



LIZ MURRILL
ATTORNEY GENERAL

STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 94005
BATON ROUGE, LA
70804-9005

To: Mr. M. Joseph Fontenot, Jr.
Executive Director
Louisiana State Board of Pharmacy

From: Farra Mughal
Louisiana Department of Justice
Occupational Licensing Review Program

Date: May 1, 2026

Subject: Louisiana State Board of Pharmacy
Proposed Amendment to LAC 46:LIII Chapter 27
Regulatory Project 2026-01 ~ Controlled Dangerous Substances (CDS)

I. SUMMARY

The Louisiana State Board of Pharmacy (the “**Board**”) proposes amending LAC 46:LIII. 2701, 2713, 2715, 2717, 2719, 2721, 2723, 2725, 2727, 2729, 3731, 2733, 2735, 2737, 2741, 2743, 2745, 2747, 2749, 2751, 2753, 2755, and 2757 (the “**Proposed Amendments**”), relative to controlled dangerous substances (CDS). The Proposed Amendments (i) streamline the regulatory framework by requiring all CDS licensees to comply with all applicable provisions of 21 CFR Parts 1300-1399, (ii) consolidate any provisions that differ from the Code of Federal Regulations (CFR) into §2713, (iii) repeal sections containing redundant requirements, and (iv) require distributor reports be provided to the Board only upon request.

The Board published a Notice of Intent to promulgate the Proposed Amendments on January 20, 2026.¹ The Notice invited public comments and testimony on this Proposed Amendments on February 26, 2026 and received no written or oral public comments.²

Pursuant to La. R.S. 49:260, the Board submitted the Proposed Amendments to the Louisiana Department of Justice’s Occupational Licensing Review Program (“**OLRP**”) on March 13, 2026. The OLRP invited public comments on the Proposed Amendments March 16, 2026 through March 29, 2026 and received no comments.

The OLRP has the statutory authority to review the substance of each proposed occupational regulation submitted to ensure compliance with clearly articulated state policy and adherence to

¹ Louisiana Register Vol. 52, No. 1 pgs. 128-130

² Id. at 130

applicable state law.³ An occupational regulation is a “rule defined in the Administrative Procedure Act (“*APA*”) that has reasonably foreseeable anti-competitive effects. Any license, permit, or regulation established by a ... board not composed of a controlling number of active market participants is excluded.”⁴ Anti-Competitive behavior is an act, or series of acts, that have the effect of harming the market or the process of competition among businesses, or a tendency to reduce or eliminate competition, with no legitimate business purpose.⁵

The Louisiana APA defines a rule as any agency statement, guide, or requirement of general applicability that implements or interprets substantive law or policy, or that prescribes agency procedures or practices, excluding statements governing only internal agency management, declaratory rulings or orders, and provisions adopting, increasing, or decreasing fees.⁶ The term includes provisions establishing fines, penalties, preferential status, or licensure or certification criteria, as well as the amendment of an existing rule. A rule may be generally applicable, even if it applies only to an identifiable class or a limited geographical area.

As set forth below, the OLRP has determined the Board’s Proposed Amendment to LAC 46: LIII §2701 *et seq.* are rules governing the practice of pharmacy and therefore do not constitute occupational regulations with anticompetitive effects within the meaning of La. R.S. 49:260. Accordingly, the Board may promulgate the Proposed Amendments in accordance with the Louisiana APA.

II. ANALYSIS

The Louisiana Pharmacy Practice Act (“*LPPA*”), La. R.S. 37:1161 *et seq.*, subjects the practice of pharmacy in the State of Louisiana to the regulation of the Board to promote, preserve, and protect the public health, safety, and welfare through effective control of the regulation of the pharmaceutical practice and the licensure, permitting, certification, registration, control, and regulation of all persons or sites in or out of this state that sell drugs or devices within this state.⁷ Additionally, the Board is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution, and dispensing of controlled dangerous substances within this state.⁸

A. Proposed LAC 46:LIII.2701 *et seq.* Controlled Dangerous Substances (CDS)

The Board proposes making sweeping amendments to Chapter 27 of its rules relative to Controlled Dangerous Substances. The Proposed Amendments streamline the Board’s regulatory framework relative to controlled dangerous substances by requiring all controlled dangerous substances licensees to comply with the applicable provisions of 21 CFR Parts 1300-1399 while consolidating any provisions that differ from the federal regulations into §2713 and repealing all remaining sections containing redundant requirements. The Proposed Amendments also require the

³ LSA-R.S. 49:260 (D)(2)

⁴ LSA-R.S. 49:260 (G)(4)

⁵ Black’s Law Dictionary, 12th Edition p. 116

⁶ LSA-R.S. 49:951 (8)

⁷ LSA-R.S. 37:1163

⁸ LSA-R.S. 40:972 (A)

distributor reports, Automation of Reports and Consolidated Orders System (ARCOS) related reports, be provided to the Board only upon request, which reduces ongoing reporting requirements for licensees.

The Board has the statutory authority to make rules and regulations necessary to carry out its duties.⁹ Additionally, the Board is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution, and dispensing of controlled dangerous substances within this state.¹⁰ As such, it is within the Board's authority to amend and repeal regulations relative to control dangerous substances.

While the Proposed Amendments impose operational and compliance requirements, they do not impose any additional requirements on CDS licensees. However, the Proposed Amendments reorganize and clarify existing obligations while also reducing ongoing reporting requirements.

Additionally, there are no reasonably foreseeable anticompetitive effects, as the Proposed Amendments do not limit competition, reduce consumer choice, or create barriers to market participation. Thus, the Proposed Amendments do not restrict entry into the profession or occupation, and do not constitute occupational regulations as defined by La. R.S. 49:260.

Therefore, the Board may proceed with promulgation of the Proposed Amendments in accordance with the Louisiana APA without further input from the OLRP.

III. DETERMINATION

The Board is a state regulatory body created by the LPPA to “promote, preserve, and protect the public health, safety, and welfare by and through the effective control and regulation of the practice of pharmacy; the licensure of pharmacists; and the licensure, permitting, certification, registration, control, and regulation of all persons or sites in or out of this state that sell drugs or devices to consumers and/or patients or assist in the practice of pharmacy within the state.”¹¹ The Board is responsible for the control and regulation of the practice of pharmacy¹² and is authorized to promulgate rules and regulations relating to the registration and control of the manufacture, distribution, and dispensing of controlled dangerous substances within this state.¹³ However, the Proposed Amendments do not constitute occupational regulations with reasonably foreseeable anticompetitive effects within the meaning of La R.S. 49:260. Therefore, the Board may proceed with promulgation of the Proposed Amendments in accordance with the Louisiana APA without further input from the OLRP.

⁹ LSA-R.S. 37:1182 (A)(1)

¹⁰ LSA-R.S. 40:972 (A)

¹¹ LA R.S. 37:1163, LA R.S. 37:1171

¹² LA R.S. 37:1182

¹³ LSA-R.S. 40:972 (A)

OFFICE OF THE ATTORNEY GENERAL
OCCUPATIONAL LICENSING REVIEW PROGRAM

A handwritten signature in blue ink, appearing to read "Farra Mughal".

Farra Mughal, OLRP
Public Protection Division
Louisiana Department of Justice
olrp@ag.louisiana.gov