



# Louisiana Board of Pharmacy

3388 Brentwood Drive  
Baton Rouge, Louisiana 70809-1700  
Telephone 225.925.6496 ~ Facsimile 225.925.6499  
[www.pharmacy.la.gov](http://www.pharmacy.la.gov) ~ E-mail: [info@pharmacy.la.gov](mailto:info@pharmacy.la.gov)



April 8, 2016

Senator John A. Alario, Jr, President  
Louisiana Senate  
PO Box 94183  
Baton Rouge, LA 70804-9183

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

## Electronic Mail – Delivery Receipt Requested

Re: Report No. 1 of 3 for Regulatory Project 2016-1 ~ Controlled Substance Prescriptions

Dear Senator Alario:

The Board has initiated the rulemaking process to amend the Board's rules to shorten the expiration date of prescriptions written for controlled substances listed in Schedule II as well as to remove the restriction preventing the prescribing of Schedule II controlled substances by physician assistants and optometrists. Both of these initiatives are in response to legislative acts. In connection with this regulatory project, you should find the following documents in this packet:

- Notice of Intent
- Proposed Rule
- Family Impact Statement
- Poverty Impact Statement
- Provider Impact Statement
- Regulatory Flexibility Analysis
- Solicitation of Comments
- Fiscal & Economic Impact Statement

As indicated in the solicitation, we will convene a public hearing on May 25, 2016 to receive public comments and testimony on these proposed rule changes. We will summarize those comments and our responses thereto in our next report to you. In the event you have any questions or need additional information, 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 Health & Welfare Committee  
Via Email: [APA.S-H&W@legis.la.gov](mailto:APA.S-H&W@legis.la.gov)  
Speaker, House of Representatives  
Via Email: [APA.HouseSpeaker@legis.la.gov](mailto:APA.HouseSpeaker@legis.la.gov)  
Chair, House Health & Welfare Committee  
Via Email: [APA.H-HW@legis.la.gov](mailto:APA.H-HW@legis.la.gov)  
Director, Community Outreach Services, La. Economic Development  
Via Email: [Pat.Witty@la.gov](mailto:Pat.Witty@la.gov)  
Editor, *Louisiana Register*  
Via Email: [Reg.Submission@la.gov](mailto:Reg.Submission@la.gov)  
Reference File

## **Notice of Intent**

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

Controlled Substance Prescriptions (LAC 46:LIII.2525 and 2745)

In accordance with the provisions of the Administrative Procedure Act (La. R.S. 49:950 *et seq.*) and the Pharmacy Practice Act (La. R.S. 37:1161 *et seq.*), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend *Chapter 25 – Prescriptions, Drugs, and Devices* as well as *Chapter 27 – Controlled Dangerous Substances* of its rules. In particular, the board intends to amend §2525, relative to the expiration date of prescriptions for controlled substances, in compliance with Act 865 of the 2014 Legislature, as well as §2745 to amend the list of practitioners authorized to prescribe controlled substances, in compliance with Act 453 of the 2015 Legislature.

# Louisiana Administrative Code

## Title 46 – Professional and Occupational Standards

### Part LIII: Pharmacists

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

##### §2525. Prescription Expiration

- A. ...
- B. A prescription for a controlled dangerous substance ~~listed in Schedule II, III, IV, or V~~ shall expire ~~six months after the date written:~~
  - 1. 90 days after the date of issue if the drug is listed in Schedule II; or
  - 2. Six months after the date of issue if the drug is listed in Schedule III, IV, or V.
- C. ...

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), effective January 1, 1989, amended LR 29:2104 (October 2003), effective January 1, 2004, amended LR

...

#### Chapter 27. Controlled Dangerous Substances

##### §2745. Prescriptions

- A. – A.1.c. ...
  - d. a physician assistant (~~but no substances listed in Schedule II, and only as permitted by supervising physician~~),
  - e. an advanced practice registered nurse (~~but only as permitted by collaborating physician~~),
  - f. an optometrist (~~but no substances listed in Schedule II~~), or

A.1.g – C.7.a.ii. ...

