



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

September 28, 2020

The Honorable Patrick Page Cortez
President, Louisiana State Senate
P.O. Box 94183
Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
apa.senatepresident@legis.la.gov

The Honorable Clay Schexnayder
Speaker, Louisiana House of Representatives
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Baton Rouge, LA 70804

ELECTRONIC TRANSMISSION
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The Honorable Kirk Talbot
Chairman of the Senate Insurance Committee
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The Honorable Chad Brown
Chairman of the House Insurance Committee
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Baton Rouge, LA 70804

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RE: Summary Report - Regulation 81, Automobile Liability Insurance Premium
Discount and Insurer Premium Tax Credit

Dear President Cortez, Speaker Schexnayder, Senator Talbot, and Representative
Brown:

The Louisiana Department of Insurance (LDI) hereby submits the following
summary report required by La. R.S. 49:968(D)(1)(b), and announces its intention to
proceed to finalize Regulation 81, which was published as a Notice of Intent in the August,
2020 edition of the *Louisiana Register*.

Interested persons were provided an opportunity to submit comments to the LDI
on the proposed regulation. The LDI did not receive any written or oral comments by the
expiration of the comment period.

Subject to legislative oversight, the LDI would like to finalize Regulation 81 and submit the regulation to the Office of the State Register for publication in the November 2020 edition of the Louisiana Register. A copy of the summary report will be placed on the LDI's website in accordance with La. R.S. 49:968(D)(1)(c).

If you have any questions or need any additional information, please contact me at (225) 219-7851, or electronically at Lisa.Henson@ldi.la.gov.

Sincerely,



Lisa L. Henson
Staff Attorney
Louisiana Department of Insurance

Enclosure: Notice of Intent to Amend Regulation 81– Automobile Liability Insurance
Premium Discount and Insurer Premium Tax Credit

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will benefit LPC Board licensees, as the requirements for continuing education (CE) hours for teletherapy decrease by 6 hours, from 9 hours annually to 3 hours annually. This revision will result in an indeterminable net savings for LPC Board licensees that is dependent upon the cost of the CE courses that they previously completed to comply with the 9-hour requirement. Furthermore, the proposed rule changes associated with the decrease in CE hours are expected to decrease revenues for CE providers by a like, but similarly indeterminable amount.

Furthermore, the proposed rule changes benefit LPC Board licensees seeking to practice via telehealth, as they will no longer be required to complete one year of in-person practice before engaging in telehealth. This may increase revenues for such practitioners, or advance timelines for when they may receive such revenues by up to a year.

The proposed rule changes will also benefit provisional licensees and their supervising practitioners, as they allow for all supervision hours to be completed via telesupervision. Currently provisional licensees may only complete 25% of their hours via telesupervision. As a result, expenses for provisional licensees and supervising practitioners associated with commuting for in-person supervision may decrease. The decrease associated with this rule change is indeterminable and dependent upon the number of practitioners who choose to utilize telesupervision in lieu of in-person supervision, as well as the number of hours involved. However, the proposed rule changes do not alter the overall number of supervision hours a provisional licensee must complete.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to affect competition and employment.

Jamie S. Doming
Executive Director
2008#011

Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

**Regulation 81—Automobile Liability Insurance Premium
Discount and Insurer Premium Tax Credit
(LAC 37:XIII.Chapter 95)**

The Department of Insurance, pursuant to the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend Regulation 81—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit. The purpose of the amendment to Regulation 81 is to clarify the applicability and calculation of the discount offered through the insurance premium discount program for active military personnel based in Louisiana and to update statutory references that have changed due to recodification.

**Title 37
INSURANCE**

Part XIII. Regulations

**Chapter 95. Regulation Number 81—Automobile
Liability Insurance Premium Discount
and Insurer Premium Tax Credit**

§9501. Authority

A. This regulation is adopted pursuant to R.S. 22:11 and 22:1482.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR 46:

§9503. Purpose

A. The purpose of this regulation is to implement the provisions of Acts 2004, No. 770 of the Louisiana Legislature, Regular Session, as well as to implement the amendment thereto as set forth in Acts 2005, No. 408 of the Louisiana Legislature, Regular Session. The original law created an insurance premium discount program for active military personnel based in Louisiana. The amendment creates a program whereby an insurer is entitled to a tax credit against the premium taxes imposed under R.S. 22:838 and R.S. 22:831 for the amount of the military discount provided to qualified active military personnel for the liability portion of their personal automobile liability policy. Both laws require the commissioner to adopt a regulation to implement the military discount program and to develop procedures for an insurer to follow to claim a tax credit and for other related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 20, 2005), amended LR 32:94 (January 2006), LR 46:

§9509. Definitions

A. For the purposes of this regulation the following terms shall have the meaning ascribed herein unless the context clearly indicates otherwise.

