall:

1. communicate with the ceding insurer, the assuming insurer, and the assuming insurer's supervisory authority that the assuming insurer no longer satisfies one of the conditions listed in §3511.C;

2. provide the assuming insurer with 30 days from the initial communication to submit a plan to remedy the defect, and 90 days from the initial communication to remedy the defect, except in exceptional circumstances in which a shorter period is necessary for policyholder and other consumer protection;

3. after the expiration of 90 days or less, as set out in §3511.G.2, if the commissioner determines that no or insufficient action was taken by the assuming insurer, the commissioner may impose any of the requirements as set out in this Subsection; and

4. provide a written explanation to the assuming insurer of any of the requirements set out in this Subsection.

H. If subject to a legal process of rehabilitation, liquidation or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding liabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§3513. Credit for Reinsurance Required by Law [Formerly §3511]

A. Pursuant to R.S. 22:651(G), the commissioner shall allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of R.S. 22:651(B), (C), (D), (E) or (F) but only as to the insurance of risks located in jurisdictions where the reinsurance is required by the applicable law or regulation of that jurisdiction. As used in §3513:

Jurisdiction—state, district or territory of the United States and any lawful national government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1815 (July 2013), amended LR 47:

§3515. Reduction from Liability for Reinsurance Ceded to an Unauthorized Assuming Insurer [Formerly §3513]

A. Pursuant to R.S. 22:652, the commissioner shall allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of R.S. 22:651 in an amount not exceeding the liabilities carried by the ceding insurer. The reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security shall be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in R.S. 22:653(B). This security may be in the form of any of the following:

1. cash;

2. securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the purposes and procedures manual of the Securities and Valuation Office, and qualifying as admitted assets;

3. clean, irrevocable, unconditional and evergreen letters of credit issued or confirmed by a qualified United States financial institution, as defined in R.S. 22:653(A), effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs;

or

4. any other form of security acceptable to the commissioner.

B. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to §3515.A shall be allowed only when the requirements of §3523 and the applicable portions of §3517, 3519 or 3521 have been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1815 (July 2013), amended LR 47:

§3517. Trust Agreements Qualified under §3515
[Formerly §3515]

A. As used in §3517:

Beneficiary—the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named *beneficiary*, then the named *beneficiary* includes, and is limited to, the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

Grantor—the entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the *grantor* is the unlicensed, unaccredited assuming insurer.

Obligations—as used in §3517.B.11, means:

- a. reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer;
- b. reserves for reinsured losses reported and outstanding;
- c. reserves for reinsured losses incurred but not reported; and
- d. reserves for allocated reinsured loss expenses and unearned premiums.

B. Required Conditions

1. The trust agreement shall be entered into between the beneficiary, the grantor and a trustee, which shall be a qualified United States financial institution as defined in R.S. 22:653(B).

2. The trust agreement shall create a trust account into which assets shall be deposited.

3. All assets in the trust account shall be held by the trustee at the trustee's office in the United States.

4. The trust agreement shall provide that:

- a. the beneficiary shall have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee;
- b. no other statement or document is required to be presented to withdraw assets, except that the beneficiary may be required to acknowledge receipt of withdrawn assets;
- c. it is not subject to any conditions or qualifications outside of the trust agreement; and
- d. it shall not contain references to any other agreements or documents except as provided for in §3517.B.11-12.

5. The trust agreement shall be established for the sole benefit of the beneficiary.

6. The trust agreement shall require the trustee to:

- a. receive assets and hold all assets in a safe place;
- b. determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity;
- c. furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception

and at intervals no less frequent than the end of each calendar quarter;

d. notify the grantor and the beneficiary within 10 days, of any deposits to or withdrawals from the trust account;

e. upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and

f. allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account.

7. The trust agreement shall provide that at least 30 days, but not more than 45 days, prior to termination of the trust account, written notification of termination shall be delivered by the trustee to the beneficiary.

8. The trust agreement shall be made subject to and governed by the laws of the state in which the trust is domiciled.

9. The trust agreement shall prohibit invasion of the trust corpus for the purpose of paying commission to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee shall have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the commissioner), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced.

10. The trust agreement shall provide that the trustee shall be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be required shall be deemed to be negligence and/or willful misconduct.

11. Notwithstanding other provisions of this regulation, when a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

a. to pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer;

b. to make payment to the assuming insurer of any amounts held in the trust account that exceed 102 percent of the actual amount required to fund the assuming insurer's obligations under the specific reinsurance agreement; or

c. where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance

agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in R.S. 22:653(B) apart from its general assets, in trust for such uses and purposes specified in §3517.B.11.a-b as may remain executory after such withdrawal and for any period after the termination date.

12. Notwithstanding other provisions of this regulation, when a trust agreement is established to meet the requirements of §3515 in conjunction with a reinsurance agreement covering life, annuities or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer shall undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes:

- a. to pay or reimburse the ceding insurer for:
 - i. the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies; and
 - ii. the assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement;
- b. to pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; or
- c. where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution apart from its general assets, in trust for the uses and purposes specified in §3517.B.12.a-b as may remain executory after withdrawal and for any period after the termination date.

13. Either the reinsurance agreement or the trust agreement must stipulate that assets deposited in the trust account shall be valued according to their current fair market value and shall consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Louisiana Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust shall not exceed 5 percent of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions required by this paragraph must be included in the reinsurance agreement.

C. Permitted Conditions

1. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than 90 days after the beneficiary and grantor receive the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than 90 days after the trustee and the beneficiary receive the notice, provided that no such resignation or removal shall be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee.

2. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any interest or dividends shall be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name.

3. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution shall be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions that the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in §3517.D.1.b.

4. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets.

5. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary shall, with written approval by the beneficiary, be delivered over to the grantor.

D. Additional Conditions Applicable to Reinsurance Agreements

1. A reinsurance agreement may contain provisions that:

- a. require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover;

- b. require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity;

- c. require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and

- d. stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance

agreement, and shall be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes:

i. to pay or reimburse the ceding insurer for:

(a). the assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies;

(b). the assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and

(c). any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

ii. to make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer.

2. The reinsurance agreement also may contain provisions that:

a. give the assuming insurer the right to seek approval from the ceding insurer, which shall not be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided:

i. the assuming insurer shall, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the market value of the assets withdrawn so as to maintain at all times the deposit in the required amount; or

ii. after withdrawal and transfer, the current fair market value of the trust account is no less than 102 percent of the required amount;

b. provide for the return of any amount withdrawn in excess of the actual amounts required for §3517.D.1.e and interest payments at a rate not in excess of the prime rate of interest on such amounts;

c. permit the award by any arbitration panel or court of competent jurisdiction of:

i. interest at a rate different from that provided in §3517.D.2.b;

ii. court or arbitration costs;

iii. attorney's fees; and

iv. any other reasonable expenses.

E. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements required to be filed with this department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction shall be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure.

F. Notwithstanding the effective date of this regulation, any trust agreement or underlying reinsurance agreement in existence prior to September 1, 2013 will continue to be acceptable until August 30, 2014, after which date the agreements will have to fully comply with this regulation for the trust agreement to be acceptable.

G. The failure of any trust agreement to specifically identify the *beneficiary* as defined in §3517.A shall not be construed to affect any actions or rights that the commissioner may take or possess pursuant to the provisions of the laws of this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1816 (July 2013), amended LR 47:

§3519. Letters of Credit Qualified under §3515

[Formerly §3517]

A. The letter of credit must be clean, irrevocable, unconditional and issued or confirmed by a qualified United States financial institution as defined in R.S. 22:653(A). The letter of credit shall contain an issue date and expiration date and shall stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit also shall indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself shall not contain reference to any other agreements, documents or entities, except as provided in §3519.H.1. As used in §3519:

Beneficiary—the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes, and is limited to, the court appointed domiciliary receiver (including conservator, rehabilitator, or liquidator).

B. The heading of the letter of credit may include a boxed section containing the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section shall be clearly marked to indicate that such information is for internal identification purposes only.

C. The letter of credit shall contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto.

D. The term of the letter of credit shall be for at least one year and shall contain an "evergreen clause" that prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" shall provide for a period of no less than 30 days notice prior to expiration date or nonrenewal.

E. The letter of credit shall state whether it is subject to and governed by the laws of this state or the *Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600)* or *International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98)*, or any successor publication, and all drafts drawn thereunder shall be presentable at an office in the United States of a qualified United States financial institution.

F. If the letter of credit is made subject to the *Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600)* *International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98)* or any successor publication, then the letter of credit shall specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 36 of *Publication 600* or any other successor publication, occur.

G. If the letter of credit is issued by a financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in §3519.A, then the following additional requirements shall be met:

1. the issuing financial institution shall formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts; and

2. the “evergreen clause” shall provide for 30 days notice prior to expiration date for nonrenewal.

H. Reinsurance Agreement Provisions

1. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that:

a. require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover;

b. stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and shall be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons:

i. to pay or reimburse the ceding insurer for:

(a). the assuming insurer’s share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies;

(b). the assuming insurer’s share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and

(c). any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer;

ii. where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount and where the assuming insurer’s entire obligations under the reinsurance agreement remain unliquidated and undischarged 10 days prior to the termination date, to withdraw amounts equal to the assuming insurer’s share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified United States

financial institution apart from its general assets, in trust for such uses and purposes specified in §3519.H.1.b.i as may remain after withdrawal and for any period after the termination date;

c. all of the provisions of §3519.H.1 shall be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer.

2. Nothing contained §3519.H.1 shall preclude the ceding insurer and assuming insurer from providing for:

a. an interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to §3519.H.1.b; or

b. the return of any amounts drawn down on the letters of credit in excess of the actual amounts required for the above or any amounts that are subsequently determined not to be due.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1818 (July 2013), amended LR 47:

§3521. Other Security

[Formerly §3519]

A. A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1819 (July 2013), amended LR 47:

§3523. Reinsurance Contract

[Formerly §3521]

A. Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of §§3505, 3507, 3509, 3510, or 3513 or otherwise in compliance with R.S. 22:651 after the adoption of this regulation unless the reinsurance agreement includes:

1. a proper insolvency clause, which stipulates that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to R.S. 22:651(I)(2);

2. a provision pursuant to R.S. 22:651(H)(1)(a)(i) whereby the assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of the alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to give the court or panel jurisdiction, has designated an agent upon whom service of process may be effected, and has agreed to abide by the final decision of the court or panel; and

3. a proper reinsurance intermediary clause, if applicable, which stipulates that the credit risk for the intermediary is carried by the assuming insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1819 (July 2013), amended LR 47:

§3525. Agreements Requiring Approval
[Formerly §3523]

A. The following kinds of reinsurance agreements shall not be entered into by any domestic insurer unless they are first submitted to the commissioner of insurance for his written approval, who shall approve the same if the terms thereof do not injuriously affect the rights of policyholders of any of the insurers parties thereto:

1. agreements of reinsurance of any life insurer other than agreements made in the ordinary course of business covering reinsurance of individual lives or joint lives under reinsurance agreements relating to current business; or

2. agreements whereby any insurer, other than a life insurer, cedes any existing outstanding reserves to an insurer not authorized to transact business in this state, or cedes to any insurer or insurers at one time, or during a period of six consecutive months more than 20 percent of the total amount of its outstanding reserves, not including in either case premiums ceded by agreements made in the ordinary course of business covering the reinsurance of individual risks under reinsurance relating to current business.

B. If the commissioner of insurance refuses to approve any such agreement submitted for his approval, he shall grant the insurer a hearing upon request.

C. In addition to the requirements of §3525.A, the commissioner may require that any reinsurance agreement must be approved, in writing, by the commissioner when the agreement is between a Louisiana domestic insurer and a nonadmitted or unauthorized assuming insurer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1819 (July 2013), amended LR 47:

§3527. Contracts Affected
[Formerly §3525]

A. All new and renewal reinsurance transactions entered into after December 31, 2013 shall conform to the requirements of the Act and this regulation if credit is to be given to the ceding insurer for such reinsurance.

B. Form AR-1

FORM AR-1
 CERTIFICATE OF ASSUMING INSURER

I _____, _____
 (name of officer) (title of officer)
 of
 _____,
 ("Assuming Insurer"), the (name of assuming insurer)

assuming insurer under a reinsurance agreement with one or more insurers domiciled in Louisiana, hereby certify that Assuming Insurer:

1. Submits to the jurisdiction of any court of competent jurisdiction in Louisiana for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Commissioner of Insurance of Louisiana as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Submits to the authority of the Commissioner of Insurance of Louisiana to examine its books and records and agrees to bear the expense of any such examination.

4. Submits with this form a current list of insurers domiciled in Louisiana reinsured by Assuming Insurer and undertakes to submit additions to or deletions from the list to the Insurance Commissioner at least once per calendar quarter.

Dated: _____
 (name of assuming insurer)

BY: _____
 (name of officer) (title of officer)

C. Form CR-1

FORM CR-1
 CERTIFICATE OF CERTIFIED REINSURER

I _____, _____
 (name of officer) (title of officer)
 of
 _____,
 ("Assuming Insurer"), the (name of assuming insurer)

assuming insurer under a reinsurance agreement with one or more insurers domiciled in Louisiana, in order to be considered for approval in Louisiana, hereby certify that Assuming Insurer:

1. Submits to the jurisdiction of any court of competent jurisdiction in Louisiana for the adjudication of any issues arising out of the reinsurance agreement, agrees to comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or any appellate court in the event of an appeal. Nothing in this paragraph constitutes or should be understood to constitute a waiver of Assuming Insurer's rights to commence an action in any court of competent jurisdiction in the United States, to remove an action to a United States District Court, or to seek a transfer of a case to another court as permitted by the laws of the United States or of any state in the United States. This paragraph is not intended to conflict with or override the obligation of the parties to the reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement.

2. Designates the Commissioner of Insurance of Louisiana as its lawful attorney upon whom may be served any lawful process in any action, suit or proceeding arising out of the reinsurance agreement instituted by or on behalf of the ceding insurer.

3. Agrees to provide security in an amount equal to 100 percent of liabilities attributable to United States ceding insurers if it resists enforcement of a final United States judgment or properly enforceable arbitration award.

4. Agrees to provide notification within 10 days of any regulatory actions taken against it, any change in the provisions of its domiciliary license or any change in its rating by an approved rating agency, including a statement describing such changes and the reasons therefore.

5. Agrees to annually file information comparable to relevant provisions of the NAIC financial statement for use by insurance markets in accordance with LAC 37:XIII.3510.B.7.d.

6. Agrees to annually file the report of the independent auditor on the financial statements of the insurance enterprise.

7. Agrees to annually file audited financial statements, regulatory filings, and actuarial opinion in accordance with LAC 37:XIII.3510.B.7.d.

8. Agrees to annually file an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from United States domestic ceding insurers.

9. Is in good standing as an insurer or reinsurer with the supervisor of its domiciliary jurisdiction.

Dated: _____
 (name of assuming insurer)

BY: _____
 (name of officer) (title of officer)

(title of officer)

Form CR-F – PART 2
Ceded Reinsurance as of December 31, Current Year (000 Omitted)

1 Company Code or ID Number	2	3 Name of Reinsurer	4 Domiciliary Jurisdiction	5 Reinsurance Contracts Ceding 75% or More of Direct Premiums Written	6 Reinsurance Premiums Ceded	Reinsurance Recoverable On									Reinsurance Payable		18 Net Amount Recoverable From Reinsurers Cols 15 – [16 + 17]	19 Funds Held by Company Under Reinsurance Treaties	
						7 Paid Losses	8 Paid LAE	9 Known Case Loss Reserves	10 Known Case LAE Reserves	11 IBNR Loss Reserves	12 IBNR LAE Reserves	13 Unearned Premiums	14 Contingent Commissions	15 Cols 7 through 14 Totals	16 Ceded Balances Payable	17 Other Amounts Due to Reinsurers			
9999999 Totals																			

F. Form CR-S

Form CR-S – PART 1 – SECTION 1
Reinsurance Assumed Life Insurance, Annuities, Deposit Funds and Other Liabilities
Without Life or Disability Contingencies, and Related Benefits Listed by Reinsured Company as of December 31, Current Year

1 Company Code or ID Number	2	3 Effective Date	4 Name of Reinsured	5 Location	6 Type of Reinsurance Assumed	7 Amount of In Force at End of Year	8 Reserve	9 Premiums	10 Reinsurance Payable on Paid and Unpaid Losses	11 Modified Coinsurance Reserve	12 Funds Withheld Under Coinsurance
Totals											

AUTHORITY NOTE: Promulgated in accordance with R.S. 22, Sections 2(E), 11, 651 and 661.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 21:1246 (November 1995), amended LR 39:1820 (July 2013), amended LR 47:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation 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 regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., July 12, 2021.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 56—Credit for Reinsurance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in implementation costs or savings to state or local governmental units. The proposed rule changes implement the amendments to the National Association of Insurance Commissioners (NAIC) Credit for Reinsurance Model Regulation. These amendments incorporate relevant provisions of the Bilateral Agreement Between the United States of America and the European Union on Prudential Measures regarding insurance and reinsurance. These provisions will provide for the establishment of credit for

- reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction as defined in this regulation.
- I. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule changes will have no impact on state or local governmental revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule changes will provide for the establishment of credit for reinsurance ceded by a domestic insurer to an assuming insurer that is licensed to write reinsurance by, and has its head office or is domiciled in, a reciprocal jurisdiction as defined and established by this regulation.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rule changes will have no impact upon competition and employment in the state.

Denise Gardner
Chief of Staff
2106#056

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation 65—Bail Bond Licensing
Requirements/Bounty Hunter
(LAC 37:XIII.Chapter 49)

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 and 22:11 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 65—Bail Bond Licensing Requirements/Bounty Hunter. Regulation 65 requires the mandatory licensing of persons engaging in the apprehension or surrender of a bail bond principal on behalf of insurance companies. This regulation establishes both in state and out of state bail enforcement procedures, as well as notification requirements. Additionally, the regulation outlines the hearing process and fines as delineated in the Louisiana Insurance Code. This regulation enables the Commissioner of Insurance to regulate the bail bond industry and eliminate and penalize those individuals for unsafe practices, which are a threat to the public health, safety, and welfare. The purpose of the amendment to Regulation 65 is to update citations of law, to remove the pre-licensing and continuing education requirements, as those requirements are now included in the recently amended Rule 9—Prelicensing Education and Rule 10—Continuing Education, and to update definitions in compliance with newly enacted laws since the promulgation of Regulation 65.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 49. Regulation 65—Bail Bond Licensing
Requirements/Bounty Hunter**

§4901. Purpose

A. The purpose of this regulation is to establish licensing guidelines and other requirements for persons engaging in the apprehension or surrender of a bail bond principal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:706 (April 1999), amended LR 47:

§4903. Definitions

A. The following terms when used in this Chapter shall have the following meanings:

Bail Bond Producer—a person who holds an insurance producer license for the line of bail bonds and engages in the apprehension or surrender of persons who are released on bail or who failed to appear at any stage of the proceedings to answer the charge before the court in which they may be prosecuted.

Bail Enforcement—the apprehension or surrender of a principal who is released on bail or who has failed to appear at any stage of the proceedings to answer the charge before the court in which they may be prosecuted. For the purposes of this regulation, bail enforcement shall include those activities commonly known as bail recovery, fugitive recovery or bounty hunting.

Commissioner—the Louisiana Commissioner of Insurance.

Department—the Louisiana Department of Insurance.

Insurer—any domestic, foreign or alien insurance corporation or association engaged in the business of insurance or suretyship which has qualified to transact surety business in this state.

Surrender—as defined by the L.A.-CCRP Article 311.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999), amended LR 47:

§4905. Bail Enforcement License Requirements for Louisiana

A. In order to engage in, transact, or assist in bail enforcement, a person must be a duly licensed bail bond producer pursuant to Chapter 5 of Part I of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999), amended LR 47:

§4907. Non-Resident Bail Enforcement Requirements

A. Bail enforcement persons from other states must be licensed bail bond producers in the state where the bond was written or otherwise be duly authorized to transact bail enforcement in that state and shall act in association with a local bail bond producer duly licensed by the Louisiana Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999), amended LR 47:

§4909. Non-Resident Bail Enforcement Procedure and Notification Requirements

A. In order for a bail enforcement person from another state to transact a surrender or apprehension of a principal in Louisiana, the following shall be done:-

1. Before conducting a surrender or an apprehension of a principal, a bail enforcement person from another state shall notify local law enforcement.

