

enumerated in Emergency Rule 24 or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 24 shall be subject to prosecution by the commissioner under any applicable provisions of the Louisiana Insurance Code, including the provisions of the R.S. 22:250.41, et seq., R.S. 22:1211, et seq., and specifically including, but not limited to, R.S. 22:1214(7), (12) and (14). Additionally, the penalty provisions set forth in LSA-R.S. 22:1217 shall be applicable. These provisions include penalties of \$1,000 for each separate act, or \$25,000 for each separate act if the violator knew or reasonably should have known he was in violation of Emergency Rule 24, as well as a cease and desist order and the imposition of other penalties and suspension or revocation of the license. Additionally, R.S. 22:1220, which, among other things, imposes the obligation of good faith and fair dealing shall also be subject to the enforcement authority of the commissioner. This law sets forth penalties and exemplary damages which shall be enforceable by the commissioner for any violation of Emergency Rule 24. Finally, the commissioner may impose any other applicable civil and criminal sanctions for violations of Emergency Rule 24.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4437. Applying Provisions outside of Affected Parishes

A. Nothing in Emergency Rule 24 shall preclude an insurer from voluntarily applying the provisions of Emergency Rule 24 relating to cancellation, nonrenewal and nonreinstatement to any other person who is an insured and who resides in any parish other than the parishes set forth in Section 4401.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4439. Authority

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portions of Emergency Rule 24. Additionally, the commissioner reserves the right to extend Emergency Rule 24.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4441. Severability Clause

A. If any section or provision of Emergency Rule 24 is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 24, to any persons or circumstances that can be given effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4443. Effective Date

A. Emergency Rule 24 shall become effective at 12:01 a.m. on August 30, 2008 and shall continue in full force and effect until October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

James J. Donelon
Commissioner

0810#003

DECLARATION OF EMERGENCY

**Department of Insurance
Office of the Commissioner**

Emergency Rule 25—Suspension of Certain Statutes and Regulations Regarding Health Insurance and Related Provisions Regarding Any and All Health Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Gustav (LAC 37:XI.Chapter 45)

Emergency Rule 25 is issued to address Hurricane Gustav which made landfall in Louisiana on September 1, 2008. Emergency Rule 25 is issued pursuant to the plenary authority of the Commissioner of Insurance for the State of Louisiana, including, but not limited to, the following: Proclamation No. 51 BJ 2008 issued on August 27, 2008 by Governor Bobby Jindal declaring a State of Emergency extending from August 27, 2008 through September 26, 2008; the Federal Emergency Management Agency's Notice of a Major Disaster Declaration (FEMA-1786-DR); Amendment Nos. 1, 2, 3 and 4 to FEMA-1786-DR; Executive Order No. BJ 08-93 issued September 9, 2008 by Governor Bobby Jindal transferring authority over any and all insurance matters to Commissioner of Insurance James J. Donelon (commissioner); R.S. 29:724; R.S. 29:766; R.S. 22:2; R.S. 22:3; R.S. 22:1214.(7), (12) and (14); R.S. 49:950 et seq.

On August 27, 2008, Governor Bobby Jindal declared a State of Emergency within the state of Louisiana in response to the expected landfall of Hurricane Gustav. As a result of the hurricane's landfall, Hurricane Gustav caused extensive power outages and flooding that destroyed many homes and impacted the livelihood of the citizens of Louisiana. This State of Emergency extends from Wednesday, August 27, 2008 through Friday, September 26, 2008.

Since the issuance of Emergency Rule 25, an estimated 305,027 citizens from seven (7) additional parishes have been added to the list of parishes included in the Federal Emergency Management Agency's (FEMA) Notice of a Major Disaster Declaration. (Amendments Nos. 3 & 4 to FEMA-1786-DR). Thus, 3.4 million Louisiana citizens, approximately 80% of the population of Louisiana, may have suffered damage due to Hurricane Gustav. In some places, it could be several weeks before electricity is restored. The homes of many Louisiana citizens were destroyed precluding habitation. The damage caused by Hurricane Gustav has resulted in the closing of businesses and financial institutions, the temporary suspension of mail service, the temporary displacement of persons from their homes, loss of personal belongings and temporary loss of employment. This disruption has affected the ability of these citizens to timely pay their insurance premiums, access their insurance policies, and communicate with insurance agents and their respective insurance companies for insurance related matters. Hurricane Gustav has created a mass

disruption to the normalcy previously enjoyed by Louisianans and produced an immediate threat to the public health, safety, and welfare of Louisiana citizens.

