



Louisiana Board of Pharmacy

3388 Brentwood Drive
Baton Rouge, Louisiana 70809-1700
Telephone 225.925.6496 ~ E-mail: info@pharmacy.la.gov



November 8, 2019

Senator John A. Alario, Jr, President
Louisiana Senate
Via Email: APA.SenatePresident@legis.la.gov

Electronic Mail – Delivery Receipt Requested

Re: Report No. 1 of 3 for Regulatory Project 2019-14 ~ Rulemaking Procedures

Dear Senator Alario:

The Board has initiated the rulemaking process to promulgate a new rule, in compliance with the Administrative Procedures Act, to advise interested parties how to request the Board to initiate the rulemaking process. In connection with this regulatory project, the following documents are attached.

- Waiver from Occupational Licensing Review Commission Page 2
- Notice of Intent Page 4
- Proposed Rule Changes Page 5
- Family Impact Statement Page 6
- Poverty Impact Statement Page 7
- Provider Impact Statement Page 8
- Regulatory Flexibility Analysis Page 9
- Solicitation of Comments Page 10
- Fiscal & Economic Impact Statement Page 11

As indicated in the solicitation, we will convene a public hearing on December 27, 2019 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 about this project, please contact me directly at 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
Speaker, House of Representatives
Via Email: APA.HouseSpeaker@legis.la.gov
Chair, House Health & Welfare Committee
Via Email: APA.H-HW@legis.la.gov
Director, Community Outreach Services, La. Economic Development
Via Email: Pat.Witty@la.gov
Editor, *Louisiana Register*
Via Email: Reg.Submission@la.gov
Reference File

From: [Occupational Licensing Review Commission](#)
To: [Malcolm J. Broussard](#); [Occupational Licensing Review Commission](#)
Cc: [Catherine Brindley](#); [Reg Submission](#)
Subject: RE: Pharmacy Board / [Regulatory Project 2019-14 ~ Rulemaking Procedures](#)
Date: Monday, April 22, 2019 10:14:13 AM
Attachments: [image001.png](#)

Malcolm,

The Pharmacy Board may proceed with the normal APA procedures without going through the OLRC for this rule.

Thanks,

Ellen

Ellen Palmintier

Assistant Executive Counsel

Director of Boards & Commissions



225.342.0919

225.208.1531 (fax)

ellen.palmintier@la.gov

gov.louisiana.gov

From: Malcolm J. Broussard [mailto:mbroussard@pharmacy.la.gov]
Sent: Wednesday, April 17, 2019 2:32 PM
To: Occupational Licensing Review Commission
Cc: Catherine Brindley; Reg Submission
Subject: Pharmacy Board / Regulatory Project 2019-14 ~ Rulemaking Procedures

The Board of Pharmacy has directed the initiation of the rulemaking process to amend its rules to describe a process for the public to petition the Board to engage in rulemaking. In connection with *Regulatory Project 2019-14 ~ Rulemaking Procedures*, you should find the following documents attached to this message:

- Memorandum to Occupational Licensing Review Commission;
- Notice of Intent; and
- Fiscal & Economic Impact Statement.

We look forward to your review of this regulatory project to determine the necessity for its consideration by the Commission. If your determination is that no approval by the Commission is required, we would appreciate your communication to that effect. In the alternative, we thank you for confirming the scheduling of the Commission's consideration.

Please let me know if you have any questions or need additional information.

Thanks,
Malcolm



Malcolm J. Broussard
Executive Director
Louisiana Board of Pharmacy
3388 Brentwood Drive
Baton Rouge, LA 70809-1700
Telephone 225.925.6481
mbroussard@pharmacy.la.gov

In compliance with Act 2018-655, the Board gives notice to its licensees and applicants of their opportunity to file a complaint about board actions or board procedures. You may submit such complaints to one or more of the following organizations:

- (1) Louisiana Board of Pharmacy; 3388 Brentwood Dr.; Baton Rouge, LA 70804; 225.925.6496; info@pharmacy.la.gov.
- (2) Committee on House & Governmental Affairs; La. House of Representatives; PO Box 94062; Baton Rouge, LA 70804; 225.342.2403; obriens@legis.la.gov.
- (3) Committee on Senate & Governmental Affairs; La. Senate; PO Box 94183; Baton Rouge, LA 70804; 225.342.9845; s&g@legis.la.gov.