2. A bail enforcement person from another state must have in their possession certified copies of material needed to identify the principal. Said materials shall be:

a. a judgement of bond forfeiture or court order of failure to appear and/or certified copy of the bond and/or the agent's duly executed copy of the contract;

b. - c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999), amended LR 47:

§4911. In State Bail Enforcement Procedure and Notification Requirement

A. In order to engage in bail enforcement, the following shall be done:-

1. Before conducting a bail enforcement, the bail bond producer shall notify local law enforcement in the parish or city where the principal is sought unless exigent circumstances exist.

2. The bail bond producer shall be required to wear identifying clothing while conducting bail enforcement in a private residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999), amended LR 47:

§4913. Prohibited Acts

A. No licensed bail bond producer shall improperly withhold, misappropriate, fail to timely remit premiums and reports of bonds written, or convert to one's own use any monies belonging to principals, sureties and underwriters, or others possessed in the course of the business of insurance.

B. No licensed bail bond producer shall perform bail enforcement in pursuit of any principal released on bail for nonpayment of premium. The surrender of a principal in violation of this subsection shall entitle the principal to the return of any premium paid.

C. No licensed bail bond producer shall remove or have removed any bail bond power of attorney from the clerk of court or sheriff.

D. No licensed bail bond producer shall transact or engage in bail enforcement with the assistance of an unlicensed person.

E. Commercial sureties will need to comply with the requirements of R.S. 22:1441.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:708 (April 1999), amended LR 47:

§4915. Enforcement of Regulation

A. ...

B.1. Violations of this Section are governed by Part I of Chapter 5 (Producers) and Part IV of Chapter 7 (Unfair Trade Practices) of the Louisiana Insurance Code.

2. The commissioner shall impose penalties, sanctions or fines as delineated in Part I of Chapter 5 and Part IV of Chapter 7 of the Louisiana Insurance Code.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:708 (April 1999), amended LR 47:

§4917. Effective Date

A. This regulation shall become effective on final publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:13, 22:822, 22:1211, 22:1441, 22:1443, 22:1543, 22:1547, and 22:1556.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:708 (April 1999), amended LR 47:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation 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 regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Jennifer Land, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., July 12, 2021.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Regulation 65—Bail Bond Licensing Requirements/Bounty Hunter

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in implementation costs or savings to state or local governmental units. The proposed rule change amends Regulation 65 – Bail Bond Licensing Requirements/Bounty Hunter by removing the pre-licensing and continuing education requirements since these requirements are now included in the recently amended Rule 9 – Prelicensing Education and Rule 10 – Continuing Education as well as updates law citations and definitions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will have no impact on economic costs or benefits to directly affected persons or non-governmental groups. The amendment removes the pre-licensing and continuing education requirements since these requirements are now included in the recently amended Rule 9 and 10.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no impact upon competition and employment in the state.

Denise Gardner
Chief of Staff
2106#028

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Insurance Office of the Commissioner

Regulation 115—Title Insurance Record Retention (LAC 37:XIII.Chapter 167)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted under the Louisiana Insurance Code, R.S. 22:1 et seq., in particular R.S. 22:11 and R.S. 22:535, the Department of Insurance hereby gives notice of its intent to promulgate Regulation 115—Title Insurance Record Retention. The purpose of Regulation 115 is to implement the provisions of R.S. 22:533, which provides that the department may prescribe the specific record entries and documents to be kept by title insurers and title insurance producers and the retention period of said records. Regulation 115, which applies to all licensed title insurers and licensed title producers in Louisiana, sets forth the length of time that licensed title insurers and licensed title insurance producers must maintain records of their affairs. Regulation 115 provides for a ten-year period commencing on the later of the date of the act of sale or transfer of the underlying property or the date that the initial file on the subject property was opened. Records required to be maintained under Regulation 115 include examinations of title, determinations of insurability, and records of escrow operations and escrow accounts. Regulation 115 shall become effective upon final publication in the Louisiana Register and shall apply to any act or practice committed on or after the effective date.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 167. Regulation Number 115—Title Insurance Record Retention

§16701. Purpose

A. Regulation 115 implements the provisions of R.S. 22:533 which provides that the department may prescribe the specific record entries and documents to be kept by licensed title insurers and licensed title insurance producers and the retention period of said records.

B. The purpose of this regulation is to set forth the length of time that licensed title insurers and licensed title insurance producers shall maintain sufficient records of their affairs, including evidence of the examination of title and determination of insurability and records of its escrow operations and escrow accounts.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§16703. Applicability and Scope

A. Regulation 115 shall apply to all licensed title insurers and licensed title insurance producers in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§16705. Authority

A. Regulation 115 is promulgated by the commissioner pursuant to the authority granted under the Louisiana Insurance Code, Title 22 of the Louisiana Revised Statutes, including R.S. 22:11, R.S. 22:68, R.S. 22:526, R.S. 22:533, and R.S. 22:535.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:68, 22:526, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§16707. Definitions

A. For the purposes of Regulation 115 the following terms are defined as follows:

Commissioner—the commissioner of Insurance for the state of Louisiana.

Title Insurance Producer—a person authorized on behalf of the title insurer to issue title insurance reports or policies.

Title Insurer—a company authorized under the laws of this state to transact the business of title insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:512, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§16709. Record Retention

A. Every title insurer and title insurance producer shall retain sufficient records of its affairs, including evidence of the examination of title and determination of insurability and records of its escrow operations and escrow accounts, for a period of ten years. The ten-year period shall commence on the date of the act of sale or transfer of the underlying property or the date that the initial file on the subject property was opened, whichever is later.

B. Title insurers and title insurance producers may cause any or all books, records, documents, accounts, and vouchers to be photographed, reproduced on film, or maintained electronically in electronic data processing equipment in such a manner that their financial condition, affairs, and operations can be ascertained and compliance with the law can be determined by the department. Any photographs, microphotographs, optical imaging, electronic, or film reproductions of any original books, records, documents, accounts, and vouchers shall for all purposes be considered the same as the originals thereof and a transcript, exemplification, or certified copy of any such photograph, microphotograph, optical imaging, electronic, or film reproduction shall for all purposes be deemed to be a transcript, exemplification, or certified copy of the original.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:68, 22:526, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§16711. Effective Date

A. Regulation 115 shall become effective upon final publication in the *Louisiana Register* and shall apply to any act or practice committed on or after the effective date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

§16713. Severability

A. If any section or provision of Regulation 115 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 115 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 115 and the application to any persons or circumstances are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11, 22:533, 22:535, and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 47:

Family Impact Statement

1. Describe the effect of the proposed regulation on the stability of the family. The proposed regulation should have no measurable impact upon the stability of the family.

2. Describe the effect of the proposed regulation on the authority and rights of parents regarding the education and supervision of their children. The proposed regulation should have no impact upon the rights and authority of parents regarding the education and supervision of their children.

3. Describe the effect of the proposed regulation on the functioning of the family. The proposed regulation should have no direct impact upon the functioning of the family.

4. Describe the effect of the proposed regulation on family earnings and budget. The proposed regulation should have no direct impact upon family earnings and budget.

5. Describe the effect of the proposed regulation on the behavior and personal responsibility of children. The proposed regulation should have no impact upon the behavior and personal responsibility of children.

6. Describe the effect of the proposed regulation on the ability of the family or a local government to perform the function as contained in the Rule. The proposed regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the Rule.

Poverty Impact Statement

1. Describe the effect on household income, assets, and financial security. The proposed regulation should have no effect on household income assets and financial security.

2. Describe the effect on early childhood development and preschool through postsecondary education development. The proposed regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the effect on employment and workforce development. The proposed regulation should have no effect on employment and workforce development.

4. Describe the effect on taxes and tax credits. The proposed regulation should have no effect on taxes and tax credits.

5. Describe the effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance. The proposed regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation 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 regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and estimate of the number of the small businesses subject to the proposed Rule. The proposed regulation should have no measurable impact upon small businesses.

2. The projected reporting, record keeping, and other administrative costs required for compliance with the proposed Rule, including the type of professional skills necessary for preparation of the report or record. The proposed regulation should have no measurable impact upon small businesses.

3. A statement of the probable effect on impacted small businesses. The proposed regulation should have no measurable impact upon small businesses.

4. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed Rule. The proposed regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed regulation should have no measurable effect.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. The proposed regulation should have no measurable effect.

3. The overall effect on the ability of the provider to provide the same level of service. The proposed regulation should have no measurable effect.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments must be received no later than July 20, 2021, by 4:30 p.m. and should be addressed to Morgan Kelley, Louisiana Department of Insurance. Comments may be sent via mail to P.O. Box 94214, Baton Rouge, LA 70804-9214, or via facsimile to 225-342-1632. Comments may also be mailed express or hand-delivered to Poydras Building, 1702 North Third Street, Baton Rouge, LA 70802.

James J. Donelon
Commissioner

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Regulation 115—Title Insurance
Record Retention**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed regulation will not result in implementation costs or savings to state or local governmental units. The proposed regulation enacts Regulation 115—Title Insurance Record Retention that implements the provisions of R.S. 22:533, which provide that the LA Department of Insurance (LDI) may prescribe the specific record entries and retention period of documents that are to be kept by licensed title insurers and producers.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed regulation will have no impact on state or local governmental revenues.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)
The proposed regulation will impact every title insurer and producer in the manner of how to retain sufficient records of its affairs, including evidence of the examination of title and determination of insurability and records of its escrow operations and escrow accounts for a period of ten years.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed regulation will have no impact upon competition and employment in the state.

Denise Gardner
Chief of Staff
2106#057

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Rule 12—Transmission of Forms and Documents
(LAC 37:XI.Chapter 9)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, and through the authority granted under R.S. 22:1 et seq., and specifically R.S. 22:11, the Department of Insurance hereby gives notice of its intent to amend Rule 12—Transmission of Forms and Documents. The Department of Insurance is amending Rule 12 to expand the methods that insurers or regulated entities may utilize for delivery of documents to the Department of Insurance. Specifically, Rule 12 is being amended to allow for the use of private or commercial interstate carriers as an acceptable method for delivery of documents to the Louisiana Department of Insurance.

**Title 37
INSURANCE
Part XI. Rules**

**Chapter 9. Rule Number 12—Transmission of Forms
and Documents**

**§901. Transmission of Forms and Documents Filed
with the Department of Insurance**

A. All forms, documents, applications, filings, financial reports, and any and all other forms and types of documents

required by law or voluntarily filed with the commissioner by any insurer or entity regulated by the commissioner shall be filed by depositing the same in the United States mail, postage prepaid, and/or with a private or commercial interstate carrier, and/or via electronic transmission. Payment of fees, including license fees, and premium taxes shall be exempt from this Rule.

B. No document of any sort or kind described in §901.A will be accepted or received by the personnel of the department as having been filed with the department unless the same is transmitted to the department via the United States mail, a private or commercial interstate carrier, and/or electronic transmission.

C. The department shall retain the envelope or other evidence of submission method attached to the document.

D.1. Transmission of documents by private courier service without interstate service or by hand delivery is permissible as long as the documents are:

a. subsequently mailed in the United States Postal Service or delivered to a private or commercial interstate carrier for shipping and received by the department on or before the twentieth day after receipt of the private courier delivery, or hand delivery; or

b. ...

2. A document received in accordance with §901 shall be deemed received on the date of the department's receipt of the original private courier delivery without interstate service or hand delivery. Any departmental decision shall be based on the date of the initial private courier delivery or hand delivery, and any stamp of approval shall be affixed to those documents.

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22.2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 17:1210 (December 1991), amended LR 18:620 (June 1992), amended by the Department of Insurance, Office of the Commissioner, LR 29:41 (January 2003), amended LR 45:63 (January 2019), LR 47:

§903. Definitions

A. The following terms used in Rule 12 have the meanings set forth below:

Commissioner—the Commissioner of the Louisiana Department of Insurance

Department—the Louisiana Department of Insurance

Private or Commercial Interstate Carrier—any person or entity engaged in the business of accepting documents for transportation and delivery between one State, Territory, Possession, or the District of Columbia and another State, Territory, Possession, or the District of Columbia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22.2.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 47:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended

regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Small Business Analysis

The impact of the proposed regulation 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 regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation

should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., July 20, 2021.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Rule 12—Transmission of Forms and Documents

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in additional costs or savings for state or local governmental units. The rule revisions amend Rule 12 to allow for the use of private or commercial interstate carriers as an acceptable method for delivery of documents to the Louisiana Department of Insurance.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will not result in any costs and/or economic benefits to directly affected persons or non-governmental groups. The rule revisions amend Rule 12 to allow for the use of private or commercial interstate carriers as an acceptable method for delivery of documents to the Louisiana Department of Insurance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed rule changes will not affect competition or employment.

Denise Gardner
Chief of Staff
2106#029

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Abatement of Presumed Accuracy-Related Penalties
(LAC 61.III.2121-2125)**

Under the authority of R.S. 47:1511, and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, gives notice that rulemaking procedures have been initiated to enact LAC 61.III.2121-2125, to provide guidance on the exceptions to the presumption of penalties provided in R.S. 47:1604.1 and to provide procedures for requesting abatement of a presumed penalty.

R.S. 47:1511 authorizes the secretary to prescribe rules and regulations to carry out the purposes of Title 47 and the purposes of any other statutes or provisions included under the secretary's authority. Pursuant to R.S. 47:1604.1(A)(2), the negligence penalty is presumed to apply if the taxpayer understates tax liability by ten percent or more. However, such penalty shall not apply if the understatement is due to reasonable cause where the taxpayer acted in good faith. Additionally, pursuant to R.S. 47:1604.1(E)(3), willful disregard is presumed when a taxpayer fails to timely remit tax that is withheld or collected from others, absent a showing of good cause. The purpose of this regulation is to provide further guidance on regarding the reasonable cause and good faith and the good cause exceptions and to provide procedures for requesting relief when the exceptions apply.

Title 61

REVENUE AND TAXATION

Part III. Administrative and Miscellaneous Provisions

Chapter 21. Interest and Penalties

§2121. Reasonable Cause and Good Faith Exception to Presumption in R.S. 47:1604.1(A)(1)

A. Definitions. For purposes of this Section, the following terms shall have the meaning ascribed herein.

Advice—any communication, including the opinion of a professional tax advisor, setting forth the analysis or conclusion of a person, other than the taxpayer, provided to (or for the benefit of) the taxpayer and on which the taxpayer relies, directly or indirectly, with respect to the imposition of the R.S. 47:1604.1 negligence penalty. Advice does not have to be in any particular form.

Professional Tax Advisor—a person or entity whose job duty, function or service focuses on or involves providing tax and tax related advice or products, which may include the preparation of or providing the use of or access to tax returns, forms or documents

Professional Tax Preparer—a person or entity whose job duty, function or service focuses on or involves the preparation of or providing the use of or access to tax returns, forms or documents, which may include providing tax and tax related advice or products.

B. The penalty for negligent failure to comply authorized in R.S. 47:1604.1(A)(1) is presumed to apply when a taxpayer understates his tax liability by ten percent or more, but did not demonstrate a willful disregard of the tax laws.

C. The presumed penalty shall not apply when the understatement was due to reasonable cause where the taxpayer acted in good faith.

D. A determination of reasonable cause and good faith will be made on a case-by-case basis, considering all relevant facts and circumstances.

1. Generally, the most important factor in determining reasonable cause and good faith is the extent of the taxpayer's effort to assess the proper tax liability.

2. Circumstances that may indicate the extent of the taxpayer's effort to assess the proper tax liability, include but are not limited to:

a. an honest misunderstanding of fact or law that is reasonable in light of all of the facts and circumstances, including the experience, knowledge, and education of the taxpayer;

b. an isolated computational or transcriptional error;

c. Reliance on an information return, advice, or other facts, if under all the circumstances such reliance was reasonable and the taxpayer acted in good faith.

3. Reliance on an information return, including the return of a pass-through entity, or on the advice of a professional tax advisor or tax preparer does not automatically demonstrate reasonable cause and good faith.

a. All facts and circumstances shall be considered when determining whether a taxpayer has reasonably relied in good faith on an information return or the advice of a professional tax advisor or tax preparer. Facts to be considered include, but are not limited to, the taxpayer's education, sophistication and business experience.

b. A determination of whether a taxpayer acted with reasonable cause and in good faith with respect to an underpayment that is related to an item reflected on the return of a pass-through entity will take into account the taxpayer's own actions, as well as the actions of the pass-through entity.

c. Generally, a taxpayer knows, or has reason to know, that the information on an information return is incorrect if such information is inconsistent with other information reported or otherwise furnished to the taxpayer, or with the taxpayer's knowledge of the transaction. This knowledge includes, for example, the taxpayer's knowledge of the terms of his employment relationship or of the rate of return on a payor's obligation.

d. Reliance shall not be considered reasonable or in good faith if the taxpayer knew, or reasonably should have known, that the advice was rendered by a non-tax professional or non-tax preparer, or a professional tax advisor or tax preparer who lacked knowledge in the relevant aspects of federal or Louisiana tax law.

e. The advice relied on by the taxpayer shall be based upon all relevant facts and circumstances and the law as it relates to those facts and circumstances. Reliance shall not be considered reasonable or in good faith if the taxpayer fails to disclose a fact that he knows, or reasonably should know, to be relevant to the proper tax treatment of an item.

f. The advice relied on by the taxpayer shall not be based on unreasonable factual or legal assumptions and shall not unreasonably rely on the un-true or inaccurate assumptions, representations, statements, findings, or agreements of the taxpayer or any other person. For example, the advice shall not be based upon a representation or assumption which the taxpayer knows, or has reason to know, is unlikely to be true, such as an inaccurate representation or assumption as to the taxpayer's purposes for entering into a transaction or for structuring a transaction in a particular manner.

g. A taxpayer may not rely on an opinion or advice that a regulation is invalid to establish that the taxpayer acted with reasonable cause and good faith unless the taxpayer discloses the position that the regulation in question is invalid in a statement attached to and filed with the taxpayer's return containing the understatement.

h. A taxpayer may not rely on an opinion or advice that is contrary to existing, applicable case law.

i. For purposes of this Paragraph, advice is any communication, including the opinion of a professional tax advisor, setting forth the analysis or conclusion of a person, other than the taxpayer, provided to (or for the benefit of) the taxpayer and on which the taxpayer relies, directly or indirectly, with respect to the imposition of the R.S. 47:1604.1 negligence penalty. Advice does not have to be in any particular form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:

§2123. Good Cause Exception to Presumption of Willful Disregard

A. For purposes of the penalty for willful disregard provided in R.S. 47:1604.1(D)(1), willful disregard is presumed when a taxpayer fails to timely pay tax that has been collected or withheld from others unless good cause is shown.

B. Examples of good cause for failing to timely pay taxes collected or withheld from others, include:

1. The delinquency was directly attributable to a significant disaster or emergency declared by the President or the governor.

2. The delinquency was directly attributable to an extraordinary circumstance beyond the taxpayer's control such as, but not limited to, the following:

a. An actual or threatened event, other than a presidential or gubernatorial declared disaster or emergency, such as fire or casualty; and

b. An action against the taxpayer's tax preparer or legal representative for acts constituting fraud, theft, embezzlement, fraudulent conversion, or misappropriation of the taxpayer's property.

§2125. Request for Abatement of Presumed Penalty

A. A request for abatement of penalty under this section shall be limited to the following instances:

1. A penalty is assessed pursuant to the presumption in R.S. 47:1604.1(A)(2)(a) and the taxpayer is requesting abatement based on the exception set forth in R.S. 47:1604.1(A)(2)(b); or

2. A penalty is assessed pursuant to a presumption of willful disregard in accordance with R.S. 47:1604.1(E)(3) and the taxpayer is requesting abatement on the basis that good cause exists for the failure to timely pay collected or withheld taxes.

