

RS 40:4

§4. Sanitary Code

A. The state health officer acting through the office of public health of the Louisiana Department of Health shall prepare, promulgate, and enforce rules and regulations embodied within the state's Sanitary Code covering all matters within his jurisdiction as defined and set forth in R.S. 40:5. The promulgation of this Sanitary Code shall be accomplished in strict accordance with the provisions of the Administrative Procedure Act, and further, in conformity with the following guidelines and directives:

(1)(a) In order to protect the consuming public against food-borne disease, the rules and regulations contained in the Sanitary Code shall be designed so as to provide and require that all food products, including milk and milk products, ice, bottled water, marine and freshwater seafood, animal products, frozen desserts and toppings, and related similar foods, are produced from a safe and sanitary source, and are prepared, processed, packaged, handled, stored, and transported in a sanitary manner which will prevent contamination, spoilage, or adulteration. These food product rules and regulations shall be further designed so as to provide that all facilities, material, and equipment that may come into direct contact with any food or food product must be of nontoxic content to ensure a sanitary, wholesome, and nutritious product.

(b)(i) Pending the availability of federal funds to implement this Subparagraph, the inspection of seafood conducted pursuant to the Sanitary Code and pursuant to the Department of Agriculture and Forestry's Seafood Inspection Program shall include a recommendation for testing of the environment, including the water source, to the appropriate agency, only when evidence of contamination, adulteration, or spoilage or of any other condition or substance which is or may be injurious to health of humans or animals is indicated. The department shall adopt rules as part of the Sanitary Code and the Department of Agriculture and Forestry shall adopt rules as part of the Seafood Inspection Program.

(ii) Subject to the appropriation of funds by the legislature, the state health officer in conjunction with the Louisiana Department of Agriculture and Forestry shall institute a public safety marketing campaign to warn the public about the risks of consuming seafood from the People's Republic of China deemed to be safe by the Seafood Inspection Program but which nevertheless contains hazardous substances. The campaign shall include a warning label program as more specifically provided for in R.S. 40:5.5.2. The state health officer shall enter into a memorandum of understanding with the Louisiana Department of Agriculture and Forestry to implement this marketing campaign.

(iii) The Louisiana Retailers Association shall work with the Louisiana Department of Agriculture and Forestry, the Louisiana Crawfish Promotion and Research Board, and other respective agencies to develop a voluntary assessment for the implementation of the public safety marketing campaign.

(c)(i) In order to protect the public health, the state health officer shall promulgate rules and regulations relative to retail food establishments.

(ii) The rules and regulations required by this Subparagraph shall not require a retail food establishment which serves alcoholic beverages and consists of five hundred square feet or less of usable floor area which is accessible to customers to have more than one restroom facility consisting of one water closet and one lavatory. Such limit of the required number of restroom facilities and fixtures shall not apply to retail food establishments which contain wet bars. For the purposes of this Subparagraph, "wet bar" shall be defined as a bar within a food service establishment at which patrons may walk up to, order, and receive an alcoholic beverage directly from a bartender.

(iii) The requirements of the sanitary code found in LAC 51:XII shall not apply to a water supply that services a retail food establishment that does not meet the definition of a "public water system" as set forth in R.S. 40:5.8.

(2) In order to prevent the occurrence or spread of communicable diseases, the rules and regulations of the Sanitary Code shall provide for an immunization program and provide for and require the reporting, including but not limited to the reporting of cases of Respiratory Syncytial Virus (RSV) when such a test is conducted by a laboratory or hospital, investigation, and application and implementation of appropriate control measures to expressly include isolation and quarantine proceedings and measures, for all communicable diseases of public health significance. However, no rule or regulation of the Sanitary Code shall impose or create any general duty to warn third parties upon any healthcare provider who has complied

with the applicable reporting requirements for communicable diseases as set forth in the Sanitary Code. These rules and regulations shall also be designed to:

(a) Control rabies in dogs and to prevent rabies from occurring in humans. However, nothing in the immunization programs shall authorize the state health officer or the department to overrule the limitations in either R.S. 40:5.2, or in R.S. 17:170(E).

