

# Rules

## RULE

### Department of Agriculture and Forestry Office of Forestry

#### Indian Creek Recreation Area User Fees (LAC 7:XXXIX.501)

In accordance with R.S.49:950 et seq., the Administrative Procedure Act, the Department of Agriculture and Forestry, Office of Forestry, has amended LAC 7:XXXIX.501, Indian Creek Recreation Area, Usage Fees. The Rule provides for an increase in some of the fees charged to users of the Indian Creek Recreation Area, which is located on the Alexander State Forest near Woodworth, Louisiana. These fee increases are necessary to cover the increased cost of operation of the park.

This Rule complies with and is enabled by Act 591 of 1970.

### Title 7

## AGRICULTURE AND ANIMALS

### Part XXXIX. Forestry

#### Chapter 5. Indian Creek Recreation Area

##### §501. Usage Fees

A. The Department of Agriculture and Forestry, Office of Forestry, hereby announces the following usage fee revisions.

1. Entrance Fee (Day Use)	\$3 per Vehicle with up to Six Occupants. Additional \$0.50 per Person for Additional Occupants
2. Regular Campsite	\$ 14/day
3. Pull-Through Campsite	\$ 18/day
4. Primitive Campsite	\$ 8/day
5. Pavilion Rental	\$ 50/day
6. Boat Launch	\$ 3/boat
7. 30-day Off-Season Rate for Regular Campsite (Oct.-Feb. only)	\$210/month
8. 30-day Off-Season Rate for Pull-through Campsite (Oct.-Feb. only)	\$270/month

AUTHORITY NOTE: Promulgated in accordance with Act 591 of 1970.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, and the Louisiana Forestry Commission, LR 6:734 (December 1980), amended LR 11:1178 (December 1985), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 17:476 (May 1991), LR 23:553 (May 1997), LR 30:195 (February 2004).

Bob Odom  
Commissioner

0402#060

## RULE

### Department of Agriculture and Forestry Office of the Agriculture and Environmental Sciences Fertilizer Commission

#### Fertilizer Commission? Fees (LAC 7:XI.115)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Fertilizer Commission, amended regulations governing fee costs associated with registration, inspection, testing, regulating, and administering the Fertilizer Law.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds is not a continuing option. The fiscal year begins on the first of July. These Rules will take place in accordance with the Administrative Procedure Act.

### Title 7

## AGRICULTURE AND ANIMALS

### Part XI. Fertilizers

#### Chapter 1. Sale of Fertilizers

##### §115. Tonnage Reports; Inspection Fees

A. All registrants must file a report of the tonnage and grade of product sold, on forms to be provided by the Fertilizer Commission of the Louisiana Department of Agriculture and Forestry, on the first day of July, the first day of October, the first day of January, and the first day of April of each year.

B. All registrants must grant the Fertilizer Commission of the Department of Agriculture and Forestry the right to examine their records for verification of the tonnage reports filed as required by §115.A.

C. Every guarantor blending or selling fertilizer in small package lots totaling less than 100 tons per year shall pay to the Fertilizer Commission of the Department of Agriculture and Forestry an annual inspection fee of \$100.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1312.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Fertilizer Commission, LR 7:164 (April 1981), amended LR 12:495 (August 1986), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Fertilizer Commission, LR 30:195 (February 2004).

Bob Odom  
Commissioner

0402#063

## RULE

### Department of Agriculture and Forestry Office of Agricultural and Environmental Sciences Structural Pest Control Commission

Structural Pest Control (LAC 7:XXV.117 and 119)

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Structural Pest Control Commission, amends regulations regarding an increase in fees for each termite contract and wood-destroying insect reports.

The Department of Agriculture and Forestry deems the implementation of these rules and regulations necessary to fund the operations of the Structural Pest Control Commission. The Commission has recorded deficit spending for the last five years. The yearly shortfalls in revenues were made up from other funds within the Louisiana Department of Agriculture and Forestry. This Rule also allows the department to regulate the structural pest control industry consistently and insure that the state's citizens are getting the services for which they are paying.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXV. Structural Pest Control

#### Chapter 1. Structural Pest Control Commission

##### §117. Obligations of the Licensee

A. - L. ...

M. The fee per termite contract and wood-destroying insect report is \$6 per contract and/or inspection report issued and \$8 for each combination liquid spot and bait and baiting system contract and is due on or before the tenth day of each month.

N. - P. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:327 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:956 (November 1989), LR 21:930 (September 1995), LR 23:855 (July 1997), LR 26:2437 (November 2000), amended by the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004).

##### §119. Contracts for Termite Control Work

A. - E. ...

F. The licensee shall pay a \$6 fee for each standard contract and shall pay an \$8 fee for each combination contract for liquid spot and bait and baiting system treatments reported under §119.E above when the required monthly report is filed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3302 and R.S. 3:3306.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Structural Pest Control Commission, LR 11:328 (April 1985), amended by the Department of Agriculture and Forestry, Structural Pest Control Commission, LR 15:957 (November 1989), LR 26:2437 (November 2000), LR 27:1179 (August 2001), LR 27:2084 (December 2001), LR 28:1171 (June 2002), amended by

the Department of Agriculture and Forestry, Office of Agricultural and Environmental Sciences, Structural Pest Control Commission, LR 30:196 (February 2004).

Bob Odom  
Commissioner

0402#058

## RULE

### Department of Agriculture and Forestry Office of the Commissioner

Meat and Poultry Inspections  
(LAC 7:XXXIII.101)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Commissioner, has amended regulations regarding the Meat and Poultry Inspection Program.

The changes will adopt Title 9, Chapter III A, of the *Code of Federal Regulations* and Subchapter E, of the *Code of Federal Regulations*: 416 Sanitation, 417 Hazard Analysis and Critical Control Point (HACCP) Systems, 500 Rules of Practice. The regulations will also remove all references to the word "Permit" and replaces it with the word "License" and removes references to "Handbook 191" and all references to Blueprints submissions and replaces those with the statement "latest addition of the Code of Federal Regulations."

These Rules are enabled by R.S. 3:4222 and R.S. 3:4232.

#### Title 7

### AGRICULTURE AND ANIMALS

#### Part XXXIII. Meat and Poultry Inspections

#### Chapter 1. Meat and Poultry Inspection Program

##### §101. Adoption of Federal Meat and Poultry Inspection Regulations

A. The Louisiana Cooperative Federal/State Meat and Poultry Inspection Program will be governed by the rules and regulations contained in the Meat and Poultry Inspection Regulations of the Meat and Poultry Inspection Program of the U.S. Department of Agriculture, in effect as of the effective date of these regulations and all subsequent changes.

1. Meat and Poultry Inspection Regulations: Title 9, Chapter III, Subchapter A, *Code of Federal Regulations*.

2. Regulatory requirements under Federal Meat Inspection Act and Poultry Products Inspection Act: Title 9, Chapter III, Subchapter E, *Code of Federal Regulations*: 416 Sanitation, 417 Hazard Analysis and Critical Control Point (HACCP) Systems, 500 Rules of Practice

B. The Louisiana Cooperative Federal/State Meat and Poultry Inspection Program will be governed by the requirements in the latest addition of the Code of Federal Regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:4222 and R.S. 3:4232.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Office of Management and Finance, LR 6:708 (December 1980), amended by the Department of Agriculture and

Bob Odom  
Commissioner

0402#064

**RULE**

**Department of Agriculture and Forestry  
Office of the Commissioner  
Advisory Commission on Pesticides**

**Pesticide Testing Fees  
(LAC 7:XXIII.131)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Advisory Commission on Pesticides, amends regulations regarding pesticide testing fees.

These Rules and regulations are necessary to conform to state statute and fund the operations of the Division of Pesticides and Environmental Programs. The fiscal year begins on the first of July. Adoption of permanent Rules will be in accordance with the Administrative Procedure Act. However, this process takes several months to complete.

These Rules are enabled by R.S. 3:3202, R.S. 3:3221, R.S. 3:3222 and R.S. 3:3251.

**Title 7  
AGRICULTURE AND ANIMALS  
Part XXIII. Pesticide**

**Chapter 1. Advisory Commission on Pesticides  
Subchapter G. Fees**

**§131. Fees**

A. Fees required under the Louisiana Pesticide Law to be adopted by regulation are established as:

Special Local Need Registration Application Fee	\$100
Examination Fees (for each exams' Private Applicator exempt)	
In Baton Rouge	\$ 25
At Meeting outside Baton Rouge	\$ 25
At District Offices	\$ 50
Duplicate Licenses and/or Certification Cards	Same as Original
Requested Lists and Copies	Postage + minimum of \$1 or Postage + \$0.25 /page

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203, R.S. 3:3221, R.S. 3:3222 and R.S. 3:3251.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Advisory Commission on Pesticides, LR 10:194 (March 1984), amended by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 15:76 (February 1989), LR 24:281 (February 1998), Department of Agriculture and Forestry, Office of Commissioner, Advisory Commission on Pesticides, LR 30:197 (February 2004).

Bob Odom  
Commissioner

0402#059

**RULE**

**Department of Agriculture and Forestry  
Office of the Commissioner  
Agricultural Commodities Commission**

**Agricultural Commodities (LAC 7:XXVII.128)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Louisiana Agricultural Commodities, has amended regulations regarding an increase in fees for re-grading grain sampling as well as fees to inspect and register moisture meters.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds is not a continuing option. The fiscal year begins on the first of July. Adoption of these Rules will take place in accordance with the Administrative Procedure Act.

**Title 7  
AGRICULTURE AND ANIMALS  
Part XXVII. Agricultural Commodity Dealer  
and Warehouse Law**

**Chapter 1. Agricultural Commodities Commission  
Subchapter E. Assessments and Fees**

**§128. Fees: Amount, Time of Payment**

A. - C.3. ...

4. Official Services (including sampling except as indicated)

Online D/T sampling inspection service (sampling, grading and certification), per regular hour	\$25.00
Overtime hourly rate, per hour	\$40.00
Unit Inspection Fees:	
Hopper Car, per car	\$20.00
Boxcar, per car	\$15.00
Truck/Trailer, per carrier	\$10.00
Barge, per 1,000 bushels	\$ 2.50
Submitted sample inspection	\$12.00
Re-grade grain sample	\$15.00

**D. Moisture Meter Registration and Inspection Fee**

1. A registration fee of \$20 per meter and an inspection fee of \$40 per meter to be paid by the owner or user of every moisture measuring device used or held for use at any commercial facility which receives, holds, dries, stores, mills, processes or otherwise deals in agricultural commodities in the state, when such use or intended use is for the purpose of determining discounts or other price variances in connection with the purchase or sale of such commodity, said device shall be registered with the Louisiana Department of Agriculture and Forestry.

2. Registration shall be required on or before May 15 of each year or within two business days of acquisition of a new or additional unregistered moisture measuring device for the purpose set forth in Paragraph 1 of this Section. Registration forms will be provided by the department and shall state the name and address of the commercial facility which owns or uses the device, the number of devices used and held for use, the brand name(s) of the device(s), and

such other information as may be deemed necessary to carry out the provisions of this Subchapter.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3405.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Office of Agro-Consumer Services, Agricultural Commodities Commission, LR 12:287 (May 1986), amended LR 14:528 (August 1988), LR 19:889 (July 1993), LR 23:196 (February 1997), LR 27:815 (June 2001), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Agricultural Commodities Commission, LR 30:197 (February 2004).

Bob Odom  
Commissioner

0402#057

## **RULE**

### **Department of Agriculture and Forestry Office of the Commissioner Feed Commission**

#### **Feed Commission Inspection Fees (LAC 7:XVII.121)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Feed Commission, amends regulations pertaining to references to the inspection fee since this fee is prescribed in the law. The amounts of the fees for company and label registration are indicated in the attached copies of the Rules. These fees are based on the costs associated with registration, inspection, testing, regulating, and administering the Commercial Feed Law.

Louisiana is experiencing an unprecedented shortfall in state finances. The legislature has cut the department's budget; therefore, using other department funds is not a continuing option. The fiscal year begins on the first of July. These Rules will take place in accordance with the Administrative Procedure Act.

These Rules are enabled by R.S. 3:1901 and R.S. 3:1892.

#### **Title 7**

### **AGRICULTURE AND ANIMALS**

#### **Part XVII. Feed Commission**

#### **Chapter 1. Commercial Feeds**

#### **Subchapter A. Official Feed Rules and Regulations**

#### **§121. Fees**

A. Each application for registration with the commission shall be accompanied by a registration fee of \$40.

B. Each registrant filing a label with the commission shall pay to the commission a labeling fee of \$10 per label for one to 50 products, \$8 per label for 51 to 200 products, \$6 per label for 201 or more products.

C. Registration shall expire on the last day of June of each year. An additional \$50 late fee will be charged for renewal registrations filed after the last day of June. A late fee will not be charged on initial registrations or registrations of new products filed after the last day of June.

D. If a registrant had no sales in a given quarter, he must still file a tonnage report and pay a minimum tonnage fee of \$10 for that quarter. A registrant shall keep all records necessary to accurately indicate the tonnage and kind of commercial feed sold and shall permit the commissioner or

his authorized representative to examine these records and to verify the statement of tonnage. Tonnage reports shall be made on forms supplied by the commissioner and suitable for providing the necessary tonnage and statistical information. The tonnage reports and inspection fees shall be due and payable on the first day of October, the first day of January, the first day of April and the first day of July. If the report is not filed and payment made within 30 days after the date due, a penalty of 25 percent of the amount due shall be assessed against the registrant. If payment is not made within 30 days after the due date, the amount of fees due, plus the penalty, shall constitute a debt and become the basis of a judgment against the registrant. All information as to the amount of feed sold and business practices of the registrant obtained from tonnage reports or from inspection of records and books shall remain confidential and shall not be revealed by the commissioner or his employees to the public or to any other person.

E. The inspection fee shall be collected only once on each lot of ingredients. To achieve this end, the following provisions shall apply.

1. No fee shall be paid on a commercial feed if a previous manufacturer has paid the fee.

2. No fee shall be paid on customer-formula feeds of the inspection fee has been paid on the commercial feeds, which are used as ingredients therein.

3. No fee shall be paid on commercial feeds, which are used as ingredients for the manufacture of registered commercial feeds. If the fee has already been paid, credit shall be given for that payment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:1901 and 3:1892.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture, Feed Commission, LR 11:223 (March 1985), amended LR 11:944 (October 1985), amended by the Department of Agriculture and Forestry, Office of the Commissioner, Louisiana Feed Commission, LR 30:198 (February 2004).

Bob Odom  
Commissioner

0402#062

## **RULE**

### **Department of Agriculture and Forestry Office of the Commissioner Seed Commission**

#### **Tropical Soda Apple and Noxious Weed Seeds (LAC 7:XIII.109 and 145)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of the Louisiana Seed Commission, amended regulations to include Tropical Soda Apple (*Solanum viarum* Dunal) as a prohibitive noxious weed into the List and Limitations of Noxious Weed Seed and Noxious Weeds.

The Department of Agriculture and Forestry, Louisiana Seed Commission amended these rules and regulations for the purpose of preventing the introduction and spread of Tropical Soda Apple, a prohibitive noxious weed in the Federal Seed Act. There are currently seed lots (bahia grass and jointvetch) coming out of Florida contaminated with

TSA. These amendments will allow us to take regulatory action if found in our regular sampling.

These rules are enabled by R.S. 3:1433.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XIII. Seeds**

**Chapter 1. Louisiana Seed Law**

**Subchapter A. Enforcement of the Louisiana Seed Law**

**§109. List and Limitations of Noxious Weed Seed**

**A. List and Limitations of Noxious Seed**

List and Limitations of Noxious Seed	
Name	Limitations
1. Tropical Soda Apple ( <i>Solanum viarum Dunal</i> )	Prohibited
2. Field Bindweed ( <i>Convolvulus arvensis</i> )	Prohibited
3. Hedge Bindweed ( <i>Convolvulus sepium</i> )	Prohibited
4. Nutgrass ( <i>Cyperus esculentus, C. rotundus</i> )	Prohibited
5. Itchgrass ( <i>Rottboellia exaltata, L., R. cochinchinensis</i> )	Prohibited
6. Balloon Vine ( <i>Cardiospermum halicacabum</i> )	Prohibited
7. Cocklebur ( <i>Xanthium spp.</i> )	5 per lb.
8. Spearhead ( <i>Rhynchospora spp.</i> )	5 per lb.
9. Purple Moonflower ( <i>Ipomoea turbinata</i> )	9 per lb.
10. Red Rice ( <i>Oryza sativa var.</i> )	9 per lb.
11. Wild Onion and/or Wild Garlic ( <i>Allium spp.</i> )	9 per lb.
12. Canada Thistle ( <i>Cirsium arvense</i> )	100 per lb.
13. Dodder ( <i>Cuscuta spp.</i> )	100 per lb.
14. Johnsongrass ( <i>Sorghum halepense</i> )	100 per lb.
15. Quackgrass ( <i>Agropyron repens</i> )	100 per lb.
16. Russian Knapweed ( <i>Centaurea repens</i> )	100 per lb.
17. Blueweed, Texas ( <i>Helianthus ciliaris</i> )	200 per lb.
18. Grass, Bermuda ( <i>Cynodon dactylon</i> )	300 per lb.
19. Bracted Plantain ( <i>Plantago aristata</i> )	300 per lb.
20. Buckhorn Plantain ( <i>Plantago lanceolata</i> )	300 per lb.
21. Cheat ( <i>Bromus secalinus</i> )	300 per lb.
22. Hairy Chess ( <i>Bromus commutatus</i> )	300 per lb.
23. Corncockle ( <i>Agrostemma githago</i> )	300 per lb.
24. Darnel ( <i>Lolium temulentum</i> )	300 per lb.
25. Dock ( <i>Rumex spp.</i> )	300 per lb.
26. Horsenettle ( <i>Solanum carolinense</i> )	300 per lb.
27. Purple Nightshade ( <i>Solanum elaeagnifolium</i> )	300 per lb.
28. Sheep Sorrel ( <i>Rumex acetosella</i> )	300 per lb.
29. Morning Glory ( <i>Ipomoea spp.</i> )	18 per lb.
30. Wild Poinsettia ( <i>Euphorbia heterophylla, E. dentata</i> )	18 per lb.
31. Wild Mustard and Wild Turnips ( <i>Brassica spp.</i> )	300 per lb.
32. Hemp Sesbania, Coffeebean, Tall Indigo ( <i>Sesbania exaltata</i> )	300 per lb.
33. Curly Indigo ( <i>Aeschynomene virginica</i> )	300 per lb.
34. Mexican Weed ( <i>Caperonia castaneaefolia</i> )	300 per lb.
Sum of Total Noxious Weed (Subject to limitations above)	500 per lb.

B. Limitations on noxious and prohibited weeds are listed on individual certified crop seed regulations. Noxious weed seed tolerance of one for regulatory action on certified seed being offered for sale in Louisiana for those noxious weed seed which are prohibited by the Louisiana Certified Seed Regulations for the specific seed kind in question.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 4:105 (April 1978), amended LR 5:96 (May 1979), LR 7:285 (June 1981), LR 8:563 (November 1982), LR 9:197, 206 (April 1983), LR 12:825 (December 1986), LR 14:605 (September 1988), LR 23:1282 (October 1997), amended by the Department of Agriculture and Forestry, Office of

the Commissioner, Louisiana Seed Commission, LR 30:199 (February 2004).

**§145. Noxious Weeds**

A. The following weeds, together with the specific limitation shown for each weed, are designated as noxious weeds.

Limitations on Weed Seed in Certified Seed	(By Pounds)
1. Tropical Soda Apple ( <i>Solanum viarum Dunal</i> )	Prohibited
2. Field Bindweed ( <i>Convolvulus arvensis</i> )	Prohibited
3. Hedge Bindweed ( <i>Convolvulus sepium</i> )	Prohibited
4. Nutgrass ( <i>Cyperus esculentus, C. rotundus</i> )	Prohibited
5. Itchgrass ( <i>Rottboellia exaltata L., R. cochinchinensis</i> )	Prohibited
6. Balloonvine ( <i>Cardiospermum halicacabum</i> )	Prohibited
7. Cocklebur ( <i>Xanthium spp.</i> )	5 per lb.
8. Spearhead ( <i>Rhynchospora sp p.</i> )	5 per lb.
9. Purple Moonflower ( <i>Ipomoea turbinata</i> )	9 per lb.
10. Red Rice ( <i>Oryza sativa var. </i> )	9 per lb.
11. Wild Onion and/or Wild Garlic ( <i>Allium spp.</i> )	9 per lb.
12. Canada Thistle ( <i>Cirsium arvense</i> )	100 per lb.
13. Dodder ( <i>Cuscuta sp p.</i> )	100 per lb.
14. Johnsongrass ( <i>Sorghum halepense</i> )	100 per lb.
15. Quackgrass ( <i>Agropyron repens</i> )	100 per lb.
16. Russian Knapweed ( <i>Centaurea repens</i> )	100 per lb.
17. Blueweed, Texas ( <i>Helianthus ciliaris</i> )	200 per lb.
18. Bermuda Grass ( <i>Cynodon dactylon</i> )	300 per lb.
19. Bracted Plantain ( <i>Plantago aristata</i> )	300 per lb.
20. Buckhorn Plantain ( <i>Plantago lanceolata</i> )	300 per lb.
21. Cheat ( <i>Bromus secalinus</i> )	300 per lb.
22. Hairy Chess ( <i>Bromus commutatus</i> )	300 per lb.
23. Corncockle ( <i>Agrostemma githago</i> )	300 per lb.
24. Darnel ( <i>Lolium temulentum</i> )	300 per lb.
25. Dock ( <i>Rumex spp.</i> )	300 per lb.
26. Horsenettle ( <i>Solanum carolinense</i> )	300 per lb.
27. Purple Nightshade ( <i>Solanum elaeagnifolium</i> )	300 per lb.
28. Sheep Sorrel ( <i>Rumex acetosella</i> )	300 per lb.
29. Morning Glory ( <i>Ipomoea spp.</i> )	18 per lb.
30. Wild Poinsettia ( <i>Euphorbia heterophylla, E. dentate</i> )	18 per lb.
31. Wild Mustard and Wild Turnips ( <i>Brassica spp.</i> )	300 per lb.
32. Hemp Sesbania, Coffee Bean, Tall Indigo ( <i>Sesbania exaltata</i> )	300 per lb.
33. Curly Indigo ( <i>Aeschynomene virginica</i> )	300 per lb.
34. Mexican Weed ( <i>Caperonia castaneaefolia</i> )	300 per lb.
Sum of Total Noxious Weed Seed (Subject to limitation above)	500 per lb.

B. Noxious weed seeds are permitted in seed to be certified, within the limitations specified in §145.A, unless prohibited or otherwise limited under the specific rules for the crop or variety entered for certification. (See §§155-221 for limitations on each noxious weed for each crop or variety.)

C. Limitations on noxious weeds (in the field or in seed to be certified), may be more restrictive for a particular crop or variety to be certified than the limitations shown in §145.A above. The limitation on noxious weeds stated in §§155-221 shall supersede the limitations shown in §145.A whenever a more restrictive limitation is stated in the specific requirements for the crop or variety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:1431 and R.S. 3:1433.

HISTORICAL NOTE: Promulgated by the Department of Agriculture, Seed Commission, LR 8:566 (November 1982), amended LR 9:197 (April 1983), LR 12:825 (December 1986), LR 14:605 (September 1988), LR 23:1283 (October 1997), amended by the Department of Agriculture and Forestry, Office of the

Bob Odom  
Commissioner

0402#061

**RULE**

**Department of Agriculture and Forestry  
Office of Forestry**

**Tree Seedling Prices  
(LAC 7:XXXIX.301)**

In accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Agriculture and Forestry, Office of Forestry, has amended rules and regulations regarding tree seedling prices.

The Office of Forestry nursery operations are an ancillary budget operation and all production and operating costs must be covered entirely by revenue generated from seedling sales. Seedling prices are set to reflect, as closely as possible, a break-even pricing structure. The changes to the seedling prices are designed to bring sales revenue in line with production costs and to establish an efficient and organized pricing structure that is consistent with tree seedling marketing in the state and the region.

These Rules comply with and are enabled by R.S. 3:4303.

**Title 7**

**AGRICULTURE AND ANIMALS**

**Part XXXIX. Forestry**

**Chapter 3. Tree Seedlings**

**§301. Seedling Prices**

A. The Louisiana Forestry Commission adopts the following prices for forest tree seedlings.

Improved Pine Seedlings	\$ 35 per 1000 seedlings
Advanced Generation Seedlings	\$ 42 per 1000 seedlings
Special Pine Seedlings	\$ 75 per 1000 seedlings
Hardwood Seedlings	\$200 per 1000 seedlings
Baldcypress Seedlings	\$200 per 1000 seedlings

B.1. Volume discounts for bulk loblolly/slash pine seedling orders and contracts shall be as follows.

Order/Sales Volume (Number of Seedlings)	Proposed Discounted Sales (M = 1,000 Seedlings)
-1,000,000	\$35.00/M
1,000,001-2,000,000	\$34.00/M
2,000,001-3,000,000	\$33.00/M
3,000,001-4,000,000	\$32.00/M
4,000,001-5,000,000	\$31.00/M
5,000,001-6,000,000	\$30.00/M
6,000,001+	\$29.00/M

NOTE: The Office of Forestry seed costs shall be deducted from these prices when seedlings are produced from seed supplied by the customers.

2. When there is a surplus of seedlings above planned or expected sales, a more accelerated rate of price reductions will be considered, subject to the approval of the State Forester and/or the Commissioner of Agriculture and Forestry.

3. This accelerated rate of discount will be applied no earlier than 30 days prior to the anticipated end of the annual lifting season.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:1503, redesignated R.S. 3:4303.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Forestry, Forestry Commission, LR 8:285 (June 1982), amended LR 10:468 (June 1984), amended by the Department of Agriculture and Forestry, Office of Forestry, and the Louisiana Forestry Commission LR 13:432 (August 1987), LR 19:610 (May 1993), LR 21:671 (July 1995), LR 22:1210 ((December 1996), LR 26:2437 November 2000), amended by the Department of Agriculture and Forestry, Office of Forestry, LR 30:200 (February 2004).

Bob Odom  
Commissioner

0402#056

**RULE**

**Board of Elementary and Secondary Education**

**Bulletin 746? Louisiana Standards for State Certification of School Personnel? Definition of Highly Qualified Teachers and Paraprofessionals (LAC 28:I.903)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education amended *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy outlines a Louisiana definition for highly qualified teachers and highly qualified paraprofessionals, as required by the No Child Left Behind Act of 2001.

**Title 28**

**EDUCATION**

**Part I. Board of Elementary and Secondary Education**

**Chapter 9. Bulletins, Regulations, and State Plans**

**Subchapter A. Bulletins and Regulations**

**§903. Teacher Certification Standards and Regulations**

**A. Bulletin 746**

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975), LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:541 (December 1975), amended LR 28:760 (April 2002), LR 28:763 (April 2002), LR 28:765 (April 2002), LR 28:990 (May 2002), LR 30:200 (February 2004).

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**State of Louisiana**

**Highly Qualified Teacher Requirements  
Background Information**

The requirement that teachers be highly qualified applies to any public elementary, middle, or secondary school teacher. The Louisiana Department of Education (LDE) is the state agency/entity responsible for prescribing qualifications and providing for the certification of teachers under authority of (R.S. 17:7.1).

The Louisiana Department of Education is collaborating with the Board of Elementary and Secondary Education and

the Board of Regents on state activities under No Child Left Behind (NCLB) Act of 2001 related to "highly qualified teachers."

#### **Timeline**

All teachers hired on or after the first day of the 2002-2003 school year to work in programs supported by Title I funds and who teach core academic subjects must be highly qualified. All teachers of core academic subjects must meet highly qualified status by the end of the 2005-2006 school year.

#### **Statutory Requirements for Certification**

To obtain initial Louisiana certification, one must hold at least a baccalaureate degree, have earned a minimum grade point average of a cumulative 2.50, and have demonstrated subject knowledge and teaching skills in the certification area by passing rigorous exams required in Louisiana.

#### **Academic Major**

In the State of Louisiana, for the purpose of NCLB, teachers who completed an academic content major are highly qualified in that content area.

#### **Advanced Certification**

For the purpose of NCLB, advanced certification is defined as having a master's degree or higher degree in the content area. Teachers qualifying as highly qualified under this option must meet all applicable state laws.

#### **Advanced Credentialing**

Advanced credentialing has been defined as successful completion of a rigorous credentialing process that is based on a high objective uniform standard. The National Board of Professional Teaching Standards uses a process for certifying its candidates that meets this standard.

#### **Applicability**

The requirement that "all" teachers be highly qualified applies to "all public elementary and secondary school teachers" assigned to core academic subjects. Special education teachers, including teachers who teach students identified as "academically gifted," who are providing instruction in core academic subjects must meet the "highly qualified" requirements of the ESEA.

#### **Core Academic Subjects**

Core academic subjects have been defined in the mandate as English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography. States may decide which arts courses will be considered as core academic subjects.

#### **Standard Teaching Certificates**

The State of Louisiana currently issues different standard teaching certificates to persons who have completed a state-approved teacher education program (through a traditional or alternate approach) and who earned a degree from a regionally accredited institution of higher education or an approved private provider. The type and a brief description of each standard license follow.

*Out of State Certificate*—Issued to a teacher certified in another state who meets all requirements for a Louisiana certificate, except for the PRAXIS examinations. Teacher must demonstrate subject matter competency by taking and passing the rigorous state academic subject test (PRAXIS) in each of the content areas in which he/she is seeking certification; *or*, the teacher must provide evidence of at least

four years of successful teaching experience in another state, complete one year of employment as a teacher in Louisiana public school systems, and secure the recommendation of the local superintendent of the employing school system for continued employment.

*Level 1 Professional Certificate*—After July 1, 2002, issued to teachers who complete a state approved teacher preparation program (traditional or alternative path), demonstrate subject matter competency by taking and passing the rigorous state academic subject test (PRAXIS) in each of the content areas in which he/she is seeking certification, and who are recommended by an accredited college/university to receive a Level 1 Professional Certificate; *or*

Teachers seeking alternate certification must complete an approved Practitioner Teacher or other alternate program, pass PRAXIS, and be recommended by the alternate program provider to receive a Level 1 Professional Certificate; *or*

Teacher must meet the requirements of an out-of-state certified teacher.

A teacher may hold a Level 1 certificate for three (3) years in his/her career, with the possibility of one three-year extension of the certificate under specified circumstances.

*Level 2 Professional Certificate*—Teachers with a Level 1 Professional Certificate must successfully complete the Louisiana Teacher Assistance and Assessment Program and teach for three years in an area of certification to receive a Level 2 Professional Certificate. Teachers must complete 150 continuing learning units (CLUs) of professional development over a five (5) year time period in order to renew a Level 2 Professional License.

*Level 3 Professional Certificate*—Teachers with a Level 1 or Level 2 Certificate are eligible for a Level 3 Certificate if they complete a master's degree, teach for five years in an area of certification, and successfully complete the Louisiana Teacher Assistance and Assessment Program. Teachers must complete 150 continuing learning units (CLUs) of professional development over a five (5) year time period in order to renew a Level 3 Professional License.

*Type C Certificate*—Type C certificates were issued prior to July 1, 2002. Persons who received the Type C certificate prior to July 1, 2002, are able to continue in the track leading to permanent licensure. Teachers were issued this license after successful completion of an approved undergraduate or alternate teacher education program, passing the required licensing exams for the area of certification, and receiving the recommendation of an accredited college/university to receive a Type C Certificate.

*Type B Certificate*—Candidates currently holding Type B certificates will continue to hold these certificates, which are valid for life provided the holder does not allow any period of five or more consecutive years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education, acting in accordance with law. To receive a Type B certificate, teachers holding a Type C certificate must successfully complete the Louisiana Teacher Assistance and Assessment Program and teach for three years in an area of certification.

*Type A Certificate*—Candidates currently holding Type A certificates will continue to hold these certificates, which are valid for life provided the holder does not allow any period of five or more consecutive years of disuse to accrue and/or the certificate is not revoked by the State Board of Elementary and Secondary Education, acting in accordance with law. To receive a Type A certificate, teachers holding a Type C or Type B certificate must earn a master's degree, successfully complete the Louisiana Teacher Assistance and Assessment Program, and teach for five years in an area of certification.

### **Practitioner License**

The State of Louisiana issues four different practitioner teacher licenses to persons who are enrolled in a state-approved teacher education alternate program. Because these alternate routes to certification meet the requirements established in the federal mandate, teachers who meet criteria for enrollment in the alternate program are identified as "highly qualified."

The type of practitioner license corresponds to the alternate program type, as follows:

*Practitioner License 1*—Practitioner Teacher Program

*Practitioner License 2*—Non-Master's/Certification Only Program

*Practitioner License 3*—Master's Degree Certification Program

*Practitioner License 4*—Candidates not in a new alternate program who have at least a 2.50 grade point average, passed the Praxis Pre-Professional Skills Tests (PPSTs) and the Praxis content-specialty exam (or accumulated 31 semester hours of coursework in the specific content area of certification), but still lack full requirements for certification.

### **Nonstandard Teaching Certificates**

The State of Louisiana currently issues three non-standard, temporary certificates. Teachers holding a temporary certificate do not meet the NCLB definition of "highly qualified teacher" because they have not demonstrated subject matter competency under the No Child Left Behind legislation. The nonstandard certificate types and descriptions follow.

*Temporary Authority to Teach*—issued to an individual who graduates from a teacher preparation program but does not pass PRAXIS, or to an individual with a non-education

degree who does not pass PRAXIS and is enrolled or must enroll in an alternate program leading to certification.

*Out-of-Field Authorization to Teach*—issued to an individual who holds a Louisiana teaching certificate but is teaching outside of the certified area.

*Temporary Employment Permit*—issued to an individual who meets all certification requirements with the exception of passing one NTE examination but scores within ten percent of the composite score required for passage, or who has not passed all required Praxis exams but has an aggregate score equal to or above the total required on all tests.

### **Technical Assistance and Support**

The Louisiana Department of Education will provide technical assistance and support to local education agencies to ensure that the state is faithful in the implementation of the NCLB mandate. Technical assistance and support will include, but will not be limited to, the following:

Providing each candidate on a temporary license with a "feedback sheet": The Certification Specialists and Certification Counselors who receive the requests evaluate the transcripts (if available) and prepare feedback sheets. NOTE: The feedback sheets are prepared based on the information submitted to the state by the district representative.

Monitoring of certification folders: A monitoring plan is currently being developed.

Collaborating with the Board of Regents (BOR) and college/university personnel to discuss ways that college/university programs might assist the state by addressing the areas of need (e.g., if special education severe profound programs are needed in certain areas of the state, SDE staff will collaborate with university personnel and BOR to facilitate provision of such a program).

Prescribing the shortest route to certification: This activity is handled at the state level by the certification specialists and at the local level by the certification counselors.

Recruiting candidates to pursue teaching as a career, using a two-pronged approach: (a) a human resources component, through the regional certification counselors; and (b) a technological component through the Teach Louisiana website at [www.teachlouisiana.net](http://www.teachlouisiana.net).