Notice of Intent

Department of Health Board of Pharmacy

Rulemaking Procedures (LAC 46:LIII.113)

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 promulgate a new Section 113 to establish rules relative to rulemaking procedures. The Administrative Procedures Act requires agencies to establish rules describing a process for the public to petition the agency to adopt or amend rules. The proposed new section of rules describes a process for the public to request the Board to engage in rulemaking.

Louisiana Administrative Code

Title 46 – Professional and Occupational Standards

Part LIII – Pharmacists

Chapter 1. Introduction

* * *

113. Rulemaking Procedures

A. Petitions from Interested Persons

1. All petitions, whether requesting the adoption, amendment, or repeal of a rule shall be submitted in written form on plain white bond paper which is letter size (8 ½” by 11”). The text shall be framed with a margin of at least one inch on all sides, shall have a pitch of not less than 10 characters per inch, and shall be double-spaced; provided however that quotations may be single-spaced as may other matter customarily presented in that manner.
2. The petition shall include the name, address, telephone number and email address of the petitioner as well as any organization the petitioner represents.
3. The petition shall explain the reason(s) for the requested action as well as what results would be expected from such action. The petition shall provide an estimate of the revenues and expenditures expected if the requested action is adopted.
4. The petition shall be considered by the board at its next regular meeting provided the complete petition is received at least 30 days prior to that meeting.

B. Board Initiatives

1. The board may refer topics to the Regulation Revision Committee, either during a board meeting or through the president in the interim between board meetings.

C. Administrative Procedures Act

1. When the board approves a regulatory proposal for rulemaking, the board shall comply with the Administrative Procedures Act at R.S. 49:950 *et seq.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:953.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, 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.

The proposed rule will have 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.

The proposed rule will have 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.

The proposed rule will have no effect on the functioning of the family.

IV. The effect on family earnings and family budget.

The proposed rule will have no effect on family earnings or family budget.

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

The proposed rule will have 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.

The proposed rule will have 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.

The proposed rule will have no effect on household income, assets, or financial security.

II. The effect on early childhood development and preschool through postsecondary education development.

The proposed rule will have no effect on early childhood development or preschool through postsecondary education development.

III. The effect on employment and workforce development.

The proposed rule will have no effect on employment or workforce development.

IV. The effect on taxes and tax credits.

The proposed rule will have no effect on taxes or tax credits.

V. The effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

The proposed rule will have 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.

The proposed rule will have no effect on the staffing level requirements or qualifications required 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.

The proposed rule will have no effect on the cost to the provider to provide the same level of service.

III. The overall effect on the ability of the provider to provide the same level of service.

The proposed rule will have 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.

There are no reporting requirements in the proposed rule.

II. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

There are no specific reporting requirements in the proposed rule.

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

There are no specific 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.

There are no design or operational standards in the proposed rule.

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.

SOLICITATION OF COMMENTS

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Malcolm J Broussard, Executive Director, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, Louisiana 70809-1700. He is responsible for responding to inquiries regarding the proposed rule amendment. A public hearing to solicit comments and testimony on the proposed rule amendment is scheduled for 9:00 a.m. on Tuesday, November 26, 2019. During the hearing, 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. To request reasonable accommodations for persons with disabilities, please call the Board office at 225.925.6496.

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 will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in a one-time expense of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule describes a procedure for the public to request the LBP to engage in rulemaking on a certain topic.

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

The proposed rule will not affect revenue collections for state or local governmental units.