B. This section does not apply to any penalty assessed pursuant to R.S. 47:1604.1(A)(1).

C. Taxpayers requesting an abatement of penalty based on the exception set forth in R.S. 47:1604.1(A)(2)(b) or R.S. 47:1604.1(E)(3) shall comply with the following procedures:

1. a request for abatement shall be in writing, on a form prescribed by the secretary and shall:

a. contain a clear explanation detailing the basis for reasonable cause and good faith, or good cause;

b. be signed and dated by the taxpayer or an authorized representative with personal knowledge of the facts;

c. be accompanied by documentation supporting the basis for the request; and

d. be submitted to the Department of Revenue prior to the date that the assessment of the penalty pursuant to the presumption in R.S. 47:1604.1(A)(2)(a) or R.S. 47:1604.1(E)(3) becomes final in accordance with R.S. 47:1565(B).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 47:

Family Impact Statement

The proposed Rule might have a slight impact on family as defined by R.S. 49:972(D) or on family formation, stability and autonomy by clarifying requirements and procedures for requesting a refund. The proposed rule has no other known or foreseeable impact 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;
4. the behavior and personal responsibility of children;
5. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule may have a slight economic impact on small businesses by clarifying circumstances and procedures for requesting relief from certain penalty assessments. The proposed rule has no other known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

The proposed Rule has no known or foreseeable effect on:

1. the staffing levels requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the provider to provide the same level of service;

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to Brandea Averett, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., July 27, 2021.

Public Hearing

A public hearing will be held on July 28, 2021 at 10 AM in the LaBelle located on the 1st floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Kimberly J. Lewis
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Abatement of Presumed
Accuracy-Related Penalties**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule changes will not result in implementation costs or savings to state or local governmental units. The proposed rule is to provide guidance regarding the exceptions to the penalties pursuant to LA R.S. 47:1604.1 as amended by Act 348 of 2020 Regular Session. The statute provides that an accuracy-related penalty is presumed to apply if a taxpayer understates their tax liability by ten percent or more except when the taxpayer’s understatement is due to reasonable cause and the taxpayer acted in good faith. The statute further provides that a willful disregard of the law is presumed when a taxpayer fails to timely remit tax that is withheld or collected from others, unless the failure was due to good cause. The proposed rule also provides procedures for requesting relief when the exceptions apply.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have an indeterminable impact on annual state revenue collections. The impact is dependent upon taxpayer behavior. The proposed rule provides guidance regarding exceptions to the application of the presumed penalties and procedures for requesting relief when these exceptions apply. Clarifying the exceptions and providing procedures for requesting relief will afford taxpayers a better understanding of the circumstances under which relief from the penalties may be requested and encourage better compliance.

While the proposed rule offers guidance regarding the penalties provided in LA R.S. 47:1604.1 and clarification of the circumstances that may allow a taxpayer to make an application for relief from the penalties, it does not directly affect revenues. In FY 19, an amount of \$11.9M was collected from the basic Negligence Penalty assessed per the provisions of R.S. 47:1604.1 prior to the amendments that occurred as a result of Act 348 of 2020. With the passage of Act 348, the section changed from Negligence Penalty to Accuracy-related penalty. In addition, Act 348 designated that the funds associated with this penalty would no longer be self-generated funds but would go to the State General Fund beginning July 1, 2022.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will have a slight economic impact on the affected taxpayer by clarifying circumstances and procedures for requesting relief from the penalty assessments.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule does not affect competition or employment.

Kimberly J. Lewis
Secretary
2106#058

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Revenue
Policy Services Division**

**Claim for Refund Requirements
(LAC 61.I.4909)**

Under the authority of R.S. 47:1511, 47:1621(I), and 47:1623(A), and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, gives notice that rulemaking procedures have been initiated to amend LAC 61.I.4909, to require taxpayers to provide certain documentation and information in support of a claim for refund or credit.

R.S. 47:1621(I) authorizes the secretary to promulgate rules to administer and enforce refunds authorized by 47:1621. R.S. 47:1623(A) authorizes the secretary to prescribe the manner of filing claims for refund or credit. The purpose of this regulation is to provide guidance regarding the information and documentation required to be provided in support of a claim for refund or credit and when that information and documentation must be submitted.

Title 61

REVENUE AND TAXATION

**Part I. Taxes Collected and Administered by the
Secretary of Revenue**

Chapter 49. Tax Collection

§4909. Refund Claims

A. Taxpayers filing claims for refunds or credits of overpayments of tax, penalty or interest as authorized by R.S. 47:1621 and in accordance with R.S. 47:1623 must comply with the following procedures.

1. A claim for refund or credit shall be written in the English language, and be:

- a. submitted on claims for refund/credit forms provided by the secretary; or
- b. written in a format substantially the same as that provided by the secretary; or
- c. submitted by timely filing an amended return.

2. A claim for refund shall be signed and dated by the taxpayer or his authorized representative, and shall:

- a. contain a clear statement detailing the reason for the claim;
- b. indicate the appropriate tax and tax amount by tax period; and
- c. be submitted to an appropriate office, division, or representative of the Department of Revenue. An *appropriate office, division, or representative of the Department of Revenue* means:

- i. a regional service center or regional audit office;

- ii. the appropriate division located at the department's headquarters in Baton Rouge;
- iii. the Office of Alcohol and Tobacco Control for taxes or fees collected by that office;
- iv. the tax collection officer assigned responsibility for the taxpayer's account for the period and tax related to the refund claim;
- v. the field or office auditor that is examining the taxpayer's account for the period and tax related to the refund claim;
- vi. the audit reviewer responsible for reviewing the audit file relating to the tax and tax period of the refund claim.

3. Information and documentation required by statute or regulation to be provided in support of a claim for refund or credit, shall be attached to and submitted with the taxpayer's claim for refund or credit.

4. Information or documentation required by statute or regulation to be maintained by the taxpayer in regard to a tax levied or credit granted pursuant to Title 47 of the Revised Statutes or any other tax, fee, charge, exclusion, exemption, credit or rebate administered by the secretary shall be provided within thirty days of written request by the secretary.

B. Claims for refund shall be approved or denied by the secretary or his designee in accordance with written Departmental policy and procedures.

C. Claims for refunds that have not been approved within one year of the date received or that have been denied may be appealed by taxpayer to the board of tax appeals in accordance with R.S. 47:1625.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:1621, 1623 and 1625.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of the Secretary, LR 26:95 (January 2000); amended by the Department of Revenue, Policy Service Division, LR 47:

Family Impact Statement

The proposed Rule might have a slight impact on family as defined by R.S. 49:972(D) or on family formation, stability and autonomy by clarifying requirements and procedures for requesting a refund. The proposed rule has no other known or foreseeable impact 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;
- 4. the behavior and personal responsibility of children;
- 5. the ability of the family or a local government to perform this function.

Poverty Impact Statement

The proposed Rule has no known impact on poverty as described in R.S. 49:973.

Small Business Analysis

The proposed Rule may have a slight economic impact on small businesses by clarifying circumstances and procedures for requesting relief from certain penalty assessments. The proposed rule has no other known measurable impact on small businesses as described in R.S. 49:965.6.

Provider Impact Statement

The proposed Rule has no known or foreseeable effect on:

- 1. the staffing levels requirements or qualifications required to provide the same level of service;
- 2. the total direct and indirect effect on the cost to the provider to provide the same level of service;
- 3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

All interested persons may submit written data, views, arguments or comments regarding this proposed rule to Brandea Averett, Attorney, Policy Services Division, Office of Legal Affairs, P.O. Box 44098, Baton Rouge, LA 70804-4098. Written comments will be accepted until 4:30 p.m., July 27, 2021.

Public Hearing

A public hearing will be held on July 28, 2021 at 9 AM in the LaBelle Room, located on the 1st floor of the LaSalle Building, 617 North Third Street, Baton Rouge, LA.

Kimberly J. Lewis
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Claim for Refund Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not result in implementation costs or savings to state or local governmental units. The proposed rule amends the refund claim process to clarify that all information and documentation required by statute or regulation to be provided in support of a claim for refund or credit, must be attached to and submitted with the claim for refund. The proposed rule further provides that information or documentation that the taxpayer is required to maintain by statute or regulation must be submitted within thirty days of a written request by the secretary.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have an indeterminable impact on state or local governmental revenues. While the proposed rule clarifies what information and documentation must be submitted with refund claims and when, it does not directly affect revenues. However, by providing guidance regarding what information and documentation must be provided in support of a refund claim and when it must be submitted, less interest is anticipated to be paid on refunds. The revenue effect is indeterminable as the amount of interest paid on a refund is dependent upon taxpayer behavior, including the completeness of an original claim for refund and the timing of responses to requests for information.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule will have a slight economic impact on the affected taxpayer by clarifying requirements and procedures for requesting a refund. The proposed rule provides additional requirements and guidance regarding information and documentation to be provided in support of a claim for a refund. Clarifying the information required for a claim for a refund will afford taxpayers a better understanding of the process and may reduce delays caused by incomplete refund claims.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

The proposed rule will have no impact upon competition and employment in the state.

Kimberly J. Lewis
Secretary
2106#059

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT

**Department of State
Elections Division**

**Opportunity to Cure Deficiencies in
Absentee By Mail Ballots (LAC 31:I:Chapter 3)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given through authority granted in R.S. 18:18(A)(3) and R.S. 36:742 the Department of State proposes to add to Title 31, Part I, by adding Chapter 3, §§301, 303 and 305, to provide a permanent procedure for curing absentee by mail ballot envelope flaps with deficiencies. Emergency rules on this topic have been in effect since June 15, 2020.

Title 31

ELECTIONS

Part I. Election Process

**Chapter 3. Opportunity to Cure Deficiencies in
Absentee by Mail Ballots**

**§301. Absentee by Mail Ballot Deficiencies that May
Be Cured**

A. Each registrar of voters shall review the absentee by mail ballot envelope flap for the following deficiencies:

1. missing voter signature;
2. missing witness signature; and

incomplete affidavit information, including but not limited to missing election date and voter information.

This review shall be conducted immediately upon receipt of the absentee by mail ballot.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:

§303. Absentee Ballot Deficiency Notification

A. Upon receipt of an absentee by mail ballot envelope flap with one or more of the above identified deficiencies, the registrar of voters shall segregate the ballot envelope and promptly notify the voter of the ballot envelope flap deficiency and of the opportunity to cure the deficiency.

B. The registrar of voters shall identify the ballot in the voter's absentee record and notate it as "deficient with opportunity to cure."

C. The registrar shall immediately mail a written notice of the ballot envelope flap deficiency and the opportunity to cure the deficiency. If there is a telephone number or email address available in the voter's registration record, the registrar shall also attempt to contact the voter by telephone or email.

D. All deficiency notifications shall inform the voter of the type of deficiency, the process for curing the deficiency, and the deadline and method to cure the deficiency. The registrar shall make a log of the date and methods of contact for each voter.

E. Effective February 1, 2022, there will be a space on the Secretary of State website area to Check Absentee Ballots indicating that the voter has been notified of an opportunity to cure a deficiency.

F. Voters are required to appear in person at their registrar of voters office during normal business hours until 4:30 p.m. the day before the election to cure the ballot envelope flap deficiency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:

§305. Curing Absentee by Mail Ballot Deficiencies

A. To cure a missing voter signature, the voter shall appear at the office of the registrar and sign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall also sign the ballot envelope flap as witness.

B. To cure a missing witness signature, the voter shall appear at the office of the registrar and resign the ballot envelope flap in the presence of an employee of the registrar of voters. The employee of the registrar who observes the signature shall sign the ballot envelope flap as witness.

C. To cure an incomplete affidavit, the voter shall appear at the office of the registrar and complete the affidavit on the ballot envelope flap.

D. If the voter appears at the office of the registrar to cure the deficiency, the notation in the voter's absentee record shall be updated to so reflect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18(A)(3) and R.S. 36:742.

HISTORICAL NOTE: Promulgated by the Department of State, Elections Division, LR 47:

Family Impact Statement

1. What effect will this rule have on the stability of the family? The 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? The 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 proposed Rule will have no impact.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.

Small Business Analysis

The impact of the proposed Rule on small business 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.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of these proposed Rules have been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and no increase on direct or indirect cost. The proposed Rule will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments relative to the proposed Rule or request a public hearing on the proposed rule until 4:30 p.m., July 10, 2021, by U.S. mail to the Louisiana Department of State, ATTN: Ray Wood, 8585 Archives Ave., Baton Rouge, LA 70809.

Public Hearing

If the criteria set forth in R.S. 49:953(A)(2)(a) are satisfied, the Department of State will conduct a public hearing at 4:00 p.m. on July 28, 2021 in the conference room at the State Archives, 3851 Essen Ln, Baton Rouge, LA 70809. To confirm whether or not a public hearing will be held, interested persons should first call Ray Wood at (225) 287-7475 after July 10, 2021. If a public hearing is to be held, all interested persons are invited to attend and present data, views, comments, or arguments, orally or in writing.

R. Kyle Ardoin
Secretary of State

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Opportunity to Cure Deficiencies in Absentee By Mail Ballots

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule enacts a procedure for absentee by mail ballot envelope flaps with deficiencies to be cured. The Department of State will incur one-time implementation costs of \$52,000 of SGF to make programming changes to the voter registration and elections systems - Election and Registration Information Network (ERIN). The programming changes will allow each registrar of voters to track the number of voters who received an absentee ballot deficiency notice, the reason for the deficiency, how many voters cured the deficiency, and how many ballots were rejected because of the deficiency.

Also, the Department of State will incur recurring costs of at least \$15,600 annually to print and mail absentee ballot deficiency notices to voters affected by this proposed rule. There are at least four elections a year and the proposed rule will cost \$3,900 per election to print and mail absentee ballot deficiency notices to voters (\$3,900 x 4 elections = \$15,600). The Department anticipates other recurring costs including additional overtime hours worked by registrars of voters and their full-time staff and additional hours worked by part-time staff, which are indeterminable.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will not affect revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change enacts a procedure that notifies absentee by mail ballot voters when their ballot has deficiencies and allows voters an opportunity to cure these deficiencies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition or employment.

Sherri Hadskey
Commissioner of Elections
2106#045

Alan M. Boxberger
Staff Director
Legislative Fiscal Officer

NOTICE OF INTENT

Department of Treasury Board of Trustees of the Teachers' Retirement System

Optional Retirement Plan (ORP) (LAC 58:III.Chapter 15)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 11:826 that the Board of Trustees of the Teachers' Retirement System of Louisiana (TRSL) proposes to amend LAC 58:III Chapter 15 relative to the Optional Retirement Plan (ORP) in order to ensure continued compliance with applicable federal law.

Title 58

RETIREMENT

Part III. Teachers' Retirement System of Louisiana Chapter 15. Optional Retirement Plan (ORP)

§1501. Definitions

A. ...

B. Whenever used in the plan, each of the following terms has the meaning stated below.

* * *

Spouse—the person to whom a participant is married if the marriage is recognized by the state or other United States territory where the marriage is entered into, regardless of domicile. A domestic partner shall not be treated as a spouse.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2272 (November 2014), amended LR 47:

§1513. Distributions

A. - B.3. ...

C. Minimum Distribution

1. For purposes of this Section, the following definitions shall apply.

Designated Beneficiary—any individual who is designated as the beneficiary under the plan and is the designated beneficiary under IRC §401(a)(9) and treasury regulations section 1.401(a)(9)-1, Q&A-4.

Eligible Designated Beneficiary—a designated beneficiary who, as of the date of the death of the participant, is:

i. the surviving spouse of the participant;

ii. a child of the participant who has not reached the age of majority within the meaning of Code Section 401(a)(9)(F);

iii. disabled within the meaning of Code Section 72(m)(7);

iv. chronically ill within the meaning of Code Section 7702B(c)(2) (except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature); or

v. any other designated beneficiary who is not more than 10 years younger than the participant. Notwithstanding the preceding, a child described in Clause ii above shall cease to be an eligible designated beneficiary as of the date he or she reaches the age of majority within the meaning of Code Section 401(a)(9)(F).

Required Beginning Date—the April 1 of the calendar year following the later of:

i. the calendar year in which the participant attains age 72 (or age 70 1/2 if the participant was born before July 1, 1949); or

ii. the calendar year in which the participant retires.

(a). The participant, alternate payee, or beneficiary may elect on the applicable form whether to recalculate life expectancy (or any element of it) to the fullest extent permitted by IRC §401(a)(9)(D). If the participant, alternate payee, or beneficiary does not timely make this election, the participant, alternate payee, or beneficiary is deemed to have elected the default method specified by the applicable investment option(s), or to the extent that no method is so specified, that no recalculation shall apply with respect to any individual's life expectancy.

2. ...

3. The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date. If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows.

a. If the participant's surviving spouse is the participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 72 (or age 70 1/2 if the participant was born before July 1, 1949), if later.

3.b. - 7....

8. Upon the death of a participant after December 31, 2021, the following distribution provisions shall take effect; provided, however, that such provisions shall be subject to any regulations or other guidance issued under the Setting Every Community Up for Retirement Enhancement (SECURE) Act.

a. If the participant dies before the distribution of his or her entire interest (regardless of whether any distributions had begun before the participant's death) and the participant has a designated beneficiary:

i. the entire interest shall be distributed to the designated beneficiary by December 31 of the calendar year containing the tenth anniversary of the participant's death;

ii. notwithstanding Clause a.i, if the designated beneficiary is an eligible designated beneficiary, then the participant's entire interest shall be distributed beginning no later than December 31 of the calendar year immediately following the calendar year in which the participant died, over the life of the eligible designated beneficiary or over a period not exceeding the life expectancy of the eligible designated beneficiary. If the eligible designated beneficiary is the surviving spouse, payment is not required until the later of December 31 of the calendar year immediately following the calendar year in which the participant died or December 31 of the calendar year in which the participant would have attained age 72 or age 70 1/2 if the participant was born before July 1, 1949.

iii. Upon the death of an eligible designated beneficiary before distribution of the participant's entire interest, the remainder of the entire interest shall be distributed to the beneficiary of the eligible designated beneficiary within 10 years of the eligible designated beneficiary's death.

iv. For an eligible designated beneficiary who is a minor child of the member, upon the attainment of the age of majority within the meaning of Code Section 401(a)(9)(F), the child shall cease to be an eligible designated beneficiary, and the remainder of the participant's entire interest shall be distributed to the child as a designated beneficiary within 10 years of the date that he or she attains the age of majority.

b. If the participant dies before distribution of his or her entire interest begins and the participant has no designated beneficiary, the participant's entire interest under the plan shall be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death. If the participant dies after distribution of his or her entire interest begins and the participant has no designated beneficiary, any remaining portion of the entire interest shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the participant's death.

c. Any distribution required under the incidental death benefit requirements of Code Section 401(a) shall be treated as distributions required under Paragraph 8 of this Subsection.

D. - E.1.f. ...

F. Required Minimum Distribution Waiver of 2020

1. Notwithstanding any other provisions of this section, for 2020, the minimum distribution requirements will be satisfied as provided in this section, as determined by the provider responsible for the participant's or beneficiary's required minimum distribution.

2. A participant or beneficiary who would have been required to receive required minimum distributions in 2020 (or paid in 2021 for the 2020 calendar year for a participant with a required beginning date of April 2, 2021) but for the enactment of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, IRC 401(a)(9)(I) (2020 RMDs), and who would have satisfied that requirement by receiving distributions that are either equal to the 2020 RMDs or one

or more payments in a series of substantially equal distributions (that include the 2020 RMDs) made at least annually and expected to last for the life (or life expectancy) of the participant, the joint lives (or joint life expectancy) of the participant and the participant's designated beneficiary, or for a period of at least 10 years (extended 2020 RMDs) will not receive those distributions for 2020 unless the participant or beneficiary chooses to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to receive the distributions described in the preceding sentence. However, those participants and beneficiaries who receive required minimum distributions through the automatic payment system will continue to receive 2020 RMDs unless he or she elects not to receive the 2020 RMDs.

3. A participant or beneficiary who would have been required to receive a 2020 RMD, and who would have satisfied that requirement by receiving distributions that are equal to the 2020 RMDs or extended 2020 RMDs, will receive this distribution unless the participant or beneficiary chooses not to receive such distributions. Participants and beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distribution described in the preceding sentence.

4. For purposes of the direct rollover provisions of the Plan, 2020 RMDs and extended 2020 RMDs shall also be treated as eligible rollover distributions in 2020.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2275 (November 2014), amended LR 47:

§1515. Rollover Distribution

A. For purposes of this Section, the following definitions shall apply.

* * *

Eligible Retirement Plan—any program defined in IRC §§401(a)(31) and 402(c)(8)(B), that accepts the distributee's eligible rollover distribution, and any of the following:

a. - g. ...

h. effective December 18, 2015, a simple IRA as described under IRC §408(p), provided that the rollover contribution is made after the two-year period described in IRC §72(t)(6).