### Highly Qualified Teacher in Louisiana New to the Profession

Overall	Elementary	Middle School	Secondary
Holds a certificate to teach in Louisiana (at least a Type C or Level 1 certificate, an Out-of-State certificate, or a Practitioner License); and	Holds elementary school education certificate, a special education certificate that includes elementary school grades, or a special foreign language certificate to teach a specific foreign language in grades K-8; and	Holds middle school education certificate; middle school math, English/ language arts, science, or social studies; a special education area that includes middle school grades; a secondary academic content area; or special foreign language certificate to teach a specific foreign language in grades K-8; AND	Holds certificate for every core academic subject the individual teaches; and
Has the equivalent of an academic major; or		Has the equivalent of an academic major in a content area appropriate to the middle school level, for every core academic subject the individual teaches; OR	Has the equivalent of an academic major for every core academic subject the individual teaches; or
Has passed the Louisiana licensing content-specific Praxis exam; or	Has passed the Louisiana content-specific elementary education licensing exam; and	Has passed the Louisiana subject-specific licensing exam required for a middle school academic content area or for a secondary (grades 7-12) academic content area that is appropriate to the middle school level, for every core academic subject the individual teaches; or	Has passed the Louisiana subject-specific licensing exam for every core academic subject the individual teaches; or
Has earned a master's degree in the content area in which he or she teaches; and		Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; and	
Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis.			

### Highly Qualified Teacher in Louisiana

"Not New" Elementary Teacher	
1	Holds elementary school education certificate, a special education certificate that includes elementary school grades, or a special foreign language certificate to teach a specific foreign language in grades K-8; and
2	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3	Has passed the Louisiana content-specific elementary education licensing exam; or
4	Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in early childhood, middle childhood, or in a content area basic to the elementary school (e.g., Early Language Arts, Early Mathematics) and is teaching in the NBPTS area of certification; OR
5	Has at least 12 semester hours of credit in each of the four core disciplines (English/language arts, including reading and writing; math; science; and social studies); or
<p>QUALIFIES UNDER</p> <p>High Objective Uniform State Standard of Evaluation (HOUSSE)</p> <p>For NOT NEW ELEMENTARY TEACHERS</p> <p>(By School Year 2005-2006)</p> <p>A "not new" teacher who does not meet the requirements of paragraphs number 3, 4, or 5 above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes ninety (90) Continuing Learning Units (CLUs) by the end of 2005-2006.</p> <p>*A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content focused teaching and learning that positively impacts student achievement. The Louisiana Professional Development Guidance will be used to define the 90 continuing learning units.</p>	

### Highly Qualified Teacher in Louisiana

"Not New" Middle School Teachers		"Not New" Secondary School Teachers
1	Holds a valid teaching certificate appropriate for grades 6-8 (e.g., Elementary Education 1-8, Upper Elementary Education 5-8, Middle School Education); a special education area that includes middle school grades; a secondary academic content area; or special foreign language certificate to teach a specific foreign language in grades K-8; and	Holds certificates for every core academic subject the individual teaches; and
2	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and	Does not presently have certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3	<p>a) Has passed Louisiana subject-specific licensing exam required for a middle school academic content area or for a secondary (grades 7-12) academic content area that is appropriate to the middle school level, for every core academic subject the individual teaches; or</p> <p>b) Has the equivalent of an academic major in a content area appropriate to the middle school level, for every core academic subject the individual teaches; OR</p> <p>c) Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; or</p> <p>d) Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in a core content area and is teaching in the NBPTS area of certification; or</p>	<p>a) Has passed the Louisiana subject-specific licensing exam required for a secondary (grades 7-12) academic content area, for every core academic subject the individual teaches; OR</p> <p>b) Has the equivalent of an academic major in a secondary content area, for every core academic subject the individual teaches; OR</p> <p>c) Has earned a master's degree in a pure content area (not in education) for every core academic subject the individual teaches; or</p> <p>d) Holds a valid National Board for Professional Teaching Standards (NBPTS) certification in a core content area and is teaching in the NBPTS area of certification; or</p>

QUALIFIES UNDER

High Objective Uniform State Standard of Evaluation (HOUSSE)  
For "Not New" Middle School and Secondary Teachers  
(By School Year 2005-2006)

A "not new" teacher who does not meet the requirements of the paragraphs 3(a), 3(b), 3(c), or 3(d) above is considered highly qualified if he/she is state certified and teaching in the area of certification and if he/she completes ninety (90) Continuing Learning Units (CLUs) by the end of 2005-2006.

\*A Continuing Learning Unit (CLU) is a professional development activity that builds capacity for effective, research-based, content focused teaching and learning that positively impacts student achievement. The Louisiana Professional Development Guidance will be used to define the 90 continuing learning units.

**State of Louisiana? Highly Qualified Paraprofessional Requirements and Institutions of Higher Education for Paraprofessional Education**

The No Child Left Behind Act of 2001 was signed into law by President Bush on January 8, 2002. The Act was established to ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments. Title I, as amended by the No Child Left Behind Act, has new requirements for paraprofessionals.

**Definition of Paraprofessional**

For the purposes of Title I, Part A, a paraprofessional is an employee who provides instructional support in a program supported with Title I, Part A funds.

This includes paraprofessionals who (1) provide one-on-one tutoring if such tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher, (2) assist with classroom management, such as organizing instructional and other materials, (3) provide instructional assistance in a computer laboratory, (4) conduct parental involvement activities, (5) provide support in a library or media center, (6) act as a translator, or (7) provide instructional support services under the direct supervision of a teacher [Title I, section 1119(g)(2)].

Individuals who function as interpreters/transliterators and who are providing only communication assistance (not instructional support) and who possess one of the following Educational Interpreter certificates: Ancillary Provisional Certificate, Ancillary Grandfather Certificate, or Qualified Ancillary Certificate, are not considered paraprofessionals under Title I.

Individuals who work in food services, cafeteria or playground supervision, personal care services, non-instructional computer assistance, and similar positions are not considered paraprofessionals under Title I.

**Requirements for Title I Paraprofessionals**

All Title I paraprofessionals hired on or before January 8, 2002, and working in a program supported with Title I funds must meet the following requirements by January 8, 2006. All Title I paraprofessionals hired after January 8, 2002, must meet the following requirements to be hired:

Possess a secondary school diploma or its recognized equivalent (e.g., Graduate Equivalency Examination - GED). (NOTE: This includes paraprofessionals who serve as translators or who conduct parental involvement activities.); and

Pass a state approved assessment for paraprofessionals; or

Obtain an associate (or higher) degree at a higher education institution; or

Complete two years of full time study at an institution of higher education.

**Louisiana's Pathways for Paraprofessionals to Meet State Requirements**

The U.S. Department of Education specifies that paraprofessionals should be able to demonstrate knowledge of and the ability to assist in instruction in the areas of reading, writing, and math, or in "school readiness." Paraprofessionals are expected to have a working knowledge of these academic areas. Louisiana will offer all paraprofessionals three pathways to meet federal requirements.

**Pathway 1: State Test**

A paraprofessional who passes the ETS Para-Pro Assessment will meet state and federal requirements to be classified as a "highly qualified paraprofessional." A paraprofessional "not new to the profession" who passes the ACT Work Keys assessment and who has successful observations will meet the state and federal requirements to be classified as a "highly qualified paraprofessional."

**Pathway 2: Two Years of Full Time Study (48 Semester Credit Hours)**

State, district, and post-secondary education personnel collaborated in identifying course requirements for paraprofessionals (within a state approved institution of higher education) that will assist paraprofessionals when instructing students in the areas of reading, writing, math, and school readiness.

**Pathway 3: Associate Degree**

State, district, and post-secondary education personnel collaborated in identifying course requirements for paraprofessionals (within a state-approved institution of higher education) that will assist paraprofessionals when instructing students in the areas of reading, writing, math, and school readiness.

**State Approved Institutions of Higher Education**

State-approved higher education institutions may offer coursework to paraprofessionals. To be approved by the state, institutions must be accredited by a nationally recognized accrediting agency/association or granted pre-accreditation status. Newly developed public institutions that are formally seeking accreditation through the Southern Association for Colleges and Schools may obtain pre-accreditation status from the state. A list of approved institutions is available from the Department of Education upon request.

### Highly Qualified Paraprofessional in Louisiana

New to the Profession
Pathway 1: Has passed the Educational Testing Service Para-Pro Assessment; OR
Has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution(s) of higher education. A total of 18 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (9). For the remaining 30 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job; OR
Has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education.
"Not New" Paraprofessionals (By January 2006)
Pathway 1: Has passed the Educational Testing Service Para-Pro Assessment; OR
Pathway 2: Has two years of full-time study (48 semester credit hours) from the recommended list of state-approved institutions of higher education or from a regionally accredited institution(s) of higher education. A total of 18 hours of general education course requirements include English Composition (3), English/Reading (6), and Mathematics (9). For the remaining 30 hours of coursework, acceptance of credit for a course shown on a transcript from an approved higher education institution is left to school district discretion in addressing the needs of the specific job; or
Pathway 3: Has Associate of Arts or Associate of Applied Science degree from a state-approved or regionally accredited institution of higher education; OR
Pathway 4: Has successfully completed the ACT, Inc., Work Keys skills assessments and on-the-job observation.

### Curriculum Pathways for Paraprofessionals Course

Types	Recommended Courses				
	Pathway 1: Para-Pro Assessment	Pathway 2:** 48 credit hours	Pathway 3		
			Associate of Science Degree	Associate of Applied Science Degree (60+ credit hours)	Associate of Arts Degree (60+ credit hours)
*General Education Courses		English Composition (3) English/Reading (6) Mathematics (9)		English Composition (3), Humanities (3), Math - Algebra (3), Natural Sciences (3), Social/Behavioral Science (3)	English Composition (6), Humanities (Eng. Lit.) (6), Math-Algebra, etc. (12), Natural Sciences (15), Social/ Behavioral Sciences (12), Fine Arts (3)
Teacher Preparation Courses				Child/Adolescent Develop. (3)	Select 3 of the following: Child/ Adolescent Develop. (3); Educational Psychology (3); Multi-cultural/Exceptional Education (3); Educational Technology (3); Children's Literature (3)
Paraprofessional Courses		For remaining 30 hours of coursework, acceptance of credit for a course shown on a transcript from an approved institution of higher education is left to school district discretion in addressing the needs of the specific job. Guidelines for prescriptive plan requiring additional course-work: School districts should consider at least 3 hours of reading and at least 12 hours from list of available paraprofessional courses, as follows: Strategies for Teaching and Learning; Assessment of Learning; Classroom and Behavior Management; and Addressing the Needs of Exceptional Children. Discipline-specific electives may include as many as 12 hours of developmental (remedial) courses.		Introduction to Paraprofessional Education (3); Applied Literacy Development (3); Strategies for Teaching and Learning (3); Applied Assessment of Learning (3); Applied Classroom/ Behavior Mgt. (3); Addressing the Needs of Exceptional Children (3); Application of Computer Techno-logy (3); Family, School, & Community Relations (3); Health & Safety in Schools (3); Paraprofessional Practicum- Teaching, Learning, & Record Keeping (3)	

\*General Education and Teacher Preparation courses must address the K-12 state content standards, Louisiana Components of Effective Teaching, NCATE standards, and PRAXIS expectations.

\*\*Pathway 2 was formally adopted by the State Board of Elementary and Secondary Education on June 19, 2003, as part of Louisiana's highly qualified paraprofessional definition, after being amended to reflect further collaboration by state department and district personnel, as shown above.

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Weegie Peabody  
Executive Director

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## RULE

### Board of Elementary and Secondary Education

Bulletin 746? Louisiana Standards for State Certification of School Personnel? Practitioner Teacher Program (LAC 28:I.903)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended to *Bulletin 746? Louisiana Standards for State Certification of School Personnel*, referenced in LAC 28:I.903.A. This policy amends current policy to:

(1) provide that the assessment portion of the Louisiana Teacher Assistance and Assessment Program not remain a requirement for full completion of the Practitioner Teacher Program for alternate certification,

(2) retain the mentoring component as a continued support mechanism for the internship for all Practitioner Teacher Program candidates, and

(3) allow eligibility of candidates for Level 1 certificates at the completion of the internship year, provided all other program requirements have been met. This amended policy will allow those completing the Practitioner Teacher Program to become certified prior to completing the assessment portion of the Louisiana Teacher Assistance and Assessment Program, as is the case for all other candidates for initial Louisiana certification.

### Title 28

### EDUCATION

#### Part I. Board of Elementary and Secondary Education

#### Chapter 9. Bulletins, Regulations, and State Plans

#### Subchapter A. Bulletins and Regulations

#### §903. Teacher Certification Standards and Regulations

##### A. Bulletin 746

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 1:183 (April 1975), LR 1:311 (July 1975), LR 1:399 (September 1975), LR 1:541 (December 1975), amended IR 28:2505 (December 2002), LR 29:117 (February 2003), LR 29:119 (February 2003), LR 29:121 (February 2003), LR 30:206 (February 2004).

#### Practitioner Teacher Program

A. Major Components of the Practitioner Teacher Program

1. Universities, school districts, or private providers (e.g., Teach for America) will be able to offer a Practitioner Teacher Program.

2. Individuals will be considered for admission to a Practitioner Teacher Program if they possess a baccalaureate degree from a regionally-accredited university with a 2.2 or higher GPA\* and already possess the content knowledge to teach the subject area(s). To demonstrate knowledge of subject area(s), all individuals (with the exception of those who already possess a graduate degree) will be required to pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) for the PRAXIS. Teachers of grades 1-6 (regular and special education) must pass the *Elementary Education Content Knowledge* specialty examination of the PRAXIS (#0014), and teachers of grades 4-8 (regular and special education) must pass the *Middle School Content Knowledge* specialty examination (#0146). Teachers of grades 7-12 (regular and special education) must pass the *specialty examination* on the PRAXIS in the content area(s) (e.g., English, mathematics, science, social studies, etc.) in which they intend to be certified. (\*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.)

3. If admitted to the Practitioner Teacher Program, individuals who intend to be certified to teach grades 1-6, 4-8, or 7-12 must successfully complete nine credit hours (or 135 contact hours) of instruction during the summer prior to the first year of teaching. Practitioner teachers will be exposed to teaching experiences in field-based schools while involved in course work.

4. All practitioner teachers will teach during the regular school year in the area(s) in which they are pursuing certification and participate in 12 credit hours (or 180 contact hours) of seminars and supervised internship during the fall and spring to address their immediate needs. Practitioner teachers will be observed and provided feedback about their teaching from the program provider. In addition, practitioner teachers will be supported by school-based mentors from the Louisiana Assistance and Assessment Program and by principals.

5. Practitioner teachers who complete the required course requirements (or equivalent contact hours) with a 2.5 or higher GPA and demonstrate *proficiency* during their first year of teaching can obtain a Level 1 Professional License after successfully completing all requirements for the Practitioner Teacher Program (which includes passing scores on the PRAXIS).

6. Practitioner teachers who successfully complete the required courses (or equivalent contact hours) and demonstrate *weaknesses* during their first year of teaching will be required to complete from one to nine additional credit hours/equivalent contact hours. A team composed of the program provider, school principal, mentor teacher, and practitioner teacher will determine the types of courses and hours to be completed. The number of hours, which will be based upon the extent of the practitioner teachers' needs, must be successfully completed within the next two years. The team will also determine when the practitioner teachers should be assessed for the Louisiana Assistance and Assessment Program during the next two year time period. Additionally, for teachers who successfully completed the

Louisiana Assistance and Assessment Program prior to entering the Practitioner Teacher Program, the team will determine if the Louisiana Components of Effective Teaching are still being exhibited by the teacher at the "competent" level and, if so, allow by unanimous decision the teacher to be exempted from completing the Assessment part of the Louisiana Assistance and Assessment Program. The practitioner teachers must successfully complete all requirements for the Practitioner Teacher Program (which includes passing scores on the PRAXIS in the specialty areas) and must teach for a total of three years before receiving a Level 2 Professional License.

7. The State's new Teacher Preparation Accountability System will be used to evaluate the effectiveness of all Practitioner Teacher Programs.

#### B. Structure for a Practitioner Teacher Program Program Providers

Practitioner Teacher Programs may be developed and administered by:

1. universities;
2. school districts; and
3. other agencies (e.g., Teach for America, Troops for Teachers, Regional Service Centers, etc.).

The same State Teacher Preparation Accountability System will be utilized to assess the effectiveness of the Practitioner Teacher Programs provided by universities, school districts, and other agencies.

#### Program Process

Areas	Course/Contact Hours	Activities	Support
1. Admission To Program (Spring and Early Summer)		<p>Program providers will work with district personnel to identify Practitioner Teacher Program candidates who will be employed by districts during the fall and spring.</p> <p>To be admitted, individuals must:</p> <ol style="list-style-type: none"> <li>a. possess a baccalaureate degree from a regionally accredited university.</li> <li>b. have a 2.2 GPA on undergraduate work. (*Appropriate, successful work experience can be substituted for the required GPA, at the discretion of the program provider.)</li> <li>c. pass the Pre-Professional Skills Test (e.g., reading, writing, and mathematics) on the PRAXIS. (Individuals who already possess a graduate degree will be exempted from this requirement.)</li> <li>d. pass the content specific examinations for the PRAXIS:               <ol style="list-style-type: none"> <li>(1) Practitioner candidates for Grades 1-6 (regular and special education): Pass the Elementary Education Content Knowledge (#0014) examination;</li> <li>(2) Practitioner candidates for Grades 4-8 (regular and special education): Pass the Middle School Content Knowledge (#0146) examination;</li> <li>(3) Practitioner candidates for Grades 7-12 (regular and special education): Pass the content specialty examination(s) (e.g., English, mathematics, etc.) on the PRAXIS in the content area(s) in which they intend to teach.</li> </ol> </li> <li>e. meet other non-course requirements established by the program providers.</li> </ol>	
2. Teaching Preparation (Summer)	9 credit hours or 135 equivalent contact hours (5-8 weeks)	<p>All teachers will participate in field-based experiences in school settings while completing the summer courses (or equivalent contact hours).</p> <p>Grades 1-6, 4-8, and 7-12 practitioner teachers will successfully complete courses (or equivalent contact hours) pertaining to child/adolescent development/psychology, the diverse learner, classroom management/organization, assessment, instructional design, and instructional strategies before starting their teaching internships.</p> <p>Mild/moderate special education teachers will successfully complete courses (or equivalent contact hours) that focus upon the special needs of the mild/moderate exceptional child, classroom management, behavioral management, assessment and evaluation, methods/materials for mild/moderate exceptional children, and vocational and transition services for students with disabilities.</p>	Program Providers
3. Teaching Internship And First Year Support (Fall and Spring)	12 credit hours or 180 equivalent contact hours throughout the year.	<p>Practitioner teachers will assume full-time teaching positions in districts. During the school year, these individuals will participate in two seminars (one seminar during the fall and one seminar during the spring) that address immediate needs of the Practitioner Teacher Program teachers and will receive one-on-one supervision through a year-long internship provided by the program providers. The practitioner teacher will also receive support from school-based mentor teachers (provided by the Louisiana Teacher Assistance and Assessment Program) and principals.</p>	Program Providers, Principals and Mentors

4. Teaching Performance Review (End of First Year)		Program providers, principals, mentors, and practitioner teachers will form teams to review the first year teaching performance of practitioner teachers and to determine the extent to which the practitioner teachers have demonstrated teaching proficiency. If practitioner teachers demonstrate proficiency, they will enter into the assessment portion of the Louisiana Teacher Assistance and Assessment Program during the next fall. (If a practitioner teacher who passed the assessment portion of the Louisiana Teacher Assistance and Assessment Program prior to entering the Practitioner Teacher Program continues to demonstrate the Louisiana Components of Effective Teaching at the "competent" level, the team may, by unanimous decision, exempt the teacher from completing the Assessment part of the Louisiana Assistance and Assessment Program.) If weaknesses are cited, the teams will identify additional types of instruction needed to address the areas of need. Prescriptive plans that require from one to nine credit hours (or 15-135 equivalent contact hours) of instruction will be developed for practitioner teachers. In addition, the teams will determine whether the practitioner teachers should participate in the new teacher assessment during the fall or whether the practitioner teachers should receive additional mentor support and be assessed after the fall.	
5. Prescriptive Plan Implementation (Second Year)	9 credit hours (or 15-135 equivalent hours)	Practitioner teachers who demonstrate areas of need will complete prescriptive plans.	Program Providers
6. Louisiana Assessment Program (Second Year)		Practitioner teachers will be assessed during the fall or later depending upon their teaching proficiencies.	Program Providers
7. Praxis Review (Second Year)		Program providers will offer review sessions to prepare practitioner teachers to pass remaining components of the PRAXIS.	Program Providers
8. Certification Requirements (Requirements must be met within a three-year time period. A practitioner teacher's license will not be renewed if all course requirements are not met within these three years.)		<p>Program providers will submit signed statements to the Louisiana Department of Education to indicate that the practitioner teachers completed Practitioner Teacher Programs and met the following requirements within a three-year time period:</p> <ol style="list-style-type: none"> <li>1. passed the PPST components of the PRAXIS. (Note: This test was required for admission.)</li> <li>2. completed the Teaching Preparation and Teaching Internship segments of the program with a 2.5 or higher cumulative GPA.</li> <li>3. completed prescriptive plans (if weaknesses were demonstrated).</li> <li>4. passed the specialty examination (PRAXIS) for their area(s) of certification. <ol style="list-style-type: none"> <li>a. Grades 1-6: Elementary Education Content Knowledge Examination #0014 (Note: This test was required for admission)</li> <li>b. Grades 4-8: Middle School Content Knowledge Exam (#0146);</li> <li>c. (Note: This test was required for admission.)</li> <li>d. Grades 7-12: Specialty content test in areas to be certified. (Note: This test was required for admission.)</li> <li>e. Mild/Moderate Special Education 1-12: Special Education (to be determined)</li> </ol> </li> <li>5. passed the Principals of Learning and Teaching examination (PRAXIS) <ol style="list-style-type: none"> <li>a. Grades 1-6: Principles of Learning and Teaching;</li> <li>b. Grades 4-8: Principles of Learning and Teaching;</li> <li>c. Grades 7-12: Principles of Learning and Teaching.</li> </ol> </li> </ol>	
9. Ongoing Support (Second and Third Year)		Program providers will provide support services to practitioner teachers during their second and third years of teaching. Types of support may include on-line support, Internet resources, special seminars, etc.	Program Providers
10. Professional License (Practitioner License to Type 2)		Practitioner teachers will be issued a Practitioner License when they enter the program. They will be issued a Level 1 Professional License once they have successfully completed all requirements of the program; after three years of teaching they will be eligible for a Level 2 license.	

## Undergraduate/Graduate Courses and Graduate Programs

Universities may offer the courses at undergraduate or graduate levels. Efforts should be made to allow students to use graduate hours as electives if the students are pursuing a graduate degree.

Weegie Peabody  
Executive Director

0402#015

### RULE

#### Board of Elementary and Secondary Education

Bulletin 1963? Louisiana Arts Content Standards  
State Standards for Curriculum Development  
(LAC 28:LI.Chapters 1-9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted revision of *Bulletin 1963? Louisiana Arts Content Standards*. This document replaces any previously advertised versions. Bulletin 1963, which was originally approved by BESE in 1997, has been revised to ensure it is up-to-date and appropriate to serve as the foundation for assessment development. The *Louisiana Arts Content Standards* will benefit district fine arts education programs throughout the state by serving as a guide for curriculum development and instruction in fine arts education. With a strong emphasis on developing knowledge, skills, and habits, these content standards are focused on student and society's needs. With their adoption, Louisiana fine arts education programs will be closely aligned with the *National Standards for Arts Education*.

#### Title 28

#### EDUCATION

#### Part LI. Bulletin 1963? Louisiana Arts Content Standards

#### Chapter 1. General Provisions

##### §101. Introduction

A. The arts? dance, music, theatre arts, and visual arts, are fundamental to the intellectual, social, emotional, and physical development of Louisiana students in the twenty-first century. The arts draw on a range of intelligence, aesthetics, and learning styles not addressed in most educational environments.

B. Students of the arts are encouraged to use their imaginations, to develop personal discipline, and to find multiple solutions to problems. They learn to respond to events and experiences with confidence and to communicate their feelings and viewpoints through appropriate creative outlets.

C. Business demands workers who possess an ability to communicate, to be flexible, and to diagnose problems and find creative solutions. The arts preceded speech as man's first language; they assisted in the development of the skills of communication and the integration of basic skills of reading, writing, science, and mathematics. These skills help students shape their lives, their communities, and their nation. The arts make all subjects come alive.

D. The Louisiana Arts Content Standards bring together the basic content of the four disciplines of dance, music, theatre arts, and visual arts, into one common set of standards essential for a comprehensive arts education. The twenty-first century, the age of information, requires more from the next generation of students. The relevance of education in a rapidly changing society will depend on converging the aims of education and the workforce for well-rounded, educated students who will be productive members of society. The arts will assist in the achievement of these aims with the implementation of these rigorous and challenging content standards.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:209 (February 2004).

#### §103. Standards of Arts Education

A. Creative Expression. Creative Expression is the ability to imagine, organize and interpret ideas for expression in the process of creating and producing art forms which involve inspiration, analysis, and problem solving.

1. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organization abilities, and imagination.

B. Aesthetic Perception. Aesthetic Perception is the ability to perceive the unique characteristics of natural environments and human creations, to respond to aesthetic ideas and experiences, and to develop awareness of beauty and meaning in the arts.

1. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

C. Historical and Cultural Perspective. Historical and Cultural Perspective is the ability to recognize the arts as a reflection of individual and cultural expression and to appreciate the aspects of history and human experience.

1. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

D. Critical Analysis. Critical Analysis is the ability to interpret, analyze and synthesize the performing and visual arts to form judgments based on sufficient and appropriate criteria.

1. Standard. Students make informed verbal and written observations about the arts by developing skills for critical analysis through the study of and exposure to the arts.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:209 (February 2004).

#### §105. Definitions

*Assessment?* a process through which evidence is gathered in a range of *content areas* to determine both a student's understanding and the ability to apply that understanding.

*Benchmark?* a broad statement of process and/or content that is used as a reference to develop curricula and to assess student progress.

*Content Area?* a field of study or branch of knowledge formally referred to as a subject area or discipline.

*Content Standard?* a description of what students should know and be able to do through subject matter, knowledge, proficiencies, etc., gained as a result of their education.

*Focus?* a statement describing the importance of a content strand.

*Foundation Skills?* processes that are common to all areas and levels of education and that are intended to suggest methods and objectives of instructional strategies.

*Framework?* a document for a *content area* that reflects national standards and provides a guiding vision of its content and purpose.

*Integrated?* the combining the elements across the strands within a particular *content area* or *framework*.

*Interdisciplinary?* the combining of the elements across the various *content areas* or *frameworks*.

*Performance Standards?* the level of knowledge or proficiency that students should manifest as a result of their education.

*Strands?* categories within particular *content areas*, which may vary from discipline to discipline. *Strands* are interrelated and should be *integrated*, rather than taught in isolation.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:209 (February 2004).

### §107. Foundation Skills

A. The following foundation skills shall apply to all students in all disciplines. These foundation skills are listed numerically in parentheses after each benchmark in this Part LI.

1. *Communication?* a process by which information is exchanged and a concept of "meaning" is created and shared between individuals through a common system of symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the following skills:

- a. reading;
- b. writing;
- c. speaking;
- d. listening;
- e. viewing; and
- f. visually representing.

2. *Problem Solving?* the identification of an obstacle or challenge and the subsequent application of knowledge and thinking processes, which include reasoning, decision making, and inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

3. *Resource Access and Utilization?* the process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating information. The identification and employment of appropriate tools, techniques, and technologies are essential to all learning processes. These resource tools include:

- a. pen;
- b. pencil and paper;
- c. audio/video materials;
- d. word processors;

- e. computers;
- f. interactive devices;
- g. telecommunication; and
- h. other emerging technologies.

4. *Linking and Generating Knowledge?* the effective use of cognitive processes to generate and link knowledge across the disciplines and in a variety of contexts. In order to engage in the principles of continual improvement, students must be able to transfer and elaborate on these processes. *Transfer* refers to the ability to apply a strategy or content knowledge effectively in a setting or context other than that in which it was originally learned. *Elaboration* refers to monitoring, adjusting, and expanding strategies into other contexts.

5. *Citizenship?* the application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes:

- a. working respectfully and productively together for the benefit of the individual and the community;
- b. being accountable for one's own choices and actions and understanding their impact on oneself and others;
- c. knowing one's civil, constitutional, and statutory rights; and
- d. mentoring others to become productive citizens and lifelong learners.

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

HISTORICAL NOTE: Promulgated by the Department of Education, LR 30:210 (February 2004).

## Chapter 3. Dance

### Subchapter A. Creative Expression

#### §301. Purpose

A. *Focus.* Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

B. *Standard.* Students develop creative expression through the application of knowledge, ideas, communication skills, organizational abilities, and imagination.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:210 (February 2004).

#### §303. Benchmarks K-4

A. In grades K-4, students should know and be able to:

D-CE-E1	Use kinesthetic awareness, proper use of space, and the ability to move safely	(1, 2, 5)
D-CE-E2	Explore and demonstrate basic movements and the elements of dance (space, time, and energy)	(1, 2)
D-CE-E3	Recognize and explore dance as a way to create and communicate ideas and feelings	(1, 4)
D-CE-E4	Explore the process of making a dance; improvise to create a dance phrase	(1, 2)



D-CE-E5	Execute improvised and set movement patterns with concentration and focus individually and in groups	(1, 4, 5)
D-CE-E6	Identify relationship among dance, other arts, and disciplines outside the arts	(1, 4)
D-CE-E7	Develop awareness of technical dimensions of dance, such as costumes, performance space, and set design	(2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:210 (February 2004).

**§305. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

D-CE-M1	Demonstrate self-monitoring and effective use of space	(2, 5)
D-CE-M2	Use the elements of dance to execute basic movements with increased skill and develop a movement vocabulary	(1, 4)
D-CE-M3	Demonstrate the ability to use dance as a language and means of communication	(1, 4)
D-CE-M4	Use improvisation, choreography, and choreographic forms to sequence movements into dance phrases	(2, 3)
D-CE-M5	Perform informal and formal dance compositions individually and in groups	(1, 4, 5)
D-CE-M6	Understand and express relationships among dance, other arts, and disciplines outside the arts	(1, 4)

D-CE-M7	Engage in individual and collaborative use of technical dimensions of dance and explore how use of current technology can enhance dance ideas	(2, 3, 5)
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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:211 (February 2004).

**§307. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

D-CE-H1	Incorporate kinesthetic awareness, use of space, and self-evaluation to refine performance skills	(2, 4, 5)
D-CE-H2	Use the elements of dance to develop technical skills and expand or refine movement vocabulary	(1, 4)
D-CE-H3	Utilize dance as an expression of individual ideas and feelings	(1, 4, 5)
D-CE-H4	Incorporate improvisation, choreography, and choreographic forms into dance compositions	(2, 3)
D-CE-H5	Present and evaluate dance compositions designed to display skills and techniques	(1, 2, 4, 5)
D-CE-H6	Present a multi-disciplinary dance project	(1, 2, 4, 5)
D-CE-H7	Manipulate technical dimensions of dance individually and collaboratively	(2, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:211 (February 2004).

**§309. Creative Expression? Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Use kinesthetic awareness, proper use of space and the ability to move safely (1, 2, 5)	Demonstrate self-monitoring and effective use of space (2, 5)	Incorporate kinesthetic awareness, use of space and self-evaluation to refine performance skills (2, 4, 5)
Benchmark 2	Explore and demonstrate basic movements and the elements of dance (space, time, and energy) (1, 2)	Use the elements of dance to execute basic movements with increased skill and develop a movement vocabulary (1, 4)	Use the elements of dance to develop technical skills and expand or refine movement vocabulary (1, 4)
Benchmark 3	Recognize and explore dance as a way to create and communicate ideas and feelings (1, 4)	Demonstrate the ability to use dance as a language and means of communication (1, 4)	Utilize dance as an expression of individual ideas and feelings (1, 4, 5)
Benchmark 4	Explore the process of making a dance; improvise to create a dance phrase (1, 2)	Use improvisation, choreography, and choreographic forms to sequence movements into dance phrases (2, 3)	Incorporate improvisation, choreography and choreographic forms into dance compositions (2, 3)
Benchmark 5	Execute improvised and set movement patterns with concentration and focus individually and in groups (1, 4, 5)	Perform informal and formal dance compositions individually and in groups (1, 4, 5)	Present and evaluate dance compositions designed to display skills and techniques (1, 2, 4, 5)
Benchmark 6	Identify relationships among dance, other arts, and disciplines outside the arts (1, 4)	Understand and express relationships among dance, other arts, and disciplines outside the arts (1, 4)	Present a multi-disciplinary dance project (1, 2, 4, 5)
Benchmark 7	Develop awareness of technical dimensions of dance, such as costumes, performance space, and set design (2, 4)	Engage in individual and collaborative use of technical dimensions of dance and explore how use of current technology can enhance dance ideas (2, 3, 5)	Manipulate technical dimensions of dance individually and collaboratively (2, 5)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:211 (February 2004).

**Subchapter B. Aesthetic Perception**

**§311. Purpose**

A. Focus. The study of aesthetics, or the philosophy of the arts, cultivates the direct experience of the senses and supplies the individual with a structure for perceiving and responding to the arts. A grasp of aesthetics empowers the individual to experience beauty in many forms, to appreciate artistic expression, and to develop insight into the creations and performances of others. By questioning concepts, weighing evidence, and examining intuitive reactions, the individual becomes increasingly discriminating in formulating preferences and conclusions about the values inherent in art. Aesthetic perception promotes creativity, flexible thinking, and the pursuit of excellence.

B. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:212 (February 2004).

**§313. Benchmarks K-4**

A. In grades K-4, students should know and be able to:

D-AP-E1	Recognize the elements of dance and apply basic dance vocabulary	(1, 4)
D-AP-E2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of dance	(1, 4, 5)
D-AP-E3	Identify and discuss how dance affects thoughts and feelings	(1, 2, 4)
D-AP-E4	Recognize that there are many possibilities and choices available in the process of creating a dance	(3, 4)
D-AP-E5	Develop a basic understanding of the processes of creating, performing, and observing dance	(2, 5)
D-AP-E6	Recognize how dance differs from other forms of human movement and share personal feelings or preferences about dance	(1, 2, 4)

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

**§319. Aesthetic Perception? Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize the elements of dance and apply basic dance vocabulary (1, 4)	Understand the elements of dance and apply expanded dance vocabulary (1, 4)	Understand the elements of dance and apply advanced dance vocabulary (1, 4)
Benchmark 2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of dance (1, 4, 5)	Recognize that concepts of beauty differ from culture to culture and that taste varies from person to person (1, 4, 5)	Distinguish unique characteristics of dance as it reflects concepts of beauty and quality of life in various cultures (1, 4, 5)
Benchmark 3	Identify and discuss how dance affects thoughts and feelings (1, 2, 4)	Describe the sensory, emotional and intellectual impact of works of dance (1, 2, 4)	Analyze and express the impact of dance on intellect and emotions (1, 4, 5)
Benchmark 4	Recognize that there are many possibilities and choices available in the process of creating a dance (3, 4)	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to creating dance (1, 4)	Compare and contrast multiple possibilities and options available for artistic expression through dance (1, 4)

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:212 (February 2004).