- ~~iii.~~ ~~— In the event the authorized prescriber is an advanced practice registered nurse or a physician's assistant, the prescription form shall clearly indicate the prescriber's practice affiliation. The affiliated physician's name, address, and telephone number shall appear on the prescription form.~~
- ~~iv.~~ iii. The prescription form shall contain no more than four prescription drug or device orders. While nothing in these rules shall prohibit the pre-printing of any number of prescription drugs or devices on the prescription form, no prescription form issued by a prescriber shall identify more than four prescription drugs or devices to be dispensed.
- ~~v.~~ iv. For each prescription drug or device ordered on a prescription form, there shall be a pre-printed check box labeled “Dispense as Written”, or “DAW”, or both.
- ~~vi.~~ v. For each prescription drug or device ordered on a prescription form, there shall be a refill instruction, if any.
- ~~vii.~~ vi. The prescription form shall bear a single printed signature line, and the prescriber shall manually sign the prescription.

C.7.b.i. – G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:972.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 34:2149 (October 2008), amended LR 41:685 (April 2015), amended LR

FAMILY IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

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.

I. The effect on the stability of the family.

We anticipate no effect on the stability of the family.

II. 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.

III. The effect on the functioning of the family.

We anticipate no effect on the functioning of the family.

IV. The effect on family earnings and family budget.

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

V. The effect on the behavior and personal responsibility of children.

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

VI. 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  
FOR ADMINISTRATIVE RULES

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.

I. The effect on household income, assets, and financial security.

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

II. 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.

III. The effect on employment and workforce development.

We anticipate no positive impact on employment and workforce development.

IV. The effect on taxes and tax credits.

We anticipate no impact on taxes or tax credits.

V. 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, or utilities assistance.

PROVIDER IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

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:

I. 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.

II. 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.

III. 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.

REGULATORY FLEXIBILITY ANALYSIS  
FOR ADMINISTRATIVE RULES

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:

I. The establishment of less stringent compliance or reporting requirements for small businesses.

The proposed rule does not exempt small businesses from compliance with any of the requirements.

II. 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.

III. The consolidation or simplification of compliance or reporting requirements for small businesses.

There are no reporting requirements in the proposed rule.

IV. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed rule.

The proposed rule sets expiration dates for certain prescriptions, and further, identifies those practitioners eligible to prescribe certain prescriptions. The law did not provide for alternative options for small businesses.

V. 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.

Interested persons may submit written comments to Malcolm J Broussard, Executive Director, Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, Louisiana 70809-1700. He is responsible for responding to inquiries regarding this proposed rule. A public hearing on this proposed rule is scheduled for Wednesday, May 25, 2016 at 9:00 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 12:00 noon that same day.

Malcolm J Broussard  
Executive Director  
Louisiana Board of Pharmacy

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment:

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS  
(Summary)

The proposed rule change will amend the expiration dates for certain prescriptions, and further, identify the practitioners eligible to prescribe controlled substances. The proposed rule change will result in a cost of approximately \$2,000 for printing costs. This includes \$1,000 for the proposed rule change in FY 16 and \$1,000 for the final rule in FY 17.

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 change.

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

The first section of the proposed rule change will shorten the existing expiration date for prescriptions written for controlled substances listed in Schedule II, from six months to three months. We anticipate no cost or benefit to individuals from that portion of the proposed rule change. The second section of the proposed rule change will remove existing limitations on prescriptions for controlled substances listed in Schedule II written by physician assistants and optometrists. To the extent those practitioners will now be able to write such prescriptions, there may be a positive economic benefit to those practitioners.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact on competition or employment.

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person Preparing Statement: Malcolm J. Broussard Executive Director  
Dept.: Health and Hospitals  
Office: Board of Pharmacy  
Phone: (225) 925-6481  
Title: Controlled Substance Prescriptions  
Return Address: 3388 Brentwood Drive  
Baton Rouge, LA 70809  
Effective Date of Rule: July 20, 2016 (est.)

SUMMARY  
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS  
(Summary)

The proposed rule change will amend the expiration dates for certain prescriptions, and further, identify the practitioners eligible to prescribe controlled substances. The proposed rule change will result in a cost of approximately \$2,000 for printing costs. This includes \$1,000 for the proposed rule change in FY 16 and \$1,000 for the final rule in FY 17.

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 change.

