



Louisiana Board of Pharmacy

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June 3, 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 2024-01 ~ Controlled Dangerous Substances (CDS) Licensing**

The Louisiana Board of Pharmacy seeks to amend Sections 2707 and 2711 of its rules relative to Controlled Dangerous Substances (CDS) licensing procedures and actions on CDS licenses. The proposed rule change in Section 2707 streamlines the CDS license reinstatement process, updates the facility CDS license change of ownership procedures, and adds a new subsection to address changes to CDS license status. The proposed rule change in Section 2711 repeals Subsection M and moves that language in a modified version to Section 2707.

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The current regulations for CDS Licensing Procedures (Section 2707) and Actions on Licenses (Section 2711) are outdated and need revision.

With respect to CDS license reinstatements, the current regulations create unnecessary delays in the reinstatement of CDS licenses. The proposed regulation streamlines the reinstatement process while maintaining the integrity of the process.

With respect to a change of ownership of a CDS facility license, the Board of Pharmacy amended the rule for a pharmacy change of ownership effective in September 2023 and would like to mirror that process for CDS facility licenses.

The proposed rule changes in §2711 repeal Subsection M- Surrender of License and moves that language to §2707 using modified language more reflective of current Board of Pharmacy practices concerning changes to CDS license status.

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.

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 or entity not in possession of a Louisiana CDS license 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?

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.

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 – Regulation Revision Committee public meeting held to consider draft proposal and receive stakeholder input.

02-21-2024 – Board met to consider the draft proposal, no public comments offered.

04-09-2024 – Legislative Fiscal Office (LFO) approved the Fiscal & Economic Impact Statement.

04-09-2024 - 1st Report submitted to the Joint Legislative Oversight Committee on Health & Welfare.

04-20-2024 - NOI published in the 2024 Louisiana Register, Volume 50, April Edition.

04-20-2024 - Notice of Rulemaking Activity & Public Hearing Notice distributed.

05-28-2024 - Public Hearing at the Board office to receive comments and testimony.

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 February 21, 2024, 15 members were present and two members (Richard Mannino and Rhonny Valentine) were absent. The vote in favor of the proposed rule was unanimous (14-0, with President McKay not voting as Chair). Members present: Robert Cloud, David Darce, Jennifer Dupree, Jacqueline Hall, Richard Indovina, Jr., Charles Jones, Kevin LaGrange, Robert LeBas, Marty McKay, Chris Melancon, Troy Menard, Anthony Mercante, Blake Pitre, Don Resweber, 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.*