



# Louisiana Board of Pharmacy

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September 8, 2015

Senator John A Alario Jr., President  
Louisiana Senate  
PO Box 94183  
Baton Rouge, LA 70804

Via Email: [APA.SenatePresident@legis.la.gov](mailto:APA.SenatePresident@legis.la.gov)

## Electronic Mail – Delivery Receipt Requested

Re: Report No. 2 of 3 for Regulatory Project 2015-5 ~ Electronic Signature on Facsimile Prescription

Dear Senator Alario:

As we indicated in our first report to you on July 9, 2015, the Board is currently amending its rules to delay the implementation of a rule adopted earlier this year relative to the use of electronic signatures by prescribers on prescriptions delivered by facsimile to pharmacies. This delay will provide additional time for the stakeholders to upgrade their technology and information systems to comply with the rules. Subsequent to our Notice of Intent published in the July 20, 2015 edition of the Louisiana Register, and in accordance with the Administrative Procedures Act, we conducted a public hearing at the Board office on August 26, 2015.

We received no written comments; however, we did receive one verbal comment during the hearing from a representative of the Louisiana Hospital Association. The LHA representative was supportive of the Board's proposed rule as published. The Board has determined no revisions are necessary to the proposed rule as originally published, and further, determined it appropriate to move forward with the proposed rule.

You should find the following documents appended to this letter:

- Notice of Intent, as published in the July 2015 Louisiana Register
- Summary of Comments from August 26, 2015 Public Hearing
- Full text of proposed rule

Subject to review by the Joint Legislative Oversight Committee on Health & Welfare, the Board proposes to publish the original proposed rule as a Final Rule in the October 20, 2015 edition of the Louisiana Register. If you have any questions about the enclosed information or our procedures, please contact me directly at [mbroussard@pharmacy.la.gov](mailto:mbroussard@pharmacy.la.gov) or 225.925.6481.

For the Board:

Malcolm J. Broussard  
Executive Director

cc: Chair, Senate Committee on Health and Welfare – [APA.S-H&W@legis.la.gov](mailto:APA.S-H&W@legis.la.gov)  
Speaker, House of Representatives – [APA.HouseSpeaker@legis.la.gov](mailto:APA.HouseSpeaker@legis.la.gov)  
Chair, House Committee on Health and Welfare – [APA.H-HW@legis.la.gov](mailto:APA.H-HW@legis.la.gov)  
Editor, Louisiana Register – [Reg.Submission@la.gov](mailto:Reg.Submission@la.gov)  
Reference File

**NOTICE OF INTENT**

**Department of Health and Hospitals  
Board of Pharmacy**

**Electronic Signature on Facsimile Prescription  
(LAC 46:LIII.2511)**

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §2511 of Chapter 25, Prescriptions, Drugs, and Devices, of its rules, to allow pharmacies to accept, for a limited period of time, a facsimile prescription bearing an electronic signature of the prescriber.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part LIII. Pharmacists**

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

**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, LR 41:98 (January 2015), LR 41:

**Family Impact Statement**

In accordance with section 953 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.

4. The effect on family earnings and family budget. We anticipate no effect on family earnings and the family budget.

5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. We anticipate no effect on the ability of the family or a local government to perform the activity as contained in the proposed Rule.

#### **Poverty Impact Statement**

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate no impact on household income, assets, and financial security.

2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no positive impact on employment and workforce development.

4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.

5. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance. We anticipate no effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

#### **Small Business Statement**

In accordance with section 965 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The establishment of less stringent compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule. Pharmacies are not required at this time to accept electronic prescriptions; however, the market is continuing to evolve in that direction.

2. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses. There are no reporting deadlines in the proposed Rule.

3. The consolidation or simplification of compliance or reporting requirements for small businesses. There are no reporting requirements in the proposed Rule.

4. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed Rule. The proposed Rule allows,

but does not require, pharmacies to accept electronic prescriptions.

5. The exemption of small businesses from all or any part of the requirements contained in the proposed Rule. There are no exemptions for small businesses.

#### **Provider Impact Statement**

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate minimal costs to the provider to implement the requirements of the proposed Rule.

3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments to Malcolm J. Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding this proposed Rule.

#### **Public Hearing**

A public hearing on this proposed Rule is scheduled for Tuesday, August 26, 2015 at 9 a.m. in the board office. At that time, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12 noon that same day.

Malcolm J. Broussard  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Electronic Signature on Facsimile Prescription**

#### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule will result in a cost of approximately \$2,000 for printing costs of the proposed and final rules in FY 16. The proposed rule will allow pharmacies to continue to accept facsimile prescriptions bearing electronic signatures of the prescriber, but only for a limited period of time ending December 31, 2016.

#### **II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no impact on revenue collections of state or local governmental units from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule directly affects those pharmacies which do not yet accept electronic prescriptions. The proposed rule also affects prescribers using prescription generating software systems that do not alert the prescriber when the electronic prescription generated and signed by the prescriber cannot be delivered to the intended pharmacy because it is unable to accept electronic prescriptions, and then further, converts the prescription to a facsimile format for delivery without alerting the prescriber. The time delay in the proposed rule is intended to give pharmacies additional time to upgrade their systems to accept electronic prescriptions, and further, to give vendors (and clients of those vendors) of prescription generating software additional time to upgrade their systems to notify the prescriber when their electronic prescriptions cannot be delivered electronically and to prohibit the subsequent conversion of that prescription for delivery to the pharmacy by facsimile.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition or employment from the proposed rule.

Malcolm J. Broussard  
Executive Director  
1507#065

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office



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Summary of Testimony & Public Comments  
re

Regulatory Project 2015-5 ~ Electronic Signature on Facsimile Prescription

at

August 26, 2015 Public Hearing

1. Rebecca D. Dowdy, MBA, Vice President, Louisiana Hospital Association.

Indicated verbal support for the proposed rule as published.

**Louisiana Administrative Code**

**Title 46 – Professional and Occupational Standards**

**Part LIII: Pharmacists**

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

...

**Subchapter B. Prescriptions**

**§2511. Prescriptions**

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