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:921-929.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 40:2277 (November 2014), amended LR 47:

Family Impact Statement

The proposed amendments to LAC 58:III.Chapter 15, relative to the Optional Retirement Plan (ORP) of the Teachers' Retirement System of Louisiana (TRSL), 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. family earnings and family budget;
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed amendments to LAC 58:III.Chapter 15, relative to the Optional Retirement Plan (ORP) of the Teachers' Retirement System of Louisiana (TRSL), should not have any known or foreseeable impact on any child, individual or family poverty as defined in R.S. 49:973(D). Specifically, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. The Teachers' Retirement System of Louisiana is a governmental 401(a) retirement plan having no regulatory oversight over small businesses and having limited interaction or association with small businesses. The proposed Rule relate to TRSL's Optional Retirement Plan (ORP), an optional defined contribution plan available to employees of higher education institutions. Such employees may choose between one of three plan providers selected by the TRSL board of trustees. These providers are nationally recognized industry leaders in defined contribution plans, and are not small businesses. Therefore, there will be no impact on small businesses as a result of the proposed rule.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, it is anticipated that these proposed Rules will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 12, 2021, to Matt Tessier, Deputy General Counsel, Board of Trustees for the Teachers' Retirement System of Louisiana, P.O. Box 94123, Baton Rouge, LA 70804-9123.

Katherine Whitney
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Optional Retirement Plan

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There are no expected implementation costs or savings to state or local governmental units as a result of this proposed rule change.

The proposed rule makes changes to Chapter 15 of Title 58, Part III of the Louisiana Administrative Code applicable to Teachers' Retirement System of Louisiana (TRSL). Specifically, the proposed rules amend the definition of "Spouse" to comply with the United States Internal Revenue Code. The proposed rules also define and provide for distributions for eligible designated beneficiaries and increases the age for required minimum distributions from age 70 1/2 to 72 for members born on or after July 1, 1949, in accordance with the Setting Every Community Up for Retirement Enhancement (SECURE) Act. Proposed rules add a provision for the required minimum distribution waiver of 2020, which was part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Lastly, the proposed rules add SIMPLE IRAs to the list of retirement plans that are eligible to accept rollover distributions in accordance with federal law.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed change will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

There is no measurable quantifiable impact of the proposed rules. The proposed rules provide for the distribution of Optional Retirement Plan (ORP) funds. To the extent that the rules allow better distribution options from a tax perspective, ORP members may benefit, though to what extent cannot be quantified. Since TRSL is a governmental 401(a) retirement plan serving mostly public employees, there is no measurable impact on small businesses or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Katherine Whitney
Director
2106#043

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Treasury

Board of Trustees of the Teachers' Retirement System

**Voluntary Deductions from Retiree Benefits Payroll
(LAC 58:III.Chapter 11)**

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 11:826 that the Board of Trustees of the Teachers' Retirement System of Louisiana (TRSL) proposes to amend LAC 58:III Chapter 11 relative to voluntary deductions from retiree benefits payroll. The proposed changes would reorganize the current rules and update them to match current practices. In addition, the changes codify TRSL's current practice of withholding membership dues for retiree organizations and would allow

similarly situated professional organizations to participate in the voluntary deduction program and would update eligibility requirements for insurance companies, banks, credit unions and professional organizations.

Title 58

RETIREMENT

Part III. Teachers' Retirement System of Louisiana

Chapter 11. Voluntary Deductions from Retiree Benefits Payroll

§1101. General

A. TRSL shall maintain a Retiree Payroll Deduction Program to provide for the voluntary deduction from the benefit payments of any retiree, beneficiary, or survivor, for the following purposes:

1. supplemental life, health, dental, cancer, or other supplemental insurance premiums to be sent to a domestic or foreign insurance vendor, collectively referred to as *companies* for purposes of this Chapter;

2. payments to be sent to banks and credit unions, collectively referred to as *credit unions* for purposes of this Chapter;

3. membership dues for any professional organization whose staff is included in the definition of "teacher" in La. R.S. 11:701, or for membership dues of any retiree organization receiving payment through voluntary deductions on the effective date of this rule, collectively referred to as "professional organizations" for purposes of this Chapter.

B. This Chapter shall not apply to the withholding of contributions for accident and health and life insurance coverage for participants in the Office of Group Benefits or for participants in group insurance plans offered through city or parish school boards or other reporting agencies not participating in Office of Group Benefits programs.

C. Any TRSL retiree, beneficiary, or survivor is eligible to participate in the Retiree Payroll Deduction Program. However, a retiree, beneficiary, or survivor shall not authorize total deductions which would cause the net amount of the benefit to fall below \$5.00. TRSL will not deduct monthly premium amounts for any retiree, beneficiary, or survivor who owes monies to TRSL or has his/her benefit suspended.

D. A retiree, beneficiary or survivor may discontinue any voluntary payroll deduction from his/her monthly benefit check by providing written notification to the company, credit union or professional organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998), amended LR 47:

§1103. Application Process

A. Application for participation in the Retiree Payroll Deduction Program must be to TRSL on a form prescribed by TRSL which shall be certified and signed by two officers of the company, credit union or professional organization. The board of trustees retains the discretion to accept or deny any application for voluntary deductions by any company, credit union or professional organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998), amended LR 47:

§1105. Company, Credit Union and Professional Organization Requirements

A. Companies must meet the payroll deduction requirements for general insurance deduction vendors as set forth in state law and must be regulated by the Department of Insurance.

B. Credit unions must be regulated by the Office of Financial Institutions.

C. Companies, credit unions and professional organizations must have a minimum of 50 participating TRSL retirees, beneficiaries or survivors to commence participation in the Retiree Payroll Deduction Program.

D. Companies, credit unions and professional organizations shall be responsible for obtaining and maintaining appropriate deduction authorization from individual retirees, beneficiaries and survivors. Copies shall be made available to TRSL upon request.

E. Companies, credit unions and professional organizations are responsible for contract/loan terms between companies, credit unions and professional organizations and retirees. TRSL assumes no responsibility for the contract or terms of agreement.

F. Companies and credit unions are responsible for submitting authorized deductions to TRSL in accordance with the following.

1. Authorized deductions shall be submitted to TRSL by the twelfth day of the month preceding the month for which the deduction will be made using the format and specifications established by TRSL.

2. If the twelfth day of the month falls on a weekend, the deductions shall be due on the immediately preceding Friday.

3. Files received after the twelfth day of the month will not be processed.

4. All deductions for a single company or credit union shall be submitted on one file.

5. A retiree, beneficiary or survivor shall be allowed only one monthly deduction for a single company or credit union effective at any one time, however, this deduction may cover more than one product for a single company or credit union.

G. Each professional organization under this chapter who has membership dues remitted to them will enter into an agreement with TRSL which shall include provisions regarding the deduction timing, the manner in which information and membership dues are transmitted, and reimbursement for any fees or costs incurred by TRSL.

H. Companies, credit unions and professional organizations shall notify TRSL immediately upon learning of the death of a retiree, beneficiary or survivor. In the event that TRSL has remitted funds to the companies, credit unions and professional organizations after the death of a retiree, beneficiary or survivor and these funds were not due the retiree, beneficiary or survivor, companies, credit unions and professional organizations shall refund said monies to TRSL after notification.

I. Upon learning of the death of a retiree, beneficiary or survivor, even if not notified by the companies, credit unions and professional organizations, TRSL shall be refunded any

monies transmitted, but not due, after notification. The companies, credit unions and professional organizations will accept the certification of TRSL as to date of death of retiree, beneficiary or survivor as sufficient evidence of date of death in regard to any funds owed to TRSL.

J. The company, credit union, or professional organization shall be responsible for refunding the amounts deducted in error to the individual retiree, beneficiary, or survivor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:503 (March 1998), amended LR 47:

§1107. Disclaimer

A. The company, credit union or professional organization is strictly prohibited from stating that any product offered has been endorsed or approved by TRSL and any such statement shall be grounds for immediate termination of the voluntary deduction program with said company, credit union or professional organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998), amended LR 47:

§1109. Transmittal of Withheld Amounts

A. Amounts deducted pursuant to this Chapter will normally be transmitted to the company/credit union by wire transfer by the tenth of each month of a deduction, unless technical issues beyond the control of TRSL cause a delay. If the tenth falls on a weekend, the immediately following working day after the tenth will be the date of transmittal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998), amended LR 47:

§1111. Termination of Payroll Deduction

A. The board of trustees may terminate the voluntary payroll deduction program by providing the company, credit union or professional organization with at least 30 days written notice.

B. Immediately upon notice from TRSL, payroll deductions for individual companies, credit unions or professional organizations company/credit unions may be terminated for unethical or unlawful conduct or practices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:826.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 22:1243 (December 1996), repromulgated LR 24:504 (March 1998), amended LR 47:

Family Impact Statement

The proposed amendments to LAC 58:III. Chapter 11, relative to voluntary deductions from benefits paid by the Teachers' Retirement System of Louisiana (TRSL), 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. family earnings and family budget;
5. the behavior and personal responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed amendments to LAC 58:III. Chapter 11, relative to voluntary deductions from benefits paid by the Teachers' Retirement System of Louisiana (TRSL), should not have any known or foreseeable impact on any child, individual or family poverty as defined in R.S. 49:973(D). Specifically, there should be no known or foreseeable effect on:

1. household income, assets, and financial security;
2. early childhood development and preschool through postsecondary education development;
3. employment and workforce development;
4. taxes and tax credits; and
5. child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. The Teachers' Retirement System of Louisiana is a governmental 401(a) retirement plan having no regulatory oversight over small businesses and having limited interaction or association with small businesses. The proposed Rule relate to voluntary deductions withheld from TRSL benefit payments and remitted to banks, credit unions, insurance companies, and professional organizations. TRSL does not anticipate that insurance companies along with banks and credit unions (some of which may be small businesses) participating in TRSL's voluntary deduction program will see any measurable changes to the number or dollar amount of deductions being remitted from retirees, beneficiaries and survivors.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. Per HCR 170, "provider" means an organization that provides services for individuals with developmental disabilities. In particular, it is anticipated that these proposed Rules will have no impact on the staffing level requirements or qualifications required to provide the same level of service, no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed changes until 4:30 p.m., July 12, 2021, to Matt Tessier, Deputy General Counsel, Board of Trustees for the

Teachers' Retirement System of Louisiana, P.O. Box 94123, Baton Rouge, LA 70804-9123.

Katherine Whitney
Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Voluntary Deductions
from Retiree Benefits Payroll**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no expected costs or savings to state or local governmental units as a result of this proposed rule change.

The proposed rules make changes to Chapter 11 of Title 58, Part III of the Louisiana Administrative Code applicable to Teachers' Retirement System of Louisiana (TRSL), relative to voluntary deductions from retirement benefits. Current rules allow retirees, beneficiaries and survivors to elect to have payroll deductions made for insurance policies and/or payments to credit unions and banks. Additionally, TRSL's current practice permits for the withholding of annual membership dues for a teacher retiree organization. The proposed amendments reorganize the current rules and update them to match current practices. In addition, the changes codify TRSL's current practice of withholding annual membership dues for a teacher retiree organization and would allow TRSL employers who are professional educational organizations to participate in the voluntary deduction program.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed changes will have no impact on revenue collections of state and local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES OR NONGOVERNMENTAL GROUPS (Summary)

There is no measurable quantifiable impact of the proposed rules on the following entities for the following reasons:

Directly Affected Persons - retirees, beneficiaries and survivors may have new options with regard to which professional organizations they may have dues remitted to through voluntary benefit deductions. However, these deductions are completely voluntary.

Small businesses - TRSL does not anticipate that insurance companies along with banks and credit unions (some of which may be small businesses) participating in TRSL's voluntary deduction program will see any measurable changes to the number or dollar amount of deductions being remitted from retirees, beneficiaries and survivors.

Non-governmental groups - to the extent that TRSL employers who are professional educational organizations are considered non-governmental groups, more groups will have access to TRSL's voluntary deduction program under proposed rules. Whether and to what extent this will lead to a change in collection of membership dues or in some other economic impact for such groups cannot be measured.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Katherine Whitney
Director
2106#042

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

Policy and Procedure Memoranda

POLICY AND PROCEDURE MEMORANDA

Office of the Governor
Division of Administration

PPM 49—General Travel Regulations
(LAC 4:V.Chapter 15)

Title 4

ADMINISTRATION

Part V. Policy and Procedure Memoranda

Chapter 15. General Travel Regulations—PPM Number 49

§1501. Authorization and Legal Basis

A. In accordance with the authority vested in the Commissioner of Administration by Section 231 of Title 39 of the Revised Statutes of 1950 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950-968 as amended, notice is hereby given of the revision of Policy and Procedures Memorandum No. 49, the state general travel regulations, effective July 1, 2020. These amendments are both technical and substantive in nature and are intended to clarify certain portions of the previous regulations or provide for more efficient administration of travel policies. These regulations apply to all state departments, boards and commissions created by the legislature or executive order and operating from funds appropriated, dedicated, or self-sustaining; federal funds; or funds generated from any other source.

NOTE: Please note that when political subdivisions are required to follow PPM 49 for any pass through money issued by the State of Louisiana, any and all required approvals must be sent to the correct appointing authority, not to the Commissioner of Administration.

B. Legal Basis [R.S. 39:231.(B)]. The Commissioner of Administration, with the approval of the governor, shall, by rule or regulation prescribe the conditions under which each of various forms of transportation may be used by state officers and employees in the discharge of the duties of their respective offices and positions in the state service and the conditions under which allowances will be granted for traveling expenses.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR 33:1314 (July 2007), amended LR 34:1299 (July 2008), LR 35:1192 (July 2009), LR 36:1647 (July 2010), LR 42:981 (July 2016), LR 43:1110 (June 2017), LR 45:811 (June 2019), LR 46:840 (June 2020), LR 47:814 (June 2021).

§1502. Definitions

A. For the purposes of this PPM49, the following words have the meaning indicated.

Authorized Persons—

a. advisors, consultants, contractors and other persons who are called upon to contribute time and services to the state who are not otherwise required to be reimbursed through a contract for professional, personal, or consulting services;

b. members of boards, commissions, and advisory councils required by federal or state legislation or regulation. Travel allowance levels for all such members and any staff shall be those authorized for state employees unless specific allowances are legislatively provided;

c. the department head or his/her designee is allowed to deem persons as an authorized traveler for official state business only.

NOTES

College/University Students must be deemed authorized travelers to be reimbursed for state business purposes. Documentation of all approvals must be maintained on file with the agency.

Documentation of all approvals must be maintained on file with the agency.

Contractors are not exempted from paying state taxes; therefore, the agency may reimburse a contractors for state taxes.

Allowance—maximum amount allowed for travel expenses while traveling on official state business.

Conference/Convention—an event (other than routine) for a specific purpose and/or objective. Non-routine event can be defined as a seminar, conference, convention, or training. Documentation required is a formal agenda, program, letter of invitation, or registration fee. Participation as an exhibiting vendor in an exhibit /trade show also qualifies as a conference. For a hotel to qualify for conference rate lodging it requires that the hotel is hosting or is in "conjunction with hosting" the meeting. In the event the designated conference hotel(s) have no room available, a department head may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels located near the conference hotel.

Controlled Billed Account (CBA)—credit account issued in an agency's name (no plastic card issued). These accounts are direct liabilities of the state and are paid by each agency. CBA accounts are controlled through an authorized approver(s) to provide a means to purchase airfare, registration, lodging, rental vehicles, pre-paid shuttle service and any other allowable charges outlined in the current state of Louisiana State Liability Travel and CBA Policy. Each department head determines the extent of the account's use.

Corporate Travel Card—credit cards issued in a state of Louisiana employee's name used for specific, higher cost official business travel expenses. Corporate travel cards are state liability cards, paid by each agency.

Emergency Travel—each department shall establish internal procedures for authorizing travel in emergency situations. Approval may be obtained after the fact from the Commissioner of Administration with appropriate documentation, under extraordinary circumstances when PPM 49 regulations cannot be followed but where the best interests of the state requires that travel be undertaken.

Executive Traveler—the governor of the state of Louisiana. He/she should sign as the traveler but have his/her Chief of Staff and director of budget sign for travel authorization and travel expenses.

Extended Stays—any assignment made for a period of 31 or more consecutive days at a place other than the traveler's official domicile.

Higher Education Entities—entities listed under Schedule 19, Higher Education of the General Appropriations Bill.

Higher Education Entity Head—president of a university.

In-State Travel—all travel within the borders of Louisiana or travel through adjacent states between points within Louisiana when such is the most efficient route.

International Travel—all travel to destinations outside the 50 United States, District of Columbia, Puerto Rico, the US Virgin Islands, American Samoa, Guam and Saipan.

Lowest Logical Airfare—The lowest logical airfare is the cheapest available at the time of booking without causing undo inconvenience, these types of airfares are non-refundable, penalty tickets. Penalties could include restrictions such as advanced purchase requirements, weekend stays, etc. Prices will increase as seats are sold. When schedule changes are required for lowest logical tickets, penalty fees are added.

Official Domicile—every state officer, employee, and authorized person, except those on temporary assignment, shall be assigned an official domicile:

a. except where fixed by law, official domicile of an officer or employee assigned to an office shall be, the parish in which the office is located. The department head or his designee should determine the extent of any surrounding area to be included, such as a region. As a guideline, a radius of at least 30 miles is recommended. The official domicile of an authorized person shall be the parish in which the person resides, except when the department head has designated another location (such as the person's workplace);

b. A traveler whose residence is other than the official domicile of his/her office shall not receive travel and subsistence while at his/her official domicile nor shall he/she receive reimbursement for travel to and from his/her residence;

c. The official domicile of a person located in the field shall be the parish where the majority of work is performed, or such area or region as may be designated by the department head, provided that in all cases such designation must be in the best interest of the agency and not for the convenience of the person;

d. The department head or his/her designee may authorize approval for an employee lodging expenses to be placed on agency CBA or state LaCarte/or travel card within an employee's domicile with proper justification as to why this is necessary and in the best interest of the state.

Out-of-State Travel—travel to any of the other 49 states plus District of Columbia, Puerto Rico, the US Virgin Islands, American Samoa, Guam, and Saipan.

Passport—a document identifying an individual as a citizen of a specific country and attesting to his or her identity and ability to travel freely.

Per Diem—a flat rate paid in lieu of travel reimbursements for people on extended stays only.

Receipts/Document Requirements—supporting documentation, including original receipts, must be retained according to record retention laws. It shall be at the discretion of each agency to determine where the receipts/documents will be maintained.

Routine Travel—travel required in the course of performing his/her job duties. This does not include non-routine meetings, conferences and out-of-state travel.

State Employee—employee below the level of state officer.

State Officer—

a. state elected officials;

b. department head as defined by Title 36 of the *Louisiana Revised Statutes*, and the equivalent positions in higher education and the office of elected officials.

Suburb—an immediate or adjacent location (overflow of the city) to the higher cost areas which would be within approximately 30 miles of the highest cost area.

Temporary Assignment—any assignment made for a period of less than 31 consecutive days at a place other than the official domicile.

Travel Period—a period of time between the time of departure and the time of return.

Travel Routes—the most direct traveled route must be used by official state travelers.

Travel Scholarships—if any type of scholarship for travel is offered/received by a state traveler, it is the agency/employee's responsibility to receive/comply with all ethic laws/requirements (see R.S. 42:1123).

Traveler—a state officer, state employee, or authorized person performing authorized travel.

Visa—a document or, more frequently, a stamp in a passport authorizing the bearer to visit a country for specific purposes and for a specific length of time.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1252 (June 2000), LR 27:802 (June 2001), LR 28:1125 (June 2002), LR 29:822 (June 2003), LR 30:1111 (June 2004), LR 31:1183 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR 33:1314 (July 2007), amended LR 34:1299 (July 2008), LR 35:1192 (July 2009), LR 36:1647 (July 2010), LR 43:1110 (June 2017), LR 45:811 (June 2019), LR 46:840 (June 2020), LR 47:814 (June 2021).

§1503. General Specifications

A. Department Policies

1. Department heads may establish travel regulations within their respective agencies, but such regulations shall not exceed the maximum limitations established by the Commissioner of Administration. Three copies of such

regulations shall be submitted for prior review and approval by the Commissioner of Administration. One of the copies shall highlight any exceptions/deviations to PPM-49.

2. Department and agency heads will take whatever action necessary to minimize all travel to carry on the department mission.

3. All high cost expenditures (airfare, lodging, vehicle rentals, and registration) must be placed on the LaCarte purchasing card, travel card or agency CBA programs unless prior approval is granted from the Commissioner of Administration.

4. Department Heads must submit fiscal year exemption request(s) annually. No exemption request(s) is granted on a permanent basis.