Active Military Personnel—

a. a single or married person who is based in this state and serving on full time active duty status in the military as a member of:

- i. the Army, Navy, Marine Corps or Air Force; or
- ii. the Reserve or National Guard; or
- iii. the Coast Guard.

b. *Active military personnel* who are deployed out-of-state or overseas whose spouse and dependents remain in this state shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation.

AMP—active military personnel.

*Authorized Insurer—*shall have the meaning found in R.S. 22:46(3), hereinafter “insurer.”

*Automobile Liability Insurance Policy—*a policy of insurance acquired in this state, insuring personal motor vehicles of the types described in R.S. 22:1266(A)(1)(a)-(b), and motorcycles of the types described in R.S. 32:1252(30),

which provides coverage for bodily injury and property damage liability, medical payments and uninsured motorists coverage as provided in R.S. 22:1266(A)(2). Golf carts, go-carts, off-road vehicles, all-terrain vehicles and other similar motorized vehicles are not motor vehicles for the purposes of R.S. 22:1266(A)(1)(a)-(b) and are not motorcycles for the purposes of R.S. 32:1252(30).

Commissioner—the Commissioner of Insurance for the state of Louisiana.

Direct Written Premium—the premium charged by an insurer as consideration for an automobile liability insurance policy.

Insured—the individual who qualifies as *active military personnel*. The spouse and/or any dependents who are under the age of 18 or unmarried full-time students under the age of 24 who are insured under the same policy as the *active military personnel* are also included in this definition.

LDI—the Louisiana Department of Insurance.

Named Insured—the person identified as such on the policy.

State—the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR 32:94 (January 2006), LR 46:

§9511. Calculation of the Premium Discount; Proof of Eligibility

A. All insurers shall grant a discount equal to 25 percent of the premium charged for an automobile liability insurance policy. The discount shall apply to new and renewal business if the named insured retains the status of active military personnel as defined in Regulation 81. For calculation purposes the discount shall only be applied to the premium charged for bodily injury and property damage liability, medical payments and uninsured motorists coverage as per R.S. 22:1266(A)(2) and shall include, but shall not be limited to, all fixed expenses, variable expenses, and policy fees. For interim policy changes, the discount mandated by this Subsection shall be applied on a pro-rata basis in the same manner as similar discount programs, such as good-student discounts, are applied by an insurer.

B. The initial obligation to demonstrate eligibility for the premium discount rests with the AMP. Thus, prior to an insurer applying the premium discount mandated by R.S. 22:1482(A), the AMP shall provide to the insurer a properly executed Louisiana Application for Military Discount on the current form approved by the LDI.

C. An insurer who obtains from an AMP a properly executed Louisiana application for military discount shall be eligible for a rebuttable presumption that the insurer is entitled to claim a tax credit against the premium taxes levied pursuant to R.S. 22:838 and 831.

D. An insurer shall be barred from claiming the benefit of the rebuttable presumption if the insurer knew or should have known that the AMP provided false or fraudulent information on the Louisiana application for military discount and/or the insurer fails, neglects or refuses to report said false or fraudulent information regarding the AMP to the LDI.

E. The initial Louisiana Application for Military Discount shall be properly executed by the AMP and delivered to the insurer. The insurer is required to maintain

the original and all subsequent renewals on file for inspection, verification and audit by the LDI to ensure that the AMP is entitled to the premium discount mandated by R.S. 22:1482(A).

F. Active military personnel who is deployed out-of-state or overseas and who is:

1. single, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation; or

2. married, and has a spouse and dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation; or

3. is single, and who has dependents who remain in this state, shall be considered as based in this state for purposes of receiving the discount provided by R.S. 22:1482 and §9515 of this regulation.

G. ...

H. Although it is the obligation of the AMP to demonstrate eligibility for the premium discount, an insurer has the obligation to act with due diligence with regard to the premium discount program. In furtherance of this due diligence obligation, the insurer may request additional documentation or proof from an AMP to determine initial or continuing eligibility for the discount if the insurer has a legitimate concern with regard to the authenticity or accuracy of any of the information provided by the AMP.