The commissioner will be hindered in the proper performance of his duties and responsibilities regarding this State of Emergency without the authority to suspend certain statutes in the Louisiana Insurance Code and the rules and regulations that implement the Louisiana Insurance Code including, but not limited to, cancellation, nonrenewal, reinstatement, premium payment and claim filings with regard to any and all types of insurance subject to the Louisiana Insurance Code.

In light of this, I hereby issue Emergency Rule 25 to any and all health insurance issuers, Health Maintenance Organizations (hereinafter HMOs), Preferred Provider Organizations (hereinafter PPOs), Managed Care Organizations (hereinafter MCOs), Third Party Administrators (TPAs) and any other health insurance entities doing business in Louisiana and/or regulated by the commissioner pursuant to the Louisiana Insurance Code regarding any and all types of health insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance, and any and all other types of health insurance regulated by the Louisiana Insurance Code.

Emergency Rule 25 is applicable to insureds, as defined in Section 4501(A), from the following 36 parishes: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, West Baton Rouge, and West Feliciana. Emergency Rule 25 is also applicable to the following seven (7) parishes: Calcasieu, Catahoula, Franklin, Grant, LaSalle, Saint Helena and Washington. The zip codes applicable to these 43 parishes include, but may not be limited to, the list identified as "Hurricane Gustav Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.lds.state.la.us. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

In the ordinary course of business, health insurance issuers, HMOs, PPOs, MCOs, TPAs and any and all other health insurance entities doing business in Louisiana and/or regulated by the commissioner pursuant to the Louisiana Insurance Code regarding any and all types of health insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs, excess loss insurance, stop loss insurance, disability insurance, short-term care insurance, long-term care insurance and any and all other health insurance regulated by the Louisiana Insurance Code, are subject to certain requirements with regard to health insurance matters affecting insured citizens in Louisiana. Hurricane Gustav has produced a disruption in the health

insurance industry. Thus, many of the insureds in the 36 parishes referenced above are currently unable to timely act or respond to their health insurance needs. Additionally, some insureds with policies in force as of 12:01 a.m. on August 30, 2008, who wish to make timely premium payments, are also prevented from making such payment because of the aforementioned circumstances. This could result in an insured being without coverage and/or potentially uninsured. Emergency Rule 25 provides emergency relief to the insureds of Louisiana affected by Hurricane Gustav and its aftermath so that these insureds will be insured and their coverage will continue under those policies that were in effect as of 12:01 a.m. on August 30, 2008.

Title 37
INSURANCE
Part XI. Rules

Chapter 45. Emergency Rule 25—Suspension of Certain Statutes and Regulations Regarding Health Insurance and Related Provisions Regarding Any and All Health Insurance Matters Affecting Insureds in Louisiana Caused by Hurricane Gustav

§4501. Benefits, Entitlements, and Protections

A. The benefits, entitlements and protections of Emergency Rule 25 shall be applicable to insureds who, as of 12:01 a.m. on August 30, 2008 had a policy or insurance contract for any of the types of insurance enumerated in §4403 and reside in one of the following parishes: Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Calcasieu, Cameron, Catahoula, East Baton Rouge, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, Rapides, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Vernon, West Baton Rouge, Washington and West Feliciana. The zip codes applicable to these 43 parishes include, but may not be limited to, the list identified as "Hurricane Gustav Parish Zip Code List" found on the official Louisiana Department of Insurance Web site at www.lds.state.la.us. Insureds shall include, but not be limited to, any and all policyholders, members, subscribers, enrollees and certificate holders.

B. The benefits, entitlements and protections specified in Sections 4505, 4509, 4511, and 4519 of Emergency Rule 25 shall, by the issuance of Emergency Rule 25, be applicable to insureds who, as of 12:01 a.m. on August 30, 2008 had a policy or insurance contract for any of the types of insurance enumerated in §4503 and resided in one of the parishes enumerated in §4501.A.