(b)(i) Regulate the packaging, storage, treatment, and transportation of infectious waste generated by healthcare providers and noncommercial generators including but not limited to private households. "Infectious waste" means waste which contains pathogens with sufficient virulence and quantity so that exposure to the waste by a susceptible host could result in an infectious disease. In addition, the rules and regulations shall provide for the certification and testing of all equipment used to treat infectious waste to assure safety, effectiveness of the equipment, and compliance with regulatory and statutory health regulations. At a minimum the rules shall provide that the testing shall be conducted annually.

(ii) Regulate the packaging, storage, treatment, disposal, and transportation of home-generated sharps waste. "Home-generated sharps waste" means needles, syringes, and other medical instruments that are capable of puncturing the skin for the delivery of medications derived from a household, including a multifamily residence or household. Rules and regulations pertaining to the packaging, storage, treatment, disposal, and transportation of home-generated sharps waste shall be promulgated prior to January 1, 2009. Such rules and regulations shall provide for public education programs and community outreach programs which shall ensure the proper handling and disposal of such sharps waste.

(iii) Regulate the issuance of permits for the commercial transportation, packaging, storage, and treatment of infectious waste. The state health officer shall establish a reasonable fee schedule for issuance of permits to entities in the business of transporting, packaging, storing, or treating infectious waste for commercial purposes. In addition, the rules and regulations shall provide for the certification and testing of all equipment used to treat infectious waste to assure safety, effectiveness of the equipment, and compliance with regulatory and statutory health regulations. At a minimum the rules shall provide that the testing shall be conducted annually. The provisions of Items (i) and (iii) of this Subparagraph, relative to the certification and testing of all equipment used to treat infectious waste, shall not apply to an office of a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners, a veterinarian, or a dentist.

(iv) Require that any generator of infectious medical wastes shall only transport such waste with a transporter permitted by the department.

(v) Facilitate the filing and removal of required notices by landowners, lessees, and occupants, pursuant to R.S. 40:4.10.

(vi) Require the state health officer to establish a reasonable fee for the certification and testing of all equipment used to treat infectious waste. Such fee shall be established by rule, in accordance with the Administrative Procedure Act.

(c) Control the spread of tuberculosis by:

(i) Requiring that persons who are students in healthcare professions, or volunteers helping in the caring of patients in healthcare institutions, be free of tuberculosis in a communicable state as evidenced by a negative tuberculin skin test, a normal chest X-ray if the skin test is positive, or a statement from a Louisiana licensed physician that the person is noninfectious to others if the chest X-ray is other than normal. If the student or volunteer has a positive tuberculin skin test, or a chest X-ray other than normal, the student or volunteer shall complete a course of chemotherapy for tuberculosis prescribed by a Louisiana licensed physician, or present a signed statement from a Louisiana licensed physician stating that chemotherapy is not indicated. If the student or volunteer is known to be infected with the human immunodeficiency virus (HIV) or has acquired immunodeficiency syndrome (AIDS), he or she shall be required to have a chest X-ray in addition to a skin test for tuberculosis. If the chest X-ray is interpreted as showing any disease, then the student or volunteer will complete a course of chemotherapy for tuberculosis as prescribed by a Louisiana licensed physician or present a signed statement from a Louisiana licensed physician that a course of chemotherapy for tuberculosis is not indicated. In any case, the student or volunteer shall not be denied access to an institutional learning experience or work solely on the basis of being infected with tuberculosis, provided the infection is not communicable.

(ii) Requiring the use of isolation rooms for persons with tuberculosis in a communicable state who are cared for in hospitals or nursing homes, proper air handling in those rooms, and the use of proper masks for all

applicable persons, patients, and staff to prevent the spread of infectious respiratory droplets.

(iii) Requiring proper air handling and the use of proper masks to prevent the spread of infectious respiratory droplets in and from aerosol therapy rooms in any institution.

(iv) Requiring any person entering any Louisiana prison as an inmate for forty-eight hours or more to be screened for tuberculosis in a communicable state.

(v) Requiring any person entering any Louisiana jail as an inmate for fourteen days or more to be screened for tuberculosis in a communicable state, where funding is available.

(vi) Requiring all persons with acquired immunodeficiency syndrome (AIDS) or known to be infected with human immunodeficiency virus (HIV), in the process of receiving medical treatment related to such condition, be screened for tuberculosis in a communicable state.