5. Grant Funds- Any grant funds paid directly to an agency/university/board must follow PPM 49 rules and regulations

6. Contracted Travel Service. The state has contracted for travel agency services which use is mandatory for airfares unless exemptions have been granted by the Division of Administration, Office of State Travel, prior to purchasing airfare tickets. The contracted travel agency has an online booking system which can and should be used by all travelers for booking airfare. Use of the online booking system can drastically reduce the cost paid per transaction and state travelers are strongly encouraged to utilize.

7. Contracted Hotel Services. The state has a contract for hotel services, with Hotel Planner,

NOTE: Travelers will be responsible for adhering to hotel's cancellation policy that is set by the hotel when booking through Hotelplanner. If a traveler does not cancel a hotel stay within the cancellation time frame that is set by the hotel, the traveler will be responsible for payments. No exceptions unless approval is granted from the Commissioner of Administration.

8. Contracted Vehicles Rentals. The state has contracts for all rentals based out of Louisiana through Enterprise National and Hertz, which use is mandatory.

a. The state has contracts for all out-of-state rental vehicles which use is mandatory. Travelers shall use Hertz, Enterprise, or National for business travel. These contracts are also applicable to all authorized travelers, and contractors.

9. When a state agency enters into a contract with an out-of-state public entity, the out-of-state public entity may have the authority to conduct any related travel in accordance with their published travel regulations.

10. Authorization to Travel

a. All non-routine travel must be authorized with prior approvals in writing by the head of the department, board, or commission from whose funds the traveler is paid. A file shall be maintained, by the agency, on all approved travel authorizations.

b. Annual travel authorizations are no longer a mandatory requirement of PPM-49 for routine travel, however, an agency can continue to utilize this process if determined to be in your department's best interest and to obtain prior approval for annual routine travel. A prior approved travel authorization is still required for non-routine meetings, conferences and out-of-state travel. No agency/university/board may have a blanket authorization for out of state travel.

c. Executive traveler must sign as the traveler but have his/her chief of staff and director of budget sign for travel authorization and travel expenses.

B. Funds for Travel Expenses

1. Persons traveling on official business will provide themselves with sufficient funds for all routine travel expenses not covered by the corporate travel card, LaCarte purchasing card, if applicable, and/or agency's CBA account. Advance of funds for travel shall be made only for extraordinary travel and should be punctually repaid when submitting the Travel expense form covering the related travel, no later than the fifteenth day of the month following the completion of travel.

2. Exemptions. Cash advance(s) meeting the exception requirement(s) listed below, must have an original and itemized receipt to support all expenditures in which a cash advance was given, including meals. At the agency's discretion, cash advances may be allowed for:

a. state traveler whose salary is less than \$30,000/year;

b. state traveler who accompany and/or are responsible for students or athletes for a group travel advance;

NOTE: In this case and in regards to meals, where there are group travel advancements, a roster with signatures of each group member along with the amount of funds received by each group member, may be substituted for individual receipts (This exception does not apply when given for just an individual employee's travel which is over a group.)

c. state travelers who accompany and/or responsible for client travel;

d. new employees who have not had time to apply for and receive the state's corporate travel card;

e. employees traveling for extended periods, defined as 30 or more consecutive days;

f. employees traveling to remote destinations in foreign countries, such as jungles of Peru or Bolivia;

g. lodging purchase, if hotel will not allow direct bill or charges to agency's CBA and whose salary is less than \$30,000/year;

h. registration for seminars, conferences, and conventions;

i. any ticket booked by a traveler 30 days or more in advance and for which the traveler has been billed, may be reimbursed by the agency to the traveler on a preliminary expense reimbursement request. The traveler should submit the request with a copy of the bill or invoice. Passenger airfare receipts are required for reimbursement;

j. employees who infrequently travel or travelers that incur significant out-of-pocket cash expenditures and whose salary is less than \$30,000/year.

NOTE: For agencies/boards/universities participating in the LaCarte/Travel CBA card programs, group travel must be placed on one of the card programs. This does not eliminate any approvals that must be granted from the Commissioner of Administration and/or Office of State Travel.

3. Sponsored Travel, as related to Act 200, revised August 2018, requires completion of Ethics Disclosure Form 413. It is the traveler's responsibility to properly complete and submit to the Board of Ethics in the time required. The form can be downloaded from <http://ethics.la.gov/pub/CampFinan/Forms/Form413f.pdf?20190402>.

4. Expenses Incurred on State Business. Traveling expenses of travelers shall be limited to those expenses necessarily incurred by them in the performance of a public purpose authorized by law to be performed by the agency and must be within the limitations prescribed herein.

5. CBA (controlled billed account) issued in an agency's name, and paid by the agency may be used for airfare, registration, rental cars, prepaid shuttle charges, lodging and any allowable lodging associated charges such as parking and internet charges. Other credit cards issued in the name of the state agency are not to be used without written approval.

6. No Reimbursement when No Cost Incurred by Traveler. This includes but is not limited to reimbursements for any lodging and/or meals furnished at a state institution or other state agency, or furnished by any other party at no cost to the traveler. In no case will a traveler be allowed mileage or transportation when he/she is gratuitously transported by another person.

C. Claims for Reimbursement

1. All claims for reimbursement for travel shall be submitted on the state's Travel Expense Form, BA-12, unless exception has been granted by the Commissioner of Administration, and shall include all details provided for on the form. It must be signed by the person claiming reimbursement and approved by his/her immediate supervisor. In all cases the date and hour of departure from and return to domicile must be shown, along with each final destination throughout the trip clearly defined on the form. On the state's Travel Authorization Form GF-4, the second page must be completed with breakdown of the estimated travel expenses. This is necessary for every trip, not just when requesting a travel advance. For every travel authorization request, the "purpose of the trip" for travel must be stated in the space provided on the front of the form.

2. Except where the cost of air transportation, registration, lodging, rental vehicles, shuttle service, and all other allowable charges outlined in the current state of Louisiana State Liability Travel and CBA Policy are invoiced directly to the agency or charged to a state liability card, any and all expenses incurred on any official trip shall be paid by the traveler and his travel expense form shall show all such expenses in detail so that the total cost of the trip shall be reflected on the travel expense form. If the cost of the expenses listed above are paid directly or charged directly to the agency/department, a notation will be indicated on the travel expense form indicating the date of travel, destination, amount, and the fact that it has been paid by the agency/department. The traveler must provide receipts, for all items charged or billed direct to the agency.

3. In all cases, and under any travel status, cost of meals shall be paid by the traveler and claimed on the travel expense form for reimbursement, and not charged to the state department, unless otherwise authorized by the department head or his designee, allowed under the State Liability Travel, CBA and/or LaCarte Purchasing Card Policy or with written approval from the Office of State Purchasing and Travel. A file must be kept containing all of these special approvals.

4. Claims should be submitted within the month following the travel, but preferably held until a reimbursement of at least \$25 is due. Department heads, at

their discretion, may make the 30-day submittal mandatory on a department wide basis.

5. Any person who submits a claim pursuant to these regulations and who willfully makes and subscribes to any claim which he/she does not believe to be true and correct as to every material matter, or who willfully aids or assists in, or procures, counsels or advises the preparation or presentation of a claim, which is fraudulent or is false as to any material matter shall be guilty of official misconduct. Whoever shall receive an allowance or reimbursement by means of a false claim shall be subject to disciplinary action as well as being criminally and civilly liable within the provisions of state law.

6. Agencies are required to reimburse travel in an expeditious manner. In no case shall reimbursements require more than 30 days to process from receipt of complete, proper travel documentation.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1253 (June 2000), LR 27:803 (June 2001), LR 28:1126 (June 2002), LR 29:823 (June 2003), LR 30:1112 (June 2004), LR 31:1184 (June 2005), LR 33:966 (June 2007), republished LR 33:1315 (July 2007), amended LR 34:1300 (July 2008), republished LR 35:1193 (July 2009), amended LR 36:1648 (July 2010), LR 42:982 (July 2016), LR 43:1111 (June 2017), LR 45:841 (June 2019), LR 47:815 (June 2021).

§1504. Methods of Transportation

A. Cost-Effective Transportation. The most cost-effective method of transportation that will accomplish the purpose of the travel shall be selected. Among the factors to be considered are length of travel time, employee's salary, cost of operation of a vehicle, cost and availability of common carrier services, etc. Common carrier shall be used for out-of-state travel unless it is documented that utilization of another method of travel is more cost-efficient or practical and approved in accordance with these regulations.

B. Air

1. Private Owned or Charter Planes. Before travel by privately-owned or by chartered aircraft is authorized for individual's travel by a department head, the traveler shall certify that: at least two hours of working time will be saved by such travel; and no other form of transportation, such as commercial air travel or a state plane, will serve this same purpose.

a. Chartering a privately owned aircraft must be in accordance with the Procurement Code.

b.i. Reimbursement for use of a chartered or un-chartered privately owned aircraft under the above guidelines will be made on the following basis:

(a). at the rate of \$1.26 per mile; or

(b). at the lesser of coach economy airfare.

ii. If there are extenuating circumstances requiring reimbursement for other than listed above, approval must be granted by the Commissioner of Administration.

c. When common carrier services are unavailable and time is at a premium, travel via state aircraft shall be

investigated, and such investigation shall be documented and readily available in the department's travel reimbursement files. Optimum utilization will be the responsibility of the department head.

2. Commercial Airlines (receipts required). All state travelers are to purchase commercial airline tickets through the state contracted travel agency. This requirement is mandatory unless approval is granted from the Office of State Travel. (In the event travelers seek approval to go outside the travel agency, they shall submit their request through their agency travel program administrator, who will determine if the request should be submitted to the Office of State Travel.)

a. While state contractors are not required to use the state's contracted travel agency when purchasing airfare, it will be the agency's responsibility to monitor cost ensuring that the contractor(s) are purchasing the lowest, most logical airfare.

b. The state always supports purchasing the "best value" ticket. Therefore, once all rates are received, the traveler must compare cost and options to determine which fare would be the "best value" for their trip. To make this determination, the traveler must ask the question: Is there a likelihood my itinerary could change or be cancelled? Depending on the response, the traveler must determine if the costs associated with changing a non-refundable ticket (usually around \$200) would still be the best value.

i. Another factor to assist having a travel agent search the lowest fare is advising the agent if traveler is flexible in either your dates or time of travel. By informing the travel agent of your "window of time" for your departure and return will assist them to search for the best price.

ii. Travelers are to seek airfares allowing an ample amount of lead time prior to departure date. The lead-time should be about 10 to 14 days in advance of travel dates to ensure the lowest fares are available.

NOTE: Cost of a preferred or premium seat is not reimbursable. To avoid these charges or to avoid being bumped, a traveler must check in as early as possible. A traveler should check-in online 24 hours prior to a flight or check-in at the airport several hours prior to departure to obtain a seat assignment. Please be aware that it is a strict airline policy that a traveler must check-in, at a minimum, prior to 30 minutes of departure. The airlines are very strict about this policy. Airline rules typically state that if you don't arrive at least 30 minutes before the schedule departure, you may forfeit your reservation. The earlier you arrive at the gate increases the chances of retaining your original reservation and assurance of a seat on the flight purchased.

c. Commercial air travel will not be reimbursed in excess of lowest logical airfare when it has been determined to be the best value (receipts required). The difference between coach/economy class rates and first class or business class rates will be paid by the traveler. Upgrades at the expense of the state are not permitted, without prior approval of the Commissioner of Administration. If space is not available in less than first or business class air accommodations in time to carry out the purpose of the travel, the traveler will secure a certification from the airline or contracted travel agency indicating this fact. The certification is required for travel reimbursement.

d. The policy regarding airfare penalties is that the state will pay for the airfare and/or penalty incurred for a change in plans or cancellation when the change or cancellation is required by the state or other unavoidable

situations approved by the agency's department head. Justification for the change or cancellation by the traveler's department head is required on the travel expense form.

e. When an international flight segment is more than 10 hours in duration, the state will allow the business class rate not to exceed 10 percent of the coach rate. The traveler's itinerary provided by the travel agency must document the flight segment as more than 10 hours and must be attached to the travel expense form.

f. A lost airline ticket is the responsibility of the person to whom the ticket was issued. The airline fee of searching and refunding lost tickets will be charged to the traveler. The difference between the prepaid amount and the amount refunded by the airlines must be paid by the employee.

g. Traveler is to use the lowest logical airfare whether the plane is a prop or a jet.

h. Employees may retain hotel reward points and frequent flyer miles, earned on official state travel, unless an agency deems them property of the state. However, if an employee makes travel arrangements that favor a preferred airline/supplier to receive points and this circumvents purchasing the most economical means of travel, they are in violation of this travel policy. Costs for travel arrangements subject to this violation are non-reimbursable.

i. When making airline reservations for a conference, let the travel agent know that certain airlines have been designated as the official carrier for the conference. In many instances, the conference registration form specifies that certain airlines have been designated as the official carrier offering discount rates, if available. If so, giving this information to our contracted agency could result in them securing that rate for your travel.

j. Tickets which are unused by a traveler should always be monitored by the traveler and the agency. Traveler should ensure that any unused ticket is considered when planning future travel arrangements. Some airlines have a policy which would allow for a name change to another employee within the agency. A view of the latest airline policies regarding unused tickets are available at the State Travel Office's website [https://www.doa.la.gov/doi/ost/airfare-airport/](https://www.doa.la.gov/doa/ost/airfare-airport/)

i. Ultimately, it is the traveler's responsibility to determine, upon initial notification of an unused ticket and then every 30 days thereafter, if they will be utilizing the unused ticket. If it is determined that the ticket will not be utilized prior to expiration and there is a possibility to transfer the ticket, the traveler must immediately advise the agency travel administrator that the ticket is available for use by another employee, section or agency. The traveler administrator should then act accordingly.

ii. In addition, the department head, at a minimum of three months prior to expiration, must review all unused airfare to determine, based on the traveler's justification, if reimbursement from the traveler must be made to the agency for the amount of the unused ticket. All files must be properly documented.

iii. This may be accomplished with the unused ticket report sent to each agency program administrator each month from the contracted travel agency. This report in conjunction with employee notifications while booking other flights and employee email notifications every 120, 90, 60,

30 and 14 days prior to ticket expiration should be more than sufficient to reduce the loss of reusable airfare.

C. Motor Vehicle

1. No vehicle may be operated in violation of state or local laws. No traveler may operate a vehicle without having in his/her possession a valid U.S. driver's license. Safety restraints shall be used by the driver and passengers of vehicles. All accidents, major or minor, shall be reported first to the local police department or appropriate law enforcement agency. In addition, an accident report form, available from the Office of Risk Management (ORM) of the Division of Administration, should be completed as soon as possible and must be returned to ORM, together with names and addresses of principals and witnesses. Any questions about this should be addressed to the Office of Risk Management of the Division of Administration. These reports shall be in addition to reporting the accident to the Department of Public Safety as required by law.

2.a. Operating a state owned vehicle, state-rented vehicle or state-leased vehicle or operating a non-state-owned vehicle for state business while intoxicated as set forth in R.S. 14:98 and 14:98.1 is strictly prohibited, unauthorized, and expressly violates the terms and conditions of use of said vehicle. In the event such operation results in the employee being convicted of, pleading nolo contendere to, or pleading guilty to driving while intoxicated under R.S. 14:98 and 14:98.1, such would constitute evidence of the employee:

- i. violating the terms and conditions of use of said vehicle;
- ii. violating the direction of his/her employer; and
- iii. acting beyond the course and scope of his/her employment with the state of Louisiana.

b. Personal use of a state-owned, state-rented or state-leased vehicle is not permitted.

3. No person may be authorized to operate or travel in a state owned or rental vehicle unless that person is a classified or unclassified state officer or employee of the state of Louisiana; any duly appointed member of a state board, commission, or advisory council; or any other person who has received specific approval and is deemed as an "authorized traveler" on behalf of the state, from the department head or his designee to operate or travel in vehicle on official state business only. A file must be kept containing all of these approvals.

4. Any persons who are not official state employees, as define above must sign an Acknowledgement of non-state employees utilizing state vehicles form, located at the Office of State Travel's website, <https://www.doa.la.gov/oa/ost/forms/prior> to riding in or driving a state-owned vehicle or rental vehicle on behalf of the State. Each agency is responsible in ensuring that this along with any other necessary documents and requirements are completed and made part of the travel file prior to travel dates.

5. Students not employed by the state shall not be authorized to drive state-owned or rented vehicles for use on official state business. A student may be deemed as an "authorized traveler" on behalf of the state by the department head or his designee. An authorized traveler can be reimbursed for their travel expenses. The acknowledgement of non-state employees utilizing state

vehicles form acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel must be signed as part of the approval process. A file must be kept containing all of these approvals.

6. Persons operating a state owned, rental or personal vehicle on official state business will be completely responsible for all traffic, driving, and parking violations received. This does not include state-owned or rental vehicle violations, i.e. inspections sticker, as the state and/or rental company would be liable for any cost associated with these types of violations.

7. State-Owned Vehicles

a. Travelers in state-owned automobiles who purchase needed fuel, repairs and equipment while on travel status shall make use of all fleet discount allowances and state bulk purchasing contracts where applicable. Reimbursements require a receipt and only regular unleaded gasoline, or diesel when applicable, must be used. This applies for both state owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is not necessary. If traveler utilizes anything other than regular unleaded gasoline unless vehicle requires diesel, or any other manufactory mandated grade, without justification and prior approval from the agency department head, traveler must reimburse the agency the difference between what was paid and the state average gasoline rates. Each agency/department shall familiarize itself with the existence of the fuel/repair contract(s), terms and conditions as well as location of vendors.

b. State-owned vehicles may be used for out-of-state travel only if permission of the department head has been given prior to departure. If a state-owned vehicle is to be used to travel to a destination more than 500 miles from its usual location, documentation that this is the most cost-effective means of travel should be readily available in the department's travel reimbursement files. When the use of a state-owned vehicle has been approved by the department head for out-of-state travel for the traveler's convenience; the traveler is personally responsible for any other expense in-route to and from their destination, which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take his/her personally, owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses.

c. Unauthorized persons should not be transported in state vehicles. Approval of exceptions to this policy may be made by the department head if he determines that the unauthorized person is part of the official state business and the passenger (or passenger's guardian) signs an acknowledgement of non-state employees utilizing state vehicles form acknowledging the fact that the state assumes no liability for any loss, injury, or death resulting from said travel.

d. If a state vehicle is needed/requested to be brought to the home of a state traveler overnight, then the agency/traveler should ensure it is in accordance with requirements outlined in R.S. 39:361-364.

8. Personally Owned Vehicles

a. When two or more persons travel in the same personally owned vehicle, only one charge will be allowed

for the expense of the vehicle. The person claiming reimbursement shall report the names of the other passengers.

b. At the discretion of the Department head or his/her designee, mileage to and from airport(s) may be allowed while on official state business. This approval may include reimbursement for an employee who is being dropped off and/or picked up from airports. Reimbursement may not exceed a maximum of 99 miles per round trip and/or day at a rate of .56 cents per mile. Personal vehicle mileage reimbursements require an odometer reading or website mileage calculator.

c. A mileage allowance shall be authorized for travelers approved to use personally-owned vehicles while conducting official state business. Mileage may be reimbursable at no more than \$0.56 per mile, based on actual physical addresses and in accordance with the following.

i. For official in-state business travel:

(a). employee should utilize a state vehicle when available;

(b). employee may rent a vehicle from the State's in-state contracts Enterprise, National and Hertz if a state vehicle is not available and travel exceeds 100 miles; or

(c). if an employee elects to use his/her personal vehicle, reimbursement may not exceed a maximum of 99 miles per round trip and/or day (day or the return to domicile) at \$0.56 per mile.

NOTE: Mileage is applicable for round trip (multiple days) and/or round trip (one day).

Example No. 1: If someone leaves Baton Rouge, travels to New Orleans and returns that same day, they are entitled to 99 miles maximum for that day trip if they choose to drive their personal vehicle.

Example No. 2: If someone leaves Baton Rouge, travels to New Orleans, and returns two days later, they are entitled to 99 miles maximum for the entire "trip" if they choose to drive their personal vehicle.