C. The benefits, entitlements, and protections of Emergency Rule 25 shall be applicable to insureds who reside in a parish enumerated in §4501.A and obtain written documentation from either the chief executive officer of the applicable parish or municipality or other appropriate parish authority regarding the interruption of U.S. mail service; or insureds who reside in a parish enumerated in §4401.A and provide written notice that said insured was impacted by Hurricane Gustav in a manner including, but not limited to, evacuation, displacement, temporary relocation, or loss of power. In order to obtain the benefits, entitlements and

protections of Emergency Rule 25, all such written documentation and/or notice shall be submitted to the health insurance issuer, HMO, PPO, MCO, TPA, and any other health insurance entity doing business in Louisiana and/or regulated by the commissioner before 12:01 a.m. on October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4503. Applicability

A. Emergency Rule 25 shall apply to any and all types of health insurance, including, but not limited to, group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, HMOs, PPOs, MCOs, excess loss insurance, stop loss insurance, disability income insurance, short-term health insurance, long-term care insurance and any and all other health insurance.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4505. Suspension of Statutory or Regulatory Provisions

A. All health insurance issuers, HMO's, PPOs, MCOs, TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner with insureds in the parishes enumerated in §4501.A shall waive any and all restrictions relative to out-of-network access to all covered health care services. To avoid delays in accessing care, all health insurance issuers, HMOs, PPOs, MCOs TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner shall waive requirements for medical certifications or pre-certifications, referrals, medical necessity reviews and notification of hospital admissions. The right of all health insurance issuers, HMOs, PPOs, MCOs TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner to conduct retrospective medical necessity reviews and retrospectively deny any and all claims is hereby suspended for non-elective health care services. Additionally, the right of all health insurance issuers, HMOs, PPOs, MCOs TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner to recoup or offset with regard to any and all claims for non-elective health care services is hereby suspended. Non-elective health care services are those that are urgent, emergent, or necessary in order to not place the health of the insured at risk.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4507. Claim Rates and Allowances

A. In the event health insurance issuers, HMOs, PPOs, MCOs, TPAs and another health insurance entities doing business in Louisiana or regulated by the commissioner pend a claim(s), as allowed pursuant to Emergency Rule 25, and is subsequently entitled to cancel or terminate a policy for non-payment of a premium, health insurance issuers, HMOs, PPOs, MCOs, TPAs and another health insurance entities doing business in Louisiana or regulated by the

commissioner shall pay those claims to the health care professionals at the following rate or allowance.

1. For contracted health care providers or health care professionals, 50 percent of the contracted reimbursement rate.

2. For non-contracted health care providers or health care professionals, 50 percent of the non-participating rate or allowance.

3. With regard to claims submitted pursuant to §4507, when the underlying policy is cancelled or terminated for non-payment of premium, health insurance issuers, HMOs, PPOs, MCOs, TPAs and another health insurance entities doing business in Louisiana or regulated by the commissioner shall be allowed to conduct medical necessity reviews on claims related to non-elective services. Non-elective services are those services that are emergent, urgent, or necessary in order to not place the health of the insured at risk.

4. With regard to any and all claims paid by health insurance issuers, HMOs, PPOs, MCOs, TPAs and another health insurance entities doing business in Louisiana or regulated by the commissioner pursuant to the requirements of §4507, the provisions of R.S. 22:250.38 and R.S. 22:250.39 are hereby suspended and recoupment is prohibited.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4509. Emergency Health Care Services

A. Section 4509 reiterates that R.S. 22:657 requires all health insurance issuers, HMOs, PPOs, MCOs TPAs, and any other health insurance entities doing business in Louisiana or regulated by the commissioner including, but not limited to group and individual health and accident insurance, limited benefit insurance, Medicare supplement insurance, Medicare select insurance, excess loss insurance, stop loss insurance, disability insurance, short-term care insurance, long-term care insurance and any and all other health insurance regulated by the Louisiana Insurance Code, to provide coverage and pay in full any and all billed charges submitted by health care providers for emergency health care services provided to an enrollee or insured rendered by an in network or out of network facility based physician or an in network or out of network base health care facility as defined pursuant to R.S. 22:250.42(2), (13), (16) and (17). This does not preclude a health insurance issuer, HMO, PPO, MCO, or TPA from paying a contracted health care provider the contracted reimbursement rate.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4511. Compliance with Health Care Consumer Billing and Protection Act