(vii)(aa) Requiring isolation, quarantine, or both for directly observed therapy (medication taken in the presence of a healthcare provider) of any person with tuberculosis in a communicable state who has failed to comply with a daily self-administered course of chemotherapy for tuberculosis prescribed by a Louisiana licensed physician.

(bb) Requiring a more restrictive isolation or quarantine environment specified by the state health officer or by court order for any person who fails to comply with directly observed therapy under isolation or quarantine as provided in Subitem (aa) of this Item.

(cc) Requiring that any person who fails to comply with the more restrictive isolation or quarantine environment as provided in Subitem (bb) of this Item shall be considered to have violated the provisions of the state Sanitary Code and be subject to the provisions of R.S. 40:6(B).

(3)(a) The sanitary code shall provide rules and regulations governing burial, transportation, disinterment, or other permitted disposition of dead human remains, to include regulations defining approved methodology that will ensure sanitary and dignified disposal.

(b) In order to protect the public from disease associated with the handling of dead human remains, the state health officer, acting through the office of public health, shall prepare and promulgate all rules necessary to ensure that all hospitals will identify corpses that are infected with a contagious disease, when there is actual knowledge of such infection, and report such to embalmers and funeral directors who handle the corpses for interment or cremation. The state health officer shall prepare a list of contagious diseases, and such list shall be added to or deleted from as circumstances warrant.

(4) The state's sanitary code shall include rules governing the construction, operation, and maintenance of camps and campsites or parks used for house courts, tent camps, trailer camps, and similar premises used for living and recreational purposes.

(5) The state's sanitary code shall contain rules and regulations governing facilities and premises used for lodging for hire such as hotels, motels, lodging, and boarding houses.

(6) In order to protect the public against disease and nuisance resulting from the improper disposal of sanitary sewage, the state health officer shall prepare and promulgate all rules and regulations necessary to ensure that adequate conveyance and disposal facilities are provided for all sanitary sewage, private or public, and in such a manner that will prevent the contamination of surroundings which would have an adverse impact on drinking water supplies, recreational waters, aquatic life, and other mechanisms of human exposure to disease. Standards for the quality of sanitary sewage discharged to the ground surface (ditches, streams, water pools, or other drainage courses), construction of sewerage works, operation of sanitary sewage conveyance, and treatment and disposal facilities shall be included. Such rules and regulations shall not include the licensing of persons engaged in the business or practice of hauling the contents of septic tanks, cesspools, vaults, or similar facilities. Plans and specifications for sewerage works shall be submitted for review and approval to the state health officer or his designee.

(7) Repealed by Acts 2014, No. 836, §4, eff. Jan. 1, 2016.

(8)(a) In order to protect the public against disease from water supplied for drinking, culinary, and ablutionary purposes, the state health officer shall prepare and promulgate all rules and regulations necessary to ensure that water supplied to the public by public water supplies is obtained from safe and sanitary sources and that such sources are properly protected; is treated, stored, and conveyed in a safe and sanitary manner; and is safe and potable for human use. Standards for drinking water quality (chemical, radiological, and microbiological); water works construction; and water works operations shall be included. In order to assure

compliance with promulgated regulations, plans and specifications for public water works facilities shall be submitted to the state health officer or his designee for review and approval.

(b) The state health officer shall additionally prepare and promulgate rules and regulations necessary to develop and implement a capacity development strategy to assist public water systems to acquire and maintain technical, managerial, and financial capacity to comply with state drinking water regulations which are no less stringent than the national primary drinking water regulations. Such rules and regulations shall include a requirement that all new community water systems and new nontransient noncommunity water systems commencing operation after January 1, 1999, demonstrate technical, managerial, and financial capacity, as defined in such rules and regulations, to comply with state drinking water regulations which are no less stringent than the national primary drinking water regulations in effect on the date of commencement of operations.

(9) In order to protect the public against vector-borne diseases, the state health officer shall prepare and promulgate rules and regulations necessary to ensure that disease vectors, including but not limited to mosquitoes and other biting and nonbiting flies, ticks, mites, lice, fleas, true bugs, and rodents are monitored and controlled at levels sufficient to prevent or abate outbreaks of diseases.

