



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

To: Dr. Vincent A. Culotta, Jr.
Executive Director
Louisiana State Board of Medical Examiners

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

Date: July 7, 2025

Subject: Louisiana State Board of Medical Examiners
Proposed Amendments to LAC 46:XLV.417, 418, 435, and 447; Regarding
Renewal Applications, Retired Physician Licenses and Continuing Medical
Education Exceptions

I. SUMMARY

The Louisiana State Board of Medical Examiners (the “**Board**”) proposes amending LAC 46:XLV.417, 418, 435, and 447 (the “**Proposed Amendments**”), to extend the deadline to submit renewal applications, establish regulations relative to Retired Physician Licenses, and expand continuing medical education (“**CME**”) exceptions. The Proposed Amendments (i) extend the deadline physicians have to submit renewal applications, (ii) establish requirements for the issuance, renewal and revocation of a Retired Physician License, (iii) expand eligibility for a reduced fee license, and (iv) clarify and expand on the exceptions to CME requirements.

The Board published a Notice of Intent to promulgate the Proposed Amendments on March 20, 2025.¹ The Notice invited public comments and testimony on the Proposed Amendments on April 24, 2025 and received no written or oral public comments.²

Licensing and permitting requirements are barriers to market competition and the Proposed Amendments are therefore properly considered an occupational regulation with reasonably foreseeable anti-competitive effects.³

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 May 29, 2025.

¹ Louisiana Register, Vol. 51, No. 3 March 20, 2025 at pgs. 431-433

² Id. at 433

³ La. R.S. 49:260 G(4)

The OLRP invited public comments on the Proposed Amendments May 30, 2025 through June 13, 2025 and received no comments.

As set forth below, the OLRP has determined the Board's Proposed Amendments to LAC 46:XLV §417, 418, 435, and 447 adhere to clearly articulated state policy and are within the Board's statutory authority. Therefore, these amendments are approved for promulgation as drafted in accordance with the Louisiana APA.

II. ANALYSIS

The Louisiana Legislature has deemed it the policy of the State of Louisiana in the interest of public health, safety, and welfare to provide laws and provisions covering the practice of medicine and its subsequent use, control, and regulation to protect the public against unprofessional, improper, unauthorized, and unqualified practice of medicine and from unprofessional conduct of persons licensed to practice medicine.⁴ The Board was created to control and regulate the practice of medicine in this state.⁵ The Board is authorized to take appropriate administrative actions to regulate the practice of medicine in Louisiana in order to promote the established policy of the State.⁶ The Board may also adopt rules, regulations and standards necessary to carry out the board's duties, powers and functions as provided for in LSA R.S. 37:1261 et seq.⁷

A. Proposed LAC 46:XLV.417 (A) Renewal of License: Prerequisite Condition

The Board proposes amending LAC 46:XLV.417 (A) to require annual renewal applications to be submitted on or before the last day of the month in which the licensee was born. The current rule requires applications to be submitted on or before the first day of the licensee's birth month. The Board may adopt rules, regulations, and standards necessary to properly regulate the practice of medicine in the State of Louisiana and to protect the public from the unqualified practice of medicine.⁸ Further, the Board is authorized to issue licenses or permits to those possessing the necessary qualifications.⁹ Thus, the Board is statutorily authorized to regulate the renewal process by establishing deadlines and requirements.

The Board's proposal of extending the deadline would provide licensees an additional month to submit completed annual renewal applications. While licensing and permitting requirements create barriers to market entry, the Board is reducing these barriers to entry by extending the deadline to submit the renewal applications.

Therefore, because the proposed amendment is within the Board's statutory authority and adheres to clearly articulated state policy, the Board may proceed with promulgating this rule.

⁴ LSA-R.S. 37:1261

⁵ LSA-R.S. 37:1263

⁶ LSA-R.S. 37:1270 (A)(1)

⁷ LSA-R.S. 37:1270 (B)(6)

⁸ LSA R.S. 37:1261, LSA R.S. 37:1270 (B)(6)

⁹ LSA R.S. 37:1270 (A)(1)

B. Proposed LAC 46: XLV.417 (D) Renewal of License; Prerequisite Conditions regarding Retired Physician License

The Board further proposes adding LAC 46:XLV.417 (D) to establish requirements for the issuance, renewal, and revocation of retired physician licenses. The proposed amendment would allow a physician at the time of renewal the option to apply for a retired physician license, if the applicant prior to the first day of the year for which the renewal will be effective has (i) attained 70 years of age, (ii) attests that he or she will limit his or her practice to volunteer services without payment, pecuniary gain, compensation, or remuneration of any kind, and (iii) attests to limit his or her practice to providing services to family or personal acquaintances, for no more than 20 hours per week, providing services at volunteer or charity clinics, or providing services through a foreign volunteer or charity medical mission program.

