



Louisiana Board of Pharmacy

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July 17, 2025

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 2025-06 ~ Practitioner CDS License**

The Louisiana Board of Pharmacy seeks to amend Section 2705 of its rules relative to Practitioner Controlled Dangerous Substance (CDS) Licenses. The proposed Rule change in Section 2705.C.4 allows "authorized clinicians" as identified in R. S. 40:1046(B) to apply for and be issued a CDS license to authorize the prescription or recommendation of certain substances classified in Schedule I.

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?

The current rule allows a physician in possession of the appropriate credential issued by the Louisiana State Board of Medical Examiners to apply for and be issued a CDS license to authorize the prescription or recommendation of certain substances classified in Schedule I. Act 444 of the 2022 Regular Session of the Louisiana Legislature expanded the authority to issue recommendations for medical marijuana to "authorized clinicians," defined to include physicians, advanced practice registered nurses with prescriptive authority, and medical psychologists. The Board determined that a rule change incorporating the term "authorized clinicians" was necessary. Further, since the rule references the statute that defines the term, any future legislative changes would be automatically integrated.

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. 40:972 details the authority of the Board of Pharmacy to promulgate regulations relating to the registration and control of controlled dangerous substances. LA R.S. 40:973 requires every person engaging in certain activities involving CDS in this state to obtain a CDS license issued by the Board.

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)

Only those clinicians in possession of a CDS license to authorize the prescription or recommendation of certain substances classified in Schedule I (including therapeutic marijuana) may do so.

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?
Act 634 of 1972 Legislature incorporated protections regarding controlled dangerous substances into the Louisiana Uniform Controlled Dangerous Substances Law to protect the public from the detrimental effects of misusing substances which are susceptible to abuse or which lead to addiction.

LA R.S. 40:972 details the authority of the Board of Pharmacy to promulgate regulations relating to the registration and control of controlled dangerous substances.

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.
This proposal is less restrictive than the current rule, which only allows physicians to obtain a CDS license to prescribe or recommend certain substances classified in Schedule I. The statute requiring this change does not allow for any less restrictive alternative.

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.

02-16-2025 – Pubic meeting held, pursuant to public notice, and the Regulation Revision Committee reviewed and considered Draft #1 with public participation.

02-19-2025 – Board approved this Regulatory Proposal for promulgation.

03-17-2025 – Fiscal & Economic Impact Statement (FEIS) submitted to Legislative Fiscal Office (LFO) for approval.

04-09-2025 – LFO approved FEIS.

04-09-2025 – First Report submitted to the Joint Legislative Oversight Committee on Health & Welfare.

04-09-2025 – Notice of Intent (NOI) submitted to the Louisiana Register for publication on April 20, 2025.

04-20-2025 – NOI published in the Louisiana Register, Volume 51, April Edition.

04-20-2025 – Public Hearing scheduled for May 27, 2025.

04-21-2025 – Notice of Rulemaking Activity & Public Hearing distributed.

05-27-2025 – Public Hearing 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.

At the February 19, 2025 meeting of the Board, 16 members were present and one member (Jennifer Dupree) 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 Collins, David Darce, Jacqueline Hall, Richard Indovina, Jr., Charles Jones, Kevin LaGrange, Richard Mannino, Marty McKay, Chris Melancon, Troy Menard, Anthony Mercante, Robert Ray, Don Resweber, Richard Soileau, and Raymond Strong. 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.*