(10) In order to protect the public health and safety, the state health officer shall prepare and promulgate rules and regulations relative to public and private schools, jails and lockups, public and private buildings, including public and private hospitals and nursing homes, and similar buildings where people congregate. In order to assure compliance with promulgated regulations, plans and specifications for such public and private building structures and facilities shall be submitted to the state health officer or his designee for review and approval. These rules and regulations shall apply to new buildings, structures, and facilities, as well as modifications to existing ones, and shall include space requirements, ventilation, heating and air conditioning, lighting, waste storage and disposal, and other similar factors affecting public health.

(11) In order to protect the public from disease and injuries associated with water contact recreation (swimming), the state health officer shall prepare and promulgate rules and regulations necessary to ensure that public swimming pools and recreational bathing places (natural and artificial) are constructed, operated, and maintained in a safe and sanitary manner. These rules may require the submittal of appropriate plans and specifications for review and approval. These rules and regulations shall ensure that the design, construction, and operation of these facilities is such that the public is protected against the transmission of disease or injury by the establishment of water quality standards (chemical, physical, and bacterial); by proper arrangement of the physical features of the site or facility; and by proper procedures for supervision and maintenance of such premises.

(12) In order to protect the public health, the state health officer shall prepare and promulgate rules and regulations relative to new rendering facilities and modifications to existing facilities. These rules and regulations shall relate to, but not be limited to, procedures for the review and approval of plans, requirements for approval by the state health officer or his designee prior to contracting for the construction of rendering plants, requirements for obtaining a permit to operate a rendering plant before operation begins, and requirements for closing down a rendering plant already in operation if any condition occurs which might adversely affect the health of the community. Factors that shall be regulated include operation, containment of solid, liquid, or gaseous animal materials and byproducts during processing, storage, or transportation, odors, cleanliness, utilization of products and byproducts, and identification marking of products and byproducts.

(13) The state health officer, through the office of public health, shall be expressly empowered and authorized to issue emergency rules and orders when necessary and for the purposes of controlling nuisances dangerous to the public health and communicable, contagious, and infectious diseases, and any other danger to the public life, health, and safety.

(14) In order to better track opioid-related overdoses and to provide timely interventions, the rules and regulations of the sanitary code shall provide for reporting by emergency departments of chief complaints, admit reasons, and discharge diagnosis data relating to suspected opioid-related overdoses.

B.(1) All sanitary and food and drug inspections to monitor compliance with the provisions of the state sanitary code shall be conducted by licensed sanitarians in the employ of the Louisiana Department of Health, or by similarly licensed sanitarians in the employ of a local parish or municipal governing authority.

(2) In instances where such an inspection discloses a violation of the state Sanitary Code, the business entity or person deemed to be responsible shall be given an opportunity to correct the noted deficiency, and, if

upon reinspection the premises are found to be still in need of correction of the previously cited violation, the district attorney or, in cases involving pollution of streams, rivers, lakes, bayous, or ditches located in public rights of way, the attorney general, at the request of the Louisiana Department of Health, may, in his sole discretion, seek an injunction from the district court to enforce the provisions of the state Sanitary Code. The district attorney or the attorney general shall have the power to appoint an attorney of the Louisiana Department of Health as a special assistant district attorney or a special assistant attorney general to prosecute the case. The proceeding before the district court shall be an adversary proceeding and each party shall have the power to call witnesses and subpoena documents and records. In any such proceeding, no district court shall issue an injunction to enforce any provision which it determines to be physically beyond the control of the person or business entity to comply with, or in conflict with, other provisions of state or federal law or regulations.

(3) In instances where such an inspection discloses a violation of the state Sanitary Code involving pollution of streams, rivers, lakes, bayous, or ditches located in public rights of way, the business entity or person deemed to be responsible shall be given an opportunity to correct the noted deficiency, and, if upon reinspection the previously cited violation is found to still exist, the state health officer is hereby authorized, after due process in accordance with the Administrative Procedure Act, to impose sanctions as follows:

(a) In the case of establishments which operate under license or permit issued by the office of public health of the Louisiana Department of Health, the state health officer may suspend or revoke the existing license or permit.

(b) In the case of establishments which operate without a license or permit issued by the office of public health or where establishments continue to operate after the license or permit has been suspended or revoked, the state health officer may issue a civil compliance order directing the business entity or person deemed responsible for the establishment to correct the violation noted and impose a fine of one hundred dollars per day for each day the violation has not been corrected up to a maximum of ten thousand dollars. The fine shall commence on the day following the date of permit revocation or suspension, or the day following the date specified for compliance in the civil compliance order issued by the state health officer.