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

The first section of the proposed rule change will shorten the existing expiration date for prescriptions written for controlled substances listed in Schedule II, from six months to three months. We anticipate no cost or benefit to individuals from that portion of the proposed rule change. The second section of the proposed rule change will remove existing limitations on prescriptions for controlled substances listed in Schedule II written by physician assistants and optometrists. To the extent those practitioners will now be able to write such prescriptions, there may be a positive economic benefit to those practitioners.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no impact on competition or employment.

  
Signature of Agency Head or Designee

Malcolm J Broussard, Executive Director  
Typed Name and Title of Agency Head or Designee

April 8, 2016  
Date of Signature

  
Legislative Fiscal Officer or Designee

4 / 8 / 17  
Date of Signature

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The Board proposes to amend §2525 of its rules to amend the existing expiration date of prescriptions written for controlled substances listed in Schedule II. In addition, the Board proposes to amend §2745 of its rules to amend the existing limitations on prescriptions written for controlled substances listed in Schedule II when prescribed by physician assistants and optometrists.

- B. Summarize the circumstances that require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The change to §2525 is required to comply with Act 865 of the 2014 Legislature, and the change to §2745 is required to comply with Act 453 of the 2015 Legislature. Copies of both legislative acts are appended.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session:

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The Board anticipates an expenditure of approximately \$2,000 for the printing of the proposed and final rules – half in FY 16 and half in FY 17. Those funds are budgeted and available from self-generated agency funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) \_\_\_ Yes. If yes, attach documentation.

(b) X No. If no, provide justification as to why this rule change should be published at this time.

The Board operates totally on self-generated funds.

- D. Compliance with Act 820 of the 2008 Regular Session

- (1) An identification and estimate of the number of small businesses subject to the proposed rule.

Given the criteria in the statutory definition of “small businesses”, we are unable to specifically identify small businesses because the Board does not collect information from pharmacies concerning the number of employees or any information on sales, net worth, or other financial data. To the extent that all of the pharmacies licensed by the Board may meet the statutory definition of a small business, there are 1,981 pharmacies currently licensed by the Board.

- (2) The projected reporting, record keeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

The proposed rule contains no requirements for reporting or record keeping.

- (3) A statement of the probable effect on impacted small businesses.

The proposed rule will not have any effect on small businesses.

- (4) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule.

There are no alternative methods for achieving the purpose of the proposed rule.

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

<u>COSTS</u>	<u>FY 15-16</u>	<u>FY 16-17</u>	<u>FY 17-18</u>
PERSONAL SERVICES	\$ 0	\$ 0	\$ 0
OPERATING EXPENSES	\$ 1,000	\$ 1,000	\$ 0
PROFESSIONAL SERVICES	\$ 0	\$ 0	\$ 0
OTHER CHARGES	\$ 0	\$ 0	\$ 0
EQUIPMENT	\$ 0	\$ 0	\$ 0
MAJOR REPAIR & CONSTR.	\$ 0	\$ 0	\$ 0
<b>TOTAL</b>	<b>\$ 1,000</b>	<b>\$ 1,000</b>	<b>\$ 0</b>
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A.1", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The Board has allocated \$1,000 for the printing of the Notice of Intent in FY 16 as well as \$1,000 for the printing of the final rule in FY 17.

3. Sources of funding for implementing the proposed rule or rule change.

<u>SOURCE</u>	<u>FY 15-16</u>	<u>FY 16-17</u>	<u>FY 17-18</u>
STATE GENERAL FUND	\$ 0	\$ 0	\$ 0
AGENCY SELF-GENERATED	\$ 1,000	\$ 1,000	\$ 0
DEDICATED	\$ 0	\$ 0	\$ 0
FEDERAL FUNDS	\$ 0	\$ 0	\$ 0
OTHER (Specify)	\$ 0	\$ 0	\$ 0
<b>TOTAL</b>	<b>\$ 1,000</b>	<b>\$ 1,000</b>	<b>\$ 0</b>

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

The Board has sufficient funds budgeted and available to complete the rulemaking project.

**B. COST SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

2. Indicate the source of funding of the local governmental unit that will be affected by these costs or savings.

There will be no cost savings for local governmental units resulting from the proposed rule.

