Louisiana Revised Statutes of 1950

Title 37 – Professions and Occupations

Chapter 14 – Pharmacy Practice Act

*[**Editor's Note**: The Louisiana Pharmacy Practice Act was substantially revised and reorganized under the authority of Act 767 of the 1999 Louisiana Legislature. Subsequent amendments are noted herein.]*

Part A. General Provisions

§1161. Short title

This Chapter shall be known as the "Louisiana Pharmacy Practice Act".

§1162. Legislative declaration

The practice of pharmacy in the state of Louisiana is declared a professional practice affecting the public health, safety, and welfare and is subject to regulation and control in the public interest. Therefore, any rule or regulation adopted relative to pharmacists and the operations of pharmacies, including any amendment, modification, or repeal thereof, shall be adopted as provided by the Administrative Procedure Act and shall be effective only upon approval by the respective oversight committees having jurisdiction over matters relative to pharmacists and the operation of pharmacies. It is further declared to be a matter of public interest and concern that the practice of pharmacy, as defined in this Chapter, merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of pharmacy. This Chapter shall be liberally construed to carry out these objectives and purposes.

§1163. Statement of purpose

It is the purpose of this Chapter to promote, preserve, and protect the public health, safety, and welfare by and through the effective control and regulation of the practice of pharmacy; the licensure of pharmacists; and the licensure, permitting, certification, registration, control, and regulation of all persons or sites, in or out of this state that sell drugs or devices to consumers and/or patients or assist in the practice of pharmacy, within the state.

§1164. Definitions

As used in this Chapter, the following terms have the meaning ascribed to them by this Section:

(1) *"Administer"* or *"administration"* means the direct application of a drug to the body of a patient or research subject by injection, inhalation, ingestion, or any other means.

(2) *"Approved college of pharmacy"* means an educational institution approved by the board which meets one of the following additional criteria:

(a) A college or school of pharmacy which is accredited by the Accreditation Council for Pharmacy Education.

(b) A foreign college or school of pharmacy which is listed in the World Health Organization's "World Directory of Schools of Pharmacy" and whose graduate has attained educational equivalency status through a mechanism established by the board.

(*Amended by Act 164 of 2006 Legislature, effective August 15, 2006; further amended by Act 112 of 2013 Legislature, effective August 1, 2013*)

(3) *"Automated medication system"* includes, but is not limited to, a mechanical system that perform operations or activities, other than compounding or administration, relative to the storage, packaging, or delivery of medications, and which collects, controls, and maintains all transaction information. An automated medication system may be profile driven, non-profile driven, or a combination of both.

(a) *"Profile driven"* system requires that medication orders/prescriptions be reviewed by the pharmacist for appropriateness, dosage, and contraindications prior to, or concomitantly with, being entered into the system, and before access is allowed into the system for medication administration.

(b)(i) *"Non-profile driven"* system does not require prior or concomitant pharmacist review of medication orders/prescriptions in order to gain access to the system for medication administration. A non-profile driven system may include, but is not limited to, a night drug cabinet, emergency drug kit, or floor stock/first dose cabinet.

(ii) *"Floor stock/first dose cabinet"* is a medication storage device, which shall be used by personnel, authorized by a protocol established by the pharmacist-in-charge, to gain access to doses as needed and first doses in patient-care areas. In addition, a floor stock/first dose cabinet may be used to store medications in such specialty areas including, but not limited to, an emergency room, surgery suite, and endoscopy suite.

(4) *"Board"* means the Louisiana Board of Pharmacy.

(5) *"Compounding"* means the preparation, mixing, assembling, packaging, or labeling of a drug or device by a pharmacist for his patient as the result of a practitioner's prescription drug order or initiative based on the practitioner/patient/pharmacist relationship in the course of professional practice, or including the preparation of drugs or devices in anticipation of prescription drug orders to be received by the compounding pharmacist based on routine, regularly observed prescribing patterns. Compounding does not include the compounding of drug products that are essentially copies of a commercially available product.

(6) *"Confidential information"* means information accessed, maintained by, or transmitted to a pharmacist in the patient's records or which is communicated to the patient as part of patient counseling, which is privileged and may be released only to the patient or, to those practitioners, other authorized health care professionals, and other pharmacists when, in a pharmacist's professional judgment, such release is necessary to protect the patient's health and well being; and to such other persons or agencies authorized by law to receive such confidential information regardless of whether such information is in the form of paper, preserved on microfilm, or is stored on electronic media.

(7) *"Costs"* is a monetary amount assessed to cover administrative expenses, including but not limited to licensure, permitting, certification, registration, and the investigation and prosecution of a disciplinary action.