Example No. 3: If someone leaves Baton Rouge, travels to New Orleans then on to Lafayette, Shreveport, Monroe and returns to the office four days later, they are entitled to 99 miles maximum for the entire "trip" if they choose to drive their personal vehicle.

d. Mileage shall be computed by one of the following options:

i. on the basis of odometer readings from point of origin to point of return;

ii. by using a website mileage calculator or a published software package for calculating mileage such as Tripmaker, How Far Is It, Mapquest, etc. Employee is to print the page indicating a physical address, mileage and attach it with his/her travel expense form.

e. An employee shall never receive any benefit from not living in his/her official domicile. In computing reimbursable mileage, while the employee is on official state travel status, to an authorized travel destination from an employee's residence outside the official domicile, the employee is always to claim the lesser of the miles from their official domicile or from their residence. If an employee is leaving on a non-work day or leaving significantly before or after work hours, the department head may determine to pay the actual mileage from the employee's residence not to exceed a maximum of 99 miles per round trip and/or day at \$0.56 per mile. See example in Subparagraph C.8.b above.

f. The department head or his designee may approve an authorization for routine travel for an employee who must travel in the course of performing his/her duties; this may include domicile travel if such is a regular and necessary part of the employee's duties, but not for attendance to infrequent or irregular meetings, etc., within the city limits where his/her office is located, the employee may be reimbursed for mileage only not to exceed a maximum of 99 miles per round trip and/or day at \$0.56 per mile. See example in Subparagraph C.8.b above.

g. Reimbursements will be allowed on the basis of \$0.56 per mile, not to exceed a maximum of 99 miles per round trip and/or day, to travel between a common carrier/terminal and the employees point of departure, i.e., home, office, etc., whichever is appropriate and in the best interest of the state. See example in Subparagraph C.8.b above.

h. When the use of a privately-owned vehicle has been approved by the department head for out-of-state travel for the traveler's convenience, the traveler will be reimbursed for mileage on the basis of \$0.56 per mile only not to exceed a maximum of 99 miles per round trip and/or day. If prior approval for reimbursement of actual mileage is requested and granted by the Commissioner of Administration, the total cost of the mileage reimbursement may never exceed the cost of a rental vehicle or the cost of travel by using the lowest logical airfare obtained at least 14 days prior to the trip departure date, whichever is the lesser of the two. The reimbursement would be limited to one lowest logical airfare quote, not the number of persons traveling in the vehicle. The traveler is personally responsible for any other expenses in-route to and from destination which is inclusive of meals and lodging. If a traveler, at the request of the department, is asked to take his/her personally owned vehicle out-of-state for a purpose that will benefit the agency, then the department head may on a case-by-case basis determine to pay a traveler for all/part of in-route travel expenses, however, mileage reimbursement over 99 miles would still require prior approval from the Commissioner of Administration's approval. In this case, once approval is obtained from the Commissioner of Administration to exceed 99 miles, then the department head may authorize actual mileage reimbursements. File should be justified accordingly.

i. When a traveler is required to regularly use his/her personally owned vehicle for agency activities, the agency head may request prior authorization from the Commissioner of Administration for a lump sum allowance for transportation or reimbursement for transportation (mileage). Request for lump sum allowance must be accompanied by a detailed account of routine travel listing exact mileage for each such route and justification why a rental vehicle is not feasible. Miscellaneous travel must be justified by at least a three-month travel history to include a complete mileage log for all travel incurred, showing all points traveled to or from and the exact mileage. Request for lump sum allowance shall be granted for periods not to exceed one fiscal year. A centralized file must be kept containing all approvals.

NOTE: Once someone is given a monthly vehicle allowance or lump sum allowance, they are not to be reimbursed for mileage, fuel or rental vehicles. Rental could be allowed only when flying out of state.

j. In all cases, the traveler shall be required to pay all operating expenses for his/her personal vehicle including fuel, repairs, and insurance.

k.i. The only exemptions which would not require the Commissioner of Administration's prior approval for actual mileage exceeding 99 miles are for:

(a). members of boards and commissions, not administration/office personnel;

(b). students who are traveling on a grant, scholarship, and any other occasion where the student's use of a personal vehicle is the best and/or only method of transportation available.

ii. Although the Commissioner's approval is not necessary, Department head approval is still required.

1. Rented Motor Vehicles (Receipts Required). Any rental vehicles not covered in the state's in-state or out-of-state contracts should be bid in accordance with proper purchasing rules and regulations. The state has contracts for all vehicle rentals based out of Louisiana through Enterprise, National and Hertz which use is mandatory for business travel. These contracts are applicable to all authorized travelers, and contractors. The state has contracts for out-of-state vehicles rentals. Travelers shall use Hertz, Enterprise-Rent-A-Car, or National which use is mandatory for business travel. These contracts are also applicable to all authorized travelers, and contractors.

a. In-State Vehicle Rentals. The state has contracted for all rentals based out of Louisiana through Enterprise, National and Hertz Rental Contract, which use is mandatory, for business travel which applies to all state of Louisiana employees and/or authorized travelers, contractors, etc. traveling on official state business.

i. A rental vehicle should be used, if a state owned vehicle is not available, for all travel over 99 miles. All exemptions must be requested and granted by the Commissioner of Administration for reimbursements which exceed 99 miles prior to the trip. Requests for exemption must be accompanied by a detailed explanation as to why a rental is not feasible. If an exemption from the program is granted by the Commissioner of Administration as stated above, then the employee will not be required to rent a vehicle and may receive actual mileage reimbursement up to \$0.56 per mile.

ii. All state contractors, who have entered into a contract with the state of Louisiana, and whose contracts are required to follow PPM 49 for travel reimbursements, are required to utilize both in-state and out-of-state mandatory contracts awarded by the State.

iii. Although exemptions may be granted, by the Commissioner of Administration, all must adhere to the current mileage reimbursement rate of no more than \$0.56 per mile.

iv. The only exemption which would not require the Commissioner of Administration's prior approval for exceeding the 99 miles reimbursement and receiving actual mileage reimbursements is for members of boards and commissions, not administration/office personnel, and for students which are traveling on a grant, scholarship, or any other occasion where use of a personal vehicle is the best and/or only method of transportation available. Department head approval is required. Board and commission members

may receive actual mileage reimbursement of no more than \$0.56 per mile.

v. For trips of 100 miles or more, any employee and/or authorized traveler, should use a state owned vehicle or rental from Enterprise, National and Hertz State Motor Pool Rental Contract, when a state vehicle is not available.

vi. For trips of less than 100 miles, employees should utilize a state vehicle when available, may utilize their own vehicle and receive mileage reimbursement not to exceed a maximum of 99 miles per round trip and/or day at \$0.56 per mile or may rent a vehicle from Enterprise State Motor Pool Rental Contract.

vii. Reservations are not to be made at an airport location for daily routine travel, as this will add additional unnecessary cost to your rental charges. An employee must purchase gasoline with the State's Fuel Card or any other approved credit card at reasonable cost from a local gasoline station prior to returning the rental. Pre-paid Fuel Options or replacement of gasoline, in any way, from the rental company, for rental vehicles, are not allowed. If traveler utilizes any gasoline options or programs allowing rental vehicle companies to replace gasoline; or uses anything other than regular unleaded gasoline, unless vehicle requires diesel or any other manufactory-mandated grade, without justification and prior approval from the agency Department Head, traveler must reimburse the agency the difference between what was paid and the state average gasoline rate. Each agency/department shall familiarize itself with the existence of the State's fuel/repair contract(s), terms and conditions as well as locations of vendors.

b. Payments Rentals through the State Rental Contracts may be made using the "LaCarte" purchasing card, an agency's CBA account, an employee's state corporate travel card or by direct bill to the agency. This will be an agency decision as to the form of payment chosen. If direct bill is chosen, agency must set up account billing information with Enterprise, National and Hertz. An account for Enterprise and National may be established by contacting Joseph Rosenfeld at 225-445-7250, joseph.g.rosenfeld@ehi.com and for Hertz Nadika Perera at 239-301-7635 or Nadika.Perera@hertz.com

c. Out-of-State Vehicle Rentals. The state has contracted for rental vehicles for domestic and out-of-state travel, excluding Louisiana and international travel, utilizing the state of Louisiana's out-of-state contracts, which use is mandatory. All state of Louisiana employees and/or authorized travelers, contractors are mandated to use these contracts due to exceptional pricing which includes CDW (Collision Damage Waiver) and \$1,000,000 liability insurance. The state of Louisiana out-of-state participating vendors include Enterprise Rent-A-Car, National Car Rental and Hertz Car Rental Corporation. It is the traveler's discretion which rental company is utilized.

d. All state contractors who have entered into a contract with the state of Louisiana, and whose contracts are required to follow PPM49 for travel reimbursements, are required to utilize both in-state and out-of-state mandatory contracts awarded by the state.

e. Although exemptions may be granted, by the Commissioner of Administration, all must adhere to the current mileage reimbursement rate of no more than \$0.56 per mile.

f. The only exemption which would not require the Commissioner of Administration's approval for the exceeding 99 miles reimbursement and receiving actual mileage reimbursements is for students which are traveling on a grant, scholarship, or any other occasion where use of a personal vehicle is the best and/or only method of transportation available. Department head approval is required.

g. Approvals. Written approval of the department head or his designee prior to departure is not required for the rental of vehicles, however, if your agency chooses, approval may be made mandatory or handled on an annual basis if duties require frequent rentals. Special approval is required, from the department head or his/her designee, for rental of any vehicle in the "full size" category or above. File must include proper justification.

h. Vehicle Rental Size

i. Only the cost of a compact or standard/intermediate model is reimbursable, unless:

(a). non-availability is documented; or

(b). the vehicle will be used to transport more than two persons.

NOTE: When a larger vehicle is necessary as stated in 1 or a larger vehicle is necessary due to the number of persons being transported, the vehicle shall be upgraded only to the next smallest size and lowest price necessary to accommodate the number of persons traveling.

ii. A department head or his/her designee may, on a case-by-case basis, authorize a larger size vehicle provided detailed justification is made in the employee's file. Such justification could include, but is not limited to, specific medical requirements when supported by a doctor's recommendation.

j. Personal Use of Rental. Personal use of a rental vehicle, when rented for official state business, is not allowed.

I. Gasoline (Receipts Required). Reimbursements require an original receipt and only regular unleaded gasoline, or diesel when applicable, must be used. This applies for both state-owned vehicles and rental vehicles, as mid-grade, super, plus or premium gasoline is not necessary. An employee must purchase gasoline from a local gasoline station prior to returning the rental. Pre-paid fuel options or replacement of gasoline, in any way, from the rental company, for rental vehicles, are only to be allowed. If traveler utilizes any gasoline options or programs allowing rental vehicle companies to replace gasoline; or uses anything other than regular unleaded gasoline, unless vehicle requires diesel or any other manufactory mandated grade, without justification and prior approval from the agency department head, traveler must reimburse the agency the difference between what was paid and the state average gasoline rate. Each agency/department shall familiarize itself with the existence of the fuel/repair contract(s), terms and conditions as well as locations of vendors.

J. Insurance for Vehicle Rentals within the 50 United States. Insurance billed by car rental companies is not reimbursable. All insurance coverage for rental vehicles, other than the state's in-state and out-of-state mandatory contracts, is provided by the Office of Risk Management. Should a collision occur while on official state business, the accident should immediately be reported to the Office of Risk Management and rental company. Any damage

involving a third party must be reported to appropriate law enforcement entity to have a police report generated.

i. CDW/damage waiver insurance and \$1 million liability protection coverage is included in the state in-state and out-of-state rental contract pricing.

NOTE: Lost keys and car door unlocking services for rental vehicles are not covered under the damage waiver policy and are very costly. The agency should establish an internal procedure regarding liability of these costs.

ii. No other insurance will be reimbursed when renting, except when renting outside the 50 United States, see §1504.C.3.i. There should be no other charges added to the base price, unless the traveler reserves the vehicle at an airport location (which is not allowed for daily routine travel unless prior approval from the Commissioner of Administrator). Reimbursable amounts would then be submitted at the end of the trip on a travel expense form.

m. Insurance for Vehicles Rentals outside the 50 United States (Receipts Required). The Office of Risk Management (ORM) recommends that the appropriate insurance (liability and physical damage) provided through the car rental company be purchased when the traveler is renting a vehicle outside the 50 United States. With the approval of the department head or his/her designee required insurance costs may be reimbursed for travel outside the 50 United States only.

10. The following are insurance packages available by rental vehicle companies which are reimbursable:

a. collision damage waiver (CDW)—should a collision occur while on official state business, the cost of the deductible should be paid by the traveler and submit a reimbursement claimed on a travel expense form. The accident should also be reported to the Office of Risk Management;

b. loss damage waiver (LDW);

c. auto tow protection (ATP)—*approval of department head;

d. supplementary liability insurance (SLI)—*if required by the rental company;

e. theft and/or super theft protection (coverage of contents lost during a theft or fire)—*if required by the car rental company;

f. vehicle coverage for attempted theft or partial damage due to fire—*if required by the car rental company.

11. The following are some of the insurance packages available by rental vehicle companies that are not reimbursable:

a. personal accident coverage insurance (PAC);

b. emergency sickness protection (ESP).

12. Navigation equipment (GPS system), rented not purchased, from a rental car company, may only be reimbursed if an employee justifies the need for such equipment and with prior approval of the department head or his designee.

D. Public Ground Transportation. The cost of public ground transportation such as buses, subways, airport shuttle/limousines, and taxis are reimbursable when the expenses are incurred as part of approved state travel. See receipt requirements below.

1. Public transportation to and from the airport, while on official state business, may be reimbursed with a receipt.

a. If utilizing Uber or Lyft type services, only a standard size vehicle is reimbursable with an itemized

receipt. Premium or larger vehicles size are not reimbursable. Any additional charges other than standard fare rates are not reimbursable (i.e. wait time fees). Travelers should utilize the most economic ground transportation without occurring additional markup fees.

b. When travelers utilize a free shuttle service, a \$5.00 tip may be allowed (no receipt is required). This is not an automatic tip reimbursement, as travelers must show proof that the service was utilized

2. Airport shuttle/limousines, taxi and all other public transportation where a receipt is available, requires a receipt for reimbursements. A driver's tip for shuttle/limousines and taxis may be given and must not exceed 20 percent of total charge. Amount of tip must be included on receipt received from driver/company.

3. All other forms of public ground transportation, where a receipt is not possible and other than those listed above, are limited to \$10 per day without a receipt, claims in excess of \$10 per day requires a receipt. At the agency's discretion, the department head may implement an agency wide policy requiring receipts for all public transportation request less than \$10 per day.

4. To assist agencies with verification of taxi fares, you may contact the taxi company for an estimate or visit sites such as taxifarefinder.com. An employee should always get approval, prior to a trip, if multiple taxis will be used; as it may be in the agency's best interest to rent a vehicle versus reimbursement of multiple taxi expenses.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1254 (June 2000), LR 27:804 (June 2001), LR 28:1127 (June 2002), LR 29:824 (June 2003), LR 30:1113 (June 2004), LR 31:1185 (June 2005), LR 32:938 (June 2006), LR 33:966 (June 2007), republished LR 33:1316 (July 2007), amended LR 34:1301 (July 2008), LR 35:1195 (July 2009), LR 36:1650 (July 2010), LR 42:984 (July 2016), LR 43:1113 (June 2017), LR 45:820 (June 2019), LR 46:843 (June 2020), LR 47:817 (June 2021).

§1505. State Issued Travel Credit Cards/CBA Accounts

A. Use. All high cost expenditures (airfare, lodging, vehicle rentals, and registration) must be placed on the LaCarte purchasing card, travel card or agency CBA programs unless prior approval is granted from the Commissioner of Administration. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator. The State Travel Office contracts for an official state corporate travel card to form one source of payment for travel. If a supervisor recommends an employee be issued a state travel card, the employee should complete an application through their agency travel program administrator.

1. The employee's corporate travel card is for official state travel business purposes only. Personal use on the state travel card shall result in disciplinary action.

2. If a vendor does not accept credit card payment for, registration or lodging expense, the Department Head may

approve for payment(s) to be made by other means. Traveler must submit supporting documentation from vendor stating they do not accept credit card payments. The supporting document must be kept with the travel expense form.

B. Liability

1. The corporate travel card is the liability of the state. Each monthly statement balance is due in full to the card-issuing bank. The state will have no tolerance to assist those employees who abuse their travel card privileges.

2. The department/agency is responsible for cancellation of corporate travel cards for those employees terminating/retiring from state service.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1254 (June 2000), LR 27:804 (June 2001), LR 28:1127 (June 2002), LR 29:824 (June 2003), LR 30:1113 (June 2004), LR 31:1188 (June 2005), republished LR 33:1319 (July 2007), amended LR 34:1304 (July 2008), republished LR 35:1198 (July 2009), amended LR 36:1653 (July 2010), LR 42:989 (July 2016), LR 43:1119 (June 2017), LR 45:820 (June 2019), LR 46:849 (June 2020), LR 49:823 (June 2021).

§1506. Lodging and Meals

A. Eligibility

1. Official Domicile/Temporary Assignment. Travelers are eligible to receive reimbursement for travel only when away from "official domicile" or on temporary assignment unless exception is granted in accordance with these regulations. Temporary assignment will be deemed to have ceased after a period of 30 calendar days, and after such period the place of assignment shall be deemed to be his/her official domicile. He/she shall not be allowed travel and subsistence unless permission to extend the 30-day period has been previously secured from the Commissioner of Administration.

2. Extended Stays. For travel assignments approved by the Commissioner of Administration involving duty for extended periods (31 or more consecutive days) at a fixed location, the reimbursement rates indicated should be adjusted downward whenever possible. Claims for meals and lodging may be reported on a per diem basis supported by lodging receipt. Care should be exercised to prevent allowing rates in excess of those required to meet the necessary authorized subsistence expenses. It is the responsibility of each agency head to authorize only such travel allowances as are justified by the circumstances affecting the travel.

a. The only exemption, for travel of 31 days or more which does not require the Commissioner of Administration's approval, are students, professors or other state traveler which are traveling on a grant, scholarship, studying abroad or any other occasion where funds utilized are other than state general funds. Department head approval is required.

3. Single Day Travel

a. Meals are not eligible for reimbursements on single day travel. This means that when an authorized traveler of the state is in travel status where no overnight stay is required, no meals are eligible for reimbursement.

Each department head or their designees are to determine the reasonableness of when an overnight stay is justified.

b. However, the department head will be allowed to authorize single day meal reimbursements on a case-by-case basis or by type(s) of single day travel when it is determined to be in the best interest of the department. In those cases, the department must keep the approvals in the travel file and must be responsible to take appropriate steps to report the reimbursement as wages to the employee.

c. If a department head or his/her designee determines that single day meals will be provided for, they must adhere to the following allowances. To receive any meal reimbursement on single day travel, an employee must be in travel status for a minimum of 12 hours.

i. The maximum allowance for meal reimbursement for single-day travel will be \$45:

(a). breakfast and lunch: (\$28). The 12-hours travel duration must begin at or before 6 a.m.;

(b). lunch: (\$16); requires a 14-hour duration in travel status;

(c). lunch and dinner: (\$45). The 12-hour travel duration must end at or after 8 p.m.

4. Travel with Over-Night Stay (minimum of 12 hours in travel status). Travelers may be reimbursed for meals according to the following schedule:

a. breakfast—when travel begins at/or before 6 a.m. on the first day of travel or extends at/or beyond 9 a.m. on the last day of travel, and for any intervening days;

b. lunch—when travel begins at/or before 10 a.m. on the first day of travel or extends at/or beyond 2 p.m. on the last day of travel, and for any intervening days;

c. dinner—when travel begins at/or before 4 p.m. on the first day of travel or extends at/or beyond 8 p.m. on the last day of travel, and for any intervening days.

5. Alcohol. Reimbursement for alcohol is prohibited.

B. Exceptions

1. Routine Lodging Overage Allowances (Receipts Required). Department head or his/her designee has the authority to approve actual costs for routine lodging provisions on a case by case basis, not to exceed 50 percent over PPM-49 current listed rates. (Note this authority is for routine lodging only and not for conference lodging or any other area of PPM-49) Justification and approval must be maintained in the file to show that attempts were made with hotels in the area to receive the state/best rate. In areas where the governor has declared an emergency, a department head or his/her designee will have the authority to approve actual routine lodging provisions on a case by case basis not to exceed 75 percent over PPM-49 current listed rates. Each case must be fully documented as to necessity (e.g., proximity to meeting place) and cost effectiveness of alternative options. Documentation must be readily available in the department's travel reimbursement files.