**II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

A. What increase (decrease) in revenues can be anticipated from the proposed action?

<u>SOURCE</u>	<u>FY 15-16</u>	<u>FY 16-17</u>	<u>FY 17-18</u>
STATE GENERAL FUND	\$ 0	\$ 0	\$ 0
AGENCY SELF-GENERATED	\$ 0	\$ 0	\$ 0
DEDICATED FUNDS	\$ 0	\$ 0	\$ 0
FEDERAL FUNDS	\$ 0	\$ 0	\$ 0
LOCAL FUNDS	\$ 0	\$ 0	\$ 0
<b>TOTAL</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

Since the proposed rule change does not impact fees, there will be no impact on revenue collections for state or local governmental units from the proposed rule.

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The first section of the proposed rule change will shorten the existing expiration date for prescriptions written for controlled substances listed in Schedule II, from six months to three months. We anticipate no cost or benefit from that portion of the proposed rule change. The second section of the proposed rule change will remove existing limitations on prescriptions for controlled substances listed in Schedule II written by physician assistants and optometrists.

Also provide an estimate and a narrative description of any impact on receipts and/or income (revenue) resulting from this rule or rule change to these groups.

To the extent those practitioners will now be able to write such prescriptions, there may be a positive economic benefit to those practitioners.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule change will have no effect on competition or employment.

  
Signature of Agency Head or Designee

Malcolm J Broussard, Executive Director  
Typed Name and Title of Agency Head or Designee

April 8, 2016  
Date of Signature

SENATE BILL NO. 496

BY SENATOR HEITMEIER

1 AN ACT

2 To amend and reenact R.S. 40:978(A) and to enact R.S. 40:978(E) and (F), relative to  
3 prescriptions; to provide for the limited dispensing of certain controlled substances;  
4 to provide for accessing the Prescription Monitoring Program in certain situations;  
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:978(A) is hereby amended and reenacted, and R.S. 40:978(E) and  
8 (F) are hereby enacted to read as follows:

9 §978. Prescriptions

10 A. Except when dispensed or administered directly by a medical practitioner  
11 or administered by a person authorized to administer by such practitioner, other than  
12 a pharmacist, to an ultimate user, no controlled dangerous substance included in  
13 Schedule II, which is a prescription drug as determined under the Louisiana Revised  
14 Statutes, of 1950, may be dispensed or administered without either the written  
15 prescription of a practitioner, or an electronic prescription order as provided by  
16 federal law or regulation, except that in emergency situations, as prescribed by the  
17 department by regulation, such drug may be dispensed or administered upon oral  
18 prescription reduced promptly to writing and filed by the pharmacist. Prescriptions  
19 shall be retained in conformity with the requirements of R.S. 40:976. No prescription  
20 for a Schedule II substance may be refilled **nor may such prescription be filled**  
21 **more than ninety days after the date of the prescription.**

22 \* \* \*

23 **E.(1) The pharmacist shall not dispense more than a ten-day supply at**  
24 **a dosage not to exceed the United States Food and Drug Administration's**  
25 **approved labeling for the medication if the prescriber for such medication is not**  
26 **licensed by the state of Louisiana, and the medication is an opiod derivative**

1           Schedule II or an opioid derivative Schedule III controlled dangerous substance.  
 2           The dispensing pharmacist shall notify the prescriber of the supply dispensed  
 3           and the cancellation of the remainder of the prescription.

4                   (2) Within sixty days of the dispensing of a medication pursuant to  
 5           Paragraph (1) of this Subsection, such a medication shall not be dispensed again  
 6           for the individual by a prescriber not licensed by the state of Louisiana.

7                   F. A prescriber shall access the Prescription Monitoring Program prior  
 8           to initially prescribing any Schedule II controlled dangerous substance to a  
 9           patient for the treatment of non-cancer-related chronic or intractable pain.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