(8) *"Deliver"* or *"delivery"* means the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for a consideration.

(9) *"Device"* means an instrument, apparatus, implement, machine, contrivance, implant, or other similar or related article, including any component part or accessory, which is required under federal law to bear the label, "Caution: Federal or State law requires dispensing by or on the order of a physician" and/or "Rx Only", or any other designation required under federal law.

(10) *"Dispense"* or *"dispensing"* means the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. "Dispense" necessarily includes a transfer of possession of a drug or device to the patient or the patient's agent.

(11) *"Distribute"* or *"distribution"* means the delivery of a drug or device other than by administering or dispensing.

(12) *"Drug"* means: (a) any substance recognized as a drug in the official compendium, or supplement thereto, designated by the board for use in the diagnosis, cure, mitigation, treatment or prevention of diseases in humans or animals, (b) any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals, or (c) any substance other than food intended to affect the structure or any function of the body of humans or other animals.

(13) *"Drug regimen review"* means and includes, but is not limited to, the following activities:
(a) Review of the prescription drug order and patient record for: [i] known allergies, [ii] therapy contraindications, [iii] dose and route of administration, and [iv] directions for use;
(b) Review of the prescription drug order and patient record for duplication of therapy;
(c) Review of the prescription drug order and patient record for interactions; and
(d) Review of the prescription drug order and patient record for proper utilization including over- or under- utilization, and optimum therapeutic outcomes.

(14) *"Electronic transmission"* means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(15) *"Emergency drug kit (EDK)"* for long-term care facilities (LTCF) or other board approved sites, other than a hospital, means a drug kit containing designated drugs which may be required to meet the immediate therapeutic emergency needs of a resident or patient.

(16) *"Equivalent drug product"* means either of the following:
(a) A drug product that has been rated as a pharmaceutical equivalent by the United States Food and Drug Administration (FDA) and has the same established name, active ingredients, strength or concentration, dosage form, and route of administration and which is formulated to contain the same amount of active ingredients in the same dosage form and to meet the same compendial or other applicable standards such as strength, quality, purity, and identity, but which may differ in characteristics such as shape, scoring, configuration, packaging, excipients including colors, flavors, preservatives, and expiration time.
(b) A biological product that is either one of the following:

(1) Deemed by the United States Food and Drug Administration as meeting the standard set forth in 42 U.S.C. 262(k)(4) and rated as interchangeable in the *Lists of Licensed Biologic Products with Reference Product Exclusivity and Biosimilarity and Interchangeability Evaluations*, sometimes referred to as the “Purple Book:, or its successors.

(2) Rated therapeutically equivalent by the United States Food and Drug Administration as set forth in the *Approved Drug Products with Therapeutic Equivalence Evaluations*, sometimes referred to as the “Orange Book”, or its successors.

(Amended by Act 391 of 2015 Legislature, effective August 1, 2015.)

(17) *"Final checks of work"* is the requirement that only a pharmacist supervises and releases the completed product prepared by a pharmacy technician.

(18) *"Hospital pharmacy"* means a pharmacy department located in a hospital licensed under R.S. 40:2100 et seq. For the purposes of this Chapter a hospital pharmacy is one example of a primary care treatment modality pharmacy.

(19) *"Infusion pharmacy"* means a pharmacy that provides prepared solutions for direct administration to a patient in a private residence, long term care facility, or hospice setting by means of irrigation, enteral, parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion.

(20) *"Institutional facility"* means any organization whose primary purpose is to provide a physical environment for a patient to obtain health care services, including but not limited to a:

(a) Hospital pharmacy.
(b) Convalescent home.
(c) Nursing home.
(d) Extended care facility.
(e) Mental health facility.
(f) Rehabilitation center.
(g) Psychiatric center.
(h) Developmental disability center.
(i) Drug abuse treatment center.
(j) Family planning clinic.
(k) Penal institution.
(l) Hospice.
(m) Public health facility.
(n) Athletic facility.

(21) *"Institutional pharmacy"* means that physical portion of an institutional facility where drugs, devices, and other materials used in the diagnosis and treatment of injury, illness, and disease are dispensed, compounded, and distributed and pharmacy primary care is provided; and is permitted by the board and is devoted exclusively to providing professional services to a patient in that institutional setting other than a hospital.

(22) *"Labeling"* means the process of preparing and affixing a label to any drug container exclusive, however, of the labeling by a manufacturer, packer, or distributor of a non-prescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation.