A. All health care professionals and health care providers rendering services to an insured from the parishes enumerated in §4501.A shall comply with the Health Care Consumer Billing and Protection Act pursuant to R.S. 22:250.41, et seq. Accordingly, health care providers and/or health care professionals who file a claim and/or accept payment for health care services shall have legally released the insureds from any further financial obligation for the

health care services rendered. Health care providers and/or health care professionals shall be deemed to have released, discharged and waived any and all rights to take any legal action or redress, either in person or via transfer, assignment or subrogation, to collect any unpaid amounts from insureds and/or health insurance issuers, HMOs, PPOs, MCOs, TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner. Any violation by health care providers and/or health care professionals of this provision may be deemed an unfair trade practice under R.S. 22:250.41 et seq. and may be referred to the Louisiana Attorney General. The Louisiana Attorney General may pursue remedies as provided for in R.S. 51:1401 et seq.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4513. Assuring Portability—Compliance

A. All health insurance issuers and HMOs shall maintain compliance with R.S. 22:250.1, et seq., titled Assuring Portability, Availability and Renewability of Health Insurance Coverage, and any applicable federal law.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4515. Assuring Portability—Suspension

A. All health insurance issuers and HMOs shall maintain compliance with R.S. 22:250.1, et seq., titled Assuring Portability, Availability and Renewability of Health Insurance Coverage, except for the time periods enumerated in the §4515 shall be suspended during the pendency of Emergency Rule 25. All such notices required in §4515.A-D must be reissued *de novo* on October 1, 2008.

1. The HIPAA portability provisions generally provide that a group health plan or group health insurance issuer may disregard a period of creditable coverage if there is a subsequent 63-day break in coverage.

2. Also, a newborn, adopted child, or child placed for adoption may not be subject to a preexisting condition exclusion period if covered under creditable coverage within 30 days of birth, adoption, or placement for adoption.

3. The HIPAA special enrollment provisions generally provide that employees must request enrollment within 30 days of a special enrollment trigger (including loss of eligibility of coverage for loss of employer contributions) to be eligible for special enrollment.

4. The HIPAA certification rules prescribe time periods for the provision of certificates of creditable coverage upon loss of coverage. Under the regulations, plans and issuers subject to COBRA continuation coverage provisions are required to provide an automatic certificate no later than the time for providing a COBRA election notice. Plans and issuers not subject to COBRA are required to provide the automatic certificate within a reasonable time after coverage ceases.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4517. Suspension of Cancellation, Nonrenewal, and Nonreinstatement Provisions

A. All cancellation, termination, nonrenewal and nonreinstatement provisions, including, but not limited to, R.S. 22:250.7, 22:250.13, 22:215.9, 22:213.3 and 22:2027 are hereby suspended. Additionally, all provisions of Emergency Rule 24 relating to notice of cancellation, termination, nonrenewal and nonreinstatement are incorporated herein by reference as if set forth herein *in extenso*.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4519. Denying, Pending or Rejecting a Claim

A. The commissioner hereby suspends the right of denying, pending or rejecting a claim from any pharmacists or pharmacy for a 30 day supply of prescription medications, regardless of the date of the last refill. In furtherance of this suspension, health insurance issuers, HMOs, PPOs, MCOs, TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner shall pay all such claims for reimbursement submitted by a pharmacist or pharmacy.

1. The commissioner hereby suspends any and all precertification or step-therapy procedures in order to fill a prescription. This authorization shall be for a thirty (30) day supply.

2. The commissioner hereby suspends any provisions in the Louisiana Insurance Code which place restrictions on replacement prescriptions pertaining to mail order prescriptions. Mail order prescriptions should be mailed to an alternate address if requested by the insured.

3. All health insurance issuers, HMOs, PPOs, MCOs, TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner shall waive any and all restrictions relative to out-of-network access to pharmacy services or prescriptions.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4521. Cancellation or Termination of Policy for Non-Payment

A. Health insurance issuers, HMOs, PPOs, MCOs, TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner may pend a claim(s), as required pursuant Emergency Rule 25, and may subsequently cancel or terminate a policy only for non-payment of premium in accordance with the procedure set forth in Emergency Rule 24 and Emergency Rule 25.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4523. Discount Billing

A. Those amounts representing coinsurance, copayments, deductibles, noncovered health care services or other amounts identified by the health insurance issuer, HMO, PPO, MCO, TPA or any or all other health insurance

entity doing business in Louisiana or regulated by the commissioner on an explanation of benefits as the amount for which the insured is liable shall not be considered discount billing or dual billing pursuant R.S. 22:250.41 et seq., and remains the obligation of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4525. Payment of Medicare Supplement Premiums—R.S. 22:224(K)

A. The commissioner hereby suspends the requirements that the payment of Medicare supplement premiums can only be made pursuant to R.S. 22:224(K).

B. In furtherance of this suspension, any policies that contain restrictive language relative to modes of premium payment shall allow for the acceptance of other payment methods until October 1, 2008 including, but not limited to, credit card, debit card, FEMA voucher, federal assistance, state assistance, or any and all other related or similar payment methods.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4527. Suspension of Cancellations

A. The commissioner hereby suspends any and all cancellations occasioned by the inability of an insured, or his representative, from complying with any policy provisions. In furtherance of this suspension, a cancellation or nonrenewal shall not occur prior to October 1, 2008, unless upon the documented written request or written concurrence of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4529. Insured's Obligation to Provide Information and Cooperation

A. Emergency Rule 25 shall not relieve an insured who has a claim caused by Hurricane Gustav, or its aftermath, from compliance with the insured's obligation to provide information and cooperate in the claim adjustment process relative to such claim.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4531. Suspension of Interest, Penalty, or Other Charges

A. The commissioner hereby suspends the imposition of any additional interest, penalty or other charge and declares that no interest, penalty or other charge shall accrue or be assessed against any insured as the result of the suspensions ordered herein.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4533. Option for Continuation of Coverage

A. The commissioner hereby suspends R.S. 22:215.13. In furtherance thereof, a health insurance issuer, HMO, PPO, MCO, or any or all other health insurance entity doing business in Louisiana or regulated by the commissioner who

has issued a group health insurance policy shall provide to all members or certificate holders under said group policy the option for the continuation of coverage, which said option shall begin on October 1, 2008, or any renewal thereof. §4533 is only applicable in those situations where the employer to whom the group policy had been issued remains in business and continues to offer said group health insurance to active employees at any time between August 30, 2008 and October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4535. Exemption from Compliance

A. Notwithstanding any other provision contained herein, the commissioner may exempt any insurer from compliance with Emergency Rule 25 upon the insurer filing with the commissioner a written "Petition for Exemption from Emergency Rule 25" which unequivocally demonstrates that compliance with Emergency Rule 25 will result in said insurer being subject to undue hardship, impairment or insolvency.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4537. Applicability

A. The provisions of Emergency Rule 24 and Emergency Rule 25 shall not apply to any new policies of insurance for the types of health insurance enumerated in Emergency Rule 25 if said new health insurance policy was issued on or after 12:01 a.m. August 30, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4539. Cancellation for Fraud or Material Misrepresentation

A. The provisions of Emergency Rule 25 shall not prevent health insurance issuers, HMOs, PPOs, MCOs, TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner from cancelling or terminating an insured based solely on fraud or material misrepresentation on the part of the insured.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4541. Intent and Purpose

A. The provisions of Emergency Rule 25 shall be liberally construed to effectuate the intent and purpose expressed herein and to afford maximum consumer protection for the insureds of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4543. Notification

A. If the applicable premium for the policy of health insurance is paid at any time prior to the termination of Emergency Rule 25 or applicable grace period, whichever occurs later, the HMO, PPO, MCO, TPA or any or all other health insurance entity shall send to any and all health care providers and/or health care professionals who have filed a

claim with respect to insureds a notice in the form of an Explanation of Benefits, Explanation of Payments, Remittance Advice, or similar communication.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4545. Applying Provisions outside of Affected Parishes