---

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_

SENATE BILL NO. 115

BY SENATORS MILLS, LAFLEUR AND PEACOCK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 37:1360.21(A), (B), and (C), 1360.22(1), (5), and (8), 1360.23(G), (H), and (I), 1360.24(A)(3), the introductory paragraph of 1360.29(A), 1360.31, and 1360.32, to enact R.S. 37:1360.29(A)(4) and 1360.38(A)(3) and (4), and to repeal R.S. 37:1360.23(J), relative to physician assistants; to provide for legislative intent; to amend definitions; to provide for the powers and duties of the Louisiana State Board of Medical Examiners; to provide for licensure; to provide for supervising physician qualifications and registration; to provide for services performed by physician assistants; to provide for assumption of professional liability; to provide for exemption; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1360.21(A), (B), and (C), 1360.22(1), (5), and (8), 1360.23(G), (H), and (I), 1360.24(A)(3), the introductory paragraph of 1360.29(A), 1360.31, and 1360.32 are hereby amended and reenacted and R.S. 37:1360.29(A)(4) and 1360.38(A)(3) and (4) are hereby enacted to read as follows:

§1360.21. Legislative intent

A. Shortages of all skilled health personnel, particularly in rural **and urban medically underserved** areas and in the field of primary care medicine, new scientific and technological developments, and new methods of organizing health services have made the question of new uses for allied health personnel the critical issue to be resolved if our supply of health manpower is to be used effectively and productively. In its concern with the growing shortage and geographic maldistribution of health care services in Louisiana, the rising cost of health care services in the state and nationally, and the need for primary health care by

1 thousands of Louisiana citizens, the legislature intends to ~~establish in this Part a~~  
 2 ~~framework for legal recognition and development of new categories of health~~  
 3 ~~manpower to be known as physician assistants~~ **modernize the laws governing**  
 4 **physician assistant practice.**

5 B. Physician assistants ~~are skilled members of the health care profession who~~  
 6 ~~work under the supervision of licensed physicians. They are qualified to take patient~~  
 7 ~~histories, perform physical examinations, and order and interpret certain diagnostic~~  
 8 ~~tests. A physician assistant may implement treatment plans as delegated by the~~  
 9 ~~supervising physician and explain them to patients~~ **are health care professionals**  
 10 **qualified by academic and clinical education and licensed by the Louisiana State**  
 11 **Board of Medical Examiners to provide health care services at the direction and**  
 12 **under the supervision of a physician or a group of physicians approved by the**  
 13 **board as a supervising physician.**

14 C. It is the intent of this Part to permit the more effective utilization of the  
 15 skills of physicians, particularly in the primary care setting, by enabling them to  
 16 delegate ~~certain health care tasks~~ **medical services** to qualified physician assistants  
 17 when such delegation is consistent with the patient's health and welfare.

18 \* \* \*

19 §1360.22. Definitions

20 As used in this Part:

21 (1) "Approved program" means a program for the education and training of  
 22 physician assistants which has been formally approved by the Committee on Allied  
 23 Health Education and Accreditation, **its predecessors,** or its successors.

24 \* \* \*

25 (5) "Physician assistant" ~~or "assistant"~~ means a person who is a graduate of  
 26 a ~~program accredited by the Committee on Allied Health Education and~~  
 27 ~~Accreditation or its successors and who has successfully passed the national~~  
 28 ~~certificate examination administered by the National Commission on the~~  
 29 ~~Certification of Physicians' Assistants or its predecessors and who is approved and~~  
 30 ~~licensed by the Louisiana State Board of Medical Examiners to perform medical~~

1 ~~services under the supervision of a physician or group of physicians who are licensed~~  
 2 ~~by and registered with the board to supervise such assistant~~ **means a health**  
 3 **professional qualified by academic and clinical education and licensed by the**  
 4 **Louisiana State Board of Medical Examiners to provide health care services at**  
 5 **the direction and under the supervision of a physician or a group of physicians**  
 6 **approved by the board as a supervising physician.**

7 \* \* \*

8 (8) "Supervision" means responsible direction and control, with the  
 9 supervising physician assuming legal liability for the services rendered by the  
 10 physician assistant in the course and scope of the physician assistant's employment.  
 11 Such supervision shall not be construed in every case to require the physical  
 12 presence of the supervising physician. However, the supervising physician and  
 13 physician assistant must have the capability to be in contact with each other by either  
 14 telephone or other telecommunications device. Supervision shall exist when the  
 15 supervising physician responsible for the patient gives informed concurrence of the  
 16 action of a physician assistant, whether given prior to or after the action, and when  
 17 a medical treatment plan or action is made in accordance with written clinical  
 18 practice guidelines or protocols set forth by the supervising physician. **The level**  
 19 **and method of supervision shall be at the physician and physician assistant**  
 20 **level, shall be documented and reviewed annually, and shall reflect the acuity**  
 21 **of the patient care and nature of the procedure.**

22 \* \* \*

23 §1360.23. Powers and duties of the board

24 \* \* \*

25 ~~G. The board shall report to the legislature no later than February 1, 1994,~~  
 26 ~~and annually thereafter, as to:~~

27 ~~(1) The number and types of programs which have been approved and a~~  
 28 ~~description of each:~~

29 ~~(2) The number of physician assistants who have been approved and licensed~~  
 30 ~~under this Part and the number of physicians approved as supervising physicians~~

1 under this Part.

