

Title: Pharmacies & Independent Marketing Contractors

Policy No. I.A.21

Approved: 02-24-2016

Revised:

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1. Act 409 of the 2015 Legislature amended the Pharmacy Practice Act, more specifically at R.S. 37:1241(A) by adding two sections therein, to wit:

The Board may, ...[discipline a licensee] ... upon proof that the person:

(23) Has used an independent contractor to provide marketing services for the pharmacy to any practitioner, authorized prescriber, or prospective customer in Louisiana in exchange for compensation unless the compensation paid is an amount set in advance, consistent with fair market value, and not calculated based on the volume or value of actual prescriptions filled by the pharmacy.

(24) Has dispensed or distributed any drug or device to any patient pursuant to a prescription written by a practitioner or a member of the practitioner's group practice if the practitioner or an immediate family member of the practitioner has a direct or indirect financial relationship with the dispensing or distributing pharmacy, unless the financial relationship meets all of the requirements of R.S. 37:1745. Nothing in this Paragraph shall prohibit a practitioner or an immediate family member of a practitioner from having an ownership interest in a pharmacy.

2. Through its counsel, Fountain Park Pharmacy in Harvey, La. petitioned the Board for an advisory opinion on whether the activity described in (23) was applicable to all of the Louisiana-licensed pharmacy's marketing activities, or in the alternative, to only those activities occurring within the state of Louisiana.
3. Following a presentation from the pharmacy's counsel and subsequent deliberation, the Board adopted the following motion after a unanimous vote in the affirmative of the members present and voting.

Resolved, that the Board interpret La. R.S. 37:1241(A)(23) such that the marketing activities prohibited in the statute refer to activities conducted within Louisiana and do not address activities conducted outside the state.