A. Nothing in Emergency Rule 25 shall preclude health insurance issuers, HMOs, PPOs, MCOs, TPAs or any or all other health insurance entities doing business in Louisiana or regulated by the commissioner from voluntarily applying the provisions of Emergency Rule 25 relating to cancellation, nonrenewal and nonreinstatement to any other person who is an insured and who resides in any parish other than the parishes set forth in §4501.A.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4547. Enforcement

A. The commissioner retains the authority to enforce violations of Emergency Rule 25. Accordingly, any insurer, HMO, PPO, MCO, or other entity doing business in Louisiana and/or regulated by the commissioner who violates any provision of Emergency Rule 25 shall be subject to prosecution by the commissioner under any applicable provisions of the Louisiana Insurance Code, including the provisions of the R.S. 22:250.41, et seq., 22:1211, et seq., and specifically including, but not limited to, R.S. 22:1214(7), (12) and (14). Additionally, the penalty provisions set forth in R.S. 22:1217 shall be applicable. These provisions include penalties of \$1,000 for each separate act, or \$25,000 for each separate act if the violator knew or reasonably should have known he was in violation of Emergency Rule 25, as well as a cease and desist order and the imposition of other penalties and suspension or revocation of the license. Additionally, R.S. 22:1220, which, among other things, imposes the obligation of good faith and fair dealing shall also be subject to the sole enforcement authority of the commissioner. This law sets forth penalties and exemplary damages which shall be enforceable by the commissioner for any violation of Emergency Rule 25. Finally, the commissioner may impose any other applicable civil and criminal sanctions for violations of Emergency Rule 24.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4549. Authority

A. The commissioner reserves the right to amend, modify, alter or rescind all or any portion of Emergency Rule 25. Additionally, the commissioner reserves the right to extend Emergency Rule 25.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4551. Severability Clause

A. If any section or provision of Emergency Rule that is held invalid, such invalidity or determination shall not affect other sections or provisions, or the application of Emergency Rule 25, to any persons or circumstances that can be given

effect without the invalid sections or provisions and the application to any person or circumstance shall be severable.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

§4553. Effective Date

A. Emergency Rule 25 shall become effective at 12:01 a.m. on August 30, 2008 and shall continue in full force and effect until October 1, 2008.

AUTHORITY NOTE: Promulgated in accordance with Executive Order BJ 2008-93.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 34:

James J. Donelon
Commissioner

0810#004

DECLARATION OF EMERGENCY

Department of Natural Resources Office of Conservation

Application to Drill (LAC 43:XIX.103)

Pursuant to the power delegated under the laws of the state of Louisiana, and particularly Title 30 of the Revised Statutes of 1950, as amended, and in conformity with the provisions of the Louisiana Administrative Procedure Act, Title 49, Sections 953(B)(1) and (2), 954(B)(2), as amended, the following Emergency Rule and reasons therefore are now adopted and promulgated by the Commissioner of Conservation as being necessary to protect the public health, safety and welfare of the people of the state of Louisiana, as well as the environment generally, by establishing rules for the notification of appropriate state and local authorities for wells drilled within 1,000 feet of Interstate highways in the State of Louisiana.

Since 1987, there have been 95 incidents during drilling or workover operations on oil and gas wells which resulted in the loss of well control (blowout). Of this number, 68 blowouts occurred in wells drilled since 1987. Blowouts, although infrequent, pose a serious threat to the environment, commerce and public safety. The frequency of oil and gas exploration and production activity occurring in close proximity to residential and commercial areas is becoming more prevalent and has the potential to exacerbate impacts caused by a blowout event.

Following the blowout of the A Wilberts Sons LLC 72 No. 1 well on November 15, 2007, Interstate Highway 10 was closed to traffic for an extended period resulting in inconvenience to the public, and reported detrimental impact to the public and commerce in the area. As a result, Governor Blanco, requested that the Commissioner of Conservation review all current regulations and make any changes necessary to reduce the likelihood of a similar incident.

In response to Governor Blanco's request, a temporary moratorium on the drilling of wells within one quarter mile of any Interstate highway was enacted by the Commissioner of Conservation on December 1, 2007 to allow time for a comprehensive review of the A Wilberts Sons LLC 72 No. 1 well control incident and all current state and federal