(23) *"Long term care facility"* means a nursing home, retirement care, mental care, or other facility or institution that provides extended health care to a residential patient, including but not limited to health care facilities licensed by the Department of Health and Hospitals.

(24) *"Manufacturer"* means a person who manufactures drugs and includes a labeler, primary distributor, or person who prepares drugs in dosage form by mixing.

(25) *"Manufacturing"* means the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, and the promotion and marketing of such drugs or devices. Manufacturing also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, practitioners, or other persons.

(26) *"Medical order"* means a lawful order of a practitioner that may or may not include a prescription.

(27) *"Non-prescription drug"* means a drug that may be sold without a prescription and that is labeled for use by the consumer in accordance with the federal and state laws and regulations.

(28) *"Out-of-state pharmacy"* means a pharmacy located outside this state.

(29) *"On-site facility"* means and refers to the location of a building that houses a board permitted pharmacy.

(30) *"Off-site facility"* means and refers to the location of a building that houses a licensee of the Department of Health and Hospitals, but which does not house a board permitted pharmacy.

(31) *"Patient counseling"* means the communication by a pharmacist of information, as defined by the regulations of the board, to the patient or caregiver, in order to ensure proper use of drugs and devices.

(32) *"Permit"* means the grant of authority by the board to any person authorizing the practice of pharmacy at a site.

(33) *"Person"* means an individual, corporation, partnership, association, or any other legal entity, including government.

(34) *"Pharmacist"* means an individual currently licensed by the board to engage in the practice of

pharmacy in the state.

(35) *"Pharmacist-in-charge"* means a pharmacist currently licensed by the board who accepts responsibility for the operation of a pharmacy in conformance with all laws and regulations pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of such pharmacy and personnel.

(36) *"Pharmacy"* means any place located within this state where drugs are dispensed and pharmacy primary care is provided, and any place outside of this state where drugs are dispensed and pharmacy primary care is provided to residents of this state.

(37)(a) *"Pharmacy collaborative drug therapy management"* means that practice whereby a pharmacist or pharmacists have, on a voluntary basis, agreed to manage the disease-specific drug therapy of a patient under written protocol, working in conjunction with a physician licensed to practice medicine by the Louisiana State Board of Medical Examiners. Pharmacy collaborative drug therapy management does not include the substitution by the pharmacist of a product that is not an equivalent drug product to the product originally prescribed by the physician or practitioner without the explicit consent of the physician or practitioner. Any pharmacy collaborative drug therapy management protocol shall adhere to rules and regulations promulgated by the board.

(b)(i) The Louisiana State Board of Medical Examiners and the Louisiana Board of Pharmacy shall initiate the rulemaking process in accordance with the provisions of the Administrative Procedure Act by publishing their respective notices of intent no later than one hundred twenty days following the effective date of this Subparagraph.

(ii) If both boards have not initiated the rulemaking process in accordance with the provisions of the Administrative Procedure Act by publishing their respective notices of intent by one hundred twenty days following the effective date of this Subparagraph, then the boards shall appoint a committee composed of three physicians and three pharmacists, the physicians by the Louisiana State Board of Medical Examiners and the pharmacists by the Louisiana Board of Pharmacy. This committee shall complete the drafting process no later than one hundred eighty days following the effective date of this Subparagraph.

(iii) If the boards have not initiated the rulemaking process in accordance with the provisions of the Administrative Procedure Act by publishing their respective notices of intent by one hundred eighty days following the effective date of this Subparagraph, then the Louisiana Board of Pharmacy shall have the authority to promulgate the rule required in R.S. 37:1164(37) independently of the Louisiana State Board of Medical Examiners.

(*Amended by Act 627 of 2006 Legislature, effective August 15, 2006*)

(38) *"Pharmacy primary care"* means bringing health care as close as possible to where people live and work and may constitute a portal of entry into the continuing health care process in an effort to enhance optimum therapeutic outcomes.

(39) *"Pharmacy intern"* means an individual who is:

(a) Engaged in the practice of pharmacy while under the direct and immediate supervision of a pharmacist for the purpose of obtaining practical experience for licensure as a pharmacist and is satisfactorily progressing in a board-approved college of pharmacy.

(b) A graduate of a board-approved college of pharmacy or a graduate who has established educational equivalency through a program approved by the board.

(c) A qualified applicant awaiting examination for licensure.

(d) An individual participating in a residency or fellowship.

(40) *"Pharmacy technician"* means an individual who assists in the practice of pharmacy under the direct and immediate supervision of a licensed pharmacist and is certified to do so by the board.

