Part IV. Permit Requirements

§1221. Unlawful operation

A. No person shall open, establish, operate, or maintain a pharmacy, located within this state, unless the pharmacy is issued a permit by the board.

B. No out-of-state pharmacy providing pharmacy services to residents of this state shall open, establish, operate, or maintain a pharmacy, located out-of-state, unless the pharmacy is issued a permit by the board.

C. No permit to operate a pharmacy shall be granted or renewed unless evidence satisfactory to the board ensures that a pharmacist in the state where the permit is issued and pharmacy is located will be on duty during normal hours as administratively defined.

§1222. Qualifications

A. A person applying for a permit to open, establish, operate, or maintain a pharmacy, within or outside of this state, shall complete an application in such form and contain such data as the board may require, and complete such other requirements as deemed necessary by the board, including but not limited to designation and identification of a pharmacist-in-charge.

B. Each pharmacy shall ensure accessibility to pharmacy primary care for the public as defined by the board.

C. Each pharmacy permitted by the board may designate a registered agent in this state for service of process.

D. Any such person who does not so designate a registered agent shall be deemed to have designated the secretary of state to be its agent, upon whom may be served all legal process in any action or proceeding against such pharmacy.

E. A permit to operate a pharmacy shall not be transferable.

§1223. Classifications

A. The board shall determine the permit classifications of all persons permitted under this Part, and establish minimum standards for such persons.

B. The board shall establish the criteria that each permit holder must meet to qualify for a permit in each classification. The board may issue a permit with varying restrictions to such persons where the board deems it necessary.

§1224. Compounding and filling of prescriptions; absence of pharmacist

A. In each pharmacy there shall be a pharmacist on duty at all times. The filling, compounding and dispensing of prescriptions, and the making of pharmacy-generated drugs, shall be accomplished in compliance with standards established by the board by rule. The performance of these activities shall be limited to pharmacists and pharmacy interns, pharmacy technicians, and pharmacy technician candidates acting under the supervision of a pharmacist.
(Amended by Act 168 of 2013 Legislature, effective August 1, 2013)

B. If the pharmacist should find it necessary to be temporarily absent, leaving the prescription department unattended either by a pharmacist or a pharmacy technician, then the prescription department shall be closed.

C. The board shall establish criteria for the temporary absence of a pharmacist from the prescription department.

D. Notwithstanding any provision of law to the contrary, after the pharmacist or pharmacy technician has complied with all duties imposed upon him by law regarding a prescription, a cashier or other clerical person may lawfully deliver the drug or device and collect payment therefor.

E. A prescription may be filled, compounded, and dispensed at the permitted pharmacy which first received the prescription or at any other permitted pharmacy to which the prescription is properly transferred from the originating pharmacy. A prescription may be properly transferred through the transfer of prescription information from one pharmacy to another manually or through an electronic transfer using an electronic file updated on a real-time on-line basis and shared by two or more pharmacies. Electronic transfers of prescriptions shall be permitted regardless of whether or not the pharmacy from which the prescription is transferred is open for business.

F. (*Repealed by Act 83 of the 2000 Legislature, effective June 6, 2000.)*

§1224.1. Filling of additional refills in anticipation of authorization

Notwithstanding any provision of law to the contrary, when all refills authorized on an original prescription have been dispensed, additional prescription refills may be added to the original prescription and compounded, filled, and labeled prior to the receipt of authorization for the additional refills from the prescriber, provided that no additional prescription refill may be transferred to the patient or the patient's representative prior to the receipt of such authorization from the prescriber, and provided that the date and time of such authorization and the name of the person transmitting the authorization is maintained in the prescription record and is immediately accessible on-line and retrievable in a hard copy within seventy-two hours of request.

§1225. Labeling of drugs and prescriptions

All receptacles containing compounded or filled prescriptions shall bear a label showing the prescription number, the initials of the pharmacist actually and personally responsible for drug regimen review, filling, compounding or dispensing the prescription, adequate directions for use unless stated otherwise by the prescriber, the date of its compounding or filling, and the name of the pharmacy. Each permitted pharmacy shall post a legibly written list of names of all pharmacists dispensing medication in the pharmacy for viewing by its employees. Any such label shall include all information required by federal law.

§1226. Prescription; name of patient

No pharmacist or dispensing physician shall fill any prescription unless the name of the patient and the trade name, or the generic name, or the most commonly used name of the medication and/or device appears on the label, unless otherwise specified by the practitioner.

§1226.1. *(Added by Act 1031 of 2001 Legislature, effective August 15, 2001; Repealed by Act 811 of 2004 Legislature, effective August 15, 2004)*

§1226.1. Communication to the prescriber

A. No later than five business days following the dispensing of a biological product, the dispensing pharmacist or his designee shall communicate to the prescriber the specific product provided to the patient, including the name of the product and the manufacturer.

B. The required communication included in Subsection A of this Section may be done by any means.

C. No communication shall be required if there is no interchangeable or therapeutically equivalent biological product approved by the United States Food and Drug Administration for the product prescribed, or if the prescription is a refill not changed from the product dispensed on the prior filling of the prescription.

D. Nothing in this Section shall create a cause of action against the prescriber and the dispensing pharmacist or his designee for a communication as required pursuant to this Section.

E. No communication shall be required pursuant to this Section if the prescriber indicates “dispense as written.”

(Added by Act 391 of 2015 Legislature, effective August 1, 2015; technical amendment by Act 206 of 2018 Legislature, effective August 1, 2018.)

§1226.2. Prescription drug returns, exchanges, and redispensing; donation requirements; authority to promulgate rules; limitation of liability

A. All drugs dispensed on prescription to a patient shall be accepted for return, exchange, or redispensing by a charitable pharmacy after such drugs have been removed from the pharmacy premises where they were dispensed including but not limited to:

(1) In a hospital with a permitted hospital pharmacy on site, drugs may be returned to the pharmacy in accordance with good professional practice standards.

(2) Any person, including a drug manufacturer, hospital, health care facility, or governmental entity may donate prescription drugs to a charitable pharmacy for relabeling and dispensing to the indigent, free of charge, pursuant to a valid prescription order.

B. Donations of prescription drugs to a charitable pharmacy are subject to the following requirements:

(1) The charitable pharmacy may accept drugs in their original sealed and tamper-evident packaging, including drugs packaged in single-unit doses, including blister packs. These drugs may be dispensed when the outside packaging is opened if the single-unit dose packaging is intact, subject to the provisions of Paragraph (B)(2) of this Section.
(Amended by Act 643 of 2006 Legislature, effective August 15, 2006)

(2) The pharmacist in charge of the charitable pharmacy shall determine if the drug is not adulterated or misbranded and is safe to dispense. No product where the integrity of the medication cannot be assured shall be redispensed by the pharmacist of the charitable pharmacy.
(Amended by Act 643 of 2006 Legislature, effective August 15, 2006)

(3) The donor shall execute a form stating the donation of the drugs. The pharmacy shall retain that form along with other acquisition records.

(4) The patient's name, prescription number, and any other identifying marks shall be obliterated from the packaging prior to redispensing the medication to another patient.

(5) The drug name, strength, and expiration date shall remain on the medication package label. The redispensed medication shall be assigned the expiration date stated on the package.

(6) Expired drugs accepted by a charitable pharmacy shall not be redispensed.

(7) The charitable pharmacy shall comply with all state and federal laws regarding controlled substances.

(8) No drug dispensed through a charitable pharmacy shall be eligible for reimbursement from the Medicaid Pharmacy Program.

(9) In the event that a charitable pharmacy in the closest proximity to the donor refuses the donation, such refusal shall be documented by the donor, who then may make the donation to the Department of Public Safety and Corrections – Corrections Services for distribution to the penal institution pharmacies under its authority.
(Added by Act 797 of 2006 Legislature, effective August 15, 2006)

C. The board shall have the authority to promulgate rules and regulations in accordance with the Administrative Procedure Act for the purpose of administering the provisions of this Section.

D. (1) No person, including a drug manufacturer, healthcare facility, or governmental agency who donates prescription drugs to a charitable pharmacy, as well as the charitable pharmacy, any pharmacist who originally dispensed the donated prescription drugs, any pharmacist dispensing donated prescription drugs, or the Louisiana Board of Pharmacy shall be subject to any professional disciplinary action, criminal prosecution, liability in tort or other civil action for injury, death, or loss to person or property related to the donating, accepting, or dispensing of donated prescription drugs.
(Technical amendments by Act 206 of 2018 Legislature, effective August 1, 2018)

(2) No pharmaceutical manufacturer shall be liable for any claim or injury arising from the transfer of any prescription drug pursuant to the provisions of this Section, including but not limited to liability for failure to transfer or communicate product or consumer information regarding the transferred drug, as well as the expiration date of the transferred drug.

E. For purposes of this Section "charitable pharmacy" means the practice of a pharmacy at a site where prescriptions are dispensed by a charitable organization free of charge to appropriately screened and qualified patients.

(Added by Act 811 of 2004 Legislature, effective August 15, 2004)

F. A hospital, health care facility, or governmental entity enrolled in the Medicaid program shall attempt to donate all unused or surplus prescription drugs meeting the criteria in Subsections A and B of this Section to charitable pharmacies. The provisions of this Subsection shall not apply to any hospital, health care facility, or governmental entity owned by or operated by an agency or department of the executive branch of the state.

G. In the event such hospital, health care facility, or governmental entity does not have a charitable pharmacy within twenty miles of its location, the charitable pharmacy shall have the obligation to obtain those prescription drugs. In the event the charitable pharmacy is unable to make such arrangements, there shall be no such requirement on the part of the hospital, health care facility or governmental entity to donate the drugs.

H. Notwithstanding any other provision of law to the contrary, a faith-based charitable pharmacy shall not be required to accept any prescription drugs it deems to conflict with its faith values.

I. For the purpose of this Section, "governmental entity" shall mean a health care facility owned and operated by a political subdivision of the state.

(Added by Act 643 of 2006 Legislature, effective August 15, 2006)

§1226.3 Prescription drugs, returns, exchanges and re-dispensing in pharmacies serving certain correctional facilities; authority to promulgate rules.

A. Except as provided in Subsection B of this Section, all drugs dispensed on prescription to an offender in the custody of the Department of Public Safety and Corrections, or in the custody of a local law

enforcement office or department, may be accepted for return, exchange or re-dispensing by a pharmacy operated by or under contract with the department, or by a pharmacy authorized by the board to provide prescriptions to a local law enforcement office or department.

B. The pharmacist-in-charge of the pharmacy shall determine that the returned drug is not adulterated, expired, or misbranded and is safe to dispense. No product shall be re-dispensed by the pharmacist if the integrity of the medication cannot be assured. A drug that can be dispensed only to a patient registered with the drug's manufacturer in accordance with federal Food and Drug Administration requirements shall not be accepted or redispensed under the provisions of the program provided for in this Section.

C. No pharmaceutical manufacturer shall be liable for any claim or injury arising from the re-dispensing of any prescription drug pursuant to the provisions of this Section, including but not limited to liability for failure to transfer or communicate product or consumer information regarding the re-dispensed drug, as well as the expiration date of the re-dispensed drug.

D. The Louisiana Board of Pharmacy shall have the authority to promulgate rules in accordance with the Administrative Procedure Act for the purpose of administering the provisions of this Section.

(Added by Act 315 of 2011 Legislature, effective June 28, 2011; amended by Act 310 of 2016 Legislature, effective August 1, 2016.)

§1226.4 Chart orders; bidirectional transmission; renewal

A. The institutional facility is the only party to the prescription drug chart order that shall be required to maintain a copy of the prescriber's signature unless otherwise required by federal law.

B. Bidirectional electronic transmission of chart orders between the institutional facility and the pharmacy shall be permitted when transmission occurs in a manner that complies with rules promulgated by the Centers for Medicare and Medicaid Service and other federal rules or regulations.

C. Renewal of ongoing chart orders shall be signed by the prescriber at the appropriate time interval based on facility type and federal regulations, state law, or rule. Unless otherwise indicated, chart orders shall be ongoing until such time as the practitioner discontinues the order and such discontinuation is communicated to the pharmacy.

D. The board may promulgate rules to recognize and regulate the use of chart orders that are not otherwise specifically provided for in this Section.

(Added by Act 602 of 2018 Legislature, effective August 1, 2018)

§1227. Display of permits

Permits issued under the provisions of this Part shall be conspicuously displayed in the place for which the permit was granted.

§1228. Equipment required of pharmacy

The board shall determine, by regulation, all standards for professional, technical, equipment and any other requirements deemed necessary for a pharmacy to possess, in order to operate in the best interest of the health, safety and welfare of the public.

§1229. Records of prescription; retention; inspection

A. There shall be kept in every pharmacy a suitable book, file, or electronic record keeping system in which shall be preserved, for a period of not less than two years, or such longer period as may be mandated by other applicable law or regulation, a record of every prescription filled, compounded, or dispensed. Such book, file, or electronic record of prescriptions shall be open to inspection by the board, or its authorized agents or employees during hours of operation.

B. Records maintained electronically pursuant to this Section shall contain all information required in a manual records system. The electronic record keeping system shall be capable of producing a hard copy printout of the prescription record within seventy-two hours of request.

C. The board shall not impose stricter record keeping requirements on electronic files than those requirements imposed on manual systems.

F. As used in this Section, "electronic record keeping system" means a system, including machines, methods of organization, and procedures, that provides input, storage, processing, communications, output, and control functions for digitized representations of original prescriptions.

§1230. Renewal of permits; expiration; reinstatement

A. (1) Each pharmacy issued a permit by the board shall apply for renewal annually, at the time designated

by the board and pay a fee specified by the board.