Additionally, the Board's proposal would restrict a physician who holds a retired physician license from engaging in or seeking full-time, unrestricted practice of medicine, regardless of compensation and would revoke a physician's license if his or her practice does not confine to the parameters of the proposed amendment. In addition, the proposed amendment would subject physicians who possess a retired physician's license to all state and federal laws and rules governing the practice of medicine.

The Board may adopt rules, regulations and standards necessary to properly regulate the practice of medicine in the State of Louisiana and to protect the public from unqualified practice of medicine.¹⁰ Additionally, the Board has the authority to issue licenses to those possessing the necessary qualifications.¹¹ Thus, the proposed amendment to create and establish requirements for this new class of licensure is within the Board's statutory authority.

Furthermore, the Board anticipates the proposed amendment will benefit the public by allowing physicians who would have simply retired to continue practicing medicine and offer voluntary services. This adheres to clearly articulated state policy.

Therefore, the ORLP finds that the proposed amendment to LAC 46: XLV.417 (D) is within the Board's statutory authority and adheres to clearly articulated state policy. The Board may proceed with promulgation of the proposed amendment.

C. Proposed LAC 46:XLV.418 (C) Reduced Renewal Fees for Certain Physicians

The Board proposes amending LAC 46:XLV.418 (C) to clarify that sub-section C only applies to sub-sections A and B. Currently, the rule provides that, "a physician whose medical license is renewed pursuant to this section shall not engage or seek to engage in the active practice of medicine in this state or to prescribe, dispense, or administer controlled substances or other prescription medicine except. . . ."

¹⁰ LSA R.S. 37:1261, LSA R.S. 37:1270 (B)(6)

¹¹ La. R.S. 37:1270(A)

The proposed amendment to §418 (C) replaces “this section” with “Sub-Sections A and B.” This proposed change clarifies the restrictions in sub-section C do not apply to sub-section D, which governs retired physician licenses.

An Occupational Regulation is a “rule defined in the Administrative Procedure Act 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.”¹² The Louisiana Administrative Procedure Act (“APA”) defines a rule as an agency (Board) requirement for conduct or action prescribing the procedure or practice requirements of the agency (Board).¹³ 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.¹⁴

While permitting and licensing fees create barriers to market entry, the proposed change does not expand or limit the pool of licensees that the current rule is applicable to, thus this proposed amendment does not have any reasonably foreseeable anti-competitive effects.

Therefore, the Board may proceed with promulgation of the rule as drafted.

D. Proposed LAC 46:XLV.418 (D) regarding Reduced Renewal Fees for Retired Physician License

The Board further proposes amending LAC 46:XLV.418 (D) to include the annual renewal fee for those possessing a retired physician license be reduced by one-half. The Board indicates this proposal to reduce licensing fees for those seeking a retired physician license is with the aim of encouraging physicians who would have normally retired to continue licensure and offer voluntary services. The Board has the authority to charge and collect a fee from an applicant for any license, permit, certification, or registration issued by the board.¹⁵ While licensing and permitting fees create barriers to market entry, this amendment aims to reduce potential barriers to licensure for those seeking a retired physician license by reducing the renewal fee by half.

It is the policy of the State of Louisiana in the interest of public health, safety, and welfare to provide laws and provisions covering the practice of medicine.¹⁶ Consequently, it is within the interest of public health, safety, and welfare to ensure that the state has an adequate number of doctors to serve the population. By reducing a financial barrier to a physician’s ability to continue practicing medicine, the Board is increasing the likelihood that a physician would opt to engage in voluntary services or restricted practice instead of retiring, thus adhering to state policy.

¹² LSA-R.S. 49:260 (G) (4)

¹³ LSA-R.S. 49:951 (8)

¹⁴ Black’s Law Dictionary, 12th Edition p. 116

¹⁵ LSA R.S. 37:1270(7)(C)

¹⁶ LSA-R.S. 37:1261

Therefore, the proposed amendment is within the Board's statutory authority and adheres to a clearly articulated state policy. The Board may proceed with promulgation of the rule.

E. Proposed LAC 46:XLV.435(A) Continuing Medical Education (CME) Requirement

The Board proposes amending LAC 46:XLV.435 (A) to include an exception to the CME requirement for those seeking a retired physician license. This exception would reduce the required CME hours from 20 hours to 10 hours. The Board indicates the purpose of establishing this new class of licensure is to expand the state's physician population. La. R.S. 37:1270 (8) authorizes the Board to establish and determine the minimum requirements relative to continuing education for the renewal or reinstatement of any license or permit issued by the board. Thus, the Board has the statutory authority to establish and determine the number of required continuing education hours a physician would need to complete in order to obtain or renew a retired physician license.

While permitting requirements, such as continuing education requirements, function as barriers to market entry, the Board's proposed reduction in the CME requirements would reduce those barriers to entry.

Furthermore, continuing education requirements serve a critical role in protecting public health, safety, and welfare by promoting professional development, ensuring continued competency, and supporting the delivery of safe, quality care to the public. Thus, the Board's proposal to establish continuing education requirements for retired physician licensees adheres to clearly articulated state policy.