2 ~~(3) An evaluation of the programs and the acceptance of them by the~~  
 3 ~~community.~~

4 ~~H.G. Approval may be given for a physician to be the primary supervising~~  
 5 ~~physician for up to two physician assistants; however, nothing in this Part shall~~  
 6 ~~prohibit a qualified supervising physician from acting as a supervising physician on~~  
 7 ~~a locum tenens basis for any physician assistants in addition to the two physician~~  
 8 ~~assistants for whom he is the primary supervising physician, provided that such~~  
 9 ~~physician shall not act as supervising physician for more than four physician~~  
 10 ~~assistants at any one time. In addition, a A physician, **approved by the board as a**~~  
 11 ~~**supervising physician,** practicing in a **private practice,** group practice, partnership,~~  
 12 ~~professional medical corporation, or employed by a hospital or other health care~~  
 13 ~~organization or entity may be the primary supervising physician for up to ~~two~~ **four**~~  
 14 ~~physician assistants. Physician assistants may be employed by a group practice or~~  
 15 ~~partnership of physicians or a professional medical corporation duly qualified under~~  
 16 ~~R.S. 12:901 et seq., as amended, or a hospital or other health care organization or~~  
 17 ~~entity, as long as such physician assistants are being supervised by a qualified~~  
 18 ~~supervising physician.~~

19 ~~I.H.~~ The board shall ensure that applicants for the program shall not be  
 20 discriminated against due to race, color, creed, age, sex, disability, as defined in R.S.  
 21 51:2232~~(11)~~~~(3)~~, or national origin.

22 ~~J.I.~~ Notwithstanding any other provision of this Part to the contrary, any  
 23 person who before and on June 16, 1993, is currently practicing as a physician  
 24 assistant under supervision of a licensed physician shall be licensed as a physician  
 25 assistant.

26 §1360.24. Licensure

27 A. Except as otherwise provided for in this Part, an individual shall be  
 28 licensed by the board before the individual may practice as a physician assistant. The  
 29 board may grant a license to a physician assistant applicant who:

30 \* \* \*

1 (3) Has successfully completed an education program for physician assistants  
 2 accredited by the Committee on Allied Health Education and Accreditation, its  
 3 predecessors, or its successors and who has passed the physician assistant national  
 4 certifying examination administered by the National Commission on Certification  
 5 of Physicians' Assistants.

\* \* \*

7 §1360.29. Supervising physician qualifications and registration

8 A. A physician ~~applying to supervise~~ **supervising** a physician assistant ~~must~~  
 9 shall:

\* \* \*

11 (4) Maintain a written agreement with the physician assistant in  
 12 compliance with R.S. 37:1360.22(8) that includes a statement that the physician  
 13 shall exercise supervision over the physician assistant in accordance with this  
 14 Part. The agreement shall be signed by the supervising physician and physician  
 15 assistant, updated annually, kept on file at the practice site, and available to the  
 16 board upon request.

\* \* \*

18 §1360.31. Services performed by physician assistants

19 A.(1) A physician assistant performs medical services when such services  
 20 are rendered under the supervision of a supervising physician. ~~A physician assistant~~  
 21 ~~may have multiple supervising physicians in no more than five medical specialties~~  
 22 ~~or subspecialties, provided all of the physician assistant's supervising physicians are~~  
 23 ~~properly registered with the board in accordance with the provisions of this Part. A~~  
 24 physician assistant may perform those duties and responsibilities that are delegated  
 25 to him by his supervising physician. A physician assistant is considered to be and  
 26 is deemed the agent of his supervising physician in the performance of all  
 27 practice-related activities, including but not limited to assisting in surgery and the  
 28 ordering **and interpretation** of diagnostic and other medical services. **The level**  
 29 **and method of supervision shall be at the physician and physician assistant**  
 30 **level, shall be documented and reviewed annually, and shall reflect the acuity**

1 **of the patient care and the nature of a procedure.** A physician assistant shall not  
 2 practice without supervision except in life-threatening emergencies and in  
 3 emergency situations such as man-made and natural disaster relief efforts.

4 (2) A physician assistant may inject local anesthetic agents subcutaneously,  
 5 including digital blocks or apply topical anesthetic agents when delegated to do so  
 6 by a supervising physician. However, nothing in this Part shall otherwise permit a  
 7 physician assistant to administer local anesthetics perineurally, pericurally,  
 8 epidurally, intrathecally, or intravenously unless such physician assistant is a  
 9 certified registered nurse anesthetist and meets the requirements in R.S. 37:930.

10 B. The practice of a physician assistant shall include the performance of  
 11 medical services within the scope of his education, training, and experience, which  
 12 are delegated by the supervising physician. ~~Medical services rendered by a~~  
 13 ~~physician assistant may include but are not limited to:~~

14 ~~(1) Obtaining patient histories and performing physical examinations.~~

15 ~~(2) Ordering or performing diagnostic procedures as delegated by the~~  
 16 ~~supervising physician.~~

17 ~~(3) Developing and implementing a treatment plan in accordance with~~  
 18 ~~written clinical practice guidelines and protocols set forth by the supervising~~  
 19 ~~physician.~~

20 ~~(4) Monitoring the effectiveness of therapeutic intervention.~~

21 ~~(5) Suturing wounds as delegated by the supervising physician.~~

22 ~~(6) Offering counseling and education to meet patient needs.~~

23 ~~(7) Making appropriate referrals.~~

24 ~~(8) C.(1) Prescribing certain drugs and medical devices to the extent~~  
 25 ~~delegated by the supervising physician, provided the physician assistant has~~  
 26 ~~completed a minimum of one year of clinical rotations during his training and has~~  
 27 ~~practiced for a minimum of one year under a supervising physician. A physician~~  
 28 ~~assistant may prescribe, order, and administer drugs to the extent delegated by~~  
 29 ~~the supervising physician except as provided pursuant to R.S. 37:930 relative~~  
 30 ~~to anesthetics. Drugs which may be prescribed, ordered, and administered by a~~

1 physician assistant or a health care professional licensed pursuant to Chapter  
 2 12 of this Title are those listed in Schedules II, III, IV, and V of R.S. 40:964 and  
 3 legend drugs, which are defined as any drug or drug product bearing on the label of  
 4 the manufacturer or distributor, as required by the Food and Drug Administration,  
 5 the statement "Caution: Federal law prohibits dispensing without a prescription".  
 6 A physician assistant authorized to prescribe controlled substances shall  
 7 register with the United States Drug Enforcement Administration.

8 (2) A graduate physician assistant shall have at least five hundred  
 9 clinical hours of training prior to application for prescriptive authority.

10 (3) A physician assistant may request, receive, and sign for sample drugs  
 11 and may distribute sample drugs to a patient.

12 ~~€. D.~~ The activities listed above may be performed in any setting authorized  
 13 by the supervising physician including: but not limited to clinics, hospitals,  
 14 ambulatory surgical centers, patient homes, nursing homes, other institutional  
 15 settings, and health manpower shortage areas.

16 §1360.32. Assumption of professional liability

17 When a physician assistant is ~~employed~~ supervised by a physician or group  
 18 practice of physicians or a professional medical corporation or a hospital or other  
 19 health care organization or entity, the physician assistant shall be supervised by and  
 20 be the legal responsibility of the ~~employing~~ supervising physician or group practice  
 21 or professional medical corporation or other hospital or other health care  
 22 organization or entity and the supervising physician. The legal responsibility for the  
 23 physician assistant's patient care activities, including care and treatment that is  
 24 provided in health care facilities, shall remain that of the supervising physician,  
 25 group practice of physicians, or a professional medical corporation or a hospital or  
 26 other health care organization or entity.

27 \* \* \*

28 §1360.38. Exemptions

29 A. The provisions of this Part shall not apply to:

30 \* \* \*