I. ...

J. The Louisiana Application for Military Discount that must be properly executed by the AMP is set forth in §9519, Louisiana Application for Military Discount—Appendix, of this regulation and is incorporated herein as if set forth herein *in extenso*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:673 (March 2005), amended LR 32:94 (January 2006), LR 33:1661 (August 2007), LR 46:

§9513. Requests for Tax Credit; Documentation; Dispute Resolution

A. The tax credit authorized by R.S. 22:1482(B), as amended, will be requested by an insurer on an annual calendar year basis. The tax credit will be calculated based upon direct written premium. An insurer is eligible to receive a tax credit against the premium tax levied pursuant to R.S. 22:838 and R.S. 22:831 if it is an authorized insurer and the insurer makes a timely request for the tax credit.

B. Insurers seeking a tax credit shall submit a request for premium tax credit to the LDI in accordance with the reporting schedule for premium taxes levied pursuant to R.S. 22:838 and 831 as set forth in the reporting form(s) designed by the commissioner. Insurers shall submit the information required to be maintained by §9515.B of this regulation. A premium tax filing with the tax credit authorized hereunder that does not include the proof required by this regulation will be considered untimely.

C. If the commissioner approves the premium tax filing as being both timely filed and containing all proof required by this regulation, there shall be a rebuttable presumption in favor of the insurer that the insurer is entitled to the tax credit against the premium taxes levied pursuant to R.S. 22:838 and R.S. 22:831.

D. - D.3. ...

E. As explained above, if the commissioner disapproves, in whole or in part, a tax credit filed by an insurer, he shall give written notice to the insurer, stating the grounds for disapproval. The notice shall be sent to the address shown on the records of the LDI. An insurer shall have 30 days from the date of the notice to dispute the disapproval by the commissioner. If, within this initial 30-day period the insurer can demonstrate, in writing to the commissioner, good cause for not being able to provide the required documents to dispute the disapproval, the commissioner may grant one 60-day extension to dispute the disapproval by the commissioner. No other extensions shall be granted. Any documents submitted by the insurer in rebuttal to the commissioner's disapproval notice shall be verified as true and accurate by an officer of the insurer.

F. Within 30 days of submission of the verified rebuttal, the commissioner shall enter an order either approving or disapproving, in whole or in part, the request by the insurer for a tax credit against the premium taxes levied pursuant to R.S. 22:838 and R.S. 22:831.

1. ...

2. If the tax credit is disapproved in its entirety, the commissioner shall enter an order denying the entirety of the requested tax credit. The commissioner's order of disapproval shall be given, in writing, to the insurer by certified mail, return receipt requested. Any demand for a hearing shall be filed by an insurer with the commissioner within 30 days after mailing of notice of the order of disapproval to the insurer's last known address or within 30 days after the delivery of notice of the order of disapproval to the insurer, as provided for by R.S. 22:2191.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 2005), amended LR 32:95 (January 2006), LR 46:

§9515. Recordkeeping; Annual Report

A. An insurer issuing an automobile liability insurance policy to an individual who qualifies for the military discount program shall maintain the following records:

1. the items obtained in compliance with §9511 of this regulation;

2. a copy of the declarations page for each policy for which a tax credit is sought.

B. The request for the tax credit shall be made on a form(s) designed by the commissioner. The request for the tax credit form shall require, among other things, that the insurer provide the following information to the LDI with regard to the personal automobile liability insurance coverage issued to an AMP and that this information be provided to the LDI in either an electronic format as per R.S. 22:42 or written format.

1. A detailed listing of all policies for which the tax credit is sought. The listing shall include, at a minimum:

a. - d. ...

e. the net direct written premium for the liability coverages of the automobile liability insurance policy prior to application of the military discount; and

f. the dollar value of the applicable military discount as applied to the amount set forth in Section 9515.B.1.e above.

2. - 5. ...

C. The insurer shall keep the records required by this section in either electronic or written form and the records shall be maintained by the insurer for a period of five years from the date of issuance of the insurance policy to which the military discount has been applied. Upon request, the insurer shall produce such records for examination or audit by the commissioner or any person acting on behalf of the commissioner. The records required by this section shall be considered confidential pursuant to R.S. 22:1983 and R.S. 22:1984 and are exempt from the Public Records Act found at R.S. 44:4.

