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

From: Jessica Weimer
Louisiana Department of Justice
Occupational Licensing Review Program

Date: August 20, 2024

Subject: Louisiana State Board of Pharmacy
Proposed Amendment to LAC 46:LIII.2707 and 2711.
Controlled Dangerous Substances Licensing

I. SUMMARY

The Louisiana State Board of Pharmacy (the “*Board*”) proposes amending LAC 46:LIII.2707 and 2711 (the “*Proposed Amendments*”), regulating the Controlled Dangerous Substances (“*CDS*”) licensing procedures.¹ The proposed changes to LAC 46:LIII.2707 streamline the CDS license reinstatement process, and updates the procedures regarding the facility CDS license change of ownership (§2707(E)) and the surrender of licenses (§2707(F)). The Board further proposes the repeal of LAC 46:LIII.2711(M) regarding the “Surrender of Licenses,” moving that language to §2707(F).

The Board published a Notice of Intent to promulgate the proposed amendments on April 20, 2024.² The Notice invited public comments and testimony on these proposed amendments on May 28, 2024 and received no written or oral public comments.³ The Board received no written comments or testimony on the Amendments.⁴

Licensing requirements create barriers to market entry for individuals desiring to engage in a profession or occupation, and the proposed amendments to §2707 and §2711 are therefore properly considered occupational regulations with reasonably foreseeable anti-competitive effects.⁵

¹ [2024-01_1stReport_PKG_S_2024-0410.pdf \(la.gov\)](#) at pg. 1.

² Louisiana Register, Vol. 50, No. 4, at pgs. 573-576.

³ Id. at 575.

⁴ Id. At 7-9.

⁵ La. R.S. 49:260 G(4)

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 June 3, 2024.⁶ The *OLRP* initiated a review on June 5, 2024. The *OLRP* invited public comments on the proposed amendments through July 2, 2024 and received no comments.⁷ As set forth below, the *OLRP* has determined the Board’s proposed amendments to LAC 46: LIII §§2707 and §2711 adhere to clearly articulated state policy and therefore approves these amendments for adoption as drafted.

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.⁸ Further, the Uniform Controlled Dangerous Substances Law authorizes the board to promulgate rules and regulations relating to the registration, control, and licensing of the manufacture, distribution, and dispensing of CDS within this state.⁹

A. Proposed LAC 46:LIII.2707

The board proposes amending LAC 46:LIII.2707 to (i) deem a CDS license not renewed timely as terminated by the board and (ii) allow for the application for reinstatement of an expired or inactivated license when the applicant’s primary credential is in an acceptable practice status with the issuing agency. The board further proposes amending LAC 46:LIII.2707 by adding sections (E) and (F) regarding the procedures following a facility change of ownership or change of CDS license status. The board indicates the current regulations create unnecessary delays in the reinstatement of the CDS licenses and the proposed regulations will streamline the reinstatement process while maintaining the integrity of the licensing process. In September 2023, the Board amended the rule relative to the procedures for a pharmacy change of ownership, and the addition of §2707 (E) mirrors the process for the change of ownership of a pharmacy.¹⁰

The *LPPA* grants the Board the authority for the issuance and renewal of all licenses, permits, certifications, registrations and any other designations deemed necessary to engage in the practice of pharmacy and enforcement of same through revocation, suspension, probation, etc.¹¹ As such, the proposed changes are within the Board’s aforementioned discretionary powers.

⁶ [LABP at Regulatory Project 2024-01-Controlled Dangerous Substances \(CDS\) Licensing.](#)

⁷ [Notice of Public Comment Period CDS Licensing Rule.pdf \(state.la.us\)](#)

⁸ LA R.S. 37:1163; LA R.S. 37:1171

⁹ LA R.S. 40:972-40:975

¹⁰ [LABP at 2023-05 Pharmacy Change of Ownership](#)

¹¹ LA R.S. 37:1182 A(8) and (11)

B. Proposed LAC 46:LIII.2711

The Board's proposed amendment repeals §2711 (M) - Surrender of License and moves that language to §2707 (F). The board has modified the language regarding the surrender of licenses to language more reflective of the current Board's practices in regards to the CDS licensing status. The Board is authorized to promulgate rules and regulations necessary to the implementation of the Uniform Controlled Dangerous Substances Law within the state.¹² This proposed change is within the discretion of the Board's aforementioned discretionary powers.

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."¹³ The Board holds the statutory authority to issue and renew licenses, permits, certifications, registrations and any other designations deemed necessary to engage in the lawful practice of pharmacy and to revoke or suspend licenses in order to enforce the provisions of the LPPA.¹⁴ Because the proposed amendments are within the Board's statutory authority and the proposed amendments to LAC 46:LIII.2707 and 2711 adhere to clearly articulated state policy, these amendments are approved as submitted by the Attorney General and may be adopted by the board.

OFFICE OF THE ATTORNEY GENERAL OCCUPATIONAL LICENSING REVIEW PROGRAM

BY 

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¹² LA R.S. 40:972, LA R.S. 40:975

¹³ LA R.S. 37:1163, LA R.S. 37:1171

¹⁴ LA R.S. 37:1182 A(8) and A(11)