(41) *"Practice of pharmacy"* or *"practice of the profession of pharmacy"* means and includes the compounding, filling, dispensing, exchanging, giving, offering for sale, or selling, drugs, medicines, or poisons, pursuant to prescriptions or orders of physicians, dentists, veterinarians, or other licensed practitioners, or any other act, service operation or transaction incidental to or forming a part of any of the foregoing acts, requiring, involving or employing the science or art of any branch of the pharmacy profession, study or training.

(42) *"Practitioner"* means an individual currently licensed, registered, or otherwise authorized by the appropriate licensing board to prescribe and administer drugs in the course of professional practice.

(43) *"Preceptor"* means an individual who is currently licensed as a pharmacist by the board, meets certain qualifications as a preceptor as established by the board, and participates in the instructional training of pharmacy interns.

(44) *"Prescription"* or *"prescription drug order"* means an order from a practitioner authorized by law to prescribe for a drug or device that is patient specific and is communicated by any means to a pharmacist in a permitted pharmacy, and is to be preserved on file as required by law or regulation.

(45) *"Prescription drug"* or *"legend drug"* means a drug that is required by any applicable federal or state law or regulation to be dispensed or delivered pursuant only to a prescription drug order, or is restricted to use by practitioners only.

(46) *"Probation"* means a restriction of pharmacy practice for a specified period of time.

(47) *"Reciprocity"* means the acknowledgment and licensure of a pharmacist from another state or jurisdiction pursuant to procedures established by the board.

(48) *"Reprimand"* means a formal reproof of a person for violation of this Chapter or rules and regulations of the board.

(49) *"Reverse drug distributor"* means a person that receives and handles drugs that are expired, discontinued, adulterated, or misbranded, for the purposes of destruction or other final disposition or for return to the original manufacturer of a drug.

(50) *"Revocation"* is the withdrawal of the license, permit, certification, or registration authorized under this Chapter and means that a person under active revocation no longer has the privilege to practice in the state.

(51) *"Significant adverse drug reaction"* means any drug-related incident that may result in serious harm, injury, or death to the patient.

(52) *"Summary suspension"* means the suspension of a license, permit, certification, or registration that requires a person to cease practice immediately pending the results of a hearing.

(53) *"Suspension"* means the withdrawal of the license, permit, certification, or registration to practice pharmacy in the state for a period of time.

(54) *"Warning"* means a written notice issued to a person addressing possible aberrant conduct.

(55) *"Wholesale drug distribution"* means distribution of legend drugs to other than the consumer or patient, including but not limited to distribution by manufacturers, repackers, own label distributors, jobbers and wholesale drug distributors.

(56) *"Wholesale drug distributor"* means any person who sells legend drugs to other than the consumer or the patient, including but not limited to manufacturers, repackers, own label distributors, jobbers, brokers, agents, and pharmacies.

(57) *"Pharmacy-generated drug"* means a drug made by a pharmacy.

(Added by Act 168 of 2013 Legislature, effective August 1, 2013.)

(58) *"Biological product"* has the meaning assigned by Section 351 of the Public Health Service Act, 42 U.S.C. 262.

(Added by Act 391 of 2015 Legislature, effective August 1, 2015.)

(end of Part A of Chapter 14)

Part B. Board of Pharmacy

§1171. Louisiana Board of Pharmacy; creation

The Louisiana Board of Pharmacy is hereby created within the Department of Health and Hospitals and is subject to the provisions of R.S. 36:803. The board shall carry out the purposes and enforce the provisions of this Chapter.

§1172. Membership

A. The board shall consist of seventeen members appointed by the governor, including two licensed pharmacists from each of the pharmacy districts as provided in R.S. 37:1173 and one representative of the consumers of Louisiana from the state at-large, who possess the qualifications specified in R.S. 37:1174.

B. Each appointment by the governor shall be subject to Senate confirmation.

§1173. Pharmacy districts

The pharmacy districts shall be comprised of the following parishes:

(1) District One shall be comprised of the parishes of Jefferson and St. Tammany.

(2) District Two shall be comprised of the parishes of Orleans, Plaquemines, and St. Bernard.

(3) District Three shall be comprised of the parishes of Ascension, Assumption, Iberia, Iberville, Lafourche, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, Terrebonne and West Baton Rouge.

(4) District Four shall be comprised of the parishes of Bienville, Bossier, Caddo, Claiborne, Desoto, Natchitoches, Red River, Sabine and Webster.

(5) District Five shall be comprised of the parishes of Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, and Winn.

(6) District Six shall be comprised of the parishes of East Baton Rouge, East Feliciana, Livingston, St. Helena, Tangipahoa, Washington, