



# Louisiana Board of Pharmacy

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September 21, 2015

Office of the Governor  
PO Box 94004  
Baton Rouge LA 70804-9004  
[Kendal.Melvin@la.gov](mailto:Kendal.Melvin@la.gov)

## Electronic Mail – Delivery Receipt Requested

Re: Notice of Re-Issuance of Emergency Rule

Dear Governor Jindal:

In compliance with the provisions of La. R.S. 49:953(B), this will serve notice of the Board's re-issuance of an Emergency Rule. The initial emergency rule was effective on June 1, 2015, and although the Board has made progress in the formal rulemaking process, the emergency rule will expire before that process can be completed. The Board has directed the re-issuance of the emergency rule, effective today, September 21, 2015. Copies of the Declaration of Emergency and the Rule are enclosed. In the event you desire any further information about this topic, please contact my office directly at [mbroussard@pharmacy.la.gov](mailto:mbroussard@pharmacy.la.gov) or 225.925.6481.

For the Board:

A handwritten signature in blue ink that reads "Malcolm Broussard".

Malcolm J Broussard  
Executive Director

cc: Office of the Attorney General – [executive@ag.state.la.us](mailto:executive@ag.state.la.us)  
President, Louisiana Senate – [apa.senatepresident@legis.la.gov](mailto:apa.senatepresident@legis.la.gov)  
Speaker, Louisiana House of Representatives – [apa.housespeaker@legis.la.gov](mailto:apa.housespeaker@legis.la.gov)  
Director, Office of the State Register – [reg.submission@la.gov](mailto:reg.submission@la.gov)

## DECLARATION OF EMERGENCY

Department of Health and Hospitals  
Board of Pharmacy

### Electronic Signature on Facsimile Prescription – LAC 46:LIII.2511

The Louisiana Board of Pharmacy is exercising the emergency provisions of the Administrative Procedure Act, specifically at R.S. 49:953.B, to amend its rules governing the formatting requirements of prescription forms, more specifically the use of an electronic signature on a prescription received by facsimile in the dispensing pharmacy.

The Board recently promulgated a revision to this section of rules in January 2015. The objective of the revision project was to clarify the three methods of generating prescriptions – verbal, written, and electronic – and further, to harmonize the federal and state requirements for prescriptions for all drugs, both controlled substances and non-controlled substances. With respect to prescriptions for controlled substances, the federal rules permit the prescriber to affix an electronic signature to a prescription that is delivered electronically to the pharmacy; however, for prescriptions for controlled substances that are delivered in written form – including by facsimile – such prescriptions must be manually signed by the prescriber. The objective of the rule project was to standardize that rule to apply to all prescriptions, not just prescriptions for controlled substances.

In the aftermath of the rule's promulgation, pharmacies have been reporting a number of prescriptions received by facsimile bearing an electronic signature. When contacted, the prescriber insists they are prescribing electronically. We have learned that providers of prescribing software tell their clients they are prescribing electronically, but when the provider transmits the prescription to the pharmacy it is delivered by facsimile instead of electronically. We have found that some pharmacies are not truly prepared to receive electronic prescriptions. The federal standards for controlled substance prescriptions requires the transmitter of an electronic prescription to advise the prescriber when it cannot deliver the prescription electronically. There is no reason why the transmitter cannot render the same advice for all prescriptions.

In an effort to give the prescribers, pharmacies, and their system providers an adequate opportunity to make the appropriate adjustments in their operating systems, the Board proposes to delay the prohibition of electronic signatures on facsimile prescriptions for medications not listed as controlled substances until December 31, 2016. Since the period of time required to promulgate this rule is of such duration that disruptions in patient care may occur, the Board proposes to enable the temporary provision through an emergency rule.

The initial emergency rule was made effective June 1, 2015. Since that time, the Board published the Notice of Intent, conducted a public hearing to receive comments and testimony, and filed its report with the Joint Legislative Oversight Committee on Health and Welfare. Since the emergency rule will expire before the formal rulemaking process can be completed, the Board has directed the re-issuance of the emergency rule, with no changes to the content of the proposed rule.

The Board has determined this emergency rule is necessary to prevent imminent peril to the public health, safety, and welfare. The declaration of emergency is effective September 21, 2015 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.

Malcolm J Broussard  
Executive Director  
Louisiana Board of Pharmacy

**Louisiana Administrative Code**

**Title 46 – Professional and Occupational Standards**

**Part LIII: Pharmacists**

**Chapter 25. Prescriptions, Drugs, and Devices**

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**Subchapter B. Prescriptions**

**§2511. Prescriptions**

A – C.5.c ...

- d. The provisions of this Section notwithstanding, a prescription for a medication not listed as a controlled substance which is received in a pharmacy by facsimile and which bears an electronic signature of the prescriber shall be construed as a validly-formatted prescription; however, this temporary allowance shall expire at midnight on December 31, 2016.

C.6 – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), amended LR 29:2102 (October 2003), effective January 1, 2004, amended LR 41:98 (January 2015), amended LR

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