**§315. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

D-AP-M1	Understand the elements of dance and apply expanded dance vocabulary	(1, 4)
D-AP-M2	Recognize that concepts of beauty differ from culture to culture and that taste varies from person to person	(1, 4, 5)
D-AP-M3	Describe the sensory, emotional, and intellectual impact of works of dance	(1, 2, 4)
D-AP-M4	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to creating dance	(1, 4)
D-AP-M5	Identify and discuss appropriate behaviors for creators, performers, and observers of dance	(1, 4, 5)
D-AP-M6	Discuss the question, "What is dance?" and express intuitive reactions and personal responses to dance	(1, 4)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:212 (February 2004).

**§317. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

D-AP-H1	Understand the elements of dance and apply advanced dance vocabulary	(1, 4)
D-AP-H2	Distinguish unique characteristics of dance as it reflects concepts of beauty and quality of life in various cultures	(1, 4, 5)
D-AP-H3	Analyze and express the impact of dance on intellect, and emotions	(1, 4, 5)
D-AP-H4	Compare and contrast multiple possibilities and options available for artistic expression through dance	(1, 4)
D-AP-H5	Discuss the significance of collaboration and other group dynamics in creating, performing and observing dance	(1, 4, 5)
D-AP-H6	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward dance	(1, 2, 5)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:212 (February 2004).

Grade Cluster	K-4	5-8	9-12
Benchmark 5	Develop a basic understanding of the processes of creating, performing, and observing dance (2, 5)	Identify and discuss appropriate behaviors for creators, performers, and observers of dance (1, 4, 5)	Discuss the significance of collaboration and other group dynamics in creating, performing, and observing dance (1, 4, 5)
Benchmark 6	Recognize how dance differs from other forms of human movement and share personal feelings or preferences about dance (1, 2, 4)	Discuss the question, "What is dance?" and express intuitive reactions and personal responses to dance (1, 4)	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward dance (1, 2, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:212 (February 2004).

**Subchapter C. Historical and Cultural Perspective**

**§321. Purpose**

A. Focus. Historical and cultural perspective is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creeds, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

B. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:213 (February 2004).

**§323. Benchmarks K-4**

A. In grades K-4, students should know and be able to:

D-HP-E1	Recognize and discuss the role of dance in cultural/historical contexts, including celebrations, ceremonies, and special occasions	(1, 4)
D-HP-E2	Recognize basic differences between dance styles and identify styles of dance in various cultures	(1, 3, 4)
D-HP-E3	Recognize great dance works, innovators, and performers who have shaped the history of dance	(1, 4)
D-HP-E4	Recognize careers in dance and identify roles of dancers in various cultures and time periods	(4)
D-HP-E5	Recognize universal themes in dance and how dance communicates a universal language	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:213 (February 2004).

**§325. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

D-HP-M1	Compare the role of dance in various cultures and discuss dance in cultural, historical, and contemporary contexts	(1, 4)
D-HP-M2	Identify differences in styles of dance and distinguish among dance styles from various cultures and time periods	(1, 4)
D-HP-M3	Identify and discuss the influences of great dance works, innovators, and performers who have shaped the history of dance	(1, 4)
D-HP-M4	Identify, describe, and compare contemporary careers and professions in dance	(1, 4, 5)
D-HP-M5	Identify and discuss universal themes exhibited in dance from various cultures	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:213 (February 2004).

**§327. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

D-HP-H1	Explain the art of dance in relation to cultural values and prevailing social, political, and economic conditions	(1, 4, 5)
D-HP-H2	Compare, contrast, and categorize styles of dance representative of various cultures and time periods	(1, 4)
D-HP-H3	Compare and contrast current dance innovators and trends with past innovators and their contributions to dance	(3, 4)
D-HP-H4	Investigate and assess roles, careers, and career opportunities in dance production	(1, 4)
D-HP-H5	Analyze universal themes as exhibited in dance from various cultures	(3, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:213 (February 2004).

**§329. Historical and Cultural Perspective?**

**Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize and discuss the role of dance in cultural/historical contexts, including celebrations, ceremonies, and special occasions (1, 4)	Compare the role of dance in various cultures and discuss dance in cultural, historical, and contemporary contexts (1, 4)	Explain the art of dance in relation to cultural values and prevailing social, political, and economic conditions (1, 4, 5)
Benchmark 2	Recognize basic differences between dance styles and identify styles of dance in various cultures (1, 3, 4)	Identify differences in styles of dance and distinguish among dance styles from various cultures and time periods (1, 4)	Compare, contrast, and categorize styles of dance representative of various cultures and time periods (1, 4)
Benchmark 3	Recognize great dance works, innovators, and performers who have shaped the history of dance (1, 4)	Identify and discuss the influences of great dance works, innovators, and performers who have shaped the history of dance (1, 4)	Compare and contrast current dance innovators and trends with past innovators and their contributions to dance (3, 4)
Benchmark 4	Recognize careers in dance and identify roles of dancers in various cultures and time periods (4)	Identify, describe, and compare contemporary careers and professions in dance (1, 4, 5)	Investigate and assess roles, careers, and career opportunities in dance production (1, 4)
Benchmark 5	Recognize universal themes in dance and how dance communicates a universal language (1, 4)	Identify and discuss universal themes exhibited in dance from various cultures (1, 4)	Analyze universal themes as exhibited in dance from various cultures (3, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:214 (February 2004).

**Subchapter D. Critical Analysis**

**§331. Purpose**

A. Focus. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to describe, analyze, interpret, and make critical, reasoned judgments about the form and content of the arts.

B. Standard. Students make informed verbal and written observations about the arts by developing skills for critical analysis through the study of and exposure to the arts.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:214 (February 2004).

**§333. Benchmarks K-4**

A. In grades K-4, students should know and be able to:

D-CA-E1	Observe and identify the basic movements in dance	(3, 4)
D-CA-E2	Identify basic examples of the dance elements in various works of dance	(4)
D-CA-E3	Recognize and discuss the sequencing of movements in dance	(1, 4)
D-CA-E4	Identify the main theme or story idea presented in a dance	(1, 4)
D-CA-E5	Identify and discuss basic ways of changing dance movements to improve a dance	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:214 (February 2004).

**§335. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

D-CA-M1	Recognize and describe movement content and expression in dance	(1, 4)
D-CA-M2	Identify how elements of dance are used in a work to communicate the choreographic intent	(1, 2, 4)
D-CA-M3	Describe the use of choreographic principles such as unity, contrast, continuity, and climax in dance	(1, 4)
D-CA-M4	Describe the main theme, story idea, or political message conveyed in a dance	(1, 4)
D-CA-M5	Critique works of dance using expanded dance vocabulary	(1, 2, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:214 (February 2004).

**§337. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

D-CA-H1	Explain the manipulation of movement content and how it influences expression in a dance	(1, 4)
D-CA-H2	Explain how elements of dance communicate the choreographic intent in various works	(1, 2, 4)
D-CA-H3	Apply understanding of choreographic principles and choreographic forms to analyze and explain dance	(1, 4)
D-CA-H4	Describe the social theme conveyed in a dance and how personal experience influences interpretation of dance	(1, 4, 5)
D-CA-H5	Critique works of dance using advanced dance vocabulary	(1, 2, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:214 (February 2004).

**§339. Critical Analysis? Grade Cluster**

Grade Cluster	K–4	5–8	9–12
Benchmark 1	Observe and identify the basic movements in dance (3, 4)	Recognize and describe movement content and expression in dance (1, 4)	Explain the manipulation of movement content and how it influences expression in a dance (1, 4)
Benchmark 2	Identify basic examples of the dance elements in various works of dance (4)	Identify how elements of dance are used in a work to communicate the choreographic intent (1, 2, 4)	Explain how elements of dance communicate the choreographic intent in various works (1, 2, 4)
Benchmark 3	Recognize and discuss the sequencing of movements in dance (1, 4)	Describe the use of choreographic principles such as unity, contrast, continuity, and climax in dance (1, 4)	Apply understanding of choreographic principles and choreographic forms to analyze and explain dance (1, 4)
Benchmark 4	Identify the main theme or story idea presented in a dance (1, 4)	Describe the main theme, story idea, or political message conveyed in a dance (1, 4)	Describe the social theme conveyed in a dance and how personal experience influences interpretation of dance (1, 4, 5)
Benchmark 5	Identify and discuss basic ways of changing dance movements to improve a dance (1, 2, 4)	Critique works of dance using expanded dance vocabulary (1, 2, 5)	Critique works of dance using advanced dance vocabulary (1, 2, 5)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:215 (February 2004).

**Chapter 5. Music**  
**Subchapter A. Creative Expression**

**§501. Purpose**

A. Focus. Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

B. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organizational abilities, and imagination.

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:215 (February 2004).

**§503. Benchmarks K-4**

A. In grades K-4, students should know and be able to:

M-CE-E1	Recognize and imitate simple melodies and rhythmic patterns using voice, musical instruments, or other sound sources	(3)
M-CE-E2	Recognize basic notational symbols and express vocabulary that conveys precise musical meanings	(3, 4)
M-CE-E3	Improvise or compose and perform simple musical ideas, such as echoing melody or short rhythmic patterns	(1, 4)
M-CE-E4	Explore and express basic elements of music through voice, musical instruments, electronic technology, or available media	(3)
M-CE-E5	Participate in organized musical activities including singing, playing, and movement	(1, 2, 5)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:215 (February 2004).

**§505. Benchmarks 5–8**

A. In grades 5–8, students should know and be able to:

M-CE-M1	Recognize and perform melodic and rhythmic patterns using voice, musical instruments, or other sound sources, both individually and in ensembles	(1, 3, 4)
M-CE-M2	Interpret notational symbols and vocabulary that convey precise musical meanings	(2, 3, 4)
M-CE-M3	Improvise, or compose and perform written music	(1, 4)
M-CE-M4	Recognize and demonstrate elements of music, using voice, musical instruments, electronic technology, or other available media	(3, 4)
M-CE-M5	Perform in organized activities including singing, playing, and movement	(1, 5)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:215 (February 2004).

**§507. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

M-CE-H1	Create and improvise advanced musical forms using voice, musical instruments, or other sound sources, both individually and in ensembles	(1, 2, 4)
M-CE-H2	Apply with technical accuracy notational symbols and vocabulary that convey precise musical meanings	(2, 3, 4)
M-CE-H3	Improvise, or compose and perform advanced compositions	(1, 4)
M-CE-H4	Interpret and apply elements of music using preferred medium of performance	(3, 4, 5)
M-CE-H5	Perform in musical ensembles using a preferred performance medium	(1, 5)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:215 (February 2004).

**§509. Creative Expression? Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize and imitate simple melodies and rhythmic patterns using voice, musical instruments, or other sound sources (3)	Recognize and perform melodic and rhythmic patterns using voice, musical instruments, or other sound sources, both individually and in ensembles (1, 3, 4)	Create and improvise advanced musical forms using voice, musical instruments, or other sound sources, both individually and in ensembles (1, 2, 4)
Benchmark 2	Recognize basic notational symbols and express vocabulary that conveys precise musical meanings (3, 4)	Interpret notational symbols and vocabulary that convey precise musical meanings (2, 3, 4)	Apply with technical accuracy notational symbols and vocabulary that convey precise musical meanings (2, 3, 4)
Benchmark 3	Improvise or compose and perform simple musical ideas, such as echoing melody or short rhythmic patterns (1, 4)	Improvise or compose and perform written music (1, 4)	Improvise or compose and perform advanced compositions (1, 4)
Benchmark 4	Explore and express basic elements of music through voice, musical instruments, electronic technology, or available media (3)	Recognize and demonstrate elements of music, using voice, musical instruments, electronic technology, or other available media (3, 4)	Interpret and apply elements of music using preferred medium of performance (3, 4, 5)
Benchmark 5	Participate in organized musical activities including singing, playing, and movement (1, 2, 5)	Perform in organized musical activities including singing, playing, and movement (1, 5)	Perform in musical ensembles using preferred performance medium (1, 5)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:216 (February 2004).

**Subchapter B. Aesthetic Perception**

**§511. Purpose**

A. Focus. The study of aesthetics, or the philosophy of the arts, cultivates the direct experience of the senses and supplies the individual with a structure for perceiving and responding to the arts. A grasp of aesthetics empowers the individual to experience beauty in many forms, to appreciate artistic expression, and to develop insight into the creations and performances of others. By questioning concepts, weighing evidence, and examining intuitive reactions, the individual becomes increasingly discriminating in formulating preferences and conclusions about the values inherent in art. Aesthetic perception promotes creativity, flexible thinking, and the pursuit of excellence.

B. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:216 (February 2004).

**§513. Benchmarks K-4**

A. In grades K-4, students should know and be able to:

M-AP-E1	Understand and apply basic music vocabulary to describe aesthetic qualities of musical compositions	(1, 4)
M-AP-E2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of music	(1, 4, 5)
M-AP-E3	Demonstrate awareness of where and how music is used in daily life and within the community	(1, 4, 5)
M-AP-E4	Recognize that there are many possibilities and choices available in the creative processes of music	(4)

M-AP-E5	Participate in guided inquiry into the basic question, "What is music?" and share personal feelings or preferences about music	(1, 5)
M-AP-E6	Recognize and demonstrate behavior appropriate for various musical environments	(4, 5)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:216 (February 2004).

**§515. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

M-AP-M1	Understand and apply expanded music vocabulary to describe aesthetic qualities of musical compositions	(1, 4)
M-AP-M2	Recognize that concepts of beauty differ by culture and that taste varies from person to person	(1, 4, 5)
M-AP-M3	Describe the emotional and intellectual impact of music in various contexts	(1, 4, 5)
M-AP-M4	Demonstrate awareness of various traditional and technological options pertaining to creative processes in music	(1, 4)
M-AP-M5	Discuss the question, "What is music?" and express intuitive reactions and personal responses to various works	(1, 4)
M-AP-M6	Demonstrate and discuss behavior appropriate for various musical environments	(1, 4, 5)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:216 (February 2004).

**§517. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

M-AP-H1	Understand and apply advanced music vocabulary to describe aesthetic qualities of musical compositions	(1, 4)
M-AP-H2	Distinguish unique characteristics of music as it reflects concepts of beauty and quality of life in various cultures	(1, 4, 5)
M-AP-H3	Analyze and express the impact of music on intellect and emotions	(1, 4, 5)
M-AP-H4	Compare and contrast traditional and technological options available for artistic expression in music	(1, 4)

M-AP-H5	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward musical works	(1, 2, 5)
M-AP-H6	Evaluate and discuss appropriateness of behavior for different types of musical environments	(2, 4, 5)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:216 (February 2004).

### §519. Aesthetic Perception? Grade Cluster

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Understand and apply basic music vocabulary to describe aesthetic qualities of musical compositions (1, 4)	Understand and apply expanded music vocabulary to describe aesthetic qualities of musical compositions (1, 4)	Understand and apply advanced music vocabulary to describe aesthetic qualities of musical compositions (1, 4)
Benchmark 2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of music (1, 4, 5)	Recognize that concepts of beauty differ by culture and that taste varies from person to person (1, 4, 5)	Distinguish unique characteristics of music as it reflects concepts of beauty and quality of life in various cultures (1, 4, 5)
Benchmark 3	Demonstrate awareness of where and how music is used in daily life and within the community (1, 4, 5)	Describe the emotional and intellectual impact of music in various contexts (1, 4, 5)	Analyze and express the impact of music on intellect and emotions (1, 4, 5)
Benchmark 4	Recognize that there are many possibilities and choices available in the creative processes of music (4)	Demonstrate awareness of various traditional and technological options pertaining to creative processes in music (1, 4)	Compare and contrast traditional and technological options available for artistic expression in music (1, 4)
Benchmark 5	Participate in guided inquiry into the basic question "What is music?" and share personal feelings or preferences about music (1, 5)	Discuss the question "What is music?" and express intuitive reactions and personal responses to various works (1, 4)	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward musical works (1, 2, 5)
Benchmark 6	Recognize and demonstrate behavior appropriate for various musical environments (4, 5)	Demonstrate and discuss behavior appropriate for various musical environments (1, 4, 5)	Evaluate and discuss appropriateness of behavior for different types of musical environments (2, 4, 5)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:217 (February 2004).

### Subchapter C. Historical and Cultural Perspective

#### §521. Purpose

A. Focus. Historical and cultural perspective is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creeds, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

B. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:217 (February 2004).

### §523. Benchmarks K-4

A. In grades K-4, students should know and be able to:

M-HP-E1	Recognize musical styles representative of various cultures	(4)
M-HP-E2	Recognize and discuss the function of music within historical and cultural contexts, including celebrations, ceremonies, and special occasions	(1, 4)
M-HP-E3	Recognize families of musical instruments and instruments of various cultures	(4)
M-HP-E4	Recognize professions in music and identify the roles of musicians in various cultures	(4)
M-HP-E5	Recognize great composers and their most significant musical works	(4)
M-HP-E6	Recognize universal themes in music and how music communicates a universal language	(1, 4)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:217 (February 2004).

### §525. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

M-HP-M1	Identify distinguishing characteristics of musical styles representative of various historical periods and cultures	(1, 2, 4)
M-HP-M2	Compare and contrast the function of music within historical and cultural contexts, such as celebrations, ceremonies, and events	(1, 4, 5)
M-HP-M3	Identify specific types and uses of musical instruments in various cultures	(4)
M-HP-M4	Describe careers for musicians and compare the roles of musicians in various cultures	(1, 4, 5)
M-HP-M5	Identify major works of great composers and recognize achievements of prominent musicians	(4, 5)
M-HP-M6	Identify and discuss ways in which universal themes are revealed and developed in the music of diverse cultures and time periods	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:217 (February 2004).

### §527. Benchmarks 9–12

A. In grades 9–12, students should know and be able to:

M-HP-H1	Compare and contrast musical styles representative of various historical periods and cultures	(1, 2, 4)
M-HP-H2	Analyze the function of music as it fulfills societal needs within historical and cultural contexts	(1, 4, 5)
M-HP-H3	Compare and contrast types and uses of musical instruments in various cultures	(4)
M-HP-H4	Investigate and assess roles, careers, and career opportunities for musicians	(3, 4)
M-HP-H5	Identify prominent musicians of various cultures and compare their lives, careers, works, and influence	(1, 4)
M-HP-H6	Analyze the universality of musical themes across cultures and time periods	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:218 (February 2004).

### §529. Historical and Cultural Perspective? Grade Cluster

Grade Cluster	K–4	5–8	9–12
Benchmark 1	Recognize musical styles representative of various cultures (4)	Identify distinguishing characteristics of musical styles representative of various historical periods and cultures (1, 2, 4)	Compare and contrast musical styles representative of various historical periods and cultures (1, 2, 4)
Benchmark 2	Recognize and discuss the function of music within historical and cultural contexts, including celebrations, ceremonies, and special occasions (1, 4)	Compare and contrast the function of music within historical and cultural contexts, such as celebrations, ceremonies, and events (1, 4, 5)	Analyze the function of music as it fulfills societal needs within historical and cultural contexts (1, 4, 5)
Benchmark 3	Recognize families of musical instruments and instruments of various cultures (4)	Identify specific types and uses of musical instruments in various cultures (4)	Compare and contrast types and uses of musical instruments in various cultures (4)
Benchmark 4	Recognize professions in music and identify the roles of musicians in various cultures (4)	Describe careers for musicians and compare the roles of musicians in various cultures (1, 4, 5)	Investigate and assess roles, careers, and career opportunities for musicians (3, 4)
Benchmark 5	Recognize great composers and their most significant musical works (4)	Identify major works of great composers and recognize achievements of prominent musicians (4, 5)	Identify prominent musicians of various cultures and compare their lives, careers, works, and influence (1, 4)
Benchmark 6	Recognize universal themes in music and how music communicates a universal language (1, 4)	Identify and discuss ways in which universal themes are revealed and developed in the music of diverse cultures and time periods (1, 4)	Analyze the universality of musical themes across cultures and time periods (1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:218 (February 2004).

#### Subchapter D. Critical Analysis

##### §531. Purpose

A. Focus. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to describe, analyze, interpret, and make critical, reasoned judgments about the form and content of the arts.

B. Standard. Students make informed verbal and written observations about the arts by developing skills for critical analysis through the study of and exposure to the arts.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:218 (February 2004).

##### §533. Benchmarks K-4

A. In grades K-4, students should know and be able to:

M-CA-E1	Identify the music form (e.g., AB, ABA) and describe in simple terms how the elements of music are used in various works	(1, 4)
M-CA-E2	Identify simple music events (e.g., dynamic change, meter change, same/different sections) while listening to a work	(2, 4)
M-CA-E3	Recognize characteristics of music that make a musical selection appropriate for a particular purpose	(4)
M-CA-E4	Identify relationships among music, other arts, and disciplines outside the arts	(1, 4)
M-CA-E5	Devise criteria for evaluating music and music performances, and express opinions using basic music vocabulary	(1, 2, 4)



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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:218 (February 2004).

**§535. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

M-CA-M1	Identify the music form (e.g., round, canon) and explain how the elements of music are used in works representing various genres/styles	(4)
M-CA-M2	Identify and describe music events (e.g., entry of an instrument, meter change, return of refrain) while listening to a work	(2, 4)
M-CA-M3	Describe or explain characteristics of music in regard to suitability of musical selections for specific purposes	(1, 4)
M-CA-M4	Describe relationships among music, other arts, and disciplines outside the arts	(1, 4)
M-CA-M5	Use appropriate criteria and expanded music vocabulary to evaluate the quality of music and performances	(1, 2, 4)

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

**§539. Critical Analysis? Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Identify the music form (e.g., AB, ABA) and describe in simple terms how the elements of music are used in various works (1, 4)	Identify the music form (e.g., round, canon) and explain how the elements of music are used in works representing various genres/styles (4)	Distinguish and analyze elements of music and expressive devices as used in musical works representing diverse genres/styles (1, 2, 4)
Benchmark 2	Identify simple music events (e.g., dynamic change, meter change, same/different sections) while listening to a work (2, 4)	Identify and describe music events (e.g., entry of an instrument, meter change, return of refrain) while listening to a work (2, 4)	Identify and explain compositional devices and techniques used to provide unity and variety and tension and release in a musical work (1, 2, 4)
Benchmark 3	Recognize characteristics of music that make a musical selection appropriate for a particular purpose (4)	Describe or explain characteristics of music in regard to suitability of musical selections for specific purposes (1, 4)	Analyze the appropriateness of music choices as they relate to purpose (2, 4, 5)
Benchmark 4	Identify relationships among music, other arts, and disciplines outside the arts (1, 4)	Describe relationships among music, other arts, and disciplines outside the arts (1, 4)	Explain commonalities and differences among music, other arts, and disciplines outside the arts (1, 2, 4)
Benchmark 5	Devise criteria for evaluating music and music performances, and express opinions using basic music vocabulary (1, 2, 4)	Use appropriate criteria and expanded music vocabulary to evaluate the quality of music and performances (1, 2, 4)	Use appropriate criteria and advanced music vocabulary to critique the quality of music and performances (1, 2, 4)

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

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**Chapter 7. Theatre Arts**

**Subchapter A. Creative Expression**

**§701. Purpose**

A. Focus. Creative Expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:219 (February 2004).

**§537. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

M-CA-H1	Distinguish and analyze elements of music and expressive devices as used in musical works representing diverse genres/styles	(1, 2, 4)
M-CA-H2	Identify and explain compositional devices and techniques used to provide unity and variety and tension and release in a musical work	(1, 2, 4)
M-CA-H3	Analyze the appropriateness of music choices as they relate to purpose	(2, 4, 5)
M-CA-H4	Explain commonalities and differences among music, other arts, and disciplines outside the arts	(1, 2, 4)
M-CA-H5	Use appropriate criteria and advanced music vocabulary to critique the quality of music and performances	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:219 (February 2004).

B. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organizational abilities, and imagination.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:219 (February 2004).

**§703. Benchmarks K-4**

A. In grades K-4, students should know and be able to:

TH-CE-E1	Explore and express various emotions in interpersonal settings	(1, 5)
TH-CE-E2	Interact in group situations and show differentiation of roles through experimentation and role playing	(1, 2, 5)

TH-CE-E3	Exhibit physical and emotional dimensions of characterization through experimentation and role playing	(2, 5)
TH-CE-E4	Create story lines for improvisation	(2, 3, 4)
TH-CE-E5	Identify and express differences among reality, fantasy, role playing, and media representation	(2, 3, 4)
TH-CE-E6	Develop awareness of technical dimensions of the dramatic form, such as theatrical space, scenery, costuming, and make-up	(3, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:219 (February 2004).

**§705. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

TH-CE-M1	Demonstrate self-expression and various emotions individually and in groups	(1, 5)
TH-CE-M2	Demonstrate role playing individually and in interpersonal situations	(1, 5)
TH-CE-M3	Demonstrate physical and emotional traits appropriate to a variety of roles and characters	(2, 4)
TH-CE-M4	Create improvisations and scripted scenes based on personal experience, imagination, literature, and history	(1, 2, 3)
TH-CE-M5	Compare/contrast and demonstrate various performance methods and styles	(1, 2, 4)

TH-CE-M6	Engage in individual and collaborative use of technical dimensions of the dramatic form such as theatrical space, scenery, set design, costuming, and make-up	(1, 4, 5)
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AUTHORITY NOTE: Promulgated in accordance with R.S.17.24.4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:220 (February 2004).

**§707. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

TH-CE-H1	Develop intrapersonal skills as an individual and as a performer	(1, 5)
TH-CE-H2	Assume and sustain various roles in group interactions	(1, 4, 5)
TH-CE-H3	Develop characterization in group performances through interpretation of psychological motivation	(2, 3, 5)
TH-CE-H4	Write scripts for classroom, stage, and media performances, using various forms of technology	(1, 3, 4)
TH-CE-H5	Perform using specific methods, styles, and acting techniques from various cultures and time periods	(1, 2, 3, 4)
TH-CE-H6	Manipulate technical dimensions of the dramatic form, such as set design/construction, costuming, make-up, properties, lights, sound, and multimedia	(1, 3, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:220 (February 2004).

**§709. Creative Expression? Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Explore and express various emotions in interpersonal settings (1, 5)	Demonstrate self-expression and various emotions individually and in groups (1, 5)	Develop intrapersonal skills as an individual and as a performer (1, 5)
Benchmark 2	Interact in group situations and show differentiation of roles through experimentation and role playing (1, 2, 5)	Demonstrate role playing individually and in interpersonal situations (1, 5)	Assume and sustain various roles in group interactions (1, 4, 5)
Benchmark 3	Exhibit physical and emotional dimensions of characterization through experimentation and role playing (2, 5)	Demonstrate physical and emotional traits appropriate to a variety of roles and characters (2, 4)	Develop characterization in group performances through interpretation of psychological motivation (2, 3, 5)
Benchmark 4	Create story lines for improvisation (2, 3, 4)	Create improvisations and scripted scenes based on personal experience, imagination, literature, and history (1, 2, 3)	Write scripts for classroom, stage, and media performances, using various forms of technology (1, 3, 4)
Benchmark 5	Identify and express differences among reality, fantasy, role playing, and media productions (2, 3, 4)	Compare/contrast and demonstrate various performance methods and styles (1, 2, 4)	Perform using specific methods, styles, and acting techniques from various cultures and time periods (1, 2, 3, 4)
Benchmark 6	Develop awareness of technical dimensions of the dramatic form, such as theatrical space, scenery, costuming, and make-up (3, 4)	Engage in individual and collaborative use of technical dimensions of the dramatic form such as theatrical space, scenery, set design, costuming, and make-up (1, 4, 5)	Manipulate technical dimensions of the dramatic form, such as set design/construction, costuming, make-up, properties, lights, sound, and multimedia (1, 3, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:220 (February 2004).

**Subchapter B. Aesthetic Perception**

**§711. Purpose**

A. Focus. The study of aesthetics, or the philosophy of the arts, cultivates the direct experience of the senses and supplies the individual with a structure for perceiving and responding to the arts. A grasp of aesthetics empowers the individual to experience beauty in many forms, to appreciate artistic expression, and to develop insight into the creations and performances of others. By questioning concepts, weighing evidence, and examining intuitive reactions, the individual becomes increasingly discriminating in formulating preferences and conclusions about the values inherent in art. Aesthetic perception promotes creativity, flexible thinking, and the pursuit of excellence.

B. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:221 (February 2004).

**§713. Benchmarks K-4**

A. In grades K-4, students should know and be able to:

TH-AP-E1	Understand and use basic theatre arts vocabulary, including language for describing theatre in various cultures/time periods	(1)
TH-AP-E2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of theatre arts	(1, 4, 5)
TH-AP-E3	Develop a basic understanding of the processes of creating, performing, and observing theatre	(2, 5)
TH-AP-E4	Recognize that there are many possibilities and choices in the creative processes for theatre arts	(2, 4)
TH-AP-E5	Identify and discuss how works of theatre and dramatic media affect thoughts and feelings	(1, 2)
TH-AP-E6	Share personal feelings or preferences about theatre and other dramatic works	(1)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:221 (February 2004).

**§719. Aesthetic Perception? Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Understand and use basic theatre arts vocabulary, including language for describing theatre in various cultures/time periods (1)	Understand and use expanded theatre arts vocabulary, including terms related to theatrical periods, environments, situations, and roles (1, 4)	Use advanced theatre arts vocabulary and apply cultural/historical information in discussing scripted scenes, sets, and period costumes (1, 2, 4)
Benchmark 2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of theatre arts (1, 4, 5)	Recognize that concepts of beauty differ from culture to culture and that taste varies from person to person (1, 4, 5)	Distinguish unique characteristics of theatre as it reflects concepts of beauty and quality of life in various cultures (1, 4, 5)
Benchmark 3	Develop a basic understanding of the processes of creating, performing, and observing theatre (2, 5)	Identify and discuss appropriate behaviors for creators, performers, and observers of theatre (1, 2, 5)	Explain the significance of collaboration and evaluate group dynamics in creating, performing, and observing theatre (1, 2, 5)

**§715. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

TH-AP-M1	Understand and use expanded theatre arts vocabulary, including terms related to theatrical periods, environments, situations, and roles	(1, 4)
TH-AP-M2	Recognize that concepts of beauty differ from culture to culture and that taste varies from person to person	(1, 4, 5)
TH-AP-M3	Identify and discuss appropriate behaviors for creators, performers, and observers of theatre	(1, 2, 5)
TH-AP-M4	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to theatre arts	(1, 2, 4)
TH-AP-M5	Describe the emotional and intellectual impact of theatrical works and dramatic performances	(1, 2)
TH-AP-M6	Express intuitive reactions and personal responses to theatre and other dramatic works	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:221 (February 2004).

**§717. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

TH-AP-H1	Use advanced theatre arts vocabulary and apply cultural/historical information in discussing scripted scenes, sets, and period costumes	(1, 2, 4)
TH-AP-H2	Distinguish unique characteristics of theatre as it reflects concepts of beauty and quality of life in various cultures	(1, 4, 5)
TH-AP-H3	Explain the significance of collaboration and evaluate group dynamics in creating, performing, and observing theatre	(1, 2, 5)
TH-AP-H4	Compare and contrast multiple possibilities and options available for artistic expression in theatre arts	(1, 4)
TH-AP-H5	Analyze and explain the impact of theatrical works and dramatic performances on intellect and emotions	(1, 2, 4)
TH-AP-H6	Examine intuitive reactions and articulate personal attitudes toward theatre and other dramatic works	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:221 (February 2004).

Grade Cluster	K-4	5-8	9-12
Benchmark 4	Recognize that there are many possibilities and choices in the creative processes for theatre arts (2, 4)	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to theatre arts (1, 2, 4)	Compare and contrast multiple possibilities and options available for artistic expression in theatre arts (1, 4)
Benchmark 5	Identify and discuss how works of theatre and dramatic media affect thoughts and feelings (1, 2)	Describe the emotional and intellectual impact of theatrical works and dramatic performances (1, 2)	Analyze and explain the impact of theatrical works and dramatic performances on intellect and emotions (1, 2)
Benchmark 6	Share personal feelings or preferences about theatre and other dramatic works (1)	Discuss intuitive reactions and personal responses to theatre and other dramatic works (1, 2, 4)	Examine intuitive reactions and articulate personal attitudes toward theatre and other dramatic works (1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:221 (February 2004).

### Subchapter C. Historical and Cultural Perspective

#### §721. Purpose

A. Focus. Historical and cultural perspective is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creeds, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

B. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:222 (February 2004).

#### §725. Benchmarks 5-8

A. In grades 5-8, students should know and be able to:

TH-HP-M1	Describe types, forms, and patterns in theatre and dramatic media (film, television, and electronic media)	(1, 3)
TH-HP-M2	Identify differences in theatre across cultures and how artistic choices and artistic expression reflect cultural values	(1, 2, 4)
TH-HP-M3	Identify and describe characters and situations in literature and dramatic media from the past and present	(1, 4)
TH-HP-M4	Identify and discuss ways in which themes are revealed and developed in dramas of various cultures and time periods	(1, 4)
TH-HP-M5	Describe and compare careers in theatre arts and roles of theatre artists in various cultures and time periods	(1, 4, 5)
TH-HP-M6	Identify major works of great playwrights and recognize contributions of prominent theatre artists	(3, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:222 (February 2004).

#### §723. Benchmarks K-4

A. In grades K-4, students should know and be able to:

TH-HP-E1	Recognize basic types and forms of theatre and dramatic media (film, television, and electronic media)	(2, 3)
TH-HP-E2	Recognize cultural differences in theatre productions and performances	(2)
TH-HP-E3	Recall and recognize characters and situations in literature and dramatic media from the past and present	(4)
TH-HP-E4	Recognize universal characters and situations in stories and dramas of various cultures and how theatre reflects life	(2, 4)
TH-HP-E5	Recognize careers in theatre arts and identify roles of theatre artists in various cultures and time periods	(4)
TH-HP-E6	Recognize great theatrical works and great playwrights who have shaped the history of theatre	(4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:222 (February 2004).

#### §727. Benchmarks 9-12

A. In grades 9-12, students should know and be able to:

TH-HP-H1	Compare and contrast types, forms, methods, patterns, and trends in theatre, film, television, and electronic media	(2, 3)
TH-HP-H2	Analyze the form, content, and style of theatrical works from cultural and historical perspectives	(1, 2, 4)
TH-HP-H3	Demonstrate knowledge of dramatic literature, describing characters and situations in historical and cultural contexts	(1, 4)
TH-HP-H4	Analyze the universality of dramatic themes across cultures and historical periods and how theatre can reveal universal concepts	(4)
TH-HP-H5	Investigate and assess roles, careers, and career opportunities in theatre arts	(2, 3)
TH-HP-H6	Identify representative theatre artists of various cultures and compare their lives, works, and influence	(3, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:222 (February 2004).

