

## DECLARATION OF EMERGENCY

Department of Health and Hospitals  
Board of Pharmacy

### Durable Medical Equipment (DME) Permit – LAC 46:LIII.2401

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953.B, to promulgate a new rule relative to the creation of a new type of pharmacy permit specifically for providers of durable medical equipment (DME) that do not provide prescription drugs. The emergency rule is necessary to allow the Board of Pharmacy to issue DME permits to qualifying providers as quickly as possible.

The Board has had a long-standing requirement for a pharmacy permit for any entity that wished to provide prescription drugs or devices to Louisiana citizens. The rules for the pharmacy permit contain minimum specifications for the physical plant that reflect concern for any place that stores controlled dangerous substances and other prescription drugs. Moreover, those minimum specifications require the presence of a pharmacist in the prescription department whenever the pharmacy is open for business. There are a growing number of entities that supply prescription devices or equipment but no prescription drugs. The Board has determined that public safety does not require the same level of minimum specifications in business settings that do not contain prescription drugs. The Board seeks to establish a separate set of rules for DME providers that do not stock or supply prescription drugs to facilitate the creation and issuance of a DME permit in lieu of the presently-required pharmacy permit.

The federal Centers for Medicare and Medicaid Services (CMS) has recently changed their eligibility criteria for DME providers intending to submit claims for services to Medicare to require evidence of compliance with state credentialing requirements.

A delay in promulgating this proposed rule will result in some DME suppliers that do not stock prescription drugs being disqualified from participation in Medicare, which has the potential of adversely affecting their financial position. Since these suppliers provide vital services to Medicare beneficiaries across the state, the Board has determined that this emergency rule is necessary to prevent imminent peril to the public health, safety, and welfare. The declaration of emergency is effective May 2, 2012, and shall remain in effect for the maximum time period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever shall first occur.

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Louisiana Board of Pharmacy