2. Actual Expenses for Elected Officials, Board Members (if allowed by the Board) and State Officers (Itemized receipts are required for each item claimed): Elected Officials, Board Members (if allowed by the Board) and State Officers and others so authorized by statute, or any individual preapproved exception will be reimbursed on an actual expense basis for meals and lodging, while in travel status, except in cases where other provisions for reimbursement have been made by statute. (Itemized

Receipts(s) Required) Request shall not be extravagant and will be reasonable in relation to the purpose of travel. Elected Officials, Board Members (if allowed by the Board) and State officers entitled to actual expense reimbursements are only exempt from meals and lodging rates; they are subject to the time frames and all other requirements as listed in these travel regulations.

C. Meals and Lodging Allowances (meal rates are not a per diem; only the maximum allowed while in travel status)

1. Meal Allowance (includes tax and tips). Receipts are not required for routine meals within these allowances, unless a cash advance was received. (See §1503.B.2). Number of meals claimed must be shown on travel expense form. For meal rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head or his/her designee on a case-by-case basis. See tier pricing below. Partial meals such as continental breakfast or airline meals are not considered meals.

NOTE: If a meal is included in a conference schedule, it is part of the registration fee, therefore, an employee cannot request/receive additional reimbursement for that meal.

2. Meals with relatives or friends may not be reimbursed unless the host can substantiate costs for providing for the traveler. The reimbursement amount will not automatically be the meal cost for that area, but rather the actual cost of the meal.

Example: The host would have to show proof of the cost of extra food, etc. Cost shall never exceed the allowed meal rate listed for that area.

3. Routine Lodging Allowance. The state has contracted for all hotel expenditures through HotelPlanners contract. Lodging rate, plus tax and any mandatory surcharge. (Receipts are required.) For lodging rates, the inclusion of suburbs (see definition of *suburb*) shall be determined by the department head on a case-by-case basis. Employees should always attempt to use the tax exempt form located on the State Travel website for all in-state lodging

<https://www.doa.la.gov/media/er0b2lwj/travelexemption-travelexpense.pdf>

When traveling in-state on official state business, and must be used if hotel expenses are being charged to employee's state corporate travel card, the LaCarte Card or the agency's CBA account. When two or more employees on official state business share a lodging room, the state will reimburse the actual cost of the room; subject to a maximum amount allowed for an individual traveler times the number of employees.

NOTE: For any overages which exceed PPM 49 (i.e. hotels, rentals etc...), without prior approval, along with justification, the traveler will be responsible for reimbursing the agency.

4. Lodging with relatives or friends may not be reimbursed unless the host can substantiate costs for accommodating the traveler. The amount will not automatically be the lodging cost for that area, but rather the actual cost of accommodations. Example: The host would have to show proof of the cost of extra water, electricity, etc. Cost shall never exceed the allowed routine lodging rate listed for that area. Department head or his/her designee's approval must be provided to allow lodging expenses to be direct billed to an agency.

5. Conference Lodging Allowance. Employees may be allowed lodging rates, plus tax (other than state of Louisiana tax) and any mandatory surcharge. Receipts are required along with documentation showing the actual

conference rate. Department head or his/her designee has the authority to approve the actual cost of conference lodging, for a single occupancy standard room, when the traveler is staying at the designated conference hotel. If there are multiple designated conference hotels, the lower cost designated conference hotel should be utilized, if available. In the event the designated conference hotel(s) have no room availability, a department head or his/her designee may approve to pay actual hotel cost not to exceed the conference lodging rates for other hotels in the immediate vicinity of the conference hotel. This allowance does not include agency hosted conference lodging allowances; see §1510 for these allowances. In the event a traveler chooses to stay at a hotel which is not associated with the conference, then the traveler is subject to making reservation and getting reimbursed within the hotel rates that will be allowed in routine lodging only, as listed below.

NOTE: Training courses which are several days and have a designated hotel and rate, can be considered a "conference hotel" and therefore the designated rate can be allowed.

6. Resort fees are not allowed unless attending a conference and/or if a traveler is staying in a city where all hotels are charging a resort fee.

NOTE: Resort fees, added value charges, cleaning fees, etc... are not reimbursable.

7. Tax Recovery Charges, Service fees and/or Booking fees are not allowed when booking through companies other than State of Louisiana Mandate Travel Agency or their affiliated company.

8. Traveler will be responsible for reimbursing agency for any In-state taxes when tax exemption form is not presented at time of check-in at hotel.

9. No reimbursements are allowed for functions not relating to a conference, i.e., tours, dances, golf tournaments, etc.

10. If staying at a designated conference hotel or the overflow hotel(s) you may not rent a vehicle unless prior approval is granted from the department head. Rental must be for official state business needs with supporting documentation maintained in the file.

TIER II	
Lodging Area	Routine Lodging
New Orleans – Orleans, St. Bernard, Jefferson and Plaquemines Parishes	\$136
July- September	\$136
October - December	\$158
January - May	
Out-Of-State (Except Cities Listed in Tier III & IV)	\$96

TIER III	
Breakfast	\$13
Lunch	\$19
Dinner	\$33
Total	\$65
Lodging Area	Routine Lodging
Austin, TX; Atlanta, GA; Cleveland, OH; Dallas/Fort Worth, TX; Denver, CO; Ft. Lauderdale, FL; Hartford, CT; Houston, TX; Kansas City, MO; Las Vegas Los Angeles, CA; Miami, FL; Minneapolis/St. Paul, MN; Nashville, TN; Oakland, CA; Orlando, FL; Philadelphia, PA; Phoenix, AZ; Pittsburgh, PA; Portland, OR; Sacramento, CA; San Antonio, TX; San Diego, CA; Sedona, AZ; St. Louis, MO; Wilmington, DE; all of Alaska and Hawaii; Puerto Rico; Virgin Island; American Samoa; Guam, Saipan	\$170

TIER IV	
Breakfast	\$14
Lunch	\$21
Dinner	\$36
Total	\$71
Lodging Area	Routine Lodging
Baltimore, MD; San Francisco, CA; Seattle, WA; Chicago, IL; Boston, MA	\$212
Alexandria, VA; Arlington, VA; New York City, NY; Washington DC	\$225
International Cities	\$200

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), republished LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004) LR 31:1189 (June 2005), LR 32:939 (June 2006), LR 33:967 (June 2007), republished LR 33:1320 (July 2007), amended LR 34:1305 (July 2008), LR 35:1198 (July 2009), LR 36:1654 (July 2010), LR 42:990 (July 2016), LR 43:1119 (June 2017), LR 45:821 (June 2019), LR 46:849 (June 2020), LR 46:1484 (October 2020), LR 47:823 (June 2021).

§1507. Parking and Related Parking Expenses

A. Parking at the Baton Rouge Airport. The state's current contract rate is \$4.50 per day (receipts required) for parking in the indoor parking garage as well as the outside, fenced parking lot at the Baton Rouge airport. Documentation required to receive the contract price is the airport certificate and a state ID. If the agency does not issue a state ID, the traveler would need a business card and a

TIER I	
Breakfast	\$12
Lunch	\$16
Dinner	\$29
Total	\$57
Lodging Area	Routine Lodging
In-State Cities (except as listed)	\$96
Alexandria/Leesville/Natchitoches	\$99
Baton Rouge-EBR	\$99
Covington/Slidell-St. Tammany	\$96
Lake Charles-Calcasieu	\$96
Lafayette	\$96

TIER II	
Breakfast	\$13
Lunch	\$18
Dinner	\$31
Total	\$62

driver's license along with the certificate to be eligible for the state contracted rate. Airport certificate may be found on State Travel Office's website at <https://www.doa.la.gov/oa/ost/parking/>

B. New Orleans Airport Parking- At this time, only USPARK'S, uncovered parking is reimbursable with a receipt (as published on USPARK.net)

C. Travelers using motor vehicles on official state business may be reimbursed for all other parking, including airport parking except as listed in A and B above, ferry fares, and road and bridge tolls. For each transaction over \$5, a receipt is required.

D. Tips for valet parking not to exceed \$5 per day.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1257 (June 2000), LR 27:808 (June 2001), republished LR 27:1496 (September 2001), republished LR 27:1496 September 2001, LR 28:1130 (June 2002), LR 30:1117 (June 2004), LR 31:1190 (June 2005), LR 33:968 (June 2007), republished LR 33:1321 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1655 (July 2010), LR 42:992 (July 2016), LR 43:1121 (June 2017), LR 45:822 (June 2019), LR 46:851 (June 2020), LR 47:825 (June 2021).

§1508. Reimbursement for Other Expenses (These charges are while in travel status only.)

A. The following expenses incidental to travel may be reimbursed.

1. Communications Expenses

a. For Official State Business—all business communication costs may be reimbursed (receipts required).

NOTE: If a traveler has an official state phone and/or is receiving a monthly stipend, reimbursements are not allowed.

b. For Domestic Overnight Travel—up to \$3 for personal calls upon arrival at each destination and up to \$3 for personal calls every second night after the first night if the travel extends several days. Note: If a traveler has an official state phone and/or is receiving a monthly stipend, reimbursements are not allowed.

c. For International Travel—up to \$10 for personal calls upon arrival at each destination and up to \$10 for personal calls every second night after the first night if the travel extends several days. Note: If a traveler has an official state phone and/or is receiving a monthly stipend, reimbursements are not allowed.

d. Internet access charges for official state business from hotels or other travel locations are treated the same as business telephone charges. A department may implement a stricter policy for reimbursement of Internet charges. (Receipts required)

B. Charges for Storage and Handling of State Equipment. Materials can be placed on the agency's CBA account. (Receipts Required)

C. Baggage Tips

1. Hotel Allowances—up to \$5 tip per hotel check-in and \$5 tip per hotel checkout, if applicable.

2. Airport Allowances—up to \$5 tip for airport outbound departure trip and \$5 tip for inbound departure trip. (Maximum total for entire trip is not to exceed \$10.)

D. Luggage Allowances (Receipt Required). A department head or his designee may approve reimbursement to a traveler for airline charges for first checked bag for a business trip of 5 days or less and for the second checked bag for a 6-10 day business trip and/or any additional baggage which is business related and required by the department. The traveler must present a receipt to substantiate these charges.

1. Travelers will be reimbursed for excess baggage charges (overweight baggage) only in the following circumstances:

a. when traveling with heavy or bulky materials or equipment necessary for business;

b. the excess baggage consists of organization records or property.

NOTE: Traveler should always consider shipping materials to final destination or splitting materials into additional pieces of luggage to avoid the excess baggage charges in order to save their agency costs.

E. Registration Fees at Conferences (Meals that are a designated integral part of the conference may be reimbursed on an actual expense basis with prior approval by the department head.). Note: If a meal is included in a conference schedule, it is part of the registration fee, therefore, an employee cannot request/receive additional reimbursement for that meal.

F. Laundry Services. Employees on travel for more than seven days may be reimbursed with department head or his/her designee's prior approval, up to actual, but reasonable, costs incurred. Receipts are required for reimbursement.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:808 (June 2001), LR 28:1131 (June 2002), LR 30:1118 (June 2004), LR 31:1190 (June 2005), LR 32:941 (June 2006), republished LR 33:1322 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1656 (July 2010), LR 42:992 (July 2016), LR 43:1121 (June 2017), LR 45:823 (June 2019), LR 46:852 (June 2020), LR 47:826 (June 2021).

§1509. Special Meals

A. Reimbursement designed for those occasions when, as a matter of extraordinary courtesy or necessity, it is appropriate and in the best interest of the state to use public funds for provision of a meal to a person who is not otherwise eligible for such reimbursement and where reimbursement is not available from another source. Requests should be within reason and may include tax and tips. Itemized receipts are required.

1. Visiting dignitaries or executive-level persons from other governmental units, and persons providing identified gratuity services to the state. This explicitly does not include normal visits, meetings, reviews, etc., by federal or local representatives.

2. Extraordinary situations are when state officer or state employees are required by their supervisor to work more than a 12-hour weekday or six hours on a weekend (when such are not normal working hours to meet crucial deadlines or to handle emergencies).

B. All special meals must have prior approval from the Commissioner of Administration or, for higher education, the entity head or his designee in order to be reimbursed, unless specific authority for approval has been delegated to a department head for a period not to exceed one fiscal year with the exception in Subsection C, as follows.

C. A department head may authorize a special meal within allowable rates listed under meals, Tier 1, to be served in conjunction with a working meeting of departmental staff (sign-in sheet required). Reasonable delivery fee and tip may be allowed if ordered from outside vendor. No tip should ever exceed 20 percent.

D. In such cases, the department will report on a quarterly basis to the Commissioner of Administration all special meal reimbursements made during the previous three months. For higher education, these reports should be sent to the respective institution of higher education management board. These reports must include, for each special meal, the name and title of the person receiving reimbursement, the name and title of each recipient, the cost of each meal and an explanation as to why the meal was in the best interest of the state. Renewal of such delegation will depend upon a review of all special meals authorized and paid during the period. Request to the commissioner for special meal authorization must include, under signature of the department head:

1. name and position/title of the state officer or employee requesting authority to incur expenses and assuming responsibility for such;

2. clear justification of the necessity and appropriateness of the request;

3. names, official titles or affiliations of all persons for whom reimbursement of meal expenses is being requested;

4. statement that allowances for meal reimbursement according to these regulations will be followed unless specific approval is received from the Commissioner of Administration to exceed this reimbursement limitation:

a. all of the following must be reviewed and approved by the department head or his/her designee prior to reimbursement:

i. detailed breakdown of all expenses incurred, with appropriate receipts(s);

ii. subtraction of cost of any alcoholic beverages;

iii. copy of prior written approval from the Commissioner of Administration or, for higher education, the entity head or his/her designee.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1118 (June 2004), LR 31:1191 (June 2005), republished LR 1322 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1656 (July 2010), LR 42:993 (July 2016), LR 43:1122 (June 2017), LR 45:823 (June 2019), LR 46:852 (June 2020), LR 47:826 (June 2021).

§1510. Agency-Hosted Conferences (Both In-State and Out-of-State)

A. State Sponsored Conferences. An agency must solicit three bona fide competitive quotes in accordance with the governor's Executive Order for small purchase.

B. Attendee Verification. All state-sponsored conferences must have a sign-in sheet or some type of attendee acknowledgment for justification of number of meals ordered and charged.

C. Conference Lunch Allowance. Lunch direct-billed to an agency in conjunction with a state-sponsored conference is to be within the following rates plus mandated gratuity. Any gratuity which is not mandated may not exceed 20 percent.

Lunch In-State excluding New Orleans \$30	\$25
---	------

1. Any other meals such as breakfast and dinner require special approval from the Commissioner of Administration or for higher education, the entity head or his/her designee.

D. Conference Refreshment Allowance. Costs for break allowances for meetings, conferences or conventions are to be within the following rates.

a. Refreshments shall not exceed \$5.50 per person, per morning and/or afternoon sessions. A mandated gratuity may be added if refreshments are being catered.

E. Conference Lodging Allowances. Lodging rates may not exceed \$20 above the current listed routine lodging rates listed for the area in which the conference is being held.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1256 (June 2000), LR 27:807 (June 2001), republished LR 27:1495 (September 2001), LR 28:1130 (June 2002), LR 30:1116 (June 2004), LR 31:1191 (June 2005), LR 32:941 (June 2006), republished LR 33:1323 (July 2007), amended LR 34:1308 (July 2008), LR 35:1201 (July 2009), LR 36:1657 (July 2010), LR 42:993 (July 2016), LR 43:1122 (June 2017), LR 45:824 (June 2019), LR 46:853 (June 2020), LR 47:827 (June 2021).

§1511. International Travel

A. International travel must be approved by the Commissioner of Administration. For higher education, the entity head or his designee prior to departure may approve International Travel. Requests for approval must be accompanied by a detailed account of expected expenditures (such as room rate, date, meals, local transportation, etc.), and an assessment of the adequacy of this source to meet such expenditures without curtailing subsequent travel plans.

B. International travelers will be reimbursed the Tier IV area rates for meals and lodging, unless U.S. State Department rates are requested and authorized by the Commissioner of Administration or, for Higher Education, the entity head or his designee, prior to departure. Itemized receipts are required for reimbursement of meals and lodging claimed at the U.S. state department rates. http://aoprals.state.gov/web920/per_diem.asp.

C. It is the agency's decision, if justification is given, to allow state travelers to be reimbursed for a VISA and/or immunizations when the traveler is traveling on behalf of the agency/university on official state business. However, it is not considered best practice for the state to reimburse for a passport, therefore, passport reimbursements must be submitted to the department head for approval along with

detailed justification as to why this reimbursement is being requested/approved.

D. A Department Head or his/her designee may approve a traveler's reimbursement request for a rapid COVID-19 test, if the employee will be traveling on official state business (receipts are required). If the employee is traveling international and it is required that the traveler be quarantined for a certain period, hotel, meals and internet expenses are allowed to be reimbursed per PPM49 tier rates.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 8:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1119 (June 2004), LR 31:1192 (June 2005), republished LR 33:1323 (July 2007), amended LR 34:1308 (July 2008), LR 35:1201 (July 2009), LR 36:1657 (July 2010), LR 42:994 (July 2016), LR 43:1123 (June 2017), LR 45:824 (June 2019), LR 46:853 (June 2020), LR 47:827 (June 2021).

§1512. Waivers

A. The Commissioner of Administration may waive in writing any provision in these regulations when the best interest of the state will be served. All waivers must obtain prior approvals, except in emergency situations.

AUTHORITY NOTE: Published in accordance with R.S. 39:231.

HISTORICAL NOTE: Written by the Office of the Governor, Division of Administration, November 1, 1972, published LR 1:179 (April 1975), amended LR 1:338 (August 1975), LR 2:312 (October 1976), LR 5:93 (May 1979), LR 6:405 (August 1980), LR 7:7 (January 1981), LR 8:406 (August 1982), LR 15:820 (October 1989), LR 16:965 (November 1990), LR 26:1258 (June 2000), LR 27:809 (June 2001), LR 28:1132 (June 2002), LR 30:1118 (June 2004), LR 31:1191 (June 2005), republished LR 1322 (July 2007), amended LR 34:1307 (July 2008), LR 35:1200 (July 2009), LR 36:1656 (July 2010), LR 42:993 (July 2016), LR 43:1122 (June 2017), LR 45:825 (June 2019), LR 46:854 (June 2020), LR 47:829 (June 2021).

Tammy Toups
State Travel Director

2106#008

Potpourri

POTPOURRI

Department of Health Bureau of Health Services Financing

2021 Fourth Quarter Hospital Stabilization Assessment

In compliance with House Concurrent Resolution (HCR) 51 of the 2016 Regular Session of the Louisiana Legislature, the Department of Health, Bureau of Health Services Financing amended the provisions governing provider fees to establish hospital assessment fees and related matters (*Louisiana Register*, Volume 42, Volume 11).

House Concurrent Resolution 2 of the 2020 First Extraordinary Session of the Louisiana Legislature enacted an annual hospital stabilization formula and directed the Department of Health to calculate, levy and collect an assessment for each assessed hospital.

The Department of Health shall calculate, levy and collect a hospital stabilization assessment in accordance with HCR 2 for the quarter April 1, 2021 through June 30, 2021. The quarterly assessment amount to all hospitals will be \$28,410,246 which amounts to 0.25 percent of total inpatient and outpatient hospital net patient revenue of the assessed hospitals.

Dr. Courtney N. Phillips
Secretary

2107#039

POTPOURRI

Department of Insurance Office of Health, Life and Annuity Insurance

Annual HIPAA Assessment Rate

Pursuant to Louisiana Revised Statute 22:1071(D)(2), the annual HIPAA assessment rate has been determined by the Department of Insurance to be .00023 percent.

Frank Opelka
Deputy Commissioner

2107#023

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
Braxton Bridges Haire	Grogan	S	Haire	001	66665
Guidry Farms Inc	Spring Gully	L	Hammie Guidry	004	86582
L B J Co.	Alden Bridge	S	Don M Whittington	001	61180(30)

Richard P. Ieyoub
Commissioner

2107#011

POTPOURRI

Workforce Commission Office of Workers' Compensation Administration

Weekly Compensation Benefits Limits

Pursuant to R.S. 23:1202, and based on the statewide average weekly wage as determined by the Louisiana Workforce Commission, the following limits shall apply to weekly compensation benefits for claimants injured during the period September 1, 2021 through August 31, 2022.

Average Weekly Wage	Maximum Compensation	Minimum Compensation	Mileage Reimbursement
\$990.85	\$743.00	\$198.00	*.56 cents per mile
*Effective January 1, 2021 the mileage reimbursement is \$0.56 per mile pursuant to R.S. 23:1203(D).			

This information updates R.S. 23:1202 of the Louisiana Workers Compensation Act.