**§729. Historical and Cultural Perspective ?**  
**Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Recognize basic types and forms of theatre and dramatic media (film, television, and electronic media) (2, 3)	Describe types, forms, and patterns in theatre and dramatic media (film, television, and electronic media) (1, 3)	Compare and contrast types, forms, methods, patterns, and trends in theatre, film, television, and electronic media (2, 3)
Benchmark 2	Recognize cultural differences in theatre productions and performances (2)	Identify differences in theatre across cultures and how artistic choices and artistic expression reflect cultural values (1, 2, 4)	Analyze the form, content, and style of theatrical works from cultural and historical perspectives (1, 2, 4)
Benchmark 3	Recall and recognize characters and situations in literature and dramatic media from the past and present (4)	Identify and describe characters and situations in literature and dramatic media from the past and present (1, 4)	Demonstrate knowledge of dramatic literature, describing characters and situations in historical and cultural contexts (1, 4)
Benchmark 4	Recognize universal characters and situations in stories and dramas of various cultures and how theatre reflects life (2, 4)	Identify and discuss ways in which universal themes are revealed and developed in dramas of various cultures and time periods (1, 4)	Analyze the universality of dramatic themes across cultures and historical periods and how theatre can reveal universal concepts (4)
Benchmark 5	Recognize careers in theatre arts and identify roles of theatre artists in various cultures and time periods (4)	Describe and compare careers in theatre arts and roles of theatre artists in various cultures and time periods (1, 4, 5)	Investigate and assess roles, careers, and career opportunities in theatre arts (2, 3)
Benchmark 6	Recognize great theatrical works and great playwrights who have shaped the history of theatre (4)	Identify major works of great playwrights and recognize contributions of prominent theatre artists (3, 4)	Identify representative theatre artists of various cultures and compare their lives, works, and influence (3, 4)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:223 (February 2004).

**Subchapter D. Critical Analysis**

**§731. Purpose**

A. Focus. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to describe, analyze, interpret, and make critical, reasoned judgments about the form and content of the arts.

B. Standard. Students make informed verbal and written observations about the arts by developing the skills for critical analysis through study of and exposure to the arts.

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:223 (February 2004).

**§733. Benchmarks K-4**

A. In grades K-4, students should know and be able to:

TH-CA-E1	Describe in simple terms how voice, language, and technical elements are used in works of theatre and other dramatic media	(1, 2)
TH-CA-E2	Identify motivations, personality traits, and responses to emotional experiences in characters portrayed in dramatic literature and media	(2)
TH-CA-E3	Identify and discuss the theme, message, or story idea conveyed in a dramatic work	(1, 2)

TH-CA-E4	Use basic theatre arts vocabulary to express and explain opinions about scripts and performances	(1)
TH-CA-E5	Identify relationships among theatre arts, other arts, and disciplines outside the arts	(1, 4)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:223 (February 2004).

**§735. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

TH-CA-M1	Explain how elements of theatre and principles of communication are used in works created for the stage and other dramatic media	(1, 2)
TH-CA-M2	Analyze descriptions, dialogues, and actions to explain character traits, personality, motivations, emotional perceptions, and ethical choices	(2, 5)
TH-CA-M3	Interpret and discuss the theme or social/political message conveyed in a dramatic work	(1, 5)
TH-CA-M4	Use appropriate criteria and expanded theatre arts vocabulary to critique scripts, performances and productions	(1, 2)
TH-CA-M5	Describe relationships among theatre arts, other arts, and disciplines outside the arts	(1, 4)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:223 (February 2004).

**§737. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

TH-CA-H1	Analyze how elements of theatre and principles of communication are used to achieve specific effects in theatre and other media productions	(1, 2)
TH-CA-H2	Analyze emotional and social dimensions of characterization and explain character transformations and relationships	(2, 5)

TH-CA-H3	Construct social meaning from dramatic works with reference to theme, purpose, point of view, and current issues	(2, 4, 5)
TH-CA-H4	Use appropriate criteria and advanced theatre arts vocabulary to critique scripts, performances, and productions	(1, 2)
TH-CA-H5	Explain relationships among theatre arts, other arts, and disciplines outside the arts	(1, 4)

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

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**§739. Critical Analysis? Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Describe in simple terms how voice, language, and technical elements are used in works of theatre and other dramatic media (1, 2)	Explain how elements of theatre and principles of communication are used in works created for the stage and other dramatic media (1, 2)	Analyze how elements of theatre and principles of communication are used to achieve specific effects in theatre and other media productions (1, 2)
Benchmark 2	Identify motivations, personality traits, and responses to emotional experiences in characters portrayed in dramatic literature and media (2)	Analyze descriptions, dialogues, and actions to explain character traits, personality, motivations, emotional perceptions, and ethical choices (2, 5)	Analyze emotional and social dimensions of characterization and explain character transformations and relationships (2, 5)
Benchmark 3	Identify and discuss the theme, message, or story idea conveyed in a dramatic work (1, 2)	Interpret and discuss the theme or social/political message conveyed in a dramatic work (1, 5)	Construct social meaning from dramatic works with reference to theme, purpose, point of view, and current issues (2, 4, 5)
Benchmark 4	Use basic theatre arts vocabulary to express and explain opinions about scripts and performances (1)	Use appropriate criteria and expanded theatre arts vocabulary to critique scripts, performances and productions (1, 2)	Use appropriate criteria and advanced theatre arts vocabulary to critique scripts, performances, and productions (1, 2)
Benchmark 5	Identify relationships among theatre arts, other arts, and disciplines outside the arts (1, 4)	Describe relationships among theatre arts, other arts, and disciplines outside the arts (1, 4)	Explain relationships among theatre arts, other arts, and disciplines outside the arts (1, 4)

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

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**Chapter 9. Visual Arts**

**Subchapter A. Creative Expression**

**§901. Purpose**

A. Focus. Creative expression opens an avenue for the application of individual ideas, feelings, and expressions. The use of a variety of media and techniques provides an opportunity for the individual to develop, organize, and interpret knowledge for communication. The skills of analysis, problem solving, cooperative involvement, and disciplined behavior contribute to a successful school environment and prepare the individual to become a productive member of society.

B. Standard. Students develop creative expression through the application of knowledge, ideas, communication skills, organizational abilities, and imagination.

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:224 (February 2004).

**§903. Benchmarks K-4**

A. In grades K-4, students should know and be able to:

VA-CE-E1	Explore and identify imagery from a variety of sources and create visual representations	(2, 3)
VA-CE-E2	Explore and discuss techniques and technologies for visual expression and communication	(1, 2, 3)
VA-CE-E3	Use art vocabulary and the elements and principles of design to convey the language of art (create and discuss own artwork)	(1, 2, 3)
VA-CE-E4	Experiment to create various art forms, including art forms from other cultures	(2, 3, 4)
VA-CE-E5	Draw on imagination, individual experience, and group activities to generate ideas for visual expression	(1, 4, 5)
VA-CE-E6	Identify relationships among visual arts, other arts, and disciplines outside the arts	(1, 4)
VA-CE-E7	Maintain a sketchbook or journal, or develop a portfolio	(1, 2, 3)

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

**HISTORICAL NOTE:** Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:224 (February 2004).

**§905. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

VA-CE-M1	Demonstrate art methods and techniques in visual representations based on research of imagery	(2, 3)
VA-CE-M2	Select and apply media techniques, and technology to visually express and communicate	(1, 2, 3)
VA-CE-M3	Use the elements and principles of design and art vocabulary to visually express and describe individual ideas	(1, 2)
VA-CE-M4	Develop skills in creating various art forms, including art forms from other cultures	(2, 3, 4)
VA-CE-M5	Produce ideas for art productions while engaging in individual and group activities	(1, 2, 5)
VA-CE-M6	Understand and visually express relationships among visual arts, other arts, and disciplines outside the arts	(1, 2, 4)
VA-CE-M7	Maintain a sketchbook or journal and develop a portfolio	(1, 2, 3)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:225 (February 2004).

**§907. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

VA-CE-H1	Produce works of art that successfully convey a central theme based on imagery, ideas, feelings, and memories	(1, 2, 3)
VA-CE-H2	Apply a variety of media techniques, technologies, and processes for visual expression and communication	(1, 2, 3)
VA-CE-H3	Use the elements and principles of design for individual expression while exploring compositional problems	(1, 2)
VA-CE-H4	Produce a visual representation of ideas derived from the study of various cultures and art forms	(2, 3, 4)
VA-CE-H5	Produce imaginative works of art generated from individual and group ideas	(1, 2, 5)
VA-CE-H6	Produce works of art that describe and connect art with other disciplines	(1, 2, 4)
VA-CE-H7	Maintain a sketchbook or journal and develop a portfolio	(1, 2, 3)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:225 (February 2004).

**§909. Creative Expression? Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Explore and identify imagery from a variety of sources and create visual representations (2, 3)	Demonstrate art methods and techniques in visual representations based on research of imagery (2, 3)	Produce works of art that successfully convey a central theme based on imagery, ideas, feelings, and memories (1, 2, 3)
Benchmark 2	Explore and discuss techniques and technologies for visual expression and communication (1, 2, 3)	Select and apply media, techniques, and technology to visually express and communicate (1, 2, 3)	Apply a variety of media techniques, technologies, and processes for visual expression and communication (1, 2, 3)
Benchmark 3	Use art vocabulary and the elements and principles of design to convey the language of art (create and discuss own artwork) (1, 2, 3)	Use the elements and principles of design and art vocabulary to visually express and describe individual ideas (1, 2)	Use the elements and principles of design for individual expression while exploring compositional problems (1, 2)
Benchmark 4	Experiment to create various art forms, including art forms from other cultures (2, 3, 4)	Develop skills in creating various art forms, including art forms from other cultures (2, 3, 4)	Produce a visual representation of ideas derived through the study of various cultures and art forms (2, 3, 4)
Benchmark 5	Draw on imagination, individual experience, and group activities to generate ideas for visual expression (1, 4, 5)	Produce ideas for art productions while engaging in individual and group activities (1, 2, 5)	Produce imaginative works of art generated from individual and group ideas (1, 2, 5)
Benchmark 6	Identify relationships among visual arts, other arts, and disciplines outside the arts (1, 4)	Understand and visually express relationships among visual arts, other arts, and disciplines outside the arts (1, 2, 4)	Produce works of art that describe and connect art with other disciplines (1, 2, 4)
Benchmark 7	Maintain a sketchbook or journal, or develop a portfolio (1, 2, 3)	Maintain a sketchbook or journal and develop a portfolio (1, 2, 3)	Maintain a sketchbook or journal and develop a portfolio (1, 2, 3)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:225 (February 2004).

**Subchapter B. Aesthetic Perception**

**§911. Purpose**

A. Focus. The study of aesthetics, or the philosophy of the arts, cultivates the direct experience of the senses and supplies the individual with a structure for perceiving and

responding to the arts. A grasp of aesthetics empowers the individual to experience beauty in many forms, to appreciate artistic expression, and to develop insight into the creations and performances of others. By questioning concepts, weighing evidence, and examining intuitive reactions, the individual becomes increasingly discriminating in formulating preferences and conclusions about the values inherent in art. Aesthetic perception promotes creativity, flexible thinking, and the pursuit of excellence.

B. Standard. Students develop aesthetic perception through the knowledge of art forms and respect for their commonalities and differences.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:225 (February 2004).

**§913. Benchmarks K-4**

A. In grades K-4, students should know and be able to:

VA-AP-E1	Use elements and principles of design and basic art vocabulary for expressing responses to the work of others	(1, 4, 5)
VA-AP-E2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of visual arts	(1, 4, 5)
VA-AP-E3	Explore the beauty in nature and discern images and sensory qualities found in nature and art	(1, 2)
VA-AP-E4	Recognize that there are many possibilities and choices in the processes for designing and producing visual arts	(2, 3, 4)
VA-AP-E5	Participate in guided inquiry into the basic question, "What is art?" and share personal feelings or preferences about various works	(1, 2, 4)
VA-AP-E6	Identify where and how the visual arts are used in daily life and in the community	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:226 (February 2004).

**§915. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

VA-AP-M1	Use elements and principles of design and expanded art vocabulary for responding to the aesthetic qualities of various works	(1, 4)
VA-AP-M2	Recognize that concepts of beauty differ by culture and that taste varies from person to person	(1, 4, 5)

VA-AP-M3	Perceive the aesthetic value and influence of organic forms and the natural environment as reflected in works of art	(1, 2, 4)
VA-AP-M4	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to the art world	(1, 4)
VA-AP-M5	Discuss the question "What is art?" and express intuitive reactions and personal responses to various works	(1, 4)
VA-AP-M6	Describe the use and value of the visual arts in daily life, the workplace, and the community	(1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:226 (February 2004).

**§917. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

VA-AP-H1	Use advanced art/design vocabulary for responding to the aesthetic qualities of various works	(1, 4)
VA-AP-H2	Distinguish unique characteristics of art as it reflects concepts of beauty and quality of life in various cultures	(1, 4, 5)
VA-AP-H3	Use analogies, metaphors, and other descriptors to describe interrelationships in works of art and nature	(1, 2, 4)
VA-AP-H4	Compare and contrast multiple possibilities and options available for artistic expression	(1, 4)
VA-AP-H5	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward visual works	(1, 2, 5)
VA-AP-H6	Integrate knowledge of the visual arts in the total environment to understand the arts within a community	(2, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:226 (February 2004).

**§919. Aesthetic Perception? Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Use elements and principles of design and basic art vocabulary for expressing responses to the work of others (1, 4, 5)	Use elements and principles of design and expanded art vocabulary for responding to the aesthetic qualities of various works (1, 4)	Use advanced art/design vocabulary for responding to the aesthetic qualities of various works (1, 4)
Benchmark 2	Recognize and respond to concepts of beauty and taste in the ideas and creations of others through the study of visual arts (1, 4, 5)	Recognize that concepts of beauty differ by culture and that taste varies from person to person (1, 4, 5)	Distinguish unique characteristics of art as it reflects concepts of beauty and quality of life in various cultures (1, 4, 5)
Benchmark 3	Explore the beauty in nature and discern images and sensory qualities found in nature and art (1, 2)	Perceive the aesthetic value and influence of organic forms and the natural environment as reflected in works of art (1, 2, 4)	Use analogies, metaphors, and other descriptors to describe interrelationships in works of art and nature (1, 2, 4)
Benchmark 4	Recognize that there are many possibilities and choices in the processes for designing and producing visual arts (2, 3, 4)	Demonstrate awareness of various new ideas, possibilities, options, and situations pertaining to the art world (1, 4)	Compare and contrast multiple possibilities and options available for artistic expression (1, 4)



Grade Cluster	K-4	5-8	9-12
Benchmark 5	Participate in guided inquiry into the basic question "What is art?" and share personal feelings or preferences about various works (1, 2, 4)	Discuss the question "What is art?" and express intuitive reactions and personal responses to various works (1, 4)	Question/weigh evidence and information, examine intuitive reactions, and articulate personal attitudes toward visual work (1, 2, 5)
Benchmark 6	Identify where and how the visual arts are used in daily life and in the community (1, 2, 4)	Describe the use and value of the visual arts in daily life, the workplace, and the community (1, 2, 4)	Integrate knowledge of the visual arts in the total environment to understand the arts within a community (2, 4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:226 (February 2004).

**Subchapter C. Historical and Cultural Perspective**

**§921. Purpose**

A. Focus. Historical and cultural perspective is the vehicle for understanding works of art in time and place. The arts survive through times of interruption and neglect; they outlive governments, creeds, societies, and even the civilizations that spawned them. The artist is a harbinger of change, a translator of social thought, an analyst of cultures, a poetic scientist, and a recorder of history. To understand creative output in the history of the arts is to understand history itself.

B. Standard. Students develop historical and cultural perspective by recognizing and understanding that the arts throughout history are a record of human experience with a past, present, and future.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:227 (February 2004).

**§923. Benchmarks K-4**

A. In grades K-4, students should know and be able to:

VA-HP-E1	Identify the subject, basic style, and culture represented by various works of art	(2, 4)
VA-HP-E2	Recognize universal symbols and how works of art communicate a universal language	(1, 4, 5)
VA-HP-E3	Identify art images and themes from the past and present and discuss historical differences	(1, 2, 4)
VA-HP-E4	Identify media used in works of art throughout history and recognize the importance of available resources	(2, 3, 4)
VA-HP-E5	Recognize professions in the visual arts and the role and status of the artist in various cultures and time periods	(2, 4)
VA-HP-E6	Recognize great artists and works of art that have shaped the history of art	(2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:227 (February 2004).

**§925. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

VA-HP-M1	Identify and classify works of art by their subject, style, culture, and time period	(2, 4)
VA-HP-M2	Understand how works of art cross geographical, political, and historical boundaries	(2, 4)
VA-HP-M3	Understand the meaning and significance of ideas, themes, and messages in works of art from the past and present	(2, 4)
VA-HP-M4	Distinguish media and techniques used to create works of art throughout history	(2, 3, 4)
VA-HP-M5	Describe and compare careers in visual arts and the role and status of the artist in various cultures and time periods	(1, 2, 4)
VA-HP-M6	Identify major works of great and influential artists and recognize their achievements	(4, 5)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:227 (February 2004).

**§927. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

VA-HP-H1	Analyze specific styles and periods of art in relation to prevailing cultural, social, political, and economic conditions	(2, 4, 5)
VA-HP-H2	Analyze how works of art cross geographical, political, and historical boundaries	(2, 4)
VA-HP-H3	Compare and contrast ways art has been used to communicate ideas, themes, and messages throughout history	(1, 2, 4)
VA-HP-H4	Analyze materials, technologies, media, and processes of the visual arts throughout history	(2, 3, 4)
VA-HP-H5	Investigate and assess roles, careers, and career opportunities in the visual arts	(2, 4)
VA-HP-H6	Identify representative visual artists of various cultures and compare their lives, careers, works, and influence	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:227 (February 2004).

**§929. Historical and Cultural Perspective ?**  
**Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	Identify the subject, basic style, and culture represented by various works of art (2, 4)	Identify and classify works of art by their subject, style, culture, and time period (2, 4)	Analyze specific styles and periods of art in relation to prevailing cultural, social, political, and economic conditions (2, 4, 5)
Benchmark 2	Recognize universal symbols and how works of art communicate a universal language (1, 4, 5)	Understand how works of art cross geographical, political, and historical boundaries (2, 4)	Analyze how works of art cross geographical, political, and historical boundaries (2, 4)
Benchmark 3	Identify art images and themes from the past and present and discuss historical differences (1, 2, 4)	Understand the meaning and significance of ideas, themes, and messages in works of art from the past and present (2, 4)	Compare and contrast ways art has been used to communicate ideas, themes, and messages throughout history (1, 2, 4)
Benchmark 4	Identify media used in works of art throughout history and recognize the importance of available resources (2, 3, 4)	Distinguish media and techniques used to create works of art throughout history (2, 3, 4)	Analyze materials, technologies, media, and processes of the visual arts throughout history (2, 3, 4)
Benchmark 5	Recognize professions in the visual arts and the role and status of the artist in various cultures and time periods (2, 4)	Describe and compare careers in visual arts and the role and status of the artist in various cultures and time periods (1, 2, 4)	Investigate and assess roles, careers, and career opportunities in the visual arts (2, 4)
Benchmark 6	Recognize great artists and works of art that have shaped the history of art (2, 4)	Identify major works of great and influential artists and recognize their achievements (4, 5)	Identify representative visual artists of various cultures and compare their lives, careers, works, and influence (1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:228 (February 2004).

**Subchapter D. Critical Analysis**

**§931. Purpose**

A. Focus. Critical analysis is the process of inquiry associated with an individual's knowledge of the arts. Communication about the arts in a structured way provides the individual with means to describe, analyze, interpret, and make critical, reasoned judgments about the form and content of the arts.

B. Standard. Students make informed verbal and written observations about the arts by developing skills for critical analysis through the study of and exposure to the arts.

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:228 (February 2004).

**§933. Benchmarks K-4**

A. In grades K-4, students should know and be able to:

VA-CA-E1	View works of art and express observations about how the elements and principles of design are used in the works	(1, 4)
VA-CA-E2	Identify images, colors, and other art elements that have specific meanings in cultural contexts	(1, 4)
VA-CA-E3	Express and explain aesthetic judgments about the created (built) environment	(1, 2, 4)
VA-CA-E4	Express and explain opinions about visual works of others using basic art vocabulary	(1, 4)
VA-CA-E5	Express interpretations about works of art and give supporting reasons	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:228 (February 2004).

**§935. Benchmarks 5-8**

A. In grades 5-8, students should know and be able to:

VA-CA-M1	View works of art and analyze how artists use design elements and principles to achieve an aesthetic effect	(2, 3, 4)
VA-CA-M2	Analyze and interpret art images for their symbolic meaning, purpose, and value in place and time	(2, 4)
VA-CA-M3	Express and justify aesthetic judgments about the created (built) environment	(1, 2, 4)
VA-CA-M4	Critique works of art using expanded art vocabulary	(1, 4)
VA-CA-M5	Develop interpretations about works of art and give supporting reasons	(1, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:228 (February 2004).

**§937. Benchmarks 9-12**

A. In grades 9-12, students should know and be able to:

VA-CA-H1	Apply knowledge of design elements and principles to analyze, compare, or contrast the composition of various works of art	(2, 4)
VA-CA-H2	Compare and contrast symbolism as used in works of visual art from different cultures and time periods	(1, 4)
VA-CA-H3	Critique the design of structures or areas in the created (built) environment based on aesthetic criteria	(1, 2, 4)
VA-CA-H4	Critique works of art using advanced art vocabulary	(1, 4)
VA-CA-H5	Develop and justify personal interpretations of works of art based on information from inside and outside the work	(1, 2, 4)

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

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**§939. Critical Analysis? Grade Cluster**

Grade Cluster	K-4	5-8	9-12
Benchmark 1	View works of art and express observations about how the elements and principles of design are used in the works (1, 4)	View works of art and analyze how artists use design elements and principles to achieve an aesthetic effect (2, 3, 4)	Apply knowledge of design elements and principles to analyze, compare, or contrast the composition of various works of art (2, 4)
Benchmark 2	Identify images, colors, and other art elements that have specific meanings in cultural contexts (1, 4)	Analyze and interpret art images for their symbolic meaning, purpose, and value in place and time (2, 4)	Compare and contrast symbolism as used in works of visual art from different cultures and time periods (1, 4)
Benchmark 3	Express and explain aesthetic judgments about the created (built) environment (1, 2, 4)	Express and justify aesthetic judgments about the created (built) environment (1, 2, 4)	Critique the design of structures or areas in the created (built) environment based on aesthetic criteria (1, 2, 4)
Benchmark 4	Express and explain opinions about visual works of others using basic art vocabulary (1, 4)	Critique works of art using expanded art vocabulary (1, 4)	Critique works of art using advanced art vocabulary (1, 4)
Benchmark 5	Express interpretations about works of art and give supporting reasons (1, 4)	Develop interpretations about works of art and give supporting reasons (1, 4)	Develop and justify personal interpretations of works of art based on information from inside and outside the work (1, 2, 4)

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

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 30:229 (February 2004).

Weegie Peabody  
Executive Director

0402#017

**RULE**

**Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division**

**LPDES Water Quality Regulations Restructure  
(LAC 33:IX)(WQ055)**

The LPDES regulations in LAC 33:IX.Chapter 23 have been renumbered by the Office of the State Register and are being repromulgated by the Department of Environmental

Quality to correct a conflict of rules. The original Chapter 23 is now Subpart 2 of the Part IX.Water Quality regulations, and the original Subchapters A - X and Appendices are now Chapters 23 - 71. Individual sections have been renumbered accordingly. Appendices in LAC 33:IX.Chapter 3 have also been assigned section numbers. These regulations are being repromulgated with the new numbering system. See the following Renumbering Equivalency Chart. For further information contact Judith A. Schuerman, Ph.D., Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section at (225) 219-3550.

The 2004 edition of the ERC has the standard text with the new numbering and is available on the Internet at <http://www.deq.louisiana.gov/planning/regs/index.htm>. Copies of the ERC can be purchased by contacting Brenda Hayden or Karen Veillon, Office of Environmental Assessment, Environmental Planning Division, Regulation Development Section at (225) 219-3550. Check or money order is required in advance for each purchase.

**Title 33  
ENVIRONMENTAL QUALITY  
Part IX. Water Quality**

**Renumbering Equivalency Chart**

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§303. Permit Application Information	§303. Permit Application Information
§305. Permit Limitations and Other Requirements	§305. Permit Limitations and Other Requirements
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§311. Standard Permit Conditions	§311. Standard Permit Conditions
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§317. Special Permits/Programs	§317. Special Permits/Programs
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<b>Chapter 7. Effluent Standards</b>	<b>Chapter 7. Effluent Standards</b>
<b>Chapter 9. Spill Prevention and Control</b>	<b>Chapter 9. Spill Prevention and Control</b>
<b>Chapter 11. Surface Water Quality Standards</b>	<b>Chapter 11. Surface Water Quality Standards</b>
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<b>Chapter 15. Water Quality Certification Procedures</b>	<b>Chapter 15. Water Quality Certification Procedures</b>
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<b>Chapter 23. The LPDES Program</b>	<b>Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program</b>
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Previous Number	Current or New Number
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James H. Brent, Ph.D.  
Assistant Secretary

**RULE**

**Department of Health and Hospitals  
Board of Medical Examiners**

**Acupuncturists' and Acupuncturists' Assistants' Fees  
(LAC 46:XLV.185 and 187)**

Editor's Note: This Rule was printed in error in the January 20, 2004 edition of the *Louisiana Register* on page 41.

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270, R.S. 37:1281, R.S. 37:1356-1360, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its rules prescribing the fees payable by acupuncturists and acupuncturists' assistants for the issuance and annual renewal of certification issued by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter H, §§185 and 187. The effective date of this Rule is February 20, 2004.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 1. General**

**Chapter 1. Fees and Costs**

**Subchapter H. Acupuncturists' and Acupuncturists'  
Assistants Fees**

**§185. Certification**

A. For processing an application for certification as an acupuncturist or as an acupuncturist assistant, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:41, repromulgated LR 30:234 (February 2004).

**§187. Annual Renewal**

A. For processing an application for annual renewal of an acupuncturist's or acupuncturist assistant's certification, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:41 (January 2004), repromulgated LR 30:234 (February 2004).

John B. Bobear, M.D.  
Executive Director

0402#020

**RULE**

**Department of Health and Hospitals  
Board of Medical Examiners**

**Athletic Trainers' Fees  
(LAC 46:XLV.159, 161, 163, 165, 3107, 3129 and 3157)**

Editor's Note: This Rule was printed in error in the January 20, 2004 edition of the *Louisiana Register* on page 42.

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3301-3312, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its existing Rules prescribing the fees payable for initial certification, annual renewal and temporary permits issued by the board for athletic trainers, LAC 46:XLV, Subpart 1, Chapter 1, Subchapter F, §§159, 161, 163, 165 and Subpart 2, Chapter 31, Subchapters B, §3107, D, §3129 and G, §3157. The effective date of this Rule is February 20, 2004.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 1. General**

**Chapter 1. Fees and Costs**

**Subchapter F. Athletic Trainers Fees**

**§159. Scope of Subchapter**

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of athletic trainers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004), repromulgated LR 30:234 (February 2004).

**§161. Certification, Permits, and Examination**

A. For processing applications for certification as an athletic trainer, a fee of \$125 shall be payable to the board.

B. For issuing a temporary permit, a fee of \$50 shall be payable to the board.

C. For registration for and taking of the certification examination administered by the board, an applicant shall pay the fee that is charged by the entity developing the examination.

D. When an applicant is required by these rules to take the examination administered by the board, the fee prescribed by §161.C shall be added to the applicable application processing fee.



AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004), repromulgated LR 30:234 (February 2004).

#### **§163. Annual Renewal**

A. For processing an application for annual renewal of an athletic trainer's certification, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004), repromulgated LR 30:235 (February 2004).

#### **§165. Reinstatement of License**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), repealed by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004), repromulgated LR 30:235 (February 2004).

### **Subpart 2. Licensure and Certification**

#### **Chapter 31. Athletic Trainers**

##### **Subchapter B. Requirements and Qualifications for Certification**

#### **§3107. Requirements for Certification**

A. - A.4. ...

5. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

A.6. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004), repromulgated LR 30:235 (February 2004).

#### **Subchapter D. Application**

#### **§3129. Application Procedure**

A. - G ...

H. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), LR 30:42 (January 2004), repromulgated LR 30:235 (February 2004).

#### **Subchapter G. Certificate Issuance, Termination, Renewal, Reinstatement**

#### **§3157. Renewal of Certificate**

A. Every certificate issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with

evidence of the qualifications requisite to renewal as specified in §3159 and the applicable renewal fee prescribed in Chapter 1 of these rules.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281 and R.S. 37:3301-3312.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:42 (January 2004), repromulgated LR 30:235 (February 2004).

John B. Bobear, M.D.  
Executive Director

0402#021

### **RULE**

#### **Department of Health and Hospitals Board of Medical Examiners**

##### **Clinical Exercise Physiologists Fees (LAC 46:XLV.221, 223, 225, 3713, and 3743)**

Editor's Note: This Rule was printed in error in the January 20, 2004 edition of the *Louisiana Register* on page 43.

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3421-3433, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has adopted rules and amended its existing rules prescribing the fees payable by clinical exercise physiologists for the issuance and renewal of a license by the board, LAC 46:XLV, Subpart 1, Chapter 1, Subchapter L, §§221, 223, 225, and Subpart 2, Chapter 37, Subchapters C, §3713 and E, §3743. The effective date of this Rule is February 20, 2004.

#### **Title 46 PROFESSIONAL AND OCCUPATIONAL STANDARDS Part XLV. Medical Professions Subpart 1. General**

##### **Chapter 1. Fees and Costs**

##### **Subchapter L. Clinical Exercise Physiologists Fees**

#### **§221. Scope of Subchapter**

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of clinical exercise physiologists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:43 (January 2004), repromulgated LR 30:235 (February 2004).

#### **§223. Licenses and Permits**

A. For processing an application for a license as a clinical exercise physiologist, a fee of \$150 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:43 (January 2004), repromulgated LR 30:235 (February 2004).

**§225. Annual Renewal**

A. For processing an application for annual renewal of a license as a clinical exercise physiologist, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:43 (January 2004), repromulgated LR 30:236 (February 2004).

**Subpart 2. Licensure and Certification**

**Chapter 37. Clinical Exercise Physiologists**

**Subchapter C. Application**

**§3713. Application Procedure**

A. - F. ...

G Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997), amended LR 30:43 (January 2004), repromulgated LR 30:236 (February 2004).

**Subchapter E. License Issuance, Expiration, Renewal and Termination**

**§3743. Renewal of License**

A. Every license issued by the board under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with a renewal fee as prescribed by Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter G of these rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997), amended 24:1498 (August 1998), LR 30:43 (January 2004), repromulgated LR 30:236 (February 2004).

John B. Bobear, M.D.  
Executive Director

0402#022

**RULE**

**Department of Health and Hospitals  
Board of Medical Examiners**

**Midwives' Fees  
(LAC 46:XLV.203, 205, 2313 and 2345)**

Editor's Note: This Rule was printed in error in the January 20, 2004 edition of the *Louisiana Register* on page 43.

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its Rules prescribing the fees payable by midwives for the issuance and renewal of a license by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter J,

§§203, 205 and Subpart 2, Chapter 23, Subchapters C, §2313 and F, §2345. The effective date of this Rule is February 20, 2004.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 1. General**

**Chapter 1. Fees and Costs**

**Subchapter J. Midwives' Fees**

**§203. Licenses and Permits**

A. For processing an application for a midwifery license, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:43 (January 2004), repromulgated LR 30:236 (February 2004).

**§205. Renewal**

A. For processing an application for biannual renewal of a midwifery license, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3240-3257, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:44 (January 2004), repromulgated LR 30:236 (February 2004).

**Subpart 2. Licensure and Certification**

**Chapter 23. Licensed Midwives**

**Subchapter C. Application**

**§2313. Application Procedure**

A. - F. ...

G Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

H. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3240-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended 17:779 (August 1991), LR 30:44 (January 2004), repromulgated LR 30:236 (February 2004).

**Subchapter F. License Issuance, Termination, Renewal, Reinstatement**

**§2345. Renewal of License**

A. Every license issued by the board under this Chapter shall be renewed biannually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these rules.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and R.S. 37:3240-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended 17:779 (August 1991), LR 30:44 (January 2004), repromulgated LR 30:236 (February 2004).

John B. Bobear, M.D.  
Executive Director

0402#023

## RULE

### Department of Health and Hospitals Board of Medical Examiners

#### Occupational Therapists and Occupational Therapy Assistants Fees (LAC 46:XLV.173, 175, 1913 and 1947)

Editor's Note: This Rule was printed in error in the January 20, 2004 edition of the *Louisiana Register* on page 44.

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its Rules prescribing the fees payable for the issuance of initial license and annual license renewal by occupational therapists and occupational therapy assistants, as well as that applicable to temporary permits issued by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter G, §§173, 175 and Subpart 2, Chapter 19, Subchapters C, §1913 and F, §1947. The effective date of this Rule is February 20, 2004.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLV. Medical Professions

##### Subpart 1. General

#### Chapter 1. Fees and Costs

##### Subchapter G. Occupational Therapists and Occupational Therapy Assistants Fees

#### §173. Licenses and Permits

A. For processing an application for an occupational therapist's license a fee of \$150 shall be payable to the board.

B. For processing an application for an occupational therapy assistant's license a fee of \$100 shall be payable to the board.

C. For issuing a temporary permit, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:44 (January 2004), repromulgated LR 30:237 (February 2004).

#### §175. Annual Renewal

A. For processing an application for annual renewal of an occupational therapist's license, a fee of \$100 shall be payable to the board.

B. For processing an application for annual renewal of an occupational therapy assistant's license a fee of \$75 shall be payable to the board.

C. If the application for renewal is received beyond the deadline designated by the board, a late renewal fee of \$35 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health

and Hospitals, Board of Medical Examiners, LR 30:44 (January 2004), repromulgated LR 30:237 (February 2004).

#### Subpart 2. Licensure and Certification

#### Chapter 19. Occupational Therapists and Occupational Therapy Assistants

##### Subchapter C. Application

#### §1913. Application Procedure

A. - G. ...

H. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:44 (January 2004), repromulgated LR 30:237 (February 2004).

##### Subchapter F. License Issuance, Termination, Renewal and Reinstatement

#### §1947. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with the renewal fee prescribed in Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter H of these rules.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:1499 (August 1998), LR 30:44 (January 2004), repromulgated LR 30:237 (February 2004).

John B. Bobear, M.D.  
Executive Director

0402#024

## RULE

### Department of Health and Hospitals Board of Medical Examiners

#### Physician Assistants' Fees (LAC 46:XLV.149, 153, 1509 and 1517)

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270, R.S. 37:1281, R.S. 37:1360.23, R.S. 37:1360.24, R.S. 37:1360.27, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its Rules prescribing the fees payable by physician assistants for initial issuance and renewal of certification issued by the board to physician assistants. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter E, §§149, 153, Subpart 2, Chapter 15, §§1509 and 1517. The Rules are set forth below.

**Title 46**  
**PROFESSIONAL AND OCCUPATIONAL**  
**STANDARDS**

**Part XLV. Medical Professions**  
**Subpart 1. General**

**Chapter 1. Fees and Costs**

**Subchapter E. Physician Assistants' Fees**

**§149. Certification**

A. For processing an application for certification as a physician assistant, a fee of \$250 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1362.23, R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:238 (February 2004).

**§153. Annual Renewal**

A. For processing an application for annual renewal of a physician assistant's certification, a fee of \$150 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1362.23, R.S. 37:1360.27.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:238 (February 2004).

**Subpart 2. Licensure and Certification**

**Chapter 15. Physician Assistants**

**§1509. Application for Licensure; Procedure**

A.1. - 2. ...

3. payment of the applicable fee as provided in Chapter 1 of these rules; and

4. ...