Therefore, the proposed amendment to LAC 46: XLV.435 (A) is within the Board's statutory authority and adheres to clearly articulated state policy. The Board may proceed with promulgation of the proposed amendment.

F. Proposed LAC 46:XLV.447 (A)(1) Active Military Service Exception to the Continuing Medical Education Requirements

The Board proposes amending §447 (A)(1) to clarify that the CME exemption applies only to those engaged in active military service. The current rule creates an exception to the CME requirement for physicians engaged in military service longer than one year outside of Louisiana. Pursuant to La. R.S. 37:1270 (8), the Board is authorized to establish and determine the minimum requirements relative to continuing education for the renewal or reinstatement of any license or permit issued by the board. Thus, the Board is statutorily authorized to establish exceptions to the CME requirements.

As stated above, continuing education requirements create barriers to market entry for individuals desiring to engage in a profession. This amendment clarifies that the exception to the CME requirement is only applicable to those engaged in active military service, thus narrowing the pool of individuals who qualify for the exception.

This narrowing of the exempted pool of physicians would mean that more physicians would have to complete the required CME requirements. Also, as discussed above, continuing education requirements are essential in supporting the Board's compliance with state policy to protect public health, safety, and welfare. Thus, the proposed amendment adheres to clearly articulated state policy.

Because the proposed amendment is within the Board's statutory authority and adheres to a clearly articulated state policy, the Board may proceed with promulgation of the amendment as drafted.

G. Proposed LAC 46:XLV.447 (A)(2) Exception to the Continuing Medical Education Requirements

The Board proposes amending §447 (A)(2) to clarify that full compliance with the CME requirement is required beginning with the first renewal after the initial exemption renewal year. The current version of the rule provides that the CME exception applies to those who have held an initial Louisiana license on the basis of examination for less than one year. The Board's proposal clarifies that physicians must comply with CME requirements after the initial exemption renewal year. The Board has the statutory authority to establish and determine the minimum requirements relative to continuing education for the renewal of any license or permit issued by the board.¹⁷ This proposed change does not expand or limit the pool of physicians who may be eligible for this exception, but clarifies that physicians must complete the requisite CME requirements after the initial exempted year.

While the current version of the rule implies that the CME requirements are applicable to physicians after the initial first year of licensure, the Board's proposal would explicitly articulate this requirement.

Although, continuing education requirements function as barriers to market entry, the proposed amendment does not expand or limit the current exception. Therefore, the proposed amendment does not have any foreseeable anti-competitive effects that would limit entrance or the continued practice of medicine.

Thus, the Board may proceed with promulgation of the amendment without input from the OLRP, as the proposed amendment seeks to clarify the current exception.

H. Proposed LAC 46:XLV.447 (A)(5) Reduce Fee License Exception to the Continuing Medical Education Requirements

The Board proposes amending §447 (A)(5) to expand the exception for CME requirements to include all physicians who hold a reduced fee license. Currently, only retired physicians are eligible for this exemption. The proposed amendment would expand the current rule to include all physicians who hold a reduced fee license, which would include those physicians possessing a retired physician license under the new class of licensure.

¹⁷ La. R.S. 37:1270 (8)

The Board has the statutory authority to establish and determine the minimum requirements relative to continuing education for the renewal or reinstatement of any license or permit issued by the Board.¹⁸ While continuing educational requirements create barriers to market entry by reducing the pool of eligible applicants, the Board is reducing barriers to entry by halving the CME requirements for those seeking a retired physician license. This reduction in a barrier to licensure is likely to encourage physicians to continue practicing medicine instead of retiring. Therefore, this proposed amendment adheres to a clearly articulated state policy.

Thus, the OLRP has determined that the proposed amendment is within the Board's statutory authority and adheres to clearly articulated state policy. The Board may proceed with promulgating this rule.

III. DETERMINATION

The Board is a state regulatory body created "as a matter of policy in the interests of public health, safety, and welfare to provide laws and provisions covering the granting of [the privilege of the practice of medicine] and its subsequent use, control, and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized, and unqualified practice of medicine from unprofessional conduct of persons licensed to practice medicine."¹⁹ The Board may adopt rules, regulations, and standards necessary to carry out its duties, powers, and functions as mandated by the legislature.²⁰ Because the Proposed Amendments are within the Board's statutory authority and adhere to clearly articulated state policy of protecting the public health, safety, and welfare of the citizens of this state, the Proposed Amendments are approved as submitted to the Attorney General and may be adopted by the Board.

OFFICE OF THE ATTORNEY GENERAL
OCCUPATIONAL LICENSING REVIEW PROGRAM



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

¹⁸ La. R.S. 37:1270 (8)

¹⁹ LSA R.S. 37:1261

²⁰ LSA R.S. 37:2863