(2) (a) (i) The board shall assess on each annual pharmacy permit renewal required by this Section an additional fee of one hundred dollars per year to be designated as the "pharmacy education support fee." This fee shall be dedicated and allocated as specified in this Paragraph to an accredited school of pharmacy of a public university in this state. The board shall include on each permit renewal form issued to a pharmacy an optional election whereby the pharmacy may elect not to remit the one hundred dollar pharmacy education support fee.

(ii) For purposes of this Paragraph, "accredited" shall mean possession of current accreditation from the Accreditation Council for Pharmacy Education.

(b) The board shall disburse all monies collected pursuant to this Paragraph to an accredited public university pharmacy school in this state on or before April first annually. The public university pharmacy school shall utilize these monies solely for the benefit of its pharmacy education program and the expenditure of such funds shall be approved by the board of supervisors of the university system of which the university is a member. The funds collected pursuant to this Paragraph shall be in addition to any other monies received by the university that operates the pharmacy school and are intended to supplement and not replace, displace, or supplant any other funds that the university receives from the state or from any other source.

(Amended by Act 298 of 2015 Legislature, effective August 1, 2015.)

B. Any person who desires to continue to operate or maintain a pharmacy within or outside of the state shall file an application with the board for renewal in such form and contain such information as the board may require and complete such other requirement as deemed necessary by the board.

C. Application for renewal of a permit shall be made available on or before a date designated by the board. If a permit holder fails to make application to the board for renewal of his permit within a period determined by the board, the existing permit shall expire and become null and void.
(Amended by Act 357 of 2012 Legislature, effective August 1, 2012)

D. In order to reinstate an expired permit, the permit holder shall meet requirements established by the board.

§1231. Agreements; notifications

A. The board may enter into agreements with other states or with third parties for the purpose of exchanging information concerning the permitting and inspection of entities located in this state and those located outside the state.

B. All permitted persons shall report to the board the occurrence of any of the following:

(1) Permanent closing.

(2) Change of ownership, management, location, or pharmacist-in-charge of a pharmacy.

(3) Any theft or significant loss of drugs or devices.

(4) Any known conviction of any employee of any state or federal drug laws.

(5) Disasters, accidents, or any theft, destruction, or loss of records required to be maintained by state or federal law.

§1232. Nonresident pharmacy

A. A pharmacy located outside this state which does business in this state within the meaning of this Chapter, shall hold a current pharmacy permit as provided in this Chapter. The pharmacy shall be designated a "nonresident pharmacy" and the permit shall be designated a "nonresident pharmacy permit."
(Amended by Act 282 of 2013 Legislature, effective August 1, 2013)

B. A nonresident pharmacy granted a nonresident pharmacy permit by the board shall disclose to the board the location, names, and titles of all principal corporate officers, as well as the owner's managing officer and pharmacist-in-charge. A report containing this information shall be made to the board on an annual basis and within thirty business days after any change of office, corporate officer, or within ten business days of the departure of the prior owner's managing officer or pharmacist in charge.
(Amended by Act 164 of 2006 Legislature, effective August 15, 2006; further amended by Act 282 of 2013 Legislature, effective August 1, 2013)

C. The nonresident pharmacy shall maintain at all times authorization to conduct the pharmacy in compliance with the laws of the state in which it is a resident. As a prerequisite to seeking a permit from the board, the nonresident pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located, as well as any other state pharmacy licensing agency or any agent thereof, and any inspection

reports produced by the federal Food and Drug Administration or the federal Drug Enforcement Administration. Thereafter, the nonresident pharmacy granted a permit shall submit to the board a copy of any subsequent inspection report on the pharmacy conducted by the regulatory or licensing body of the state in which it is located, or by any other state pharmacy licensing agency, or any agent thereof, or by the federal Food and Drug Administration or the federal Drug Enforcement Administration. In addition to or in lieu of an inspection by the regulatory or licensing body of the state in which it is a resident, or any agent thereof, the nonresident pharmacy shall be subject to an inspection by the board. When the board conducts an inspection of a nonresident pharmacy, the board shall recover its expenses from the nonresident pharmacy in addition to the applicable permit fee authorized by this Chapter.
(Amended by Act 282 of 2013 Legislature, effective August 1, 2013)

D. A nonresident pharmacy granted a nonresident pharmacy permit by the board shall maintain records of any controlled substances or dangerous drugs or devices dispensed to patients in this state so that the records are readily retrievable from the records of other drugs dispensed.
(Amended by Act 282 of 2013 Legislature, effective August 1, 2013)

E. Records for all prescriptions and products delivered into the state shall be readily retrievable from the other prescription records of the nonresident pharmacy and shall be in compliance with all federal laws, and regulations as may be required by this state.
(Amended by Act 282 of 2013 Legislature, effective August 1, 2013.)