D. The tax credit filed by an insurer shall cover the calendar year ending December 31 and shall be filed on or before March 1 of each year thereafter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:674 (March 20, 2005), amended LR 32:96 (January 2006), LR 46:

§9517. Overpayments; Collection Proceedings; Fines and Hearings

A. - B. ...

C. An insurer's failure or refusal to refund a tax credit overpayment shall constitute grounds for the commissioner to suspend the insurer's certificate of authority, or to impose a fine not to exceed 10 percent of the tax credit overpayment or \$2,500, whichever is more, or both. Any demand for a hearing shall be filed by an insurer with the commissioner within 30 days after mailing of notice of the order of disapproval to the insurer's last known address or within 30 days after the delivery of notice of the order of disapproval to the insurer, as provided for by R.S. 22:2191.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:96 (January 2006), LR 46:

§9521. Effective Date; Implementation

A. This regulation, as amended, shall take effect on January 1, 2021. Insurers shall take steps to timely implement the military discount program so that it is available for all new and renewal business effective January 1, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:11 and R.S. 22:1482.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:675 (March 20, 2005), amended LR 32:98 (January 2006), LR 46:

Family Impact Statement

1. Describe the Effect of the Proposed Regulation on the Stability of the Family. The proposed amended regulation should have no measurable impact upon the stability of the family.

2. Describe the Effect of the Proposed Regulation on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed amended regulation should have no impact upon the rights and authority of children regarding the education and supervision of their children.

3. Describe the Effect of the Proposed Regulation on the Functioning of the Family. The proposed amended regulation should have no direct impact upon the functioning of the family.

4. Describe the Effect of the Proposed Regulation on Family Earnings and Budget. The proposed amended regulation should have no direct impact upon family earnings and budget.

5. Describe the Effect of the Proposed Regulation on the Behavior and Personal Responsibility of Children. The proposed amended regulation should have no impact upon the behavior and personal responsibility of children.

5. Describe the Effect of the Proposed Regulation on the Ability of the Family or a Local Government to Perform the Function as Contained in the Rule. The proposed amended regulation should have no impact upon the ability of the family or a local governmental unit to perform the function as contained in the rule.

Poverty Impact Statement

1. Describe the Effect on Household Income, Assets, and Financial Security. The proposed amended regulation should have no effect on household income assets and financial security.

2. Describe the Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed amended regulation should have no effect on early childhood development and preschool through postsecondary education development.

3. Describe the Effect on Employment and Workforce Development. The proposed amended regulation should have no effect on employment and workforce development.

4. Describe the Effect on Taxes and Tax Credits. The proposed amended regulation should have no effect on taxes and tax credits.

5. Describe the Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation and Utilities Assistance. The proposed amended regulation should have no effect on child and dependent care, housing, health care, nutrition, transportation and utilities assistance.

Small Business Analysis

The impact of the proposed regulation on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed regulation that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed regulation on small businesses.

1. Identification and Estimate of the Number of the Small Businesses Subject to the Proposed Rule. The proposed amended regulation should have no measurable impact upon small businesses.

2. The Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, Including the Type of Professional Skills Necessary for Preparation of the Report or Record. The proposed amended regulation should have no measurable impact upon small businesses.

3. A Statement of the Probable Effect on Impacted Small Businesses. The proposed amended regulation should have no measurable impact upon small businesses.

4. Describe any Less Intrusive or Less Costly Alternative Methods of Achieving the Purpose of the Proposed Rule. The proposed amended regulation should have no measurable impact on small businesses; therefore, will have no less intrusive or less cost alternative methods.

Provider Impact Statement

1. Describe the Effect on the Staffing Level Requirements or Qualifications Required to Provide the Same Level of Service. The proposed amended regulation will have no effect.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of Service. The proposed amended regulation will have no effect.

Public Comments

Interested persons who wish to make comments may do so by writing to Lisa Henson, Staff Attorney, Louisiana Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214, or by faxing comments to (225) 342-1632. Comments will be accepted through the close of business, 4:30 p.m., September 21, 2020.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation 81—Automobile Liability Insurance Premium Discount and Insurer Premium Tax Credit

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule will not result in additional costs or savings for state or local governmental units. The proposed rule clarifies the applicability and calculation of the discount offered through the insurance premium discount program for active military personnel based in Louisiana and updates statutory references that have changed due to recodification.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will not affect revenue collections for state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups. The proposed rule clarifies the applicability and calculation of the discount offered through the insurance premium discount program for active military personnel based in Louisiana and updates statutory references that have changed due to recodification.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rules will not affect competition or employment.

Denise Gardner
Chief of Staff
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Christopher A. Keaton
Legislative Fiscal Officer
Legislative Fiscal Office