



Louisiana Board of Pharmacy

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September 4, 2024

To: Attorney General Liz Murrill
Attn: Department of Justice, Occupational Licensing Review Program

From: Joe Fontenot, Executive Director
Louisiana Board of Pharmacy

Subject: **Regulatory Project 2024-05 ~ Pharmacy Technicians**

The Board of Pharmacy seeks to amend Sections 901, 903, and 905 of its rules relative to pharmacy technicians to expand the eligibility criteria for obtaining a pharmacy technician candidate registration.

The proposed rule changes in Section 901 remove the definition of Training Program and instead define Pharmacy Technician Educator. The proposed rule changes in Section 903 expand the eligibility criteria for obtaining a pharmacy technician candidate registration, modifies the language under exceptions to provide clarity, describe actions to be taken in the event the pharmacy technician candidate is no longer training, and describe requirements of the training to be provided by the pharmacy technician educator. The proposed rule changes in Section 905 correct a typographical error and clarify that the notification of a change of employment must include the pharmacy name.

To facilitate the Department of Justice's review of the proposed rule, the Louisiana Board of Pharmacy provides answers to the following questions.

1. Describe any relevant factual background to the occupational regulation and the purpose of the occupational regulation?

Since COVID-19 there has been a significant workforce shortage of pharmacy technicians. The proposed rule changes expand the eligibility criteria for obtaining a pharmacy technician candidate registration by providing alternatives to a board-approved, nationally-accredited pharmacy technician training program.

The proposed rule changes will benefit potential pharmacy technician candidates by providing alternatives to a board-approved nationally-accredited pharmacy technician training program, potentially saving money on enrollment fees. The proposed rule changes will benefit pharmacists and pharmacies by expanding the eligibility criteria for a person to obtain a pharmacy technician candidate registration, which should result in more pharmacy technicians to address the current workforce shortage. The proposed rule changes will benefit consumers by increasing the number of pharmacy technicians in the workplace, which will provide better pharmacy staffing, resulting in better and more efficient patient care.

2. Is the occupational regulation within the scope of the occupational licensing board's general authority to regulate in a given occupation or industry? If so, identify the law that provides the authority for the rule and describe how the occupational regulation is within the scope.

Yes. LA R.S. 37:1182 contains the powers and duties of the Board which includes: to regulate, license, certify, and register the training, qualification, and employment of pharmacy interns and pharmacy technicians. LA R.S. 37:1212 is specific to the credentialing of pharmacy technician candidates and pharmacy technicians.

§1212. Pharmacy technicians

The board may register individuals as pharmacy technician candidates and certify individuals as pharmacy technicians, both of whom may assist a pharmacist in the practice of pharmacy, as specified in board rules. Notwithstanding any provision in law to the contrary, in all cases, a pharmacist must verify the accuracy of a prescription before the drug or device may be transferred to a patient or patient's agent. The board may also set minimum training and education requirements and examinations for certification as a pharmacy technician as it deems necessary. The board may, by rule, establish ratios for pharmacy technician candidates to pharmacists and pharmacy technicians to pharmacists, but in no case shall such ratio be less than two pharmacy technicians to one pharmacist.

3. Check all of the following that apply as reasons the occupational regulation is subject to review

- Creates a barrier to market competition
- Fixes prices, limits price competition, or results in high prices for a product or service provided by or to a license holder.
- Reduces competition or excludes present or potential competitors from the occupation regulated by the board
- Limits output or supply in this state of any good or service provided by the members of the regulated occupation.
- Reduces the number of providers that can serve a particular set of customers
- Other activity (please describe)

A person not in possession of a pharmacy technician candidate registration is prohibited from participating in any activity requiring such credential.

4. Identify the clearly articulated state policy (e.g., health, safety, welfare, or consumer protection) in state statute, or any supporting evidence of the harm the action/proposed action is intended to protect against?

The purpose of the Louisiana Pharmacy Practice Act, as stated in LA R.S 37:1163, is 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.

5. Do any less restrictive alternatives to the occupational regulation exist for addressing the same harm?

If so, include a comparison of the occupational regulation to the alternatives and a justification for not pursuing a less restrictive alternative. If no less restrictive alternatives exist, explain why.

No, less restrictive alternatives do not exist in regard to our core mission of licensing. However, the proposed amendments introduce less burdensome regulations upon the credential holders.

6. Describe the process that the occupational licensing board followed in developing the proposed rule, including any public hearings held, studies conducted, and data collected or analyzed.

01-24-2024 – Public meeting held, pursuant to public notice, and the Regulation Revision Committee reviewed and considered Draft #1 with public participation.

04-25-2024 – Public meeting held, pursuant to public notice, and the Regulation Revision Committee approved Draft #3 with public participation.

05-08-2024 – Board approved this Regulatory Proposal for promulgation.

06-07-2024 – Fiscal & Economic Impact Statement (FEIS) submitted to the Legislative Fiscal Office (LFO) for approval.

07-08-2024 – LFO approved fiscal and economic impact statement.

07-08-2024 – First report submitted to the Joint Legislative Oversight Committee on Health & Welfare.

07-08-2024 – Notice of Intent (NOI) submitted to the Louisiana Register for publication on July 20, 2024.

07-20-2024 – NOI published in the 2024 Louisiana Register, Volume 50, July Edition. NOI, as published, can be found here.

07-20-2024 – Public Hearing scheduled for August 26, 2024.

07-22-2024 – Notice of Rulemaking Activity & Public Hearing distributed.

08-26-2024 – Public Hearing held at the Board office.

7. Does the occupational regulation relate to a matter on which there is pending litigation or a final court order? *No*

8. Please identify the board members voting in favor of this rule, and state whether the member is an active market participant.

On May 8, 2024, 16 members were present and one member (Robert C. LeBas) was absent. The vote in favor of the proposed rule was unanimous (15-0, with President McKay not voting as Chair). Members present: Robert Cloud, David Darce, Jennifer Dupree, Jacqueline Hall, Richard Indovina, Jr., Charles Jones, Kevin LaGrange, Richard Mannino, Marty McKay, Chris Melancon, Troy Menard, Anthony Mercante, Blake Pitre, Don Resweber, Raymond Strong, and Rhonny Valentine. All members voting are active market participants except for Mr. Resweber, the public member.

9. Is there anything else that the occupational licensing board would like the Department to know about the proposed rule? *No*