	Average Weekly Wage	Maximum Comp	Minimum Comp
Sept 1, 2000-Aug 31, 2001	517.93	388.00	104.00
Sept 1, 2001-Aug 31, 2002	530.43	398.00	106.00
Sept 1, 2002-Aug 31, 2003	554.31	416.00	111.00
Sept 1, 2003-Aug 31, 2004	572.53	429.00	114.00
Sept 1, 2004-Aug 31, 2005	584.40	438.00	117.00
Sept 1, 2005-Aug 31, 2006	605.46	454.00	121.00
Sept 1, 2006-Aug 31, 2007	637.19	478.00	127.00
Sept. 1, 2007-Aug 31, 2008	696.00	522.00	139.00
Sept. 1, 2008-Aug. 31, 2009	728.10	546.00	146.00
Sept. 1, 2009-Aug. 31, 2010	768.83	577.00	154.00
Sept. 1, 2010-Aug. 31, 2011	772.18	579.00	154.00
Sept. 1, 2011-Aug. 31, 2012	789.00	592.00	158.00
Sept. 1, 2012-Aug. 31, 2013	807.07	605.00	161.00
Sept. 1, 2013-Aug. 31, 2014	825.54	619.00	165.00
Sept. 1, 2014-Aug. 31, 2015	839.76	630.00	168.00
Sept. 1, 2015-Aug. 31, 2016	865.31	649.00	173.00
Sept. 1, 2016-Aug. 31, 2017	876.00	657.00	175.00

	Average Weekly Wage	Maximum Comp	Minimum Comp
Sept. 1, 2017-Aug. 31, 2018	870.00	653.00	174.00
Sept. 1, 2018-Aug. 31, 2019	886.38	665.00	177.00
Sept. 1, 2019-Aug. 31, 2020	916.85	688.00	183.00
Sept. 1, 2020-Aug. 31, 2021	940.00	705.00	188.00
Sept. 1, 2021-Aug. 31, 2022	990.85	743.00	198.00

Actual wages are to be paid if the wages are less than the minimum.

Approved mileage rate as of January 1, 2021 is \$0.56 per mile.

Sheral Kellar
Assistant Secretary

2107#023

CUMULATIVE INDEX
(Volume 47, Number 6)

2021	
Pages	Issue
1-206	January
207-329	February
330-427	March
428-552	April
553-701	May
702-835	June
EO—Executive Order	
PPM—Policy and Procedure Memoranda	
ER—Emergency Rule	
R—Rule	
N—Notice of Intent	
CR—Committee Report	
GR—Governor's Report	
L—Legislation	
P—Potpourri	
QU—Administrative Code Quarterly Update	

ADMINISTRATIVE CODE UPDATE

Cumulative

January 2020-December 2020, 200QU, 539QU

AGRICULTURE AND FORESTRY

Agriculture and Environmental Sciences, Office of

Annual quarantine listing, 540P
 Certifications, 437R, 717R
 Examinations, 437R, 717R
 Fees, 437R
 Licensing, 437R, 717R

Agricultural Chemistry and Seed Commission

Industrial hemp, 438R

Horticulture Commission

Minimum examination performance levels required, 503N

Structural Pest Control Commission

Structural pest control, 504NN

Agriculture Finance Authority

Louisiana Agricultural Workforce Development Program, 499N

Agro-Consumer Services, Office of

Annual fee for registration of mass flow meters, 501N
 Commercial weighing and measuring, 562R
 Indian Creek campsite fees, 229R
 Fuel price advertising, 562R
 Meat labeling, 562R
 Suspension of standard fuel specifications for gasoline and gasoline-oxygenate blends, 703ER, 703ER, 704ER

Weights and Measures, Division of

Truth in labeling of food products, 348R

Forestry, Office of

Electronic transfer/driver cards, 276N, 375N, 563R
 Forestry Productivity Program, 277N, 564R

CHILDREN AND FAMILY SERVICES

Child Welfare, Division of

Extended foster care services, 4ER, 36R
 Louisiana's 2021 Annual Progress and Services Report, 413P
 Social Services Block Grant Intended Use Report, 413P

Child Protective Services

Maintenance and disclosure of information on reports, 608N
 Investigations on the state repository, 608N

Economic Stability Section

Caseload reduction, 203P
 Expungement of unused benefits, 609N
 Jobs for America's Graduates Louisiana (JAGS-LA) Program, 210ER, 350R
 Vulnerable communities and peoples initiative, 36R

Family Support, Division of

Caseload reduction, 123P

Licensing Section

Child placing provisions, 350R, 441R
 Suspension of license renewal fees, 229R

CIVIL SERVICE

Ethics, Board of

Food and drink limit, 504N
 Third party ethics training, 376N, 718R

CULTURE, RECREATION AND TOURISM

Cultural Development, Office of

State commercial tax credit program credit reservation process, 610N

ECONOMIC DEVELOPMENT

Business Development, Office of

Public hearing
 Enterprise Zone Program, 414P

Secretary, Office of the

Angel Investor Tax Credit Program, 37R, 613N

EDUCATION

Elementary and Secondary Education, Board of

Bulletin 111—The Louisiana School, District, and State Accountability System, 87N, 444R, 565R
 Bulletin 118—Statewide Assessment Standards and Practices, 279N, 565R, 721R
 Bulletin 126—Charter Schools—Charter School Renewals and Virtual Charter School Attendance, 284N, 569R

EDUCATION (continued)

- Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel, 354R
Bulletin 131—Alternative Education Schools/Programs Standards, 355R
Bulletin 135—Health and Safety, 94N, 450R
Bulletin 137—Louisiana Early Learning Center Licensing Regulations, 748N
Bulletin 139—Louisiana Child Care and Development Fund Programs, 4ER, 210ER, 573R
CCAP household eligibility, 96N, 288N, 452R, 574R, 754N
Bulletin 140—Louisiana Early Childhood Care and Education Network, 5ER, 98N, 452R, 556ER, 761N
Bulletin 746—Louisiana Standards for State Certification of School Personnel, 5ER, 99N, 453R, 506N, 574R
Bulletin 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students, 291N, 722R
High school assessment requirements, 428ER, 508N
Minimum reopening standards, 705ER, 763N
Phase 3 minimum requirements pertaining to reopening school facilities, 101N, 431ER, 453R
Physical distance between students in classrooms, 430ER

Regents, Board of

- Academic program standards, 616N
Student level data collection and reporting, 616N

Proprietary Schools Section

- Affidavits and Bonds, 619N
General provisions, 619N
License requirements, 619N
Proprietary schools applications, 619N
Student complaint procedure, 619N
Student records, 619N
Violations, 619N

Student Financial Assistance, Office of

- Extension of the ACT testing deadline, 6ER
Scholarship/Grant Programs
2020 natural disasters, 103N, 221ER
2020 Regular Session of the Louisiana Legislature, 38R
2021-2022 Chafee ETV Award amount, 767N
Chafee Educational and Training Voucher grade reporting, 331ER, 380N
COVID-19 exceptions, 331ER, 380N
Dual enrollment calculus, 331ER, 380N
TOPS 5.0 grading scale
AP Psychology, 38R
Waivers of certain TOPS initial eligibility for students affected by natural disasters in 2020, 383N

Tuition Trust Authority

Student Financial Assistance, Office of

- Achieving a Better Life Experience (ABLE) Program, 295N, 575R
START Saving Program, 42R, 768N

ENVIRONMENTAL QUALITY

Office of the Secretary

Legal Affairs and Criminal Investigations Division

- 2020 annual incorporation by reference of certain federal air quality regulations, 355R
Brownfields Cleanup Revolving Loan Fund Program, 511N
Lead-Based paint activities
Accreditation, 513N
Recognition, 513N
Licensure, 513N
Standards for conducting lead-based paint activities, 446N
Public hearing and request for comments
Triennial review of Louisiana water quality standards, 420P
Regional Haze 5-Year Report
State Implementation Plan (SIP) revision, 203P, 542P
Requirements for credits, 514N
Water pollution control, 516N
Water Quality Management Plan
Updates
Volume 4: Basin and Subsegment Boundaries, 421P
Appendix A: Subsegment Descriptions by Basin, 421P

EXECUTIVE ORDERS

- JBE 20-22 Atchafalaya River Basin Restoration and Enhancement, 1EO
JBE 20-23 Flags at Half-Staff—Dr. Adam John Tassin, Jr, 2EO
JBE 20-24 Flags at Half-Staff—Victor and Terry Stelly, 2EO
JBE 20-25 Flags at Half-Staff—Luke Letlow, 3EO
JBE 21-01 Flags at Half-Staff—Percy Joseph “P.J.” Mills, Jr., 207EO
JBE 21-02 Carry-Forward Bond Allocation 2020, 207EO
JBE 21-03 Amending Carry-Forward Bond Allocation 2020, 208EO
JBE 21-04 Flags at Half-Staff—Stephen Frank “Steve” Carter, 209EO
JBE 21-05 Flags at Half-Staff—Michael Hanley O’Keefe, 330EO
JBE 21-06 Flags at Half-Staff—Dr. Virgil Orr, 553EO
JBE 21-07 Governor’s Task Force on Murdered and Missing Indigenous Women and Girls, 553EO
JBE 21-08 Flags at Half-Staff—Former Governor Charles Elson “Buddy” Roemer, III, 703EO

GOVERNOR

Administration, Division of

Racing Commission

- Pick N procedure, 630N

State Procurement, Office of

- PPM 49—General Travel Regulations, 814PPM
PPM 56—Delegated Procurement Authority;
Standard and Special Delegations, 198PPM
Procurement, 110N, 324P, 578R, 725R

GOVERNOR (continued)

Tax Commission

Ad Valorem taxation, 12ER, 122N, 456R

Boxing and Wrestling Commission

Boxing and wrestling standards, 109N, 456R

Coastal Protection and Restoration Authority

Deepwater Horizon Oil Spill

Phase II Restoration Plan, 323P

Crime Victims Reparations Board

Compensation to victims, 364R

Indian Affairs, Office of

American Indian Scholarship, 472R

Law Enforcement and Administration of Criminal Justice, Commission on

Peace officer training, 394N

Licensing Board for Contractors

Licensure and exemption of exam for individuals with military training and experience, 364R

Military spouses and dependents, 364R

New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, Board of Examiners for

Examinations, 335ER

General provisions, 333ER

Qualifications, 333ER

Standards of conduct, 12ER, 333ER, 557ER

Oil Spill Coordinator's Office

Notice of Draft Restoration Plan

Lake Washington 2003 Oil Spill, 421P

Pardons, Board of

General provisions, 358R, 455R

Inactive parole supervision, 627N

Meeting and hearing for the Board of Parole, 627N

River Port Pilot Commissioners for the Port of New Orleans, Board of

River port pilots, 388N

Used Motor Vehicle Commission

Used motor vehicles, 230R

GOVERNOR'S REPORTS

Governor's review and determination for an Emergency Rule adopted by the Board of Examiners for New Orleans and Baton Rouge Steamship Pilots for the Mississippi River, 690GR

HEALTH

Aging and Adult Services, Office of

Home and community-based services waivers

Community Choices Waiver, 522N

Cost reporting requirements, 631N

Support coordination standards for participation, 524N

Personal care services

Long term care, 304N

Programs and services amendments due to the Coronavirus disease 2019 (COVID-19) public health emergency, 213ER, 341ER, 433ER, 711ER

Behavioral Health, Office of

Programs and services amendments due to the Coronavirus disease 2019 (COVID-19) public health emergency, 213ER, 711ER

Citizens with Developmental Disabilities, Office for

Act 421 children's Medicaid option, 43R

Council on the Purchase of Goods and Services of Individuals with Disabilities, 371R

Home and community-based services waivers

Cost reporting requirements, 631N

Programs and services amendments due to the Coronavirus disease 2019 (COVID-19) public health emergency, 341ER, 433ER

Targeted case management, 646N

Counselors, Licensed Professional, Board of Examiners

Consulting, 306N

License renewal, 557ER

Teletherapy, 558ER

Dentistry, Board of

CDC Inspection violation expungement, 42R

Nitrous Oxide Analgesia, 42R

Teledentistry

Authorized duties, 236R

Health Services Financing, Bureau of

2021 fourth quarter hospital stabilization assessment, 829P

2021 third quarter hospital stabilization assessment, 422P

Abortion facilities

Licensing standards, 338ER, 708ER

Act 421 children's Medicaid option, 43R

Case management

Licensing standards, 769N

Dental Benefits Prepaid Ambulatory Health Plan

Payment methodology, 369R

Emergency telemedicine, 212ER, 710ER

Facility need review

Relocation of nursing facility beds, 143N

Federally qualified health centers, 46R

Home and community-based services providers

Licensing standards, 47R

Home and community-based services waivers

Community Choices Waiver, 522N

Cost reporting requirements, 631N

Support coordination standards for participation, 524N

Home Health Program

Durable medical equipment, 644N

Hospice

Licensing standards, 771N

Intermediate care facilities for persons with developmental disabilities, 773N

Intermediate care facilities for persons with intellectual disabilities

Reimbursement methodology, 370R

Direct care floor recoupment, 645N

Temporary reimbursement for private facilities, 212ER, 302N, 341ER, 593R

Laboratory and radiology services, 250R

HEALTH (continued)

Licensing standards
Crisis receiving centers, 138N, 472R
Medicaid eligibility
Twelve-Month continuous eligibility, 396N, 737R
Medical Transportation Program
Non-emergency medical transportation, 371R
Nursing facilities
Licensing standards, 775N
Non-Emergency transportation for medical appointments, 371R
Supplemental payments
Non-State governmental organizations, 144N, 476R
Personal care services
Long term care, 304N, 593R
Professional Services Program, 48R
Immunizations, 49R
Reimbursement methodology, 146N, 477R
Programs and services amendments due to the Coronavirus disease 2019 (COVID-19) public health emergency, 213ER, 215ER, 341ER, 433ER, 711ER, 713ER
Public Hearing
Substantive changes to proposed Rule Facility Need Review—Relocation of Nursing Facility Beds, 691P
Reimbursement for Coronavirus Disease 2019 (COVID-19) laboratory testing, 778N
Reimbursement for vaccine administration during a declared public health emergency, 28ER, 434ER, 459N, 526N
Rural health clinics, 50R
School-Based health services, 398N, 738R
Targeted case management, 646N
Licensed Professional Counselors Board of Examiners
Teletherapy guidelines for licensees, 714ER, 714ER
Medical Examiners, Board of
Assessment of costs and fines, 726R
Complaints and investigations, 735R, 736R
Continuing medical education, 727R
Licensure
Application, 729R
Certification, 730R, 731R
Rules of procedure, 735R
Nursing, Board of
Advanced practice registered nurses, 123N, 300N, 336ER
Continuing education, 333ER
Temporary permits, 211ER
Delegation of medication administration, 211ER
Optometry Examiners, Board of
2020-2021 continuing education, 337ER
License to practice optometry
Fees, 237R
Licensure by endorsement, 237R
Petitions for rulemaking, 734R
Pharmacy, Board of
Automated medication systems, 240R
Controlled dangerous substance license for hemp facility, 126N
Labeling and delivery of marijuana products, 128N, 590R
Licensing for military families, 244R

Marijuana recommendations, 246R
Pharmacists, pharmacies and prescriptions, 130N
Pharmacy benefit managers, 590R
Prescription Monitoring Program, 84R, 247R
State of emergency, 136N, 592R
Temporary suspension of license renewal fees, 338ER
Transfer of marijuana recommendations, 521N

Physical Therapy Board

Licensing and certification, 654N

Psychologists, Board of Examiners of

Fees, 299N

Public Health, Office of

Automated external defibrillators, 402N, 742R
Mandatory tuberculosis (TB) testing, 405N, 743R
Registration of foods, drugs, cosmetics and prophylactic devices, 148N, 478R
Sanitary Code
Disease reporting requirements, 51R

INSURANCE

Commissioner, Office of the

Regulation 17—Reinstatement of Policies, 780N
Regulation 29—Correlated Sales of Life Insurance and Equity Products, 528N
Regulation 39—Statement of Actuarial Opinion, 52R
Regulation 42—Group Self-Insurance Funds, 52R
Regulation 56—Credit for Reinsurance, 781N
Regulation 65—Bail Bond Licensing Requirements/Bounty Hunter, 796N
Regulation 109—Producer, Adjuster and Related Licenses, 408N, 745R
Regulation 112—Adoption of NAIC Handbooks, Guidelines, Forms, and Instructions, 530N
Regulation 115—Title Insurance Record Retention, 799N
Rule 9—Prelicensing Education, 307N, 594R
Rule 10—Continuing Education, 313N, 599R
Rule 12—Transmission of Forms and Documents, 801N
Rule 14—Records Management; General, 410N, 736R
Life and Annuity Insurance, Office of Health
Annual HIPAA assessment rate, 829N

LOUISIANA LOTTERY CORPORATION

On-Line and instant lottery games, 366R

NATURAL RESOURCES

Coastal Management, Office of

Local coastal management programs, 151N

Coastal Protection and Restoration Authority

Fiscal Year 2022 Draft Annual Plan2, 203P

Conservation, Office of

Class VI injection wells, 53R
Commercial deep well injection waste disposal facility, 542P
Orphaned oilfield sites, 325P, 542P, 691P, 829P
Pipeline safety, 663N

PUBLIC SAFETY AND CORRECTIONS

Corrections Services

Access to and release of active and inactive offender records, 532N

Restoration of good time, 535N

Gaming Control Board

Fantasy sports contest, 255R

Liquefied Petroleum Gas Commission

Class I-E permit, 29ER, 216ER, 480R

Oil Spill Coordinator's Office

Draft Damage Assessment and Restoration Plan and Environmental Assessment for 2008 Mississippi River Oil Spill, 694P

Notice of Final Restoration Plan Lake Washington 2003 Oil Spill, 695P

State Fire Marshal, Office of the

Fire-resistant material applicators, 253R

Storm shelters, 79R

Transporter license/modular homes, 484R

State Police, Office of

Hazardous materials, 155N, 489R

Motor carrier safety, 155N, 489R

Uniform Construction Code Council

Storm shelters, 33ER

REVENUE

Alcohol and Tobacco Control, Office of

Direct delivery of alcohol public safety regulations, 80R

Policy Services Division

Abatement of presumed accuracy-related penalties, 803N

Claim for refund requirements, 805N

Installment agreement for payment of tax, 537N

Mandatory electronic filing, 271R

STATE

Elections Division

Opportunity to cure deficiencies in absentee by mail ballot, 226ER, 716ER, 807N

TRANSPORTATION AND DEVELOPMENT

Offshore Terminal Authority

Offshore terminal facilities air emissions, 672N

Recordkeeping and reporting, 672N

TREASURY

Deferred Compensation Commission

Administration, 346ER, 714ER

Distribution, 346ERx, 714ER

Teachers' Retirement System, Board of Trustees of the

Optional Retirement Plan (ORP), 808N

Voluntary deductions from retiree benefits payroll, 811N

TRANSPORTATION AND DEVELOPMENT

Offshore Terminal Authority

Superport Environmental Protection Plan, 156N, 490R

Professional Engineering and Land Surveying Board

Accredited land surveying curriculum, 490R

Continuing professional development, 490R

Military members/spouses/dependents, 490R

UNIFORM LOCAL SALES TAX BOARD

Audit protocols for local sales and use taxes, 518N

Claims for refund or credit, 674N

Interest on refunds or credits, 675N

WILDLIFE AND FISHERIES

Wildlife and Fisheries Commission

Deer Management Assistance Program

Signage change, 158N, 605R

Domesticated aquatic organisms, 677N

Hunting regulations for the 2021-2023 season, 159N

Oyster

Harvest restriction, 319N, 605R, 746R

Poverty Point Reservoir

Netting season extension, 347ER

Public hearing

Substantive change to Notice of Intent

2021-2023 hunting regulations and seasons, 423P

Recreational reef sites, 319N, 746R

Shrimp

Season closure

Portions of state inside waters, 34ER

Portions of state inshore and outside waters, 227ER

Season opening

Inshore shrimp, 559ER

Portions of state outside waters, 436ER, 560ER

Shark

Season adjustment

Commercial large coastal shark, 435ER

Waterfowl

Hunting zones, 411N

Yo-Yo and trotline regulations, 497R

WORKFORCE COMMISSION

Plumbing Board

Multi-site signage, 273R

Unemployment Insurance Administration, Office of

State income tax withholding from unemployment insurance benefits, 34ER, 560ER

Workers' Compensation Administration, Office of

Medical treatment guidelines, 320N, 606R

Weekly compensation benefits limits, 326P, 829P