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1360.23, R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:202 (March 1996), LR 25:29 (January 1999), LR 30:238 (February 2004).

**§1517. Expiration of Licensure; Renewals;**

**Modification; Notification of Intent to Practice**

A. ...

B. Every license issued by the board under this Chapter shall be renewed annually on or before the first day of the month in which the licensee was born, by submitting to the board an application for renewal upon forms supplied by the board, together with satisfactory documentation of current certification by the National Commission on Certificate of Physician Assistants. Each application for renewal shall be accompanied by the applicable fee as provided in Chapter 1 of these rules.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1360.23, R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November

1991), LR 22:203 (March 1996), LR 24:1498 (August 1998), LR 25:31 (January 1999), LR 30:238 (February 2004).

John B. Bobear, M.D.  
Executive Director

0402#039

**RULE**

**Department of Health and Hospitals**  
**Board of Medical Examiners**

Physicians' and Surgeons' Fees  
(LAC 46:XLV.125, 127 and 131)

Editor's Note: This Rule was printed in error in the January 20, 2004 edition of the Louisiana Register on page 45.

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270 and R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:953, has amended its Rules prescribing the fees payable by physicians for initial issuance and renewal of medical licensure, as well as those applicable to a graduate education temporary permit, visiting physician permit, short-term residency permit, institutional or temporary permit and intern registration. The effective date of this Rule is February 20, 2004.

**Title 46**

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

**Part XLV. Medical Professions**  
**Subpart 1. General**

**Chapter 1. Fees and Costs**

**Subchapter C. Physicians' and Surgeons' Fees**

**§125. Licenses, Permits, and Examination**

A. For processing applications for licensure of the type indicated, the following fees shall be payable to the board.

1. Standard application? \$250
2. Reciprocity application? \$350

B. For processing applications for permits of the type indicated, the following fees shall be payable to the board.

1. Graduate medical education temporary permit? \$200
2. Visiting physician permit? \$100
3. Short-term residency permit? \$100
4. Other institutional or temporary permits? \$100

C. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:603 (June 1991), LR 21:467 (May 1995), LR 21:1238 (November 1995), LR 30:45 (January 2004), repromulgated LR 30:238 (February 2004).

**§127. Postgraduate Education Registration**

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter J of Chapter 3 of these rules, a fee of \$50 shall be payable to the board.

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

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

10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:1238 (November 1995), LR 30:45 (January 2004), repromulgated LR 30:238 (February 2004).

**§131. Annual Renewal**

A. For processing a licensee's annual renewal of license under §417 of these rules, a fee of \$300 shall be payable to the board.

B. For processing a permit holder's annual renewal of a graduate medical education temporary permit, a fee of \$100 shall be payable to the board.

C. For processing renewal of an institutional or other temporary permit, a fee of \$100 shall be payable to the board.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:1238 (November 1995), LR 30:45 (January 2004), repromulgated LR 30:239 (February 2004).

John B. Bobear, M.D.  
Executive Director

0402#025

**RULE**

**Department of Health and Hospitals  
Board of Medical Examiners**

**Podiatrists' Fees  
(LAC 46:XLV.139, 141 and 143)**

Editor's Note: This Rule was printed in error in the January 20, 2004 edition of the *Louisiana Register* on page 45.

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 37:618, R.S. 37:621-622, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended its Rules prescribing the fees payable for initial issuance and renewal of podiatric licensure, as well as those applicable to temporary permits, and issuance of an intern registration. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter D, §§139-143. The effective date of this Rule is February 20, 2004.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 1. General**

**Chapter 1. Fees and Costs**

**Subchapter D. Podiatrists Fees**

**§139. Licenses, Permits, and Examination**

A. For processing an application for licensure as a podiatrist, a fee of \$300 shall be payable to the board.

B. For issuing a temporary permit, a fee of \$100 shall be payable to the board.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004), repromulgated LR 30:239 (February 2004).

**§141. Annual Renewal**

A. For processing a podiatrist's annual renewal of license, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004), repromulgated LR 30:239 (February 2004).

**§143. Podiatric Postgraduate Education Registration**

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter K of Chapter 13 of these rules, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:613, R.S. 618, R.S. 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004), repromulgated LR 30:239 (February 2004).

John B. Bobear, M.D.  
Executive Director

0402#026

**RULE**

**Department of Health and Hospitals  
Board of Medical Examiners**

**Registered Respiratory Therapists' and  
Certified Respiratory Therapists' Fees  
(LAC 46:XLV.193, 195, and 197)**

Editor's Note: This Rule was printed in error in the January 20, 2004 edition of the *Louisiana Register* on page 46.

The Louisiana State Board of Medical Examiners (board), pursuant to the authority vested in the board by R.S. 37:3351-3361, R.S. 37:1270, R.S. 37:1281, and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has amended Rules prescribing the fees payable by registered respiratory therapists and certified respiratory therapists for the issuance of an initial license, annual license renewal, and a temporary license by the board. LAC 46:XLV, Subpart 1, Chapter 1, Subchapter I, §§193, 195 and 197. The effective date of this Rule is February 20, 2004.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 1. General**

**Chapter 1. Fees and Costs**

**Subchapter I. Respiratory Therapists and Respiratory  
Therapy Technicians**

**§193. Scope of Subchapter**

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of registered respiratory therapists and certified respiratory therapists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004), repromulgated LR 30:239 (February 2004).

#### §195. Licenses

A. For processing an application for licensing a registered respiratory therapist, a fee of \$150 shall be payable to the board.

B. For processing an application for licensing a certified respiratory therapist, a fee of \$100 shall be payable to the board.

C. For processing a temporary license, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004), repromulgated LR 30:240 (February 2004).

#### §197. Annual Renewal

A. For processing an application for annual renewal of a registered respiratory therapist's license, a fee of \$100 shall be payable to the board.

B. For processing an application for annual renewal of a certified respiratory therapist's license a fee of \$75 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, R.S. 37:1270 and R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:46 (January 2004), repromulgated LR 30:240 (February 2004).

John B. Bobear, M.D.  
Executive Director

0402#027

### RULE

#### Department of Health and Hospitals Office of the Secretary

##### Admissions Criteria for Inpatient Facilities (LAC 48:I.1607)

Editor's Note: LAC 48:I.1607 was promulgated in the January 20, 2004 issue of the *Louisiana Register* on pages 47-48 and is being repromulgated to correct typographical errors.

Under the authority of Act 1249 of the 2003 Regular Session of the Louisiana Legislature, the Louisiana Department of Health and Hospitals has adopted the following Rule governing admissions criteria for inpatient facilities operated by the Department of Health and Hospitals. Each office within the Department of Health and Hospitals that operates inpatient facilities, i.e., Office of the Secretary, Office for Addictive Disorders, Office for Citizens with Developmental Disabilities, and Office of Mental Health, has established admissions criteria included in this Rule.

## Title 48

### PUBLIC HEALTH? GENERAL

#### Part I. General Administration

##### Subpart 1. General

#### Chapter 16. Admissions Criteria for Inpatient Facilities

##### §1607. Inpatient Mental Health Facilities Operated by the Office of Mental Health

A. In order to be admitted a person must qualify as a candidate for services in an inpatient setting as indicated on a published Level of Functioning Scale or other instrument identified by the Office of Mental Health as clinically appropriate. Such Level of Functioning Scale must be based on scientifically accepted practice standards and must demonstrate adequate psychometric properties of validity and reliability. The person must also meet the standard for inpatient care as specified in the Office of Mental Health Single Point of Entry (SPOE) Admissions Criteria, which is specified in the following.

B. Adult Admission Criteria. At least one criterion from Severity of Illness must be met and all of the Intensity of Service Criteria must be met.

1. Severity of Illness Criteria (Must meet one or more of a, b, or c)

a. Patient presents as a danger to self as evidenced by:

- i. a suicide attempt within the past 72 hours; or
- ii. documentation that the patient has a current suicide plan, specific suicide intent, or recurring suicidal ideation; or
- iii. documentation of self-mutilative behavior occurring within the past 72 hours

b. Patient presents as a danger to others due to a DSM Axis I diagnosis as evidenced by any of the following:

- i. dangerously aggressive behavior during the past seven days due to a DSM Axis I diagnosis; or
- ii. threats to kill or seriously injure another person with the means to carry out the threat and the threatening behavior is due to a DSM Axis I diagnosis; or
- iii. documentation that the patient has a current homicide plan, specific homicidal intent, or recurrent homicidal ideation and this is due to a DSM Axis I diagnosis.

c. Patient is gravely disabled and unable to care for self due to a DSM Axis I diagnosis as evidenced by:

- i. documentation of a serious impairment in function (as compared to others of the same age) in one or more major life roles (school, job, family, interpersonal relations, self-care, etc.) due to a DSM Axis I diagnosis; and
- ii. patient presents with acute onset or acute exacerbation of hallucinations, delusions, or illusions of such magnitude that the patient's well-being is threatened; or
- iii. an inability of the patient to comply with prescribed psychiatric and/or medical health regimens as evidenced by the following:

(a). patient has a history of de-compensation without psychotropic medications and patient refuses to use these medications as an outpatient; or

(b). patient is at risk of health or life due to non-compliance with medical regimens (e.g., insulin-dependent diabetes, etc.) and patient refuses these medical regimens as an outpatient.

2. Intensity of Service Criteria

a. Treatment of the patient's psychiatric condition requires services on an inpatient hospital basis. These services include, but are not limited to:

i. suicide precautions, unit restrictions, and continual observation and limiting of behavior to protect self or others;

ii. active intervention by a psychiatric team to prevent assaultive behavior;

iii. 24 hour observation and medication stabilization necessitated by patient behaviors that indicate a therapeutic level of medication has not been reached; and

b. services provided in the hospital can reasonably be expected to improve the patient's condition or prevent further regression so that the services will no longer be needed by the patient; and

c. services in the community do not meet, and/or do not exist to meet the treatment needs of the patient, or the patient has been unresponsive to treatment at a less intensive level of care.

C. Children's Admission Criteria. At least one criterion from Severity of Illness must be met, and all of the Intensity of Service Criteria must be met.

1. Severity of illness criteria must meet one or more of Subparagraph a, b, or c:

a. the child is a danger to self (Clauses i, ii, iii or iv and v must exist to meet this criterion):

i. the child has made an attempt to take his/her own life in the last 24 hours. Details of the attempt must be documented; or

ii. the child has demonstrated self-mutilative behavior within the past 24-hours. Details of behavior must be documented; or

iii. the child has a clear plan to seriously harm him/herself, overt suicidal intent, recurrent suicide thoughts, and lethal means available to follow the plan. This information can be from the child or a reliable source. Details of the plan must be documented; or

iv. due to a DSM Axis I diagnosis, the child is in serious danger of dying or sustaining grave bodily injury to him/her self; and

v. it is the judgment of a mental health professional that the child is at a significant risk of making a suicide attempt or due to a DSM Axis I diagnosis, is in serious danger of dying or sustaining grave bodily injury to him/herself without immediate inpatient intervention;

b. the child is a danger to others or property due to a DSM Axis I diagnosis as indicated by: (Clauses i, ii, or iii and iv must exist and include the specific DSM criteria that justify this diagnosis):

i. the child has actually engaged in behavior harmful or potentially harmful to others or caused serious damage to property, which would pose a serious threat of injury, or harm to others within the last 24 hours. Description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to present; or

ii. the child has made threats to kill or seriously injure others or seriously damage property, which would pose a threat of injury or harm to others, and has effective means to carry out the threats. Details of the threats must be documented; or

iii. a mental health professional has information from the child or a reliable source that the child has a current plan, specific intent, or recurrent thoughts to seriously harm others or property. Details must be documented; and

iv. it is the judgment of a mental health professional that the child is at a significant risk of making a homicide attempt or engaging in other seriously aggressive behavior without immediate inpatient intervention;

c. the child is gravely disabled due to a DSM Axis I diagnosis as indicated by (Clauses i, and either ii, iii or iv must exist and include the specific DSM criteria that justify this diagnosis):

i. the child has serious impairment of functioning compared to others of the same age in one or more major life roles (school, family, interpersonal relations, self-care, etc.) Specific descriptions of the following must be documented:

(a). deficits in control, cognition or judgment;

(b). circumstances resulting from those deficits in self-care, personal safety, social/family functioning, academic or occupational performance;

(c). prognostic indicators which predict the effectiveness of inpatient treatment; and

ii. severe thought disorganization or clinical deterioration or the acute onset of psychosis has rendered the child unmanageable and unable to cooperate in non-hospital treatment; or

iii. there is a need for medication therapy or complex diagnostic testing where the child's level of functioning precludes cooperation with treatment in an outpatient or non-hospital based regimen, and may require close supervision of medication and/or forced administration of medication; or

iv. a medical condition co-exists with a DSM Axis I diagnosis which, if not monitored/treated appropriately, places the child's life or well-being at serious risk.

2. Intensity of Service Criteria

a. Treatment of the patient's psychiatric condition requires services on an inpatient hospital basis. These services include, but are not limited to:

i. suicide precautions, unit restrictions, and continual observation and limiting of behavior to protect self or others;

ii. active intervention by a psychiatric team to prevent assaultive behavior;

iii. 24 hour observation and medication stabilization necessitated by patient behaviors that indicate a therapeutic level of medication has not been reached; and

b. services provided in the hospital can reasonably be expected to improve the patient's condition or prevent further regression so that the services will no longer be needed by the patient; and

c. services in the community do not meet, and/or do not exist to meet the treatment needs of the patient, or the patient has been unresponsive to treatment at a less intensive level of care.

D. Exclusionary Criteria-Adult. If one or more of the following is met, admission is denied.

1. Patient has a major medical or surgical illness or injury that would prevent active participation in a psychiatric treatment program (patients must be medically stable).

2. Patient has criminal charges pending and does not have a DSM Axis I diagnosis.

3. Patient has anti-social behaviors that are a danger to others and those anti-social behaviors are characterological rather than due to a DSM Axis I diagnosis.

4. Patient has a DSM Axis II diagnosis of mental retardation without an accompanying DSM Axis I diagnosis.

5. Patient has a Substance Abuse Disorder as defined in DSM and does not otherwise meet the severity of illness and intensity of service criteria.

E. Exclusionary Criteria-Children. If one or more of the following is met, admission is denied.

1. The child has a major medical or surgical illness or injury that prevents active participation in a psychiatric treatment program.

2. The child has criminal charges pending and does not otherwise meet severity of illness and intensity of service criteria.

3. The child has anti-social behaviors that are a danger to others and does not have a DSM Axis I diagnosis.

4. The child has a DSM Axis II diagnosis of mental retardation and does not otherwise meet severity of illness and intensity of service criteria.

5. The child lacks a place to live and/or family supports and does not otherwise meet severity of illness and intensity of service criteria.

6. The child has been suspended or expelled from school and does not otherwise meet severity of illness and intensity of service criteria.

7. The child has a substance abuse disorder as defined in DSM and does not otherwise meet the severity of illness and intensity of service criteria.

AUTHORITY NOTE: Promulgated in accordance with R.S. 28:20.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 30:47 (January 2004), repromulgated LR 30:240 (February 2004).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0402#087

## **RULE**

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

#### **Adult Day Health Care? Prospective Payment System (LAC 50:II.10939)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends LAC 50:II 10939 under 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 Administrative Procedure Act, R.S. 49:950 et seq.

## **Title 50**

### **PUBLIC HEALTH? MEDICAL ASSISTANCE**

#### **Part II. Medical Assistance Program**

##### **Subpart 3. Standards for Payment**

#### **Chapter 109. Standards for Payment? Adult Day Health Care**

##### **§10939. Prospective Payment System**

###### **A. General Provisions**

1. Development. Adult Day Health Care (ADHC) providers shall be reimbursed a per diem rate for services provided under a prospective payment system (PPS). The system shall be designed in a manner that recognizes and reflects the cost of direct care services provided. The reimbursement methodology is designed to improve the quality of care for all adult day health care recipients by ensuring that direct care services are provided at an acceptable level while fairly reimbursing the providers.

2. The prospective payment methodology establishes blended rates consisting of 50 percent of the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports and 50 percent of the facility specific prospectively determined rate based on facility specific reasonable allowable costs.

3. - 3.d ...

4. Rate Setting. Adult day health care providers shall be reimbursed blended rates consisting of 50 percent of the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports and 50 percent of the facility specific prospectively determined rate based on facility specific reasonable allowable costs plus a direct care incentive.

a. The PPS rate is based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports.

i. Direct Care Costs. A statewide base rate for direct care is computed at 115 percent of the median facility per diem direct care costs submitted on all full year cost reports except those for which an audit disclaimer has been issued. Direct care costs are trended forward using the Consumer Price Index (CPI)? Medical Services.

ii. Care Related Costs. A statewide base rate for care related costs is computed at 105 percent of the median facility per diem care related costs submitted on all acceptable full year cost reports except those for which an audit disclaimer has been issued. Care related costs are trended forward using the CPI? All Items.

iii. Administrative and Operating Costs (AOC). A statewide base rate for administrative and operating costs is computed at 105 percent of the median facility per diem administrative and operating costs submitted on all acceptable full year cost reports except for those for which an audit disclaimer has been issued and are trended forward using the CPI? All Items.

iv. Property. The property rate is computed at the median of property costs submitted on all acceptable full year cost reports. Inflation will not be added to property costs.

b. The facility specific prospectively determined rate is based on facility specific reasonable allowable costs. The facility specific prospectively determined rate shall be limited to 80 percent of the nursing facility intermediate care II rate in effect on July 1, 2002 exclusive of the provider fee.



i. Direct Care Costs. Facility specific direct care is based on the facility specific per diem reasonable allowable direct care costs submitted on the acceptable FY 2001 full year cost report. Direct care costs are trended forward using the Consumer Price Index (CPI)? Medical Services.

ii. Care Related Costs. Facility specific care related cost is based on the facility specific per diem reasonable allowable care related costs submitted on the acceptable FY 2001 full year cost report. Care related costs are trended forward using the CPI? All Items.

iii. Administrative and Operating Costs (AOC). Facility specific AOC is based on the facility specific per diem reasonable allowable AOC submitted on the acceptable FY 2001 full year cost report. AOC are trended forward using the CPI? All Items.

iv. Property. Facility specific property cost is based on the facility specific per diem reasonable allowable property costs submitted on the acceptable FY 2001 full year cost report. Inflation will not be added to property costs.

v. Facilities participating prior to August 1, 2003 who have not filed a full year acceptable cost report shall have the facility specific prospectively determined rate for August 1, 2003 through June 30, 2004 based on budgeted data and limited to 80 percent of the nursing facility weighted average case mix rate in effect on July 1, 2003.

vi. For rates effective July 1, 2004 and thereafter, facilities receiving audit disclaimers shall receive a rate equal to the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports trended forward in accordance with this §10939.

c. All trending shall be from the midpoint of the year preceding the cost report year to the midpoint of the year preceding the rate year.

d. Application of an inflationary adjustment to reimbursement rates in non-rebasing years shall apply only when the legislature allocates funds for this purpose.

e. A direct care incentive based on legislative appropriation shall be added to the per diem rate effective August 1, 2003.

5. Total Per Diem Rate. The per diem rate for providers filing acceptable full year cost reports is the sum of 50 percent of the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports plus 50 percent of the facility specific prospectively determined rate based on facility specific reasonable allowable costs plus the direct care incentive.

6. New providers enrolled in the Medicaid Program effective August 1, 2003 and thereafter shall receive the PPS rate based on the base year median reported cost for all ADHC providers filing acceptable cost reports trended forward in accordance with this §10939 plus the direct care incentive.

7. Minimum Rate. The minimum adult day health care rate shall be the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports plus the direct care incentive.

8. Cost Settlement. The direct care cost component and the direct care incentive shall be subject to cost settlement. Should an ADHC facility's cost report reveal that the provider did not expend an amount equal to 90 percent of the median direct care rate component trended forward for

direct care services plus 90 percent of the direct care incentive, the Medicaid program will recover the difference between 90 percent of the median direct care rate component trended forward for direct care services plus 90 percent of the direct care incentive and the actual direct care amount expended.

#### B. Cost Reporting

1. Providers of ADHC services are required to file annual acceptable cost reports of all reasonable and allowable costs. An acceptable cost report is one that is prepared in accordance with the requirements of this section and the provider has supporting documentation necessary for completion of a desk review or audit. The annual cost reports are the basis for determining reimbursement rates. A copy of all reports and statistical data must be retained by the facility for no less than five years following the date reports are submitted to the bureau. A chart of accounts and an accounting system on the accrual basis or converted at year end are required in the cost reporting preparation process. The bureau or its designee will perform desk reviews of the cost reports. In addition to the desk review, a representative number of the facilities shall be subject to a full-scope, annual on-site audit. All ADHC cost reports shall be filed with a fiscal year from July 1 through June 30.

#### B.2 - C.1.e.iv. ...

#### 2. Rate Determination

a. Calculation of Base Rate. Rates for both the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports and the facility specific prospectively determined rate based on facility specific reasonable allowable costs are calculated from cost report data. Allowable costs include those costs incurred by providers to conform to state licensure and federal certification standards. General cost principles are applied during the desk review and audit process to determine allowable costs. These general cost principles include determining whether the cost is ordinary, necessary, and related to the delivery of care; the cost is what a prudent and cost conscious business person would pay for the specific goods or services in the open market or in an arm's length transaction; and the cost is for goods or services actually provided to the center. Through the desk review and/or audit process, adjustments and/or disallowances may be made to a provider's reported costs. "HIM-15," the Medicare Provider Reimbursement Manual, is the final authority for allowable costs unless the Louisiana Department of Health and Hospitals has set a more restrictive policy.

#### C.2.b. - C.2.c. ...

d. The inflated median shall be increased to establish the base rate median component as follows.

i. The inflated direct care median shall be multiplied times 115 percent to establish the direct care base rate component.

ii. The inflated care related median shall be multiplied times 105 percent to establish the care related base rate component.

iii. The administrative and operating median shall be multiplied times 105 percent to establish the administrative and operating base rate component.

e. At least every three years, audited and desk reviewed cost report items will be compared to the rate

components calculated for the cost report year to insure that the rates remain reasonably related to costs.

f. Formulae. Each median cost component shall be calculated as follows.

i. Direct Care Cost Component. Direct care per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for Medical Services. The direct care rate component shall be set at 115 percent of the inflated median.

ii. Care Related Cost Component. Care related per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the center at the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward using the Consumer Price Index for All Items. The care related rate component shall be set at 105 percent of the inflated median.

iii. Administrative and Operating Cost Component. Administrative and operating per diem cost from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost of the midpoint of the array shall be the median cost. Should there be an even number of arrayed cost, an average of the two midpoint centers shall be the median cost. The median cost shall be trended forward by dividing the value of the CPI? All Items index for December of the year proceeding the base rate year by the value of the index for the December of the year preceding the cost report year. The administrative and operating rate component shall be set at 105 percent of the inflated median.

iv. Property Cost Component? Property. The property per diem costs from all acceptable full year cost reports shall be arrayed from lowest to highest. The cost at the midpoint of the array shall be the median cost. This will be the rate component. Inflation will not be added to property costs.

g. Formulae. Each facility specific prospectively determined cost component shall be calculated as follows.

i. Direct Care Cost Component. The direct care per diem costs from each facility's full year cost reports shall be trended forward using the Consumer Price Index for Medical Services in accordance with this §10939.

ii. Care Related Cost Component. The care related per diem costs from each facility's full year cost reports shall be trended forward using the Consumer Price Index for Medical Services in accordance with this §10939.

iii. Administrative and Operating Cost Component. The administrative and operating per diem cost from each facility's acceptable full year cost reports shall be trended forward using the Consumer Price Index for Medical Services in accordance with this §10939.

iv. Property Cost Component? Property. The property per diem costs from each facility's acceptable full year cost reports shall be the property cost component. Inflation will not be added to property costs.

v. Facilities participating prior to August 1, 2003 that have not filed a full year acceptable cost report shall have the facility specific prospectively determined rate for

August 1, 2003 through June 30, 2004 based on budgeted data and limited to 80 percent of the nursing facility weighted average case mix rate in effect on July 1, 2003.

vi. For rates effective July 1, 2004 and thereafter, facilities receiving audit disclaimers shall receive a rate equal to the PPS rate based on the median FY 2001 reported cost for all ADHC providers filing acceptable full year cost reports trended forward in accordance with this rule. No facility specific cost component will be included in the per diem of facilities receiving audit disclaimers.

C.2.h. - C.2.h.ii. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2356 (November 2002), amended LR 30:242 (February 2004).

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

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0402#079

## RULE

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

All Inclusive Care for the Elderly  
(LAC 50:XXIII.Chapters 1-13)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts LAC 50:XXIII.Chapters 1-13 in the Medical Assistance Program as authorized by RS. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

## Title 50

### PUBLIC HEALTH? MEDICAL ASSISTANCE Part XXIII. All Inclusive Care for the Elderly

#### Chapter 1. General Provisions

##### §101. Purpose and Scope

A. The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the Program of All Inclusive Care for the Elderly (PACE) in accordance with federal regulations at 42 CFR 460 et seq., as published in the *Federal Register* on November 24, 1999 and amended on October 2, 2002, and as may be amended in the future. These regulations set forth:

1. the requirements that an entity must meet to be approved as a PACE organization that operates a PACE program under Medicare and Medicaid;
2. how individuals may qualify to enroll in a PACE program;
3. how Medicare and Medicaid payments will be made for PACE services;
4. provisions for federal and state monitoring of PACE programs; and
5. procedures for sanctions and terminations.

B. The purpose of the Program of All Inclusive Care for the Elderly is to provide prepaid, capitated, comprehensive health care services designed to meet the following objectives:

1. enhance the quality of life and autonomy for frail, older adults;
2. maximize dignity of, and respect for, older adults;
3. enable frail, older adults to live in the community as long as medically and socially feasible; and
4. preserve and support the older adult's family unit.

C. This Part XXIII sets forth the election of state options under the federal regulations and additional requirements established by the state for the efficient operation of the program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:244 (February 2004).

### **§103. Organization Application and Evaluation**

A. A PACE organization shall be licensed as an adult day health care (ADHC) facility. The Department of Health and Hospitals (DHH) shall grant appropriate waivers of ADHC licensing requirements in instances where ADHC licensing regulations conflict with PACE requirements when such waivers are determined to have no adverse effect on participant health and safety and quality of life.

B. A PACE organization shall not be required to be licensed as a health maintenance organization under the Louisiana regulations for risk based entities.

C. A PACE organization must be a non-profit entity.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:245 (February 2004).

### **§105. Administrative Requirements**

A. A PACE organization must have a fiscally sound operation, as demonstrated by:

1. total assets greater than total unsubordinated liabilities;
2. sufficient cash flow and adequate liquidity to meet obligations as they become due;
3. a net operating surplus or a financial plan for solvency that is satisfactory to the Center for Medicaid and Medicare Services (CMS) and the Department of Health and Hospitals.

B. A PACE organization shall operate under the control of an identifiable governing body such as a board of directors, which must include at least one community representative. The following advisory committees shall also be established to advise the board of directors:

1. Consumer Advisory Committee;
2. Ethics Committee;
3. Restraint Committee;
4. Other committees as required by CMS and/or DHH.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:245 (February 2004).

## **Chapter 3. Services**

### **§301. Medicare and Medicaid Coordination**

A. If a Medicare beneficiary or Medicaid recipient chooses to enroll in a PACE program:

1. the participant, while enrolled in a PACE program, must receive Medicare and Medicaid benefits solely through the PACE organization; and

2. Medicare and Medicaid benefit limitations and conditions relating to amount, duration, scope of services, deductibles, co-payments, coinsurance, or other cost-sharing do not apply.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:245 (February 2004).

### **§303. Services Provided**

A. The PACE benefit package for all participants, regardless of the source of payment, must include:

1. all Medicaid-covered services, as specified in the state's approved Medicaid plan;
2. interdisciplinary assessment and treatment planning;
3. primary care, including physician and nursing services;
4. social work services;
5. restorative therapies, including:
  - a. physical therapy;
  - b. occupational therapy; and
  - c. speech-language pathology services;
6. personal care and supportive services;
7. nutrition counseling;
8. recreational therapy;
9. transportation;
10. meals;
11. medical specialty services including, but not limited

to:

- a. anesthesiology;
- b. audiology;
- c. cardiology;
- d. dentistry;
- e. dermatology;
- f. gastroenterology;
- g. gynecology;
- h. internal medicine;
- i. nephrology;
- j. neurosurgery;
- k. oncology;
- l. ophthalmology;
- m. oral surgery;
- n. orthopedic surgery;
- o. otorhinolaryngology;
- p. plastic surgery;
- q. pharmacy consulting services;
- r. podiatry;
- s. psychiatry;
- t. pulmonary disease;

- u. radiology;
  - v. rheumatology;
  - w. general surgery;
  - x. thoracic and vascular surgery; and
  - y. urology;
12. laboratory tests, x-rays and other diagnostic procedures;
13. drugs and biologicals;
14. prosthetics, orthotics, durable medical equipment, corrective vision devices, such as:
- a. eyeglasses and lenses;
  - b. hearing aids;
  - c. dentures; and
  - d. repair and maintenance of these items;
15. acute inpatient care, including:
- a. ambulance;
  - b. emergency room care and treatment room services;
  - c. semi-private room and board;
  - d. general medical and nursing services;
  - e. medical surgical/intensive care/coronary care unit;
  - f. laboratory tests, x-rays and other diagnostic procedures;
  - g. drugs and biological;
  - h. blood and blood derivatives;
  - i. surgical care, including the use of anesthesia;
  - j. use of oxygen;
  - k. physical, occupational, respiratory therapies, and speech-language pathology services; and
  - l. social services;
16. nursing facility care including:
- a. semi-private room and board;
  - b. physician and skilled nursing services;
  - c. custodial care;
  - d. personal care and assistance;
  - e. drugs and biologicals;
  - f. physical, occupational, recreational therapies, and speech-language pathology, if necessary;
  - g. social services; and
  - h. medical supplies and appliances;
17. other services determined necessary by the interdisciplinary team to improve and maintain the participant's overall health status.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:245 (February 2004).

### §305. Excluded Services

A. Services excluded from coverage are:

1. any service that is not authorized by the interdisciplinary team, even if it is a required service, unless it is an emergency service;
2. private room and private duty nursing services in an inpatient facility, (unless medically necessary), and nonmedical items for personal convenience such as telephone charges and radio or television rental (unless specifically authorized by the interdisciplinary team as part of the participant's plan of care);
3. cosmetic surgery, which does not include surgery that is required for improved functioning of a malformed

part of the body resulting from an accidental injury or for reconstruction following mastectomy;

4. experimental medical, surgical or other health procedures;

5. services furnished outside of the United States except as follows:

- a. in accordance with 42 CFR 424.122-424.124; or
- b. as permitted under the state's approved Medicaid plan.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:246 (February 2004).

### §307. Conditions of Service

A. A PACE organization must establish and implement a written plan to furnish care that meets the needs of each participant in all care settings 24 hours a day, every day of the year.

B. The PACE organization must furnish comprehensive medical, health, and social services that integrate acute and long-term care.

C. These services must be furnished in at least the PACE center, the home, and inpatient facilities.

D. The PACE organization may not discriminate against any participant in the delivery of required PACE services based on race, ethnicity, national origin, religion, sex, age, mental or physical disability or source of payment.

E. The frequency of a participant's attendance at a center is determined by the interdisciplinary team, based on the needs and preferences of each participant.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:246 (February 2004).

### §309. Emergency Services

A. A PACE organization must establish and maintain a written plan to handle emergency care. The written plan must ensure that CMS, the state, and PACE participants are held harmless if the PACE organization does not pay for emergency services.

B. Emergency care is appropriate when services are needed immediately because of an injury or sudden illness and the time required to reach the PACE organization or one of its contract providers would cause risk of permanent damage to the participant's health. Emergency services include inpatient and outpatient services that:

1. are furnished by a qualified emergency services provider, other than the PACE organization or one of its contract providers, either in or out of the PACE organization's service area;
2. are needed to evaluate or stabilize an emergency medical condition.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:246 (February 2004).

## Chapter 5. Recipient Enrollment

### §501. Eligibility

A. In order to be eligible for services from a PACE site an applicant must:

1. be 55 year of age or older;
2. be determined by the state administering agency to need the level of care required under the state Medicaid plan for coverage of nursing facility services;
3. reside in the service area of the PACE organization; and
4. at the time of enrollment, an individual must be able to live in a community setting without jeopardizing his or her health or safety.

B. Eligibility to enroll in a PACE program is not restricted to an individual who is either a Medicare beneficiary or Medicaid recipient. A potential PACE enrollee may be, but is not required to be, any or all of the following:

1. entitled to Medicare Part A;
2. enrolled under Medicare Part B; or
3. eligible for Medicaid.

C. Persons shall be considered to have met the criteria for determining that an individual is able to live in a community setting without jeopardizing his or her health or safety when the answer to all of the following questions is determined to be in the affirmative.

1. Does the individual or caregiver have a desire to remain in the community?
2. If the individual is not able to live safely alone, is there a primary caregiver at home, or a willingness to use another caregiver or provider to meet the individual's needs?
3. Can the caregiver maintain a safe physical environment in the home?
4. Are hygiene, nutrition, medical care, and support systems adequate?
5. If behavioral problems exist, can they be managed to prevent risk to self or others?
6. Can a plan of care be developed to meet the individual's needs?

D. A PACE organization shall assess the potential participant to ensure that he or she can be cared for appropriately in a community setting and that he or she meets all requirements for PACE eligibility. PACE eligibility decisions are subject to approval by the state administering agency as determined necessary.

#### E. Reevaluation of Eligibility

1. DHH shall annually reevaluate whether the participant continues to meet level of care for nursing facility services. DHH may permanently waive the annual recertification of level of care requirements for a participant if it determines that there is no reasonable expectation of improvement or significant change in the participant's condition because of the severity of a chronic condition or the degree of impairment of functional capacity.

2. DHH may determine that a PACE participant who no longer meets the state Medicaid nursing facility level of care requirements may be deemed to continue to be eligible for the PACE program until the next annual reevaluation, if, in the absence of continued coverage under this program, the participant reasonably would be expected to meet the nursing facility level of care requirement within the next six months.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:247 (February 2004).

### §503. Enrollment

#### A. Enrollment Period

1. A participant's enrollment in the program is effective on the first day of the calendar month following the date the PACE organization receives the signed enrollment agreement.

2. Enrollment continues until the participant's death, regardless of changes in health status, unless either of the following actions occurs:

- a. the participant voluntarily disenrolls; or
- b. the participant is involuntarily disenrolled (see §505.B below).

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:247 (February 2004).

### §505. Disenrollment

A. A PACE organization shall submit proposed denial of enrollment determinations of applicants for health and safety reasons and all involuntary disenrollments of participants to DHH for review prior to notifying applicants/participants of such adverse decisions. DHH shall review denials of PACE enrollment eligibility and disenrollments by the end of the third business day after receipt from the PACE organization to determine whether the PACE organization has adequately documented acceptable grounds. Failure of DHH to provide a decision within this timeframe shall constitute approval of the PACE organization decision. The decision by DHH shall be binding.