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

The proposed rule will benefit members of the public, as it describes a procedure for them to request the LBP to engage in rulemaking on a certain topic.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not affect competition or employment.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement: Malcolm J. Broussard Executive Director Dept.: Health
Office: Board of Pharmacy
Phone: (225) 925-6481 Title: Rulemaking Procedures
Return Address: 3388 Brentwood Drive Effective Date of Rule: Upon promulgation
Baton Rouge, LA 70809 April 1, 2020 (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 will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in a one-time expense of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule describes a procedure for the public to request the LBP to engage in rulemaking on a certain topic.

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

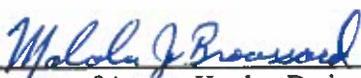
The proposed rule will not affect revenue collections for state or local governmental units.

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

The proposed rule will benefit members of the public, as it describes a procedure for them to request the LBP to engage in rulemaking on a certain topic.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule will not affect competition or employment.


Signature of Agency Head or Designee

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


Legislative Fiscal Officer or Designee

11/8/19
Date of Signature

November 7, 2019
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 proposed rule will describe a process for the public to petition the Board to engage in the rulemaking process.

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

The Administrative Procedures Act, more specifically at R.S. 49:953(C), requires the Board to describe a process for the public to petition the Board to engage in rulemaking procedures. The Board seeks to implement the legislative mandate.

- 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 has allocated \$1,000 each for printing the Notice of Intent and the Final Rule. The Board operates on self-generated 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) No. If no, provide justification as to why this rule change should be published at this time.

The Board seeks to implement the legislative mandate in the Administrative Procedures Act.

- 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.

No small businesses are subject to the proposed rule.

- (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.

There are no specific reporting, recordkeeping or other administrative costs required by the proposed rule.

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

The proposed rule will have no 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 19-20</u>	<u>FY 20-21</u>	<u>FY 21-22</u>
PERSONAL SERVICES	\$ 0	\$ 0	\$ 0
OPERATING EXPENSES	\$ 2,000	\$ 0	\$ 0
PROFESSIONAL SERVICES	\$ 0	\$ 0	\$ 0
OTHER CHARGES	\$ 0	\$ 0	\$ 0
EQUIPMENT	\$ 0	\$ 0	\$ 0
MAJOR REPAIR & CONSTR.	\$ 0	\$ 0	\$ 0
TOTAL	\$ 2,000	\$ 0	\$ 0
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 proposed rule will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in a one-time expense of \$2,000 for FY 20. There are no other costs or savings for other local or state governmental units. The proposed rule describes a procedure for the public to request the LBP to engage in rulemaking on a certain topic.

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

<u>SOURCE</u>	<u>FY 19-20</u>	<u>FY 20-21</u>	<u>FY 21-22</u>
STATE GENERAL FUND	\$ 0	\$ 0	\$ 0
AGENCY SELF-GENERATED	\$ 2,000	\$ 0	\$ 0
DEDICATED	\$ 0	\$ 0	\$ 0
FEDERAL FUNDS	\$ 0	\$ 0	\$ 0
OTHER (Specify)	\$ 0	\$ 0	\$ 0
TOTAL	\$ 2,000	\$ 0	\$ 0

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 available to implement the proposed rule.

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

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

The proposed rule will have no cost savings for local governmental units.

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 19-20</u>	<u>FY 20-21</u>	<u>FY 21-22</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
TOTAL	\$ 0	\$ 0	\$ 0

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.

The proposed rule will not affect on revenue collections for state or local governmental units.

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 proposed rule will benefit members of the public, as it describes a procedure for them to request the Board to engage in rulemaking on a certain topic.

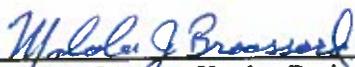
Also provide an estimate and a narrative description of any impact on receipts and/or income (revenue) resulting from this rule or rule change to these groups.

The proposed rule will not affect receipts or revenue.

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 will not affect competition or employment.



Signature of Agency Head or Designee

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

November 7, 2019
Date of Signature