(c) All fines imposed pursuant to this Section shall be payable to the office of public health of the Louisiana Department of Health and shall be deposited into the state general fund.

(d) If civil action is necessary to recover fines imposed under this Section, the offender shall be liable for the amount of the fine, legal interest from the date of assessment, and all costs of recovery, including legal fees and court costs.

(e) The state health officer with the approval of the secretary of the Louisiana Department of Health may settle or resolve out of court any suit for recovery of fines if deemed in the best interest of the state.

(4) Nothing in this Section shall prohibit the state health officer acting through the office of public health, with the concurrence of the secretary of the Louisiana Department of Health, from seeking civil injunctive relief from a district court to assist in enforcing emergency orders when there exists serious and imminent danger to the public health. The proceeding before the district court shall be an adversary proceeding, and each party shall have the power to call witnesses and subpoena documents and records. In any such proceeding, no district court shall issue an injunction to enforce any provision which it determines to be physically beyond the control of the person or business entity to comply with, or in conflict with other provisions of state or federal law or regulations.

(5) Paragraphs (2) and (3) of this Subsection shall not apply to waste waters and wastes in discharges from industrial facilities which are subject to permitting under the Louisiana Water Control Law (R.S. 30:2071 et seq.) or the federal Clean Water Act (33 U.S.C. 1251 et seq., as amended), nor to waste waters from industrial facilities in ditches upstream of state or federal waste water discharge points.

C. In all cases of conflict between rules and regulations promulgated pursuant to this Section and the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, or the International Residential Code, Part VII-Plumbing, as adopted and promulgated by the Louisiana State Uniform Construction Code Council, the provisions of the International Plumbing Code, International Building Code, Chapter 29-Plumbing Systems, or the International Residential Code, Part VII-Plumbing shall be used.

D. Nothing in this Section shall permit the state health officer acting through the office of public health of the Louisiana Department of Health to establish rules, regulations, policies, or interpretations that supercede or circumvent, or seek to supercede or circumvent the International Plumbing Code, the International Building

Code, Chapter 29-Plumbing Systems, or the International Residential Code, Part VII-Plumbing, as adopted and promulgated by the Louisiana State Uniform Construction Code Council. The building official for the parish, municipality, or regional planning commission, as authorized in R.S. 40:1730.24 and appointed pursuant to R.S. 40:1730.25, or a qualified building code enforcement officer designated by the building official, shall have the authority to enforce the plumbing provisions adopted pursuant to Part IV-A, State Uniform Construction Code, Chapter 8 of this Title.

E. The Louisiana State Plumbing Code [Part XIV (Plumbing) of the State Sanitary Code] as amended by the state health officer acting through the office of public health of the Louisiana Department of Health shall be null, void, and unenforceable on and after January 1, 2016.

Acts 1976, No. 346, §1; Amended by Acts 1978, No. 786, §5, eff. July 17, 1978; Acts 1982, No. 619, §1; Acts 1986, No. 885, §1; Acts 1988, No. 942, §1; Acts 1990, No. 242, §1; Acts 1990, No. 267, §1; Acts 1993, No. 147, §1, eff. May 26, 1993; Acts 1993, No. 289, §1, eff. June 2, 1993; Acts 1993, No. 753, §1; Acts 1997, No. 814, §1; Acts 2001, No. 820, §2; Acts 2002, 1st Ex. Sess., No. 14, §1, eff. April 18, 2002; Acts 2005, No. 469, §1; Acts 2006, No. 846, §1; Acts 2007, No. 267, §1; Acts 2008, No. 56, §3, eff. July 1, 2009; Acts 2009, No. 330, §1, eff. Jan. 1, 2010; Acts 2012, No. 620, §1, eff. June 7, 2012; Acts 2013, No. 220, §17, eff. June 11, 2013; Acts 2014, No. 456, §1; Acts 2014, No. 791, §14; Acts 2014, No. 836, §§3, 4, eff. Jan. 1, 2016; Acts 2018, No. 206, §4; Acts 2018, No. 590, §1; Acts 2019, No. 423, §1, eff. June 20, 2019.