#### B. Involuntary Disenrollment

1. A participant may be involuntarily disenrolled for any of the following reasons:

- a. a participant fails to pay, or to make satisfactory arrangements to pay, any premium due the PACE organization after a 30-day grace period;
- b. the participant engages in disruptive or threatening behavior, as described in Paragraph 2 below;
- c. the participant moves out of the PACE program service area or is out of the service area for more than 30 consecutive days, unless the PACE organization agrees to a longer absence due to extenuating circumstances;
- d. the participant is determined no longer to meet the state Medicaid nursing facility level of care requirements and is not deemed eligible;
- e. the PACE program agreement with CMS and DHH is not renewed or is terminated;
- f. the PACE organization is unable to offer health care services due to the loss of state licenses or contracts with outside providers; or
- g. the participant who is permanently placed in a nursing facility fails to pay, or to make satisfactory arrangements to pay, the amount of patient liability that would be required to be paid by a Medicaid eligible resident of a nursing facility if he/she was not a participant in a PACE organization.

2. The following are behaviors considered disruptive or threatening behavior for purposes of involuntary disenrollment:

- a. behavior that jeopardizes his or her health or safety, or the safety of others; or
- b. consistent refusal to comply with his or her individual plan of care or the terms of the PACE enrollment agreement by a participant with decision-making capacity, but not if the behavior is related to a mental or physical condition of the participant. Noncompliant behavior includes repeated noncompliance with medical advice and repeated failure to keep appointments.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:247 (February 2004).

## **Chapter 7. Quality Assessment and Performance Improvement**

### **§701. Organization Responsibilities**

A. A PACE organization must develop, implement, maintain, and evaluate an effective, data-driven quality assessment and performance improvement program.

B. The program must reflect the full range of services furnished by the PACE organization.

C. A PACE organization must take actions that result in improvements in its performance in all types of care.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:248 (February 2004).

### **§703. Quality Assessment and Performance Improvement Plan**

A. A PACE organization must have a written quality assessment and performance improvement plan.

B. The PACE governing body must review the plan annually and revise it, if necessary.

C. At a minimum, the plan must specify how the PACE organization proposes to meet the following requirements:

1. identify areas to improve or maintain the delivery of services and patient care;
2. develop and implement plans of action to improve or maintain quality of care;
3. document and disseminate to PACE staff and contractors the results from the quality assessment and performance improvement activities.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:248 (February 2004).

### **§705. Minimum Requirements**

A. A PACE organization's quality assessment and performance improvement program must include, but is not limited to, the use of objective measures to demonstrate improved performance with regard to:

1. utilization of PACE services, such as decreased inpatient hospitalizations and emergency room visits;
2. caregiver and participant satisfaction;

3. outcome measures that are derived from data collected during assessments, including data on the following:

- a. physiological well being;
  - b. functional status;
  - c. cognitive ability;
  - d. social/behavioral functioning;
  - e. quality of life of participants;
4. effectiveness and safety of staff-provided and contracted services, including:
- a. competency of clinical staff;
  - b. promptness of service delivery;
  - c. achievement of treatment goals and measurable outcomes;

5. nonclinical areas, such as grievances and appeals, transportation services, meals, life safety, and environmental issues.

B. Outcome measures must be based on current clinical practice guidelines and professional practice standards applicable to the care of PACE participants.

C. The PACE organization must meet or exceed minimum levels of performance, established by CMS and the state administering agency, on standardized quality measures, such as influenza immunization rates, which are specified in the PACE program agreement.

D. The PACE organization must ensure that all data used for outcome monitoring are accurate and complete.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:248 (February 2004).

### **§707. Internal Activities**

A. A PACE organization must do the following:

1. use a set of outcome measures to identify areas of good or problematic performance;
2. take actions targeted at maintaining or improving care based on outcome measures;
3. incorporate actions resulting in performance improvement into standards of practice for the delivery of care and periodically track performance to ensure that any performance improvements are sustained over time;
4. set priorities for performance improvement, considering prevalence and severity of identified problems, and give priority to improvement activities that affect clinical outcomes;
5. immediately correct any identified problem that directly or potentially threatens the health and safety of a PACE participant.

B. A PACE organization must designate an individual to coordinate and oversee performance improvement activities.

C. Involvement in Quality Assessment and Performance Improvement Activities

1. A PACE organization must ensure that all interdisciplinary team members, PACE staff, and contract providers are involved in the development and implementation of quality assessment and performance improvement activities and are aware of the results of these activities.

2. The quality improvement coordinator must encourage a PACE participant and his or her caregivers to be

involved in quality assessment and performance improvement activities, including providing information about their satisfaction with services.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:248 (February 2004).

#### **§709. Additional Activities**

A. A PACE organization must meet external quality assessment and reporting requirements as specified by CMS or the state administering agency, in accordance with Section 460.202 of the Social Security Act.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:249 (February 2004).

#### **§711. Committees with Community Input**

A. A PACE organization must establish one or more committees with community input to:

1. evaluate data collected pertaining to quality outcome measures;
2. address the implementation of, and results from, the quality assessment and performance improvement plan;
3. provide input related to ethical decision-making, including end-of-life issues and implementation of the Patient Self-Determination Act.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:249 (February 2004).

### **Chapter 9. Sanctions**

#### **§901. Violations**

A. Sanctions may be imposed against a PACE organization if it commits one of the following violations:

1. fails substantially to provide medically necessary items and services to a participant that are covered PACE services, and that failure has adversely affected (or has substantial likelihood of adversely affecting) the participant;
2. involuntarily disenrolls a participant in violation of Section 460.164;
3. discriminates in the enrollment or disenrollment of Medicare beneficiaries or Medicaid recipients, or both, who are eligible to enroll in a PACE program on the basis of an individual's health status or need for health care services;
4. engages in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment, except as permitted by Section 460.150, by Medicare beneficiaries or Medicaid recipients whose medical condition or history indicates a need for substantial future medical services;
5. imposes charges on participants enrolled under Medicare or Medicaid for premiums in excess of the premiums permitted;
6. misrepresents or falsifies information that is furnished to:

- a. CMS or the state under this Part XXIII; or
- b. an individual or any other entity under this Part XXIII;

7. prohibits or otherwise restricts a covered health care professional from advising a participant who is a patient of the professional about the participant's health status, medical care, or treatment for the participant's condition or disease, regardless of whether the PACE program provides benefits for that care or treatment, if the professional is acting within his or her lawful scope of practice;

8. operates a physician incentive plan that does not meet the requirements of Section 1876(i)(8) of the Social Security Act; or

9. employs or contracts with any individual who is excluded from participation in Medicare or Medicaid under Section 1128 or Section 1128A of the Social Security Act (or with any entity that employs or contracts with that individual) for the provision of health care, utilization review, medical social work, or administrative services.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:249 (February 2004).

#### **§903. Imposition of Sanctions by CMS**

A. The CMS may impose the following sanctions for violations specified in §901:

1. suspend enrollment of Medicare beneficiaries;
2. suspend Medicare payment to the PACE organization;
3. deny payment to the state for medical assistance for services furnished under the PACE program agreement. The state will suspend payments to the PACE organization when payment of the federal portion of PACE reimbursement is denied;
4. impose civil money penalties as specified in federal regulations.

B. The CMS or the state may determine that the PACE organization is not in substantial compliance with PACE requirements, and may take one or more of the following actions:

1. condition the continuation of the PACE program agreement upon timely execution of a corrective action plan;
2. withhold some or all payments under the PACE program agreement until the organization corrects the deficiency;
3. terminate the PACE program agreement.

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:249 (February 2004).

### **Chapter 11. Appeals**

#### **§1101. Participant Rights, Grievances, and Appeals**

A. The PACE organization must have a formal written appeals process in accordance with 42 CFR 460.122, with specified timeframes for response, to address noncoverage or nonpayment of a service, and involuntary disenrollment.

B. Additional appeal rights under Medicare or Medicaid are available to the participant if an adverse decision is made in the PACE organization appeal process, or if the participant is involuntarily disenrolled from the PACE program. A PACE organization must inform a participant in

writing of additional appeal rights available under Medicare or Medicaid.

C. Medicaid-eligible participants who appeal through Medicaid shall be heard by the DHH Bureau of Appeals within the timeframes applicable to processing Medicaid appeals except in cases where federal PACE requirements require a more expeditious decision. The PACE organization shall prepare the Summary of Evidence in preparation for the appeal.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:249 (February 2004).

## **Chapter 13. Reimbursement**

### **§1301. Payment**

A. Participants shall be eligible for Medicaid payment of the PACE premium on their behalf if they meet the categorically needy income and resource criteria for Medicaid eligibility for nursing facility and Home and Community Based Services waiver services.

B. Participants are eligible for Medicare payment of the PACE premium on their behalf if they are covered by Medicare. The amount of Medicare premiums is calculated by the Centers for Medicare and Medicaid Services, the federal oversight agency.

C. Medicaid payment to a PACE organization on behalf of a Medicaid-eligible participant shall be a prospective monthly capitated amount that is less than the amount that would otherwise have been paid under the State Plan if the participant was not enrolled under the PACE program.

1. Statewide upper payment limits shall be calculated for each state fiscal year using statewide data from actual paid fee-for-service claims for populations who are age 55 or older in nursing facilities and in Home and Community Based Services waivers that utilize nursing facility level of care and serve people age 55 or older.

2. Statewide upper payment limits and Medicaid premiums for PACE shall be calculated in accordance with the approved State Plan methodology for such calculation, including trending of historical data. Premiums for every PACE organization in the state will be based on the statewide upper payment limits.

3. Premium amount shall be a negotiated rate, not to exceed 95 percent of the upper payment limit.

D. There shall be a minimum of two Medicaid upper payment limits calculated annually:

1. one for participants who are eligible for both Medicare and Medicaid; and

2. one for participants who are eligible only for Medicaid.

E. Medicaid payment to a PACE organization shall be made for each Medicaid-eligible participant who is enrolled on the first day of the month.

1. Enrolled participants are those who have signed an enrollment agreement.

2. Medicaid-eligible participants are those who have been determined to be eligible for Medicaid payment effective as of or before the first day of the month, including those who are retroactively eligible, when such date is on or before the first day of the month.

F. The amount of the Medicaid premium is a fixed amount regardless of changes in the participant's health status.

G. A PACE organization may not charge a premium to a participant who is eligible for both Medicare and Medicaid, or who is only eligible for Medicaid.

H. Participants who are not eligible for Medicaid must pay a premium to the PACE organization equal to the amount of the Medicaid premium, except that a different negotiated amount may be paid as a governmental premium on behalf of participants whose care is financed by governmental agencies such as Veterans Administration.

I. Participants who are not eligible for Medicaid and are also not eligible for either Medicare Part A or Medicare Part B must pay a premium to the PACE organization equal to the amount of the Medicaid premium and also amount(s) equal to the Medicare premium for Part A or Part B, or both.

J. A PACE participant who is in a nursing facility reimbursed by PACE on his/her behalf shall be responsible for payment of patient liability.

1. The amount of patient liability is the same amount that would be required to be paid by a Medicaid eligible resident of a nursing facility if he/she was not a participant in a PACE organization.

2. The patient liability obligation for Medicare recipients begins with the first day of the first full calendar month after the participant is a resident in the nursing facility for 90 consecutive days. The patient liability obligation for non-Medicare recipients begins after it is determined that the participant is permanently placed in a nursing facility, and may coincide with the date for imposition of patient liability obligation for Medicare recipients.

3. The PACE organization shall determine whether the patient liability is to be paid to the PACE organization or the nursing facility.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:250 (February 2004).

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

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0402#083

### **RULE**

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

#### **Durable Medical Equipment Program Motorized Wheelchairs**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule under 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 Administrative Procedure Act, R.S. 49:950 et seq.

### Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing establishes provisions governing recipient criteria and prior authorization for motorized wheelchairs. In addition, the bureau amends the August 20, 1998 Rule to clarify the provisions governing the repair of motorized wheelchairs.

### Wheelchairs, Motorized and/or Custom Motorized Recipient Criteria

#### A. Motorized Wheelchairs

1. For purposes of this rule, the term *motorized* shall have the same meaning as power, electric or any means of propulsion other than manual. A motorized wheelchair must be medically necessary. The recipient must meet all of the following criteria in order to be considered for a motorized wheelchair:

a. the recipient is not functionally ambulatory. Not functionally ambulatory means the recipient's ability to ambulate is limited such that without use of a wheelchair, he/she would otherwise be generally bed or chair confined;

b. the recipient is unable to operate a wheelchair manually due to severe weakness of the upper extremities due to a congenital or acquired neurological or muscular disease/condition or is unable to propel any type of manual wheelchair because of other documented health problems; and

c. the recipient is capable of safely operating the controls for a motorized wheelchair and can adapt to or be trained to use a motorized wheelchair effectively.

B. A motorized wheelchair is covered if the recipient's condition is such that the requirement for a motorized wheelchair is long term (at least six months).

#### Prior Authorization

A. All wheelchairs and modifications required to meet the needs of a particular recipient are subject to prior authorization. Prior authorization will be made for only one wheelchair at a time. Backup chairs, either motorized or manual, will be denied as not medically necessary. All requests must include:

1. a completed PA -01 form;

2. a physician's prescription for a motorized wheelchair. If the recipient is enrolled in Community Care, the prescription must be written by the recipient's primary care physician (PCP). The physician must specifically state that the prescription is for a motorized wheelchair;

3. medical documentation from a physician is required to support the provisions set forth in the Recipient Criteria Section, Subparagraphs A.1.a-b;

4. a seating evaluation performed, signed and dated by the physical therapist or occupational therapist that performed the seating evaluation. The seating evaluation shall:

a. indicate the appropriateness of the specific wheelchair requested and all modifications and/or attachments to the specific wheelchair and its ability to meet

the recipient's long term medical needs. Options that are primarily beneficial in allowing the recipient to perform leisure or recreational activities are not covered;

b. include the dated signature of the physician who prescribed the motorized wheelchair, confirming:

i. the recipient's diagnosis or condition is such that a motorized wheelchair is medically necessary; and

ii. he or she has seen the seating evaluation and motorized wheelchair recommendation;

5. documentation indicating that the recipient is capable of safely operating the controls for a motorized wheelchair and can adapt to or be trained to use the motorized wheelchair effectively. It is not sufficient for a Medicaid provider of motorized wheelchairs to indicate that a recipient is capable of safely operating the controls for a motorized wheelchair and can adapt to or be trained to use the motorized wheelchair effectively. Such documentation shall include:

a. a signed and dated statement from the recipient's physician, physical therapist or occupational therapist that he or she has determined that the recipient has the cognitive, motor and perceptual abilities needed to safely operate the controls of a motorized wheelchair. This statement shall be verified by the notes and recommendation of the physician, physical therapist or occupational therapist making such statement; and

b. a signed and dated statement from the recipient's physician, physical therapist or occupational therapist that he or she has determined that the recipient can adapt to or be trained to use the motorized wheelchair effectively. This statement shall be verified by the notes and recommendation of the physician, physical therapist or occupational therapist making such statement.

#### Repairs and Modifications

A. Requests for repairs to motorized wheelchairs will be considered for basic repairs only. Basic repairs are those which are requested to repair an existing component of the recipient's current motorized wheelchair.

B. Requests for modifications or reconstruction of the recipient's current motorized wheelchair shall not be considered basic repairs. Requests for modifications or reconstruction of the recipient's current motorized wheelchair must be submitted in accordance with prior authorization criteria. Modifications or reconstruction will be denied if it is more cost effective to provide a new motorized wheelchair.

C. It is expected that all repairs and modifications of motorized wheelchairs shall be completed within one month, unless there is a justifiable reason for a delay. Rental of a manual wheelchair may be prior authorized on a monthly basis as a temporary replacement, if necessary, when the recipient's motorized wheelchair is being repaired or modified.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0402#080

**RULE**

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

Early and Periodic Screening,  
Diagnosis and Treatment Program  
Dental Services? Reimbursement  
(LAC 50:XV.6903)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 50:XV.6903 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 Administrative Procedure Act, R.S. 49:950 et seq.

**Title 50**

**PUBLIC HEALTH? MEDICAL ASSISTANCE**

**Part XV. Services for Special Populations**

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

**Chapter 69. Dental Services**

**§6903. Reimbursement**

A. Reimbursement fees are increased as follows for certain designated procedure codes. The procedure codes have been amended to comply with the Health Insurance Portability and Accountability Act.

Procedure Code	Description	Fee
D0120	Periodic Oral Exam	\$18
D0150	Comprehensive Oral Exam	\$20
D0220	Radiograph-Periapical-First Film	***
D0230	Radiograph-Periapical-Each Additional Film	***
D0272	Radiograph-Bitewing-Two Films	***
D1110	Adult Prophylaxis	\$29
D1120	Child Prophylaxis	***
D1351	Sealant-Per Tooth	\$17
D1510	Space Maintainer-Unilateral	\$95
D1515	Space Maintainer-Bilateral	\$177
D2140	Amalgam-One Surface, Primary or Permanent	***
D2150	Amalgam-Two Surface, Primary or Permanent	***
D2160	Amalgam-Three Surface, Primary or Permanent	***
D2161	Amalgam-Four or more Surface, Permanent	\$88
D2330	Resin-based Composites-One Surface	***
D2331	Resin-based Composites-Two Surface	***
D2332	Resin-based Composites-Three Surface	***
D2335	Resin-based Composites-4 or More Surfaces, Anterior	\$88
D2390	Resin-based Composite Crown, Anterior	\$88
D2930	Stainless Steel Crown, Primary	\$88
D2931	Stainless Steel Crown, Permanent	\$88
D2932	Prefabricated Resin Crown	\$84
D2950	Core Buildup, including any pins	\$55
D2954	Prefabricated Post and Core in addition to crown	\$75
D3220	Pulpotomy-Deciduous Tooth Only	***
D3310	Root Canal-One Canal	***
D3320	Root Canal-Two Canals	***
D3330	Root Canal-Three Canals	***
D4341	Periodontal Scaling and Root Planning	\$75
D4355	Full Mouth Debridement	\$58
D5110	Complete Denture, Maxillary	\$495
D5120	Complete Denture, Mandibular	\$495
D5130	Immediate Complete Denture, Maxillary	\$495
D5140	Immediate Complete Denture, Mandibular	\$495

D5211	Partial Denture, Resin Base, Maxillary	\$470
D5212	Partial Denture, Resin Base, Mandibular	\$470
D5510	Repair Complete Broken Denture Base	\$100
D5520	Repair Missing or Broken Teeth-Complete Denture, Per Tooth	\$52/\$26*
D5610	Repair Resin Denture Base, Partial Denture	\$100
D5630	Repair or Replace Broken Clasp, Partial Denture	\$95
D5640	Replace Broken Teeth, Partial Denture, Per Tooth	\$52/\$26*
D5650	Add Tooth to Existing Partial Denture	\$52/\$26*
D5660	Add Clasp to Existing Partial Denture	\$95
D5750	Reline Complete Denture, Maxillary (Lab)	\$238
D5751	Reline Complete Denture, Mandibular (Lab)	\$238
D5760	Reline Partial Denture, Maxillary (Lab)	\$208
D5761	Reline Partial Denture, Mandibular (Lab)	\$208
D5820	Interim Partial Denture, Maxillary	\$300
D5821	Interim Partial Denture, Mandibular	\$300
D7140	Extraction, Erupted Tooth or Exposed Root	***
D7210	Surgical Extraction	***
D7220	Removal of Impacted Tooth, Soft Tissue	\$86
D7230	Removal of Impacted Tooth, Partially Bony	\$136
D7240	Removal of Impacted Tooth, Completely Bony	\$161
D7241	Removal of Impacted Tooth, Completely Bony with Unusual Surgical Complications	\$186
D8050	Interceptive Orthodontic Treatment, Primary Dentition	\$350**
D8060	Interceptive Orthodontic Treatment, Transitional Dentition	\$350**
D8070	Comprehensive Orthodontic Treatment, Transitional Dentition	\$3,600**
D8080	Comprehensive Orthodontic Treatment, Adolescent Dentition	\$3,600**
D8090	Comprehensive Orthodontic Treatment, Adult Dentition	\$3,600**
D9110	Palliative (emergency) Dental Pain Treatment	\$25
D9241	Intravenous Conscious Sedation/Analgesia-First 30 Minutes	\$94

Refer to the EPSDT Manual for a complete maximum fee schedule of authorized services.

\* Rate for each subsequent tooth in the same arch

\*\* Manually-priced maximum fee

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

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:176 (February 2003), amended LR 30:252 (February 2004).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0402#081

**RULE**

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

Early and Periodic Screening, Diagnosis and Treatment Program? Personal Care and Extended and/or Multiple Daily Skilled Nursing Services  
(LAC 50:XV.7305, 7307, 7311, and 7501)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing has amended LAC 50:XV.7305, 7307, and 7311 and adopted LAC 50:XV.Chapter 75 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the

Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

## **Title 50**

### **PUBLIC HEALTH? MEDICAL ASSISTANCE**

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

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

###### **Chapter 73. Personal Care Services**

###### **§7305. Recipient Qualifications**

A. - A.3. ...

4. A parent or other caregiver must be in the home with an EPSDT eligible 14 years of age or younger. Recipients over 14 years of age must be mentally and intellectually competent to direct their own care if they are to be left with the PCS worker without the presence of a parent or other caregiver.

5. Early and Periodic Screening, Diagnosis, and Treatment personal care services must be prescribed by the recipient's attending physician initially and every 180 days thereafter (or rolling 6 months), and when changes in the plan of care occur. The plan of care shall be acceptable for submission to BHSF only after the physician signs and dates the completed form. The physician's signature must be an original signature and not a rubber stamp.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003), amended LR 30:253 (February 2004).

###### **§7307. Prior Authorization**

A. - D. ...

E. Recipients who have been designated by DHH as chronic needs cases are exempt from the standard prior authorization process. Although a new request for prior authorization must still be submitted every 180 days, the provider shall only be required to submit a PA request form accompanied by a statement from a physician verifying that the recipient's condition has not improved and the services currently approved must be continued. Only DHH or its designee can grant the designation of a chronic needs case to a recipient.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:177 (February 2003), amended LR 30:253 (February 2004).

###### **§7311. Service Limits**

A. EPSDT personal care services are not subject to service limits. The units of service approved shall be based on the physical requirements of the recipient and medical necessity for the covered services in the EPSDT-PCS Program.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:178 (February 2003), amended LR 30:253 (February 2004).

###### **Chapter 75. Extended and/or Multiple Daily Skilled Nursing**

###### **§7501. Medically Fragile**

A. A medically fragile individual is one who has a medically complex condition characterized by multiple, significant medical problems that require extended care. Medically fragile individuals require most or all of the following services/aids:

1. use of home monitoring equipment;
2. IV therapy;
3. ventilator or tracheotomy care;
4. feeding tube and nutritional support;
5. frequent respiratory care;
6. medication administration;
7. catheter care;
8. frequent positioning needs;
9. special accommodations such as specially equipped vehicles or medical devices in order to attend school.

B. Under the EPSDT Program, continuous nursing care by a registered nurse (RN) or a licensed practical nurse (LPN) may be provided to children up to age 21 who are considered "medically fragile." Children who meet the continuous care criteria, which must be prior authorized, may leave the home and have the nurse provide services in any setting other than a school or institutions such as a hospital, skilled nursing facility or intermediate care facility for the mentally retarded.

C. Medically fragile recipients meet the medical necessity criteria for home health services if the individual has received prior authorization for multiple daily home visits and/or extended skilled nursing visits in accordance with the certifying physician's orders that document and meet the following criteria:

1. the medical condition of the recipient meets the medical necessity requirement for skilled nursing services and the provision of these services in the home is the most appropriate level of medical care; and
2. failure to receive skilled nursing services in the home would place the recipient at risk of developing additional medical problems or could cause further debilitation; and
3. the recipient requires skilled nursing services on a regular basis and that these services cannot be obtained in an outpatient setting before or after normal school hours. Therefore, home health services may be provided to the recipient/student in the home before or after normal school hours.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:253 (February 2004).

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0402#082

**RULE**

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

Public Hospitals  
Reimbursement Methodology  
Upper Payment Limit

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing promulgates the following Rule 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 Administrative Procedure Act, R.S. 49:950 et seq.

**Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing will utilize the upper payment limit for state government-owned or operated hospitals as set forth in the 42 CFR §447.272(b) and §447.321(b). The hospital payment differential for any year shall be the difference between the upper limit of aggregate payments to state government-owned or operated hospitals, as defined in the 42 CFR §447.272(a)(1) and §447.321(a)(1), and the aggregate Medicaid reimbursement paid to these hospitals for the year.

Frederick P. Cerise, M.D., M.P.H.  
Secretary

0402#084

**RULE**

**Department of Natural Resources  
Office of Conservation**

Statewide Order No. 29-B? General Requirements  
(LAC 43:XIX.303)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the State of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, R.S. 4:C, the Louisiana Office of Conservation hereby amends an existing Rule at Statewide Order No. 29-B (LAC 43:XIX.303). The Rule concerns the authorization of subsurface disposal of wastes associated with the exploration, development, and production of oil and gas resources in disposal wells under the jurisdiction of the Office of Conservation. The amended Rule will allow for the administrative approval for produced water disposal into a productive zone, in which the productive mechanism of the zone is aquifer expansion (water drive).

The amended Rule addresses authorization procedures, establishes disposal zone and disposal well status standards, citing and written consent requirements.

**Title 43**

**NATURAL RESOURCES**

**Part XIX. Office of Conservation–General Operations  
Subpart 1. Statewide Order No. 29-B**

**Chapter 3. Pollution Control–Onsite Storage,  
Treatment and Disposal of Nonhazardous  
Oilfield Waste (NOW) Generated from the  
Drilling and Production of Oil and Gas  
Wells (Oilfield Pit Regulations)**

**§303. General Requirements**

A. Produced water generated from the drilling and production of oil and gas wells shall be disposed of into subsurface formations, unless discharged or disposed of according to the provisions of §303.E, or transported offsite in accordance with LAC 43:XIX, Subpart 1, Chapter 5.

B. - C. ...

D. Produced water and other NOW generated in the drilling and production of oil and gas wells shall not be disposed of into a zone producing or productive of hydrocarbons except as provided for in LAC 43:XIX.303.O or such disposal is approved by the Office of Conservation after a public hearing or unless prior approval to use the proposed zone for such disposal can be documented.

E. - M.3. ...

N. Evidence of contamination of a groundwater aquifer or USDW may require compliance with the monitoring program of §309, compliance with the liner requirements of §307.A.1, or immediate closure of the pit.

O. The commissioner may authorize, without the necessity of a public hearing, the disposal of produced water into a zone producing or productive of hydrocarbons upon application of the operator of an existing or proposed disposal well. Such written request shall include the following:

1. the appropriate permit application as per the requirements of LAC 43:XIX.Chapter 4;
2. evidence establishing the production mechanism of the proposed disposal zone is aquifer expansion (water drive);
3. evidence demonstrating the subject disposal well is not productive in the proposed disposal zone;
4. a plat showing the subject disposal well is not located within 330' of a property line as it is defined in LAC 43:XIX.1901;
5. written consent of all operators of record with existing wells within a 1/4 mile radius of the subject well; and
6. such other information which the commissioner may require.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 26:2799 (December 2000), amended LR 30:254 (February 2004).

James H. Welsh  
Commissioner

0402#045

**RULE**

**Department of Natural Resources  
Office of Conservation**

**Statewide Order No. 29-L-3? Termination of Units  
(LAC 43:XIX.3101, 3103, and 3105)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the power delegated under the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, R.S. 4.C, the Louisiana Office of Conservation has amended an existing Rule, Statewide Order No. 29-L-2 (LAC 43:XIX.3101, 3103, and 3105). The Rule concerns the terminations of oil and gas unit(s) for a pool established by the commissioner of conservation. The amended Rule will allow the termination of any unit or units for a pool provided each of the items listed below apply as of the date the application is filed with the commissioner.

1. A period of five years has elapsed without any production from the unit or units.
2. There is no well located on the unit which is capable of producing from the pool for which the unit or units is established.
3. A period of a year and 90 days has elapsed without any drilling, reworking, recompletion, plugging back, or deepening operations having been conducted on a well located on the unit in an attempt to obtain or restore production from the pool for which the unit or units were established.
4. There is no unexpired drilling permit for the drilling of a new well on the unit to a depth which would penetrate the pool for which the unit or units were established.

**Title 43  
NATURAL RESOURCES**

**Part XIX. Office of Conservation? General Operations  
Subpart 13. Statewide Order No. 29-L-3  
Chapter 31. Termination of Units**

**§3101. Scope**

A. This order establishes rules and regulations for termination of any unit established by the commissioner of conservation pursuant to the authority of Title 30 of the Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with RS. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), repromulgated LR 19:776 (June 1993), amended LR 21:1083 (October 1995), LR 30:255 (February 2004).

**§3103. Definitions**

A. Unless the context otherwise requires, the words defined in this Section shall have the following meaning when found in this order.

*District Manager?* the manager of any one of the districts of the state of Louisiana under the Office of Conservation, and refers specifically to the manager within whose district the *pool* for which any *unit(s)* are sought to be terminated are located.

*Interested Party?* any person, as person is defined in Title 30 of the Revised Statutes of 1950, who owns an interest in any *unit(s)* sought to be terminated.

*Pool?* an underground reservoir containing a common accumulation of crude petroleum or natural gas or both. Each zone of a general structure which is completely separated from any other zone in the structure is covered by the term *pool*.

*Unit?* any *unit(s)*, whether one or more, established for a particular *pool*, by order of the commissioner of conservation pursuant to authority of Subsection B of Section 9 or Subsection B or C of Section 5 of Title 30 of the Revised Statutes of 1950.

*Well?* all *wells* drilled within the confines of any *unit(s)* sought to be terminated.

AUTHORITY NOTE: Promulgated in accordance with RS.30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), repromulgated LR 19:776 (June 1993), amended LR 21:1083 (October 1995), LR 30:255 (February 2004).

**§3105. Order**

**A. Termination of All Existing Units for a Pool**

1. On and after the effective date hereof, a supplemental order terminating all existing units established by the commissioner for a pool may be issued after written application and upon proper showing in the manner provided herein, and in the absence of protest without the necessity of a public hearing, when with respect to the pool for which the unit was established, a period of one year and 90 days has elapsed without:

- a. production from the pool; and
- b. the existence of a well proven capable of producing from the pool; and
- c. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool.

2. Each application for unit termination shall be filed with the commissioner with a copy to the district manager and each interested party. Interested parties need not be furnished information described in §3105.A.2.b, d and e. The application shall include the following:

- a. a plat showing all existing units established for the pool, with each well located thereon, together with order number(s) and effective date of the order(s) of the commissioner establishing said units. Each well shall be identified on such plat by operator of record, serial number and well name and number or by reference to an appropriate attachment;
- b. a signed statement indicating the status of each well. Should there exist a well which has not been plugged and abandoned in accordance with LAC 43:XIX.137, sufficient geological, engineering, or other data with detailed explanation thereof to clearly demonstrate that said well is not capable of producing from the pool;
- c. a signed statement indicating that with respect to the pool for which the unit was established, to the best of

applicant's knowledge, a period of one year and 90 days has elapsed without:

- i. production from the pool; and
- ii. the existence of a well proven capable of producing from the pool; and
- iii. drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well to secure or restore production from the pool;
- d. a list of all interested parties identified by the applicant after reasonable search to whom a copy of the application has been sent;
- e. an application fee as established by LAC 43:XIX.201 et seq.

3. Notice of the filing of the application of unit termination shall be published in the official journal of the state of Louisiana giving notice that unless a written protest is filed with the commissioner within the 30-day period from the date of publication of notice, the commissioner may issue a supplemental order for such unit termination. In the event written objection is filed within said 30-day period, the applicant may apply for a public hearing for consideration of the application.

4. In the event that production from the pool is subsequently reestablished from an existing well which was deemed not capable of producing from the pool as of the effective date of unit termination, the operator of record of such well shall immediately apply to the commissioner for a public hearing, after 30-day legal notice, to consider evidence concerning whether the previously existing unit on which the well is located should be reestablished for such well.

#### B. Termination of Any Existing Unit for a Pool

1. On and after the effective date hereof, a supplemental order terminating any existing unit(s) established by the commissioner for a pool may be issued after written application and upon proper showing in the manner provided herein, and in the absence of protest without the necessity of a public hearing, when with respect to the unit(s) to be terminated, each of the following apply as of the date the application for unit termination is filed with the commissioner:

- a. a period of five years has elapsed without any production from the unit(s); and
- b. there is no well located on the unit(s) which is capable of producing from the pool for which the unit(s) was established; and
- c. a period of one year and 90 days has elapsed without any drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well located on the unit(s) to be terminated in an attempt to secure or restore production from the pool for which the unit(s) was established.

2. Each application for unit termination shall be filed with the commissioner with a copy to the district manager and each interested party. Interested parties need not be furnished information described in §3105.B.2.b, d and e. The application shall include the following:

- a. a plat showing the existing unit(s) to be terminated, with each well located thereon, together with order number and effective date of the order of the commissioner establishing said unit(s). Each well shall be identified on such plat by operator of record, serial number

and well name and number or by reference to an appropriate attachment;

- b. a signed statement indicating the status of each well. Should there exist a well which has not been plugged and abandoned in accordance with LAC 43:XIX.137, sufficient geological, engineering, or other data with detailed explanation thereof to clearly demonstrate that said well located on the unit(s) is not capable of producing from the pool for which the unit(s) was created;

- c. a signed statement indicating that with respect to the unit(s) to be terminated, to the best of applicant's knowledge, each of the following apply as of the date the application for unit termination is filed with the commissioner:

- i. a period of five years has elapsed without any production from the unit(s); and
- ii. there is no well located on the unit(s) to be terminated which is capable of producing from the pool for which the unit(s) was established; and
- iii. a period of one year and 90 days has elapsed without any drilling, reworking, recompletion, deepening or plugging back operations having been conducted on a well located on the unit(s) in an attempt to secure or restore production from the pool for which the unit(s) was established; and
- iv. there is no unexpired drilling permit for the drilling of a new well on the unit(s) to be terminated to a depth which would penetrate the pool for which the unit(s) was established;

- d. a list of all interested parties identified by the applicant after reasonable search to whom a copy of the application has been sent;

- e. an application fee as established by LAC 43:XIX.201 et seq.

3. Notice of the filing of the application of unit termination shall be published in the official journal of the state of Louisiana giving notice that unless a written protest is filed with the commissioner within the 30-day period from the date of publication of notice, the commissioner may issue a supplemental order for such unit termination. In the event written objection is filed within said 30-day period, the applicant may apply for a public hearing for consideration of the application.

C. The effective date of any supplemental order issued hereunder can not be prior to the expiration of the legal advertisement period, reference §3105.A.3 and §3105.B.3 hereof. Consequently, any activity described in §3105.A.1 and §3105.B.1 hereof, occurring between the date of the signed statement, reference §3105.A.2.c and §3105.B.2.c hereof and the expiration of the legal advertisement period, shall result in application denial.

D. Any supplemental order issued hereunder approving the application terminating any unit(s) created for the pool shall be filed for record as provided in Section 11.1 of Title 30 of the Revised Statutes of 1950.

E. This order supersedes Statewide Order Number 29-L-2 and shall be effective on and after December 20, 2003.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:4 et seq.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, LR 15:741 (September 1989), amended LR 19:776 (June 1993), repromulgated LR

James H. Welsh  
Commissioner

0402#044

**RULE**

**Department of Natural Resources  
Office of Conservation  
Pipeline Division**

**Hazardous Liquids Pipeline Safety  
(LAC 33:V.30112, 30161, 30204 and 30905)**

Editor's Note: LAC 33:V.30112, 30161, 30204 and 30905 were promulgated in the December 20, 2003 issue of the *Louisiana Register* on pages 2804-2847 and are being repromulgated to correct typographical errors.

The Louisiana Office of Conservation has amended LAC 33:V.301 et seq. in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. and pursuant to power delegated under the laws of the state of Louisiana and particularly Title 30 of the Louisiana Revised Statutes of 1950, Section 30:501 et seq. This Rule replaces the current minimum pipeline safety requirements for hazardous liquids pipelines with new codification, technical changes and the addition of new requirements.

There will be negligible costs to directly affected persons or hazardous liquids pipeline operators. Benefits will be realized by persons near hazardous liquids pipelines through safer construction and operation standards imposed by the Rule amendments. Moreover, Louisiana presently receives approximately \$148,000 in federal funds and \$62,000 in pipeline fees to administer the Hazardous Liquids Pipeline Safety Program. Failure to amend the Louisiana Rules to make them consistent with federal regulations would cause the state to lose federal funding.

**Title 33**

**ENVIRONMENTAL QUALITY**

**Part V. Hazardous Waste and  
Hazardous Materials**

**Subpart 3. Natural Resources**

**Chapter 301. Transportation of Hazardous Liquids by  
Pipeline [49 CFR Part 195]**

**§30112. Unusually Sensitive Areas (USAs)  
[49 CFR 195.6]**

A. As used in this Subpart, a USA means a drinking water or ecological resource area that is unusually sensitive to environmental damage from a hazardous liquid pipeline release.

1. A USA drinking water resource is:

a. the water intake for a Community Water System (CWS) or a Non-Transient Non-Community Water System (NTNCWS) that obtains its water supply primarily from a surface water source and does not have an adequate alternative drinking water source;

b. the Source Water Protection Area (SWPA) for a CWS or a NTNCWS that obtains its water supply from a Class I or Class IIA aquifer and does not have an adequate alternative drinking water source. Where a state has not yet

identified the SWPA, the Wellhead Protection Area (WHPA) will be used until the state has identified the SWPA; or

c. the sole source aquifer recharge area where the sole source aquifer is a karst aquifer in nature.

2. An USA ecological resource is:

a. an area containing a *critically imperiled species or ecological community*;

b. a multi-species assemblage area;

c. a migratory waterbird concentration area;

d. an area containing an imperiled species, threatened or endangered species, depleted marine mammal species, or an imperiled ecological community where the species or community is aquatic, aquatic dependent, or terrestrial with a limited range; or

e. an area containing an imperiled species, threatened or endangered species, depleted marine mammal species, or an imperiled ecological community where the species or community occurrence is considered to be one of the most viable, highest quality, or in the best condition as identified by an element occurrence ranking (EORANK) of A (excellent quality) or B (good quality).

3. As used in this Subpart:

*Adequate Alternative Drinking Water Source?* a source of water that currently exists, can be used almost immediately with a minimal amount of effort and cost, involves no decline in water quality, and will meet the consumptive, hygiene, and fire fighting requirements of the existing population of impacted customers for at least one month for a surface water source of water and at least six months for a groundwater source.

*Aquatic or Aquatic Dependent Species or Community?* a species or community that primarily occurs in aquatic, marine, or wetland habitats, as well as species that may use terrestrial habitats during all or some portion of their life cycle, but that are still closely associated with or dependent upon aquatic, marine, or wetland habitats for some critical component or portion of their life-history (i.e., reproduction, rearing and development, feeding, etc).

*Class I Aquifer?* an aquifer that is surficial or shallow, permeable, and is highly vulnerable to contamination. *Class I aquifers* include:

i. *Unconsolidated Aquifers (Class Ia)?* that consist or surficial, unconsolidated, and permeable, alluvial, terrace, outwash, beach, dune, and other similar deposits. These aquifers generally contain layers of sand and gravel that, commonly, are interbedded to some degree with silt and clay. Not all *Class Ia aquifers* are important water-bearing units, but they are likely to be both permeable and vulnerable. The only natural protection of these aquifers is the thickness of the unsaturated zone and the presence of fine-grained material;

ii. *Soluble and Fractured Bedrock Aquifers (Class Ib)?* lithologies in this class include limestone, dolomite, and locally, evaporitic units that contain documented karst features or solution channels, regardless of size. Generally, these aquifers have a wide range of permeability. Also included in this class are sedimentary strata, and metamorphic and igneous (intrusive and extrusive) rocks that are significantly faulted, fractured, or jointed. In all cases groundwater movement is largely controlled by secondary openings. Well yields range widely, but the important feature is the potential for rapid vertical and lateral

ground water movement along preferred pathways, which result in a high degree of vulnerability;

iii. *Semiconsolidated Aquifers (Class Ic)*? that generally contain poorly to moderately indurated sand and gravel that is interbedded with clay and silt. This group is intermediate to the unconsolidated and consolidated end members. These systems are common in the Tertiary age rocks that are exposed throughout the Gulf and Atlantic coastal states. Semiconsolidated conditions also arise from the presence of intercalated clay and caliche within primarily unconsolidated to poorly consolidated units, such as occurs in parts of the High Plains Aquifer; or

iv. *Covered Aquifers (Class Id)*? that are any *Class I aquifer* overlain by less than 50 feet of low permeability, unconsolidated material, such as glacial till, lacustrine, and loess deposits.

*Class IIA Aquifer*? Higher Yield Bedrock Aquifer that is consolidated and is moderately vulnerable to contamination. These aquifers generally consist of fairly permeable sandstone or conglomerate that contain lesser amounts of interbedded fine grained clastics (shale, siltstone, mudstone) and occasionally carbonate units. In general, well yields must exceed 50 gallons per minute to be included in this class. Local fracturing may contribute to the dominant primary porosity and permeability of these systems.

*Community Water System (CWS)*? a public water system that serves at least 15 service connections used by year-round residents of the area or regularly serves at least 25 year-round residents.

*Critically Imperiled Species or Ecological Community (Habitat)*? an animal or plant species or an *ecological community* of extreme rarity, based on The Nature Conservancy's Global Conservation Status Rank. There are generally five or fewer occurrences, or very few remaining individuals (less than 1,000) or acres (less than 2,000). These species and ecological communities are extremely vulnerable to extinction due to some natural or man-made factor.

*Depleted Marine Mammal Species*? a species that has been identified and is protected under the Marine Mammal Protection Act of 1972, as amended (MMPA) (16 U.S.C. 1361 et seq.). The term *depleted* refers to marine mammal species that are listed as threatened or endangered, or are below their optimum sustainable populations (16 U.S.C. 1362). The term *marine mammal* means "any mammal which is morphologically adapted to the marine environment (including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea), or primarily inhabits the marine environment (such as the polar bear)" (16 U.S.C. 1362). The order Sirenia includes manatees, the order Pinnipedia includes seals, sea lions, and walruses, and the order Cetacea includes dolphins, porpoises, and whales.

*Ecological Community*? an interacting assemblage of plants and animals that recur under similar environmental conditions across the landscape.

*Element Occurrence Rank (EORANK)*? the condition or viability of a species or *ecological community* occurrence, based on a population's size, condition, and landscape context. EORANKs are assigned by the Natural Heritage Programs. An EORANK of A means an excellent quality and an EORANK of B means good quality.

*Imperiled Species or Ecological Community (Habitat)*? a rare *species* or *ecological community*, based on The Nature Conservancy's Global Conservation Status Rank. There are generally six to 20 occurrences, or few remaining individuals (1,000 to 3,000) or acres (2,000 to 10,000). These *species* and *ecological communities* are vulnerable to extinction due to some natural or man-made factor.

*Karst Aquifer*? an aquifer that is composed of limestone or dolomite where the porosity is derived from connected solution cavities. *Karst aquifers* are often cavernous with high rates of flow.

*Migratory Waterbird Concentration Area*? a designated *Ramsar site* or a *Western Hemisphere Shorebird Reserve Network site*.

*Multi Species Assemblage Area*? an area where three or more different *critically imperiled or imperiled species* or *ecological communities*, threatened or *endangered species*, *depleted marine mammals*, or *migratory water bird concentrations* co-occur.

*Non-Transient Non-community Water System (NTNCWS)*? a *public water system* that regularly serves at least 25 of the same persons over six months per year. Examples of these systems include schools, factories, and hospitals that have their own water supplies.

*Public Water System (PWS)*? a system that provides the public water for human consumption through pipes or other constructed conveyances, if such systems has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. These systems include the sources of the water supplies, i.e., surface or ground. *PWS* can be community, non-transient non-community, or transient non-community systems.

*Ramsar Site*? a site that has been designated under the Convention on Wetlands of International Importance Especially as Waterfowl Habitat Program. *Ramsar sites* are globally critical wetland areas that support migratory waterfowl. These include wetland areas that regularly support 20,000 waterfowl; wetland areas that regularly support substantial numbers of individuals from particular groups of waterfowl, indicative of wetland values, productivity, or diversity; and wetland areas that regularly support 1 percent of the individuals in a population of one species or subspecies of waterfowl.

*Sole Source Aquifer (SSA)*? an area designed by the U.S. Environmental Protection Agency under the *Sole Source Aquifer* Program as the "sole or principal" source of drinking water for an area. Such designations are made if the aquifer's ground water supplies 50 percent or more of the drinking water for an area, and if that aquifer were to become contaminated, it would pose a public health hazard. A *sole source aquifer* that is karst in nature is one composed of limestone where the porosity is derived from connected solution cavities. They are often cavernous, with high rates of flow.

*Source Water Protection Area (SWPA)*? that the area delineated by the state for a public water supply system (*PWS*) or including numerous *PWSs*, whether the source is ground water or surface water or both, as part of the state source water assessment program (*SWAP*) approved by EPA under §1453 of the Safe Drinking Water Act.



*Species? species*, subspecies, population stocks, or distinct vertebrate populations.

*Terrestrial Ecological Community with a Limited Range?* a non-aquatic or non-aquatic dependent *ecological community* that covers less than five acres.

*Terrestrial Species with a Limited Range?* a non-aquatic or non-aquatic dependent animal or plant *species* that has a range of no more than five acres.

*Threatened and Endangered Species (T&E)?* an animal or plant *species* that has been listed and is protected under the Endangered Species Act of 1973, as amended (ESA 73)(16 U.S.C. 1531 et seq.).

i. *Endangered Species?* any *species* which is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532).

ii. *Threatened Species?* any *species* which is likely to become an *endangered species* within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532).

*Transient Non-Community Water System (TNCWS)?* a *public water system* that does not regularly serve at least 25 of the same persons over six months per year. This type of water system serves a transient population found at rest stops, campgrounds, restaurants, and parks with their own source of water.

*Wellhead Protection Area (WHPA)?* the surface and subsurface area surrounding a well or well field that supplies a *public water system* through which contaminants are likely to pass and eventually reach the water well or well field.

*Western Hemisphere Shorebird Reserve Network (WHSRN) Site?* an area that contains migratory shorebirds concentrations and has been designated as a hemispheric reserve, international reserve, regional reserve, or *endangered species* reserve. Hemispheric reserves host at least 500,000 shorebirds annually or 30 percent of a *species* flyaway population. International reserves host 100,000 shorebirds annually or 15 percent of a *species* flyaway population. Regional reserves host 20,000 shorebirds annually or 5 percent of a *species* flyaway population. *Endangered species* reserves are critical to the survival of *endangered species* and no minimum number of birds is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 28:83 (January 2002), amended LR 29:2808 (December 2003), repromulgated LR 30:257 (February 2004).

**§30161. Internal Design Pressure [49 CFR 195.106]**

A. Internal design pressure for the pipe in a pipeline is determined in accordance with the following formula:

$$P = (2 St/D) \times E \times F$$

P= Internal design pressure in p.s.i. (kPa) gauge.

S= Yield strength in pounds per square inch (kPa) determined in accordance with §30161.B.

t= Nominal wall thickness of the pipe in inches (millimeters). If this is unknown, it is determined in accordance with §30161.C.

D= Nominal outside diameter of the pipe in inches (millimeters).

E= Seam joint factor determined in accordance with §30161.E.

F= A design factor of 0.72, except that a design factor of 0.60 is used for pipe, including risers, on a platform located off-shore or on a platform in inland navigable waters, and 0.54 is

used for pipe that has been subjected to cold expansion to meet the specified minimum yield strength and is subsequently heated, other than by welding or stress relieving as a part of welding, to temperature higher than 900°F (482°C) for any period of time or over 600°F (316°C) for more than one hour. [49 CFR 195.106(a)]

B. The yield strength to be used in determining the internal design pressure under §30161.A is the specified minimum yield strength. If the specified minimum yield strength is not known, the yield strength to be used in the design formula is one of the following: [49 CFR 195.106(b)]

1. the yield strength determined by performing all of the tensile tests of API Specification 5L on randomly selected specimens with the following number of tests: [49 CFR 195.106(b)(1)(i)]

Pipeline Size	Number of Tests
Less than 6-5/8 in. (168 mm) nominal outside diameter	One test for each 200 lengths
6-5/8 through 12-3/4 in. (168 through 323 mm.) nominal outside diameter	One test for each 100 lengths
Larger than 12-3/4 in. (324 mm.) nominal outside diameter	One test for each 50 lengths

2. if the average yield-tensile ratio exceeds 0.85, the yield strength shall be taken as 24,000 psi (165,474 kPa ). If the average yield tensile ratio is 0.85 or less, the yield strength of the pipe is taken as the lower of the following: [49 CFR 195.106(b)(1)(ii)]

a. eighty percent of the average yield strength determined by the tensile tests; [49 CFR 195.106(b)(1)(ii)(A)]

b. the lowest yield strength determined by the tensile tests; [49 CFR 195.106(b)(1)(ii)(B)]

3. if the pipe is not tensile tested as provided in Subsection B, the yield strength shall be taken as 24,000 psi (165,474 kPa). [49 CFR 195.106(b)(2)]

C. If the nominal wall thickness to be used in determining internal design pressure under §30161.A is not known, it is determined by measuring the thickness of each piece of pipe at quarter points on one end. However, if the pipe is of uniform grade, size, and thickness, only 10 individual lengths or five percent of all lengths, whichever is greater, need be measured. The thickness of the lengths that are not measured must be verified by applying a gage set to the minimum thickness found by the measurement. The nominal wall thickness to be used is the next wall thickness found in commercial specifications that is below the average of all the measurement taken. However, the nominal wall thickness may not be more than 1.14 times the smallest measurement taken on pipe that is less than 20 in. (508 mm) nominal outside diameter, nor more than 1.11 times the smallest measurement taken on pipe that is 20 in. (508 mm) or more in nominal outside diameter. [49 CFR 195.106(c)]

D. The minimum wall thickness of the pipe may not be less than 87.5 percent of the value used for nominal wall thickness in determining the internal design pressure under §30161.A. In addition, the anticipated external loads and external pressures that are concurrent with internal pressure must be considered in accordance with §30163 and §30165 and, after determining the internal design pressure, the nominal wall thickness must be increased as necessary to

compensate for these concurrent loads and pressures. [49 CFR 195.106(d)]

E.1. The seam joint factor used in §30161.A is determined in accordance with the following table. [49 CFR 195.106(e)]

Specification	Pipe Class	Seam Joint Factor
ASTMA53	Seamless	1.00
	Electric resistance Welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60
ASTM A 106	Seamless	1.00
	Seamless	1.00
ASTM A 333/A 333M	Seamless	1.00
	Welded	1.00
ASTMA381	Double submerged arc welded	1.00
ASTMA671	Electric fusion welded	1.00
ASTMA672	Electric fusion welded	1.00
ASTMA691	Electric fusion welded	1.00
API 5L	Seamless	1.00
	Electric resistance welded	1.00
	Electric flash welded	1.00
	Submerged arc welded	1.00
	Furnace lap welded	0.80
	Furnace butt welded	0.60

2. The seam joint factor for pipe which is not covered by this Subsection must be approved by the commissioner/administrator. [49 CFR 195.106(e)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 15:629 (August 1989), amended LR 20:441 (1994), LR 21:817 (August 1995), LR 27:1525 (September 2001), LR 29:2814 (December 2003), repromulgated LR 30:259 (February 2004).

**Chapter 302. Transportation of Hazardous Liquids by Pipeline? Construction [49 CFR Part 195 Subpart D]**

**§30204. Inspection? General [49 CFR 195.204]**

A. Inspection must be provided to ensure the installation of pipe or pipeline systems in accordance with the requirements of this Chapter. No person may be used to perform inspections unless that person has been trained and is qualified in the phase of construction to be inspected. [49 CFR 195.204]

B. Each operator shall notify by facsimile [(225) 342-5529] the Pipeline Safety Section of the Office of Conservation, Louisiana Department of Natural Resources, of proposed pipeline construction at least seven days prior to commencement of said construction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:753.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2817 (December 2003), repromulgated LR 30:260 (February 2004).

**Chapter 309. Transportation of Hazardous Liquids by Pipeline? Appendices [49 CFR Part 195]**

**§30905. Appendix C to Subpart 3? Guidance for Implementation of Integrity Management Program [49 CFR Part 195 Appendix C]**

This Appendix gives guidance to help an operator implement the requirements of the integrity management

program rule in §30450 and §30452. Guidance is provided on:

1. information an operator may use to identify a high consequence area and factors an operator can use to consider the potential impacts of a release on an area;
2. risk factors an operator can use to determine an integrity assessment schedule;
3. safety risk indicator tables for leak history, volume or line size, age of pipeline, and product transported, an operator may use to determine if a pipeline segment falls into a high, medium or low risk category;
4. types of internal inspection tools an operator could use to find pipeline anomalies;
5. measures an operator could use to measure an integrity management program's performance;
6. types of records an operator will have to maintain; and
7. types of conditions that an integrity assessment may identify that an operator should include in its required schedule for evaluation and remediation.

**I. Identifying a High Consequence Area and Factors for Considering a Pipeline Segment's Potential Impact on a High Consequence Area**

A. The rule defines a High Consequence Area as a high population area, an other populated area, an unusually sensitive area, or a commercially navigable waterway. The Office of Pipeline Safety (OPS) will map these areas on the National Pipeline Mapping System (NPMS). An operator, member of the public, or other government agency may view and download the data from the NPMS home page <http://www.npms.rspa.dot.gov>. OPS will maintain the NPMS and update it periodically. However, it is an operator's responsibility to ensure that it has identified all high consequence areas that could be affected by a pipeline segment. An operator is also responsible for periodically evaluating its pipeline segments to look for population or environmental changes that may have occurred around the pipeline and to keep its program current with this information. (Refer to §30452.D.3.) For more information to help in identifying high consequence areas, an operator may refer to:

1. Digital Data on populated areas available on U.S. Census Bureau maps;
2. Geographic Database on the commercial navigable waterways available on <http://www.bts.gov/gis/ntatlas/networks.html>;
3. the Bureau of Transportation Statistics database that includes commercially navigable waterways and non-commercially navigable waterways. The database can be downloaded from the BTS website at <http://www.bts.gov/gis/ntatlas/networks.html>.

B. The rule requires an operator to include a process in its program for identifying which pipeline segments could affect a high consequence area and to take measures to prevent and mitigate the consequences of a pipeline failure that could affect a high consequence area. (See §30452.F and I.) Thus, an operator will need to consider how each pipeline segment could affect a high consequence area. The primary source for the listed risk factors is a US DOT study on instrumented Internal Inspection devices (November 1992). Other sources include the National Transportation Safety Board, the Environmental Protection Agency and the

Technical Hazardous Liquid Pipeline Safety Standards Committee. The following list provides guidance to an operator on both the mandatory and additional factors:

1. terrain surrounding the pipeline. An operator should consider the contour of the land profile and if it could allow the liquid from a release to enter a high consequence area. An operator can get this information from topographical maps such as U.S. Geological Survey quadrangle maps;

2. drainage systems such as small streams and other smaller waterways that could serve as a conduit to a high consequence area;

3. crossing of farm tile fields. An operator should consider the possibility of a spillage in the field following the drain tile into a waterway;

4. crossing of roadways with ditches along the side. The ditches could carry a spillage to a waterway;

5. the nature and characteristics of the product the pipeline is transporting (refined products, crude oils, highly volatile liquids, etc.) Highly volatile liquids become gaseous when exposed to the atmosphere. A spillage could create a vapor cloud that could settle into the lower elevation of the ground profile;

6. physical support of the pipeline segment such as by a cable suspension bridge. An operator should look for stress indicators on the pipeline (strained supports, inadequate support at towers), atmospheric corrosion, vandalism, and other obvious signs of improper maintenance;

7. operating conditions of the pipeline (pressure, flow rate, etc.) Exposure of the pipeline to an operating pressure exceeding the established maximum operating pressure;

8. the hydraulic gradient of the pipeline;

9. the diameter of the pipeline, the potential release volume, and the distance between isolation points;

10. potential physical pathways between the pipeline and the high consequence area;

11. response capability (time to respond, nature of response);

12. potential natural forces inherent in the area (flood zones, earthquakes, subsidence areas, etc.).

## II. Risk Factors for Establishing Frequency of Assessment

A. By assigning weights or values to the risk factors, and using the risk indicator tables, an operator can determine the priority for assessing pipeline segments, beginning with those segments that are of highest risk, that have not previously been assessed. This list provides some guidance on some of the risk factors to consider (see §30452.E). An operator should also develop factors specific to each pipeline segment it is assessing, including:

1. populated areas, unusually sensitive environmental areas, National Fish Hatcheries, commercially navigable waters, areas where people congregate;

2. results from previous testing/inspection. (See §30452.H.);

3. leak history. (See leak history risk table.);

4. known corrosion or condition of pipeline. (See §30452.G.);

5. cathodic protection history;

6. type and quality of pipe coating (disbonded coating results in corrosion);

7. age of pipe (older pipe shows more corrosion—may be uncoated or have an ineffective coating) and type of pipe seam. (See Age of Pipe risk table.);

8. product transported (highly volatile, highly flammable and toxic liquids present a greater threat for both people and the environment) (see product transported risk table.);

9. pipe wall thickness (thicker walls give a better safety margin);

10. size of pipe (higher volume release if the pipe ruptures);

11. location related to potential ground movement (e.g., seismic faults, rock quarries, and coal mines); climatic (permafrost causes settlement-Alaska); geologic (landslides or subsidence);

12. security of throughput (effects on customers if there is failure requiring shutdown);

13. time since the last internal inspection/pressure testing;

14. with respect to previously discovered defects/anomalies, the type, growth rate, and size;

15. operating stress levels in the pipeline;

16. location of the pipeline segment as it relates to the ability of the operator to detect and respond to a leak. (e.g., pipelines deep underground, or in locations that make leak detection difficult without specific sectional monitoring and/or significantly impede access for spill response or any other purpose);

17. physical support of the segment such as by a cable suspension bridge;

18. non-standard or other than recognized industry practice on pipeline installation (e.g., horizontal directional drilling).

B. Example. This example illustrates a hypothetical model used to establish an integrity assessment schedule for a hypothetical pipeline segment. After we determine the risk factors applicable to the pipeline segment, we then assign values or numbers to each factor, such as, high (5), moderate (3), or low (1). We can determine an overall risk classification (A, B, C) for the segment using the risk tables and a sliding scale (values 5 to 1) for risk factors for which tables are not provided. We would classify a segment as C if it fell above 2/3 of maximum value (highest overall risk value for any one segment when compared with other segments of a pipeline), a segment as B if it fell between 1/3 to 2/3 of maximum value, and the remaining segments as A.

i. For the baseline assessment schedule, we would plan to assess 50 percent of all pipeline segments covered by the rule, beginning with the highest risk segments, within the first 3 1/2 years and the remaining segments within the seven-year period. For the continuing integrity assessments, we would plan to assess the C segments within the first two years of the schedule, the segments classified as moderate risk no later than year three or four and the remaining lowest risk segments no later than year five.

ii. For our hypothetical pipeline segment, we have chosen the following risk factors and obtained risk factor values from the appropriate table. The values assigned to the risk factors are for illustration only.

Age of pipeline: assume 30 years old (refer to "Age of Pipeline" risk table)-

Risk Value=5

Pressure tested: tested once during construction-

Risk Value=5

Coated: (yes/no)-yes

Coating Condition: Recent excavation of suspected areas showed holidays in coating (potential corrosion risk)-

Risk Value=5

Cathodically Protected: (yes/no)-yes-Risk

Value=1

Date cathodic protection installed: five years after pipeline was constructed (Cathodic protection installed within one year of the pipeline's construction is generally considered low risk.)-Risk Value=3

Close interval survey: (yes/no)-no-Risk

Value=3

Close interval survey: (yes/no)-no-Risk

Value=5

Internal Inspection tool used: (yes/no)-no-Risk

Value=5

Date of pig run? In last five years-Risk

Value=1

Anomalies found: (yes/no)-yes, but do not pose an immediate safety risk or environmental hazard-Risk Value=3

Leak History: yes, one spill in last 10 years. (refer to "Leak History" risk table)-Risk Value=2

Product transported: Diesel fuel. Product low risk. (refer to "Product" risk table)-Risk Value=1

Pipe size: 16 inches. Size presents moderate risk (refer to "Line Size" risk table)-Risk Value=3

iii. Overall risk value for this hypothetical segment of pipe is 34. Assume that we have two other pipeline segments for which we conduct similar risk rankings. The second pipeline segment has an overall risk value of 20, and the third segment, 11. For the baseline assessment we would establish a schedule where we assess the first segment (highest risk segment) within two years, the second segment within five years and the third segment within seven years. Similarly, for the continuing integrity assessment, we could establish an assessment schedule where we assess the highest risk segment no later than the second year, the second segment no later than the third year, and the third segment no later than the fifth year.

### III. Safety Risk Indicator Tables for Leak History, Volume or Line Size, Age of Pipeline, and Product Transported

Safety Risk Indicator	Leak History (Time-dependent defects) <sup>1</sup>
High	>3 Spills in last 10 years
Low	<3 Spills in last 10 years

<sup>1</sup>Time-dependent defects are those that result in spills due to corrosion, gouges, or problems developed during manufacture, construction or operation, etc.

Line Size or Volume Transported	
Safety Risk Indicator	Line Size
High	≥ 18"
Moderate	10" -16" nominal diameters
Low	≤ 8" nominal diameter

Age of Pipeline	
Safety Risk Indicator	Age Pipeline Condition Dependent <sup>2</sup>
High	>25 years
Low	<25 years

<sup>2</sup>Depends on pipeline's coating and corrosion condition, and steel quality, toughness, welding.

Product Transported		
Safety Risk Indicator	Considerations <sup>3</sup>	Product Examples
High	(Highly volatile and flammable)	(Propane, butane, Natural Gas Liquid (NGL), ammonia).
	Highly toxic	(Benzene, high Hydrogen Sulfide content crude oils).
Medium	Flammable- flashpoint<100F	(Gasoline, JP4, low flashpoint crude oils).
Low	Non-flammable- flashpoint 100+F	(Diesel, fuel oil, kerosene, JP5, most crude oils).

<sup>3</sup>The degree of acute and chronic toxicity to humans, wildlife, and aquatic life; reactivity; and volatility, flammability, and water solubility determine the Product Indicator. Comprehensive Environmental Response, Compensation and Liability Act Reportable Quantity values may be used as an indication of chronic toxicity. National Fire Protection Association health factors may be used for rating acute hazards.

### IV. Types of Internal Inspection Tools to Use

An operator should consider at least two types of internal inspection tools for the integrity assessment from the following list. The type of tool or tools an operator selects will depend on the results from previous internal inspection runs, information analysis and risk factors specific to the pipeline segment:

1. geometry internal inspection tools for detecting changes to ovality, e.g., bends, dents, buckles or wrinkles, due to construction flaws or soil movement, or other outside force damage;
2. metal loss tools (ultrasonic and magnetic flux leakage) for determining pipe wall anomalies, e.g., wall loss due to corrosion;
3. crack detection tools for detecting cracks and crack-like features, e.g., stress corrosion cracking (SCC), fatigue cracks, narrow axial corrosion, toe cracks, hook cracks, etc.

### V. Methods to Measure Performance

#### A. General

1. This guidance is to help an operator establish measures to evaluate the effectiveness of its integrity management program. The performance measures required will depend on the details of each integrity management program and will be based on an understanding and analysis of the failure mechanisms or threats to integrity of each pipeline segment.

2. An operator should select a set of measurements to judge how well its program is performing. An operator's objectives for its program are to ensure public safety, prevent or minimize leaks and spills and prevent property and environmental damage. A typical integrity management program will be an ongoing program it may contain many elements. Therefore, several performance measure are likely to be needed to measure the effectiveness of an ongoing program.

B. Performance Measures. These measures show how a program to control risk on pipeline segments that could affect a high consequence area is progressing under the integrity management requirements. Performance measures generally fall into three categories.

1. Selected Activity Measures? Measures that monitor the surveillance and preventive activities the operator has implemented. These measures indicate how

well an operator is implementing the various elements of its integrity management program.

2. Deterioration Measures? Operation and maintenance trends that indicate when the integrity of the system is weakening despite preventive measures. This category of performance measure may indicate that the system condition is deteriorating despite well executed preventive activities.

3. Failure Measures? Leak History, incident response, product loss, etc. These measures will indicate progress towards fewer spills and less damage.

C. Internal vs. External Comparisons. These comparisons show how a pipeline segment that could affect a high consequence area is progressing in comparison to the operator's other pipeline segments that are not covered by the integrity management requirements and how that pipeline segment compares to other operator's pipeline segments.

1. Internal? Comparing data from the pipeline segment that could affect the high consequence area with data from pipeline segments in other areas of the system may indicate the effects from the attention given to the high consequence area.

2. External? Comparing data external to the pipeline segment (e.g., OPS incident data) may provide measures on the frequency and size of leaks in relation to other companies.

D. Examples. Some examples of performance measures an operator could use include:

1. a performance measurement goal to reduce the total volume from unintended releases by \_\_ percent (percent to be determined by operator) with an ultimate goal of zero;

2. a performance measurement goal to reduce the total number of unintended releases (based on a threshold of five gallons) by \_\_ percent (percent to be determined by operator) with an ultimate goal of zero;

3. a performance measurement goal to document the percentage of integrity management activities completed during the calendar year;

4. a performance measurement goal to track and evaluate the effectiveness of the operator's community outreach activities;

5. a narrative description of pipeline system integrity, including a summary of performance improvements, both qualitative and quantitative, to an operator's integrity management program prepared periodically;

6. a performance measure based on internal audits of the operator's pipeline system per this Subpart;

7. a performance measure based on external audits of the operator's pipeline system per this Subpart;

8. a performance measure based on operational events (for example: relief occurrences, unplanned valve closure, SCADA outages, etc.) that have the potential to adversely affect pipeline integrity;

9. a performance measure to demonstrate that the operator's integrity management program reduces risk over time with a focus on high risk items;

10. a performance measure to demonstrate that the operator's integrity management program for pipeline

stations and terminals reduces risk over time with a focus on high risk items.

## VI. Examples of Types of Records an Operator Must Maintain

The rule requires an operator to maintain certain records. (See §30452.L). This Section provides examples of some records that an operator would have to maintain for inspection to comply with the requirement. This is not an exhaustive list:

1. a process for identifying which pipelines could affect a high consequence area and a document identifying all pipeline segments that could affect a high consequence area;

2. a plan for baseline assessment of the line pipe that includes each required plan element;

3. modification to the baseline plan and reasons for the modification;

4. use of and support for an alternative practice;

5. a framework addressing each required element of the integrity management program, updates and changes to the initial framework and eventual program;

6. a process for identifying a new high consequence area and incorporating it into the baseline plan, particularly, a process for identifying population changes around a pipeline segment;

7. an explanation of methods selected to assess the integrity of line pipe;

8. a process for review of integrity assessment results and data analysis by a person qualified to evaluate the results and data;

9. the process and risk factors for determining the baseline assessment interval;

10. results of the baseline integrity assessment;

11. the process used for continual evaluation, and risk factors used for determining the frequency of evaluation;

12. process for integrating and analyzing information about the integrity of a pipeline, information and data used for the information analysis;

13. results of the information analyses and periodic evaluations;

14. the process and risk factors for establishing continual reassessment intervals;

15. justification to support any variance from the required reassessment intervals;

16. integrity assessment results and anomalies found, process for evaluating and remediating anomalies, criteria for remedial actions and actions taken to evaluate and remediate the anomalies;

17. other remedial actions planned or taken;

18. schedule for evaluation and remediation of anomalies, justification to support deviation from required remediation times;

19. risk analysis used to identify additional preventive or mitigative measures, records of preventive and mitigative actions planned or taken;

20. criteria for determining EFRD installation;

21. criteria for evaluating and modifying leak detection capability;

22. methods used to measure the program's effectiveness.

VII. Conditions that May Impair a Pipeline's Integrity

Section 30452.H requires an operator to evaluate and remediate all pipeline integrity issues raised by the integrity assessment or information analysis. An operator must develop a schedule that prioritizes conditions discovered on the pipeline for evaluation and remediation. The following are some examples of conditions that an operator should schedule for evaluation and remediation:

- A. any change since the previous assessment;
- B. mechanical damage that is located on the top side of the pipe;
- C. an anomaly abrupt in nature;
- D. an anomaly longitudinal in orientation;
- E. an anomaly over a large area;
- F. an anomaly located in or near a casing, a crossing of another pipeline, or an area with suspect cathodic protection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:703.

HISTORICAL NOTE: Promulgated by the Department of Natural Resources, Office of Conservation, Pipeline Division, LR 29:2840 (December 2003), repromulgated LR 30:260 (February 2004).

James H. Welsh  
Commissioner

0402#055

**RULE**

**Department of Public Safety and Correction  
Corrections Services**

Access to and Release of Active  
and Inactive Records? Adult  
(LAC 22:I.101)

Editor's Note: This Rule is being repromulgated to correct an error. This Rule originally ran in the January 20, 2004 edition of the *Louisiana Register* and may be viewed in its entirety on pages 75-77.

The Department of Public Safety and Corrections, Corrections Services, in accordance with R.S. 15:823, and the Administrative Procedure Act, R.S. 49:950 et seq., hereby repeals the current LAC 22:I.101, Records of Adult Offenders and Ex-Offenders, in its entirety and adopts LAC 22:I.101, Access to and Release of Active and Inactive Records.

**Title 22**

**CORRECTIONS, CRIMINAL JUSTICE AND LAW  
ENFORCEMENT**

**Part I. Corrections**

**Chapter 1. Secretary's Office**

**§101. Access to and Release of Active and Inactive  
Records**

A. Purpose. To establish the secretary's policy and procedures for access to and release of active and inactive inmate records.

B. Applicability. This regulation applies to all persons employed by the department and those who are under contract with the department. The assistant secretary/office of adult services, all wardens-adult and the director of probation and parole-adult are responsible for implementing

this regulation and conveying its contents to all affected persons.

C. Definitions

*Application for Pardon or Parole?* for the purpose of this regulation, an *application for pardon or parole* is defined as any time that an inmate has made an *application for pardon or parole*, (including medical parole) or has been released on diminution of sentence (Good Time Parole Supervision-GTPS).

*Law Enforcement Agencies?* those agencies designed to enforce federal, state or municipal laws and who receive public funds as their primary source for operation, i.e., sheriff's offices, local and state police departments, departments of corrections, U.S. attorneys, district attorneys, and the Federal Bureau of Investigation (FBI).

*Sex Offender, Serial Sexual Offender, Sexually Violent Predator, Child Predator?* inmates committed to the department for a crime listed in R.S. 15:536 and 15:541. (See Paragraph N.1, List of Sex Offenses.)

D. Release of Information and Records

1. The pre-sentence investigation report, the pre-parole report, the clemency report, the information and data gathered by the staffs of the Board of Pardons and Board of Parole, the prison record, and any other information obtained by the Boards or Corrections Services, in the discharge of official duties shall be confidential and shall not be subject to public inspection nor be disclosed directly or indirectly to anyone except as in accordance with this regulation.

2. Following an *application for pardon or parole*, all information pertaining to an individual's misconduct while incarcerated, statistical information, information pertaining to disposition of criminal charges and incarcerations, and information of a general nature including an individual's age, offense, date of conviction, length of sentence, any correspondence by a public official which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual, and discharge date shall be released to the general public at any time upon request.

NOTE: This provision shall not apply to any public official correspondence which requests, or may be determined to be in support of, or in opposition to, the pardon or parole of an individual, which was received prior to August 15, 1997.

3. An inmate's DOC number and assigned location may be released without restriction.

4. Except as noted below, any communication with the Board of Pardons or Board of Parole urging parole, pardon, clemency, or commutation of sentence or otherwise regarding an inmate shall be deemed a public record and subject to public inspection.

a. Exception. Any letter written by, or on behalf of, any victim of a crime committed by an inmate under consideration for parole, pardon, clemency, or commutation of sentence, or any letter written in opposition to pardon, clemency, or commutation of sentence shall be confidential and shall not be deemed a public record and subject to public inspection. This exception shall not apply to any elected or appointed public official.

5. Information on a particular inmate may be released without special authorization, subject to other restrictions that may be imposed by federal law or by other provisions of state law, to the following:

- a. Board of Parole;

- b. Board of Pardons;
- c. governor;
- d. sentencing judge;
- e. district attorneys;
- f. *law enforcement agencies*;
- g. Department of Public Safety and Corrections personnel, including legal representatives and student workers;
- h. appropriate governmental agencies or public officials, when access to such information is imperative for the discharge of the responsibilities of the requesting agency, official or court officer and the information is not reasonably available through any other means; and
- i. court officers with court orders specifying the information requested.

6. Fingerprints, photographs, and information pertaining to arrests and disposition of criminal charges, as well as information regarding escapes may be released to law enforcement agencies without special authorization.

7. The secretary or his designee may approve the reading (but not copying) of confidential information by the following:

- a. social service agencies assisting in the treatment of the inmate or ex-offender; and
- b. approved researchers who have guaranteed in writing anonymity of all subjects.

8. The secretary or his designee may approve the selective reading (but not copying) of information by a private citizen or organization aiding in the rehabilitation of, or directly involved in the hiring of, the inmate or ex-offender under the following conditions:

- a. it appears that the withholding of the information would be to the inmate's or ex-offender's disadvantage;
- b. the requested information is necessary to further the rehabilitation or the likelihood of hiring the inmate or ex-offender;
- c. the requested information is not reasonably available through other means; and
- d. the inmate or ex-offender has given his written consent to release the information.

NOTE: Each unit will develop and use a "release of information consent form" for this purpose prior to the release of information and a copy will be placed in the inmate's record.

#### E. Release of Information on Sex Offenders

1. In addition to information which may be released pursuant to Subsection D, criminal history record information regarding sex offenders, serial sexual offenders, sexually violent predators and child predators which pertains to a conviction for which an inmate is currently sentenced to the department's custody may be disseminated without restriction.

2. For the purpose of this regulation, criminal history record information includes the following:

- a. date and parish of conviction;
- b. offense;
- c. docket number;
- d. sentence; and
- e. release dates.

3. A written record pertaining to the dissemination of criminal history record information on sex offenders (see Paragraph N.1, List of Sex Offenses) shall be maintained at

the unit level. The record shall contain the following information:

- a. to whom the criminal history record information was disseminated;
- b. the date the information was disseminated;
- c. the individual to whom the information relates; and
- d. a brief description of the information disseminated.

4. The written record pertaining to the dissemination of criminal history record information on sex offenders shall be retained for a period of not less than one year.

#### F. Release of Information to Crime Victims

1. Both the information contained in a Victim Notice and Registration Form and the fact that a notification request has been made are confidential. Any questions from outside the department about whether particular persons have requested notification or whether there has been a notification request for particular inmates should be referred to the Crime Victims Services Bureau.

2. Information may be released to victims, witnesses, and others directly injured by the criminal acts of persons under the state's authority in accordance with Department Regulation No. C-01-007 "Crime Victims Services Bureau."

#### G. Subpoenaed Records

1. Whenever records of an inmate or ex-offender are subpoenaed, they shall be submitted to the appropriate court for a ruling as to whether the information should be turned over to the party who caused the subpoena to be issued. The court shall make this determinate in camera. If the court makes any one of the following determinations, the information shall be withheld:

- a. the information is not relevant to the proceedings; or
- b. the information was derived from communications which were obviously made in the confidence that they would not be disclosed; or
- c. the confidentiality is essential to the future useful relations between the source and the recorder of the information.

2. Should the court authorize disclosure of the records in accordance with the subpoena, the party who caused the subpoena to be issued shall pay a fee for the cost of production of the records in accordance with R.S. 39:241 (see Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records"), unless the court determines that the party has been granted pauper status in accordance with law.

H. Records Not Subpoenaed Submitted to the Courts for Review. The department reserves the right to submit any record to the appropriate court for a ruling as to whether the information should be turned over to the party requesting the information.

I. Access and Release of Medical Records. Access to and release of medical records is governed by Health Care Policy No. HC-33 "Inmate Medical Records."

J. Department's Access to Information and Records of Other Agencies. During the course of any investigation which the department is authorized by law to conduct, or which is necessary for the rehabilitation of persons in the custody of the department, the department shall have access to information and records under the control of any state or

local agency which are reasonably related to the rehabilitation of the inmate.

K. Inmate Access to Records. Information contained in the inmate's record shall be confidential and shall not be released to the inmate except in accordance with this regulation.

1. An inmate may have access to his master prison record, a sentence computation worksheet, any court documents that are related to the term of his instant incarceration, non-confidential unusual occurrence reports, disciplinary reports, information related to educational achievements and participation.

2. An inmate may view and make notes of his state police and/or FBI rap sheet, but shall not be given a copy.

3. An inmate shall not have access to another inmate's active or inactive records.

4. The following is a non-exhaustive list of additional information that will not be accessible to the inmate:

- a. pre-sentence reports;
- b. post-sentence reports;
- c. pre-parole reports;
- d. clemency investigations;
- e. information revealing or tending to reveal the identity of confidential informants;
- f. admission summary;
- g. correspondence from any non-departmental source directed solely to prison officials;
- h. correspondence or inquiries originated by institutional personnel;
- i. investigations conducted by non-departmental agencies, i.e., District Attorney, State Police, FBI, etc.;
- j. investigations conducted by Corrections Services;
- k. non-disciplinary court-related institutional investigations; and
- l. correspondence from victims or witnesses, including Victim Notice and Registration Forms.

5. Each institution shall establish procedures for inmates to follow when requesting copies of documents from their records and the fees charged for such copies.

L. Information Requests. Verbal requests for information are acceptable. However, the secretary or his designee reserves the right to require a written request before releasing any information. In that case, the individual or agency must certify in writing that they will not release the information to any other agency.

M. Fees. The fee schedule for copies of public records is established in Department Regulation No. A-03-003 "Collection of Fees for Reproduction of Public Records."

N.1. List of Sex Offenses

- a. 14:41 Rape
- b. 14:42 Aggravated Rape
- c. 14:42.1 Forcible Rape
- d. 14:43 Simple Rape
- e. 14:43.1 Sexual Battery
- f. 14:43.2 Aggravated Sexual Battery
- g. 14:43.3 Oral Sexual Battery
- h. 14:43.5 Intentional Exposure of AIDS Virus
- i. 14:78 Incest

- j. 14:78.1 Aggravated Incest
- k. 14:80 Felony Carnal Knowledge of a Juvenile
- l. 14:80.1 Misdemeanor Carnal Knowledge of a Juvenile
- m. 14:81 Indecent Behavior with Juveniles
- n. 14:81.1 Pornography Involving Juveniles
- o. 14:81.2 Molestation of a Juvenile
- p. 14:89 Crime against Nature
- q. 14:89.1 Aggravated Crime against Nature
- r. 14:92(A)(7) Contributing to the Delinquency of Juvenile
- s. 14:93.5 Sexual Battery of the Infirm
- t. 14:283(E) Video Voyeurism

2. A conviction for any offense provided in the above list includes a conviction for an equivalent offense under the laws of another state.

3. A conviction for the attempt of the above offenses shall be considered as a sex offender for the purpose of this regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 44:7, 15:540-542, 15:546-548, 15:549(C), 15:574.12, 15:840.1, C.Cr.P. Art. 877 and 894.1.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of the Director, LR 2:107 (April 1976), amended by the Department of Public Safety and Corrections, Corrections Services, LR 30:75 (January 2004), repromulgated LR 30:264 (February 2004).

Richard L. Stalder  
Secretary

0402#041

**RULE**

**Department of Public Safety and Corrections  
Gaming Control Board**

**Video Draw Poker (LAC 42:XI.Chapter 24)**

The Louisiana Gaming Control Board hereby amends LAC 42:XI.2403, 2405, 2407, 2409, 2411, 2413, 2417, 2419, and 2421 in accordance with R.S. 27:15 and 24, and the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 42**

**LOUISIANA GAMING**

**Part XI. Video Poker**

**Chapter 24. Video Draw Poker**

**§2403. Definitions**

The provisions of the Louisiana Video Draw Poker Devices Control Law relating to the definitions of words, terms, and phrases are hereby incorporated by reference and made a part hereof, and shall apply and govern the interpretation of these regulations, except as otherwise specifically declared or as is clearly apparent from the context of the regulations herein. The following words, terms, and phrases shall have the ascribed meaning indicated below.

\* \* \*

*Applicant?* the person who has completed an *application* to the division for a license or permit to participate in the video gaming industry in Louisiana.



*Application?* the process by which a person requests a license or permit, or the renewal of a license or permit, for participation in the video gaming industry in Louisiana.

\*\*\*

*Permittee?* for purposes of these rules, shall have the same meaning as *video draw poker employee* as provided in R.S. 27:301.

\*\*\*

*Warehouse?* a secure and limited access structure or room, approved by the division, utilized for the storage of video gaming devices and/or their components.

\*\*\*

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:266 (February 2004).

### §2405. Application and License

#### A. Initial and Renewal Applications

1. All applications for a license shall be submitted on forms provided by the division and mailed to an address provided by the division.

2. - 15. ...

#### B. Requirements for Licensing

1.a. No person shall be granted a license, and no license shall be renewed unless the applicant demonstrates to the division that he is suitable for licensing, and thereafter continues to maintain suitability, as provided in the Act.

b. All applicants for a license and licensees shall be current in filing all applicable tax returns and in the payment of all taxes, interest and penalties owed to all appropriate local taxing authorities, the state of Louisiana and the Internal Revenue Service, excluding contested amounts pursuant to applicable statutes, and excluding items for which the Department of Revenue and Taxation and the Internal Revenue Service have accepted a payment schedule of back taxes.

2. - 3.b. ...

4.a. The appropriate annual fee shall be paid by all licensees regardless of the expiration date of the license on or before July 1 of each year.

b. Proof of current tax filings and payments, including tax clearance certificates from the state and all appropriate local taxing authorities shall be submitted to the division along with the annual fee as provided in Subparagraph B.4.a. no later than July 1 of each year.

5. Repealed.

6. All nonrefundable fees required for application/renewal and any administrative fines or penalties shall be made payable to the Department of Public Safety and Corrections and remitted to an address provided by the division.

7. Repealed.

8. - 10. ...

11. Repealed.

12. - 12.e. ...

C. - C.2. ...

#### D. Change of Ownership of Licensed Establishment

1. If a change in ownership of a licensed establishment occurs, the division shall be notified, in writing within five days, of the Act of sale or transfer.

2. When a licensed establishment which requires an alcoholic beverage license as a condition of the receipt of a video gaming license is sold or transferred, the devices shall be allowed to continue to operate under the old license if:

a. the new owner applies for a state Class "A" general retail or restaurant alcohol permit within 15 days of the act of sale or transfer; and

b. upon issuance of a state Class "A" general retail or restaurant alcohol permit, the new owner applies for a video gaming license within 15 days of said issuance.

3. The devices shall only be allowed to continue in operation under the old license until:

a. the issuance of a video draw poker license in the name of the new owner;

b. a determination by the division that the new applicant is unsuitable;

c. denial of the new license application; or

d. the passage of 180 days from submission of the application to the division.

4. The new owner shall provide, at the time of application to the division, a certified copy of the act of sale or transfer, a copy of all appropriate documentation which indicates the date the licensed establishment began the Alcohol and Tobacco Control Commission application process, and a copy of the permit issued by the Alcohol and Tobacco Control Commission.

5. If any of the documents required by this Section are not submitted with the new owner's application, the division may immediately disable the devices.

6. If the 180-day period has elapsed prior to the issuance of a new video gaming license, the devices shall be disabled and the device owner shall immediately make arrangements to remove and transfer the devices from the formerly licensed establishment.

7. Upon the issuance of a license to a new owner or the passage of 180 days, whichever occurs first, the license issued to the prior owner shall expire and be surrendered to the division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 24:955 (May 1998), LR 26:346 (February 2000), LR 26:2322 (October 2000), LR 27:61 (January 2001), LR 30:267 (February 2004).

### §2407. Operation of Video Draw Poker Devices

#### A. Responsibilities of Licensees

1. The licensee or a designated representative of the licensed establishment shall be required to be physically present and available within the licensed establishment at all times during all hours of operation; shall ensure that the devices are not tampered with, abused, or altered in any way; and shall prevent the play of video draw poker devices by persons under the age of 21 and prevent access to the gaming area by persons under the age of 18. The penalty for violation of this subsection shall be \$250 for the first

offense, \$500 for the second offense, and \$1,000 for the third offense. The penalty for fourth and subsequent offenses shall be administrative action, including, but not limited to, suspension or revocation.

2 - 7. ...

8. Repealed.

9 - 12. ...

13. Repealed.

14. ...

a. The signs shall be placed at the entrances to device areas with lettering at least 3 inches in height stating that there are gaming devices inside, no one under 18 allowed in gaming area, and no one under the age of 21 allowed to play gaming devices.

15 - 15.c. Repealed.

16 - 17. ...

#### B. Video Draw Poker Employees and Permits

1. The division shall issue a video draw poker employee permit to persons determined to be suitable pursuant to the provisions of the Act and rules adopted by the Louisiana Gaming Control Board pursuant to the Administrative Procedure Act.

2. All video draw poker employees shall possess a valid video draw poker employee permit in addition to a valid state issued driver's license, identification card or United States military identification card. The penalty for violation of this subsection shall be \$25 for the first offense, \$50 for the second offense, and \$75 for the third offense. The penalty for fourth and subsequent offenses shall be administrative action, including, but not limited to, suspension or revocation of the permit.

3. All video draw poker employee applications must be submitted on forms prescribed by the Louisiana Gaming Control Board.

a. All applications shall be submitted to the division via delivery by the United States Postal Service certified or registered mail, return receipt requested, or a commercial interstate carrier.

b. All applications shall contain a telephone number and permanent address for receipt of correspondence and service of documents by the division.

c. All video draw poker employees shall submit a renewal application to the division at least sixty days prior to expiration of their permit to avoid a lapse in their ability to work as video draw poker employees.

4. All applicants shall provide all additional information requested by the division. If applicants fail to provide all additional information requested by the division, the application shall be denied.

5. All video draw poker employees or applicants shall notify the division in writing of all changes of address, phone numbers, and other required information in the application within 10 calendar days of the effective date of the change.

6. No person shall be granted a permit and no permit will be renewed unless the applicant demonstrates to the division that he is suitable for permitting and thereafter continues to maintain suitability, as provided in the Act.

7. All applicants and video draw poker employees shall attend all hearings, meetings, seminars, and training sessions required by the division. The division shall not be

responsible for any cost incurred by the applicants and/or video draw poker employees.

8. Permittees employed as a designated representative shall have the ability to locate all records and documents of the licensed establishment and possess the knowledge of all day to day operations of the licensed establishment.

9. All video draw poker employees shall have knowledge of these rules and the provisions of the Act.

C. - D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 25:85 (January 1999), LR 27:205 (February 2001), LR 30:267 (February 2004).

#### §2409. Revenues

A. - A.4. ...

#### B. Device Operation Fees

1. ...

2. The division shall prorate the device operation fee that is required for each enabled video gaming device on a quarterly basis in accordance with the following schedule of dates of enrollment. For devices enrolled:

a. July 1 through September 30, the whole operation fee is due;

b. October 1 through December 31, three quarters of the operation fee is due;

c. January 1 through March 31, one half of the operation fee is due;

d. ...

3. The annual device operation fee may be paid in quarterly installments as prescribed by the Act.

4. - 6.d. ...

#### C. Franchise Payments

1. ...

2. All device owners shall establish and maintain a single bank account exclusively for the electronic funds transfer (sweep) of franchise payments to the designated bank of the state treasurer.

a. - c. Repealed.

d. The payments shall be transferred electronically into the designated bank of the state treasurer semi-monthly or as otherwise prescribed by the division. Licensees shall authorize the division to initiate these transfers.

e. The funds shall be electronically transferred (swept) no later than the tenth day after the fifteenth and last day of every month. Any account found with insufficient funds shall constitute a violation of this Section.

f. Electronic funds transfers shall be calculated based upon device polling from the first through the fifteenth, and the sixteenth through the last day of every month.

g. Any delinquent monies not forwarded to the bank designated by the state treasurer by electronic funds transfers at the time of the transfer shall be subject to an interest penalty of 0.000575 per day (21 percent per annum). The interest penalty shall be in addition to any other penalties imposed by the division.

3. A device owner who has a nonsufficient fund return within the past three years shall be required to maintain a

minimum balance at all times in the video gaming sweep account, or the account shall at all times be secured by a line of credit or bond issued by a bank or security company acceptable to the state treasurer. For purposes of this rule the term "bond" shall include cash, cash equivalent instruments or such other instruments as the division determines provide immediate liquidity.

a. The minimum balance and the security shall be equivalent to at least 15 percent of the previous month's net device revenues of all video gaming devices of the device owner.

b. No withdrawals at any time from the device owner's video gaming account, including electronic funds transfers, shall cause the account balance to be less than the minimum balance requirement prescribed above.

4. All licensed device owners shall be liable for that portion of net device revenues from such times as the funds are received into the device until said funds are deposited into the designated bank of the state treasurer.

#### D. Supplemental Purses for Horsemen

1. Repealed.

2. Forms provided by the division shall be used to record amounts earned for purse supplements and shall be filed with the division, the Horsemen's Benevolent and Protective Association, and the Louisiana State Racing Commission by the twentieth day of every month.

2.a. - 3.b. Repealed.

4. The division may at all times oversee any and all operations pertaining to video gaming and may review and/or audit any account or fund used for receipt and/or disbursement of any of the aforementioned income.

E. - E.2.h. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:268 (February 2003).

### §2411. Regulatory, Communication, and Reporting Responsibilities

#### A. General Provisions

1. - 11. ...

12. All licensed manufacturers and distributors shall maintain a current record of devices received, devices sold, and devices in inventory, and if requested, must provide this information to the division.

13. ...

14. All licensed manufacturers and distributors shall provide the division with a current list of authorized service entities and other personnel that they have certified. The list, which shall be updated and provided quarterly in a format specified by the division, shall include, but not be limited to, the following information:

A.14.a. - C.5. ...

#### D. Licensed Device Owners

1. - 3. ...

4. Repealed.

5. Except as otherwise provided in this Section, all licensed device owners shall only purchase or lease video gaming devices from, or sell or lease video gaming devices to, licensed distributors, or other licensed device owners.

6. Repealed.

7. - 9. ...

#### E. Licensed Establishments

1. - 2.c. ...

3. All licensed establishments that are qualified truck stop facilities shall provide to the division all necessary diesel and gasoline fuel sales data consisting of beginning and ending pump meter readings and summaries of all diesel and gasoline fuel sales, in gallons. Such information shall be given to the division on a monthly basis, on a form supplied by the division.

4. ...

5. The division shall evaluate each monthly report to establish the average monthly fuel sales for the quarter in question. This shall determine the number of electronic video draw poker devices that can be legally operated at the truck stop facility during the next quarterly period. The division shall disable or enable devices in accordance with the Act.

6. Repealed.

E.7. - F.4. ...

#### G. Required Forms

1. - 2. ...

3. If applicable, all licensees shall provide the division with all required device-related reports, to include, but not be limited to, the following:

a. ...

b. GAMING DEVICE OWNERSHIP TRANSFER NOTIFICATION, which shall be submitted for any change of ownership of any device within five business days of the change of ownership;

G.3.c. - H.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:269 (February 2004).

### §2413. Devices

#### A. Device Specifications

1. All devices shall include all of the specifications and features as provided in R.S. 27:302. In addition, all devices shall include the following specifications and features:

a. - c. ...

d. accept only United States coins and/or currency.

e. - h. ...

i. permanent serial numbers not to exceed nine alpha and/or numeric characters. The serial number plate shall be located in the upper (front) right side panel of the device, unless otherwise approved by the division, and shall contain the following information:

A.1.i.i. - 4. ...

5. Devices shipped to and transported through Louisiana shall at all times remain in the demonstration mode. In addition, no device operating in demonstration mode shall accept coin or currency.

A.6. - C.2. ...

#### D. Enrollment Procedures

1. - 2. ...

3. Validation decals shall be issued by the division for devices and shall be promptly affixed by a division representative to an enrolled device. The validation decal shall be affixed to the upper (front) right side of the device, or as otherwise approved by the division.

E. - G.3. ...

H. Devices Permanently Removed from Service

1. - 3. ...

4. For purposes of this Section, devices permanently removed from service shall mean devices:

- a. that are sold back or otherwise returned, and shipped to the distributor or manufacturer;
- b. that are damaged beyond repair due to theft, vandalism, or natural disasters; or
- c. that are completely dismantled for parts or destroyed and properly discarded as waste.

H.5. - J.2. ...

K. Warehouses

1. Devices stored in a warehouse shall be stored in a manner which easily displays the device serial number plate and/or the state issued permit sticker.

2. Device owners who wish to share warehouse space must execute a written lease agreement outlining the conditions and method of the space sharing. A copy of the lease agreement, along with a diagram indicating the method of device separation, must be sent to the division within five calendar days from the date of execution.

a. The shared warehouse must be partitioned in such a manner as to visually distinguish each device owner's video gaming devices.

b. Device owners shall not commingle their video gaming devices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq. and R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:1322 (October 1997), LR 25:85 (January 1999), LR 30:269 (February 2004).

### **§2417. Code of Conduct of Licensees and Permittees**

A. - A.3. ...

B. Unsuitable Conduct

1. - 3. ...

4. Any person required to be found suitable or approved in connection with the granting of any license or permit shall have a continuing duty to notify the division of his/her/its arrest, summons, citation or charge for any criminal offense or violation including D.W.I.; however, minor traffic violations need not be included. All licenses and permittees shall have a continuing duty to notify the division of any fact, event, occurrence, matter or action that may affect the conduct of gaming or the business and financial arrangements incidental thereto or the ability to conduct the activities for which the licensee or permittee is licensed or permitted. Such notification shall be made within ten calendar days of the arrest, summons, citation, charge, fact, event, occurrence, matter or action.

5. ...

C. Additional Causes for Disciplinary Action

1. Further instances of conduct by a licensee or permittee where the division or board may sanction a

licensee or permittee shall include but not be limited to when:

a. - i. ...

j. unavailability of the licensees or permittees, their designated representatives, or any agents of the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq., R.S. 27:15 and 24.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 27:59 (January 2001), LR 30:270 (February 2004).

### **§2419. Investigations**

A. - A.4. ...

B. Inspections

1. - 1.d. ...

2. Inspection of Records

a. - a.iii.(d). ...

b. The division may require a licensee to submit any and all video gaming records or documents that are necessary for the facilitation and/or completion of an investigation pertaining to a violation of these rules or the Act.

3. - 3.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:270 (February 2004).

### **§2421. Miscellaneous**

A. Required Meetings

1. The division may summon a licensee or permittee to appear for a consultation, explanation, discussion, clarification, training session, or other meeting considered by the division to be of potential benefit, or otherwise aid in the effective regulation of the video gaming industry.

A.2. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:4862.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Gaming Enforcement Section, Video Gaming Division, LR 18:196 (February 1992), amended LR 21:582 (June 1995), amended by the Department of Public Safety and Corrections, Gaming Control Board, LR 30:270 (February 2004).

Hillary J. Crain  
Chairman

0402#040

### **RULE**

#### **Department of Public Safety and Corrections Office of State Police**

Collection, Submission, Receipt, Identification,  
Storage and Disposal of DNA Samples  
(LAC 55:1.2703, 2705, 2725, and 2740-2747)

Pursuant to R.S. 15:601 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S.

49:950 et seq., the Department of Public Safety and Corrections, Public Safety Services, Office of State Police has amended LAC 55:I.Chapter 27. The following rules and regulations establish guidelines for the collection, submission, receipt, identification, storage and disposal of DNA samples for arrestees as defined in R.S. 15:601 et seq. and for peace officers as defined in R.S. 40:2405.4 et seq.

#### **Title 55**

### **PUBLIC SAFETY**

#### **Part I. State Police**

### **Chapter 27. Collection, Submission, Receipt, Identification, Storage and Disposal of DNA Samples**

#### **Subchapter A. Convicted Offenders**

#### **§2703. Collection, Submission, and Identification of DNA Samples for Convicted Offenders**

A. All DNA samples obtained for DNA Analysis from a convicted offender shall be collected using an approved Louisiana State Police Crime Laboratory DNA Database Collection kit as supplied by the department.

1 - 5.i. ...

j. In the event a convicted offender resists the taking of the DNA sample and the collector must use reasonable force in accordance with R.S. 15:601-620, the collector may collect any type of biological sample approved by the Louisiana State Police Crime Laboratory. The following types of biological sample collections are hereby approved for these instances:

- i. blood stain from finger prick on FTA card;
- ii. buccal swab;
- iii. phlebotomy draw.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:206 (February 2001), repromulgated LR 27:1702 (October 2001), amended LR 30:271 (February 2004).

#### **§2705. Record Keeping of DNA Samples for Convicted Offenders**

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect blood from an offender and the reason for the failure (e.g. refusal of offender to submit, failure to keep scheduled appointment) shall also be indicated. The list will include the following information: the kit number, the offender's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be forwarded on an audit form provided by the department to the CODIS DNA Unit on a daily basis, via U.S. mail. If the mailing envelopes are hand delivered to the crime laboratory, the audit form shall accompany the mailing envelopes being delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 27:207 (February 2001), repromulgated LR 27:1703 (October 2001), amended LR 30:271 (February 2004).

#### **Subchapter B. Arrestees**

#### **§2725. Record Keeping of DNA Samples for Arrestees**

A. The individual who collects each DNA sample shall provide an accurate, up-to-date list of every DNA sample collected each day of collection. Any failed attempts to collect a sample from an arrestee and the reason for the failure (e.g. refusal of arrestee to submit) shall also be indicated. The list will include the following information: the kit number, the arrestee's name, the name of the person collecting the sample and the submitting agency together with any additional data which the director deems necessary. This information shall be forwarded on an audit form provided by the department to the CODIS DNA Unit on a daily basis, via U.S. mail. If the mailing envelopes are hand delivered to the crime laboratory, the audit form shall accompany the mailing envelopes being delivered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:611.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 28:2370 (November 2002), amended LR 30:271 (February 2004).

#### **Subchapter C. Peace Officers**

#### **§2740. Scope, Purpose and Application**

A. Scope, Purpose, and Application. To provide rules and regulations governing the collection, submission, receipt, identification, storage and/or disposal of DNA samples for peace officers pursuant to R.S. 40:2405.4.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:271 (February 2004).

#### **§2741. Definitions**

*Biological Sample?* biological evidence of any nature that is utilized to conduct DNA analysis.

*Crime Laboratory?* Louisiana State Police *Crime Laboratory* of the Department of Public Safety and Corrections, Public Safety Services.

*Department?* Department of Public Safety and Corrections, Public Safety Services.

*Director?* the *Director* of the Louisiana State Police *Crime Laboratory*.

*DNA?* deoxyribonucleic acid.

*DNA Analysis?* DNA typing tests that generate numerical identification information and are obtained from a DNA sample.

*DPS and C?* Department of Public Safety and Corrections.

*Peace Officer?* same meaning as R.S. 40:2402.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:271 (February 2004).

#### **§2742. Collection of DNA Samples for Peace Officers**

A. All biological samples obtained for DNA Analysis from a peace officer shall be buccal swabs and shall be collected using sterile cotton tip swabs as provided by the agency employing the peace officer who is required to have his biological sample collected pursuant to R.S. 40:2405.4.

1. The agency employing the peace officer shall provide all materials necessary to collect a biological sample from any peace officer required to provide a sample pursuant to R.S. 40:2405.4.

2. The supplies necessary to collect a buccal swab shall include the following:

- a. one pack of two sterile cotton tip swabs;
- b. one pair of gloves;
- c. one paper type envelope to store the samples once collected;
- d. evidence tape for sealing the paper envelope.

3. In order to collect the biological sample, the collector shall adhere to the following procedures.

- a. Have the subject open his or her mouth. If there is foreign matter in the mouth, such as tobacco or gum, have the subject rinse his or her mouth out with water.
- b. Remove one sterile cotton swab and collect the specimen by rubbing the swab vigorously on the inside surfaces of the cheeks and gums thoroughly. While slowly turning the swab (so that all sides of the swab are in contact with the side of the cheek) rub the swab up and down and back and forth in the mouth about 10 times.
- c. Allow the buccal swab to dry for at least 30 minutes.
- d. After allowing the buccal swab to dry for at least thirty minutes. Place the buccal swab in the paper type envelope. Do not place the swab back into the original sterile swab packaging.
- e. Repeat Subparagraph b with the remaining swab.
- f. Place the second cotton tip swab immediately inside the paper type envelope with the first swab.
- g. Seal the paper type envelope. Place evidence seal over envelope seal. Write the date and collector's initials partially on the paper type envelope and partially on the evidence seal.

4. The collector shall print the name of the peace officer, the date of collection and the name of the collector on the paper type envelope used to store the samples once collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:271 (February 2004).

#### §2743. Storage of Biological Samples

A. All agencies employing any peace officer required to provide a biological sample pursuant to R.S. 40:2405.4 shall be responsible for storing said samples in a secure location. All agencies shall ensure that no unauthorized access to any biological sample taken from any peace officer is permitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:272 (February 2004).

#### §2745. Disposition of Biological Samples Following Termination Peace Officer Employment

A. If the employment of a peace officer who is required to have a DNA sample collected pursuant to R.S. 40:2405.4 terminates for any reason, the law enforcement agency that collected the sample may destroy the buccal swab or return it to the peace officer from whom the sample was collected.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:272 (February 2004).

#### §2747. Severability

A. If any article, section, subsection, sentence, clause or phrase of LAC 55:I:2320 et seq. is for any reason determined to be unconstitutional, contrary to statute, in excess of authority, or otherwise inoperative, such determination shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of LAC 55:I:2701 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2405.4.

HISTORICAL NOTE: Promulgated by the Department of Public Safety, Office of State Police, LR 30:272 (February 2004).

Christopher A. Keaton  
Undersecretary

0402#008

#### RULE

#### Department of Transportation and Development Office of Highways/Engineering

#### Wireless Telecommunications Permit (LAC 70:II.Chapter 15)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Transportation and Development has amended Chapter 15 of Part II of Title 70 entitled "DOTD Wireless Telecommunications Permit," in accordance with R.S. 48:381.2.

#### Title 70 TRANSPORTATION Part II. Utilities

#### Chapter 15. DOTD Wireless Telecommunications Permit

#### §1509. Fees

A. The following fees shall apply to wireless telecommunications installations placed within state highway rights-of-way.

Type of Tower	Annual Fee
Self-Supporting Tower/Antenna	\$3,500
Monopole/Antenna	\$2,000
Attachments to Existing Utility/Light Poles	\$1,500
Co-Location on DOTD Tower	\$3,500
Video Cameras	Supply feed to DOTD

B. Repealed.

C - E ...

F. The department may waive fees for those permit applicants who erect facilities, attachments or cameras for the use of the department or other state agencies or political subdivisions to conduct departmental or state work.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:98 (January, 1999), amended LR 30:272 (February 2004).

**§1513. Co-Location**

A. ...

B. Wireless facility operators, in certain instances, may be permitted to strengthen DOTD-owned towers, at the sole cost of the wireless facility operator, to provide additional structural capacity for multiple users. Alternatively, the tower structure may be replaced, rather than modified. Ownership of the new or modified tower and responsibility for maintaining the tower shall be negotiated prior to issuance of the permit, and shall be stated on the front of the permit. Applicant shall submit a structural analysis with the permit application. DOTD retains the right in perpetuity to have its antennae, pre-existing or added subsequent to permit issue, mounted on the new or modified tower.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:381.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of Highways/Engineering, LR 25:99 (January, 1999), amended LR 30:272 (February 2004).

Kam K. Movassaghi, Ph.D., P.E.  
Secretary

0402#043

**RULE**

**Department of Treasury  
Teachers' Retirement System**

**Earnable Compensation (LAC 58:III.201)**

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Trustees of Teachers' Retirement System of Louisiana has adopted policies governing the Earnable Compensation Accounts, LAC 58:III.201 as follows.

**Title 58**

**RETIREMENT**

**Part III. Teachers' Retirement System of Louisiana  
Chapter 2. Earnable Compensation Accounts**

**§201. Earnable Compensation Accounts**

A. Earnable compensation shall not include compensation paid to an active member or to an inactive member of Teachers' Retirement System of Louisiana (TRSL) if the compensation is paid by a secondary employer and is reported to the Internal Revenue Service (IRS) on a Form 1099, but only if both the following occur.

1. The individual contract is for \$1,000 or less, and a Form 1099 is issued.

2. The cumulative amount of the Form 1099 payments issued by a single secondary employer to that member does not exceed \$15,000 in a fiscal year.

B. If an individual contract is for more than \$1,000, then that entire payment is earnable compensation subject to TRSL employer and employee contributions.

C. If the cumulative amount of the Form 1099 payments issued by a single secondary employer to that member exceeds \$15,000 in a fiscal year, then all Form 1099 payments in excess of \$15,000 in that TRSL fiscal year are earnable compensation subject to TRSL employer and employee contributions.

Note: A secondary employer is one who does not report W-2 earnings on this member.

D. Earnable compensation shall include any and all compensation paid to a retiree of this system by a TRSL-covered employer regardless of IRS reporting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:701(10).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Board of Trustees of the Teachers' Retirement System of Louisiana, LR 30:273 (February 2004).

Bonita B. Brown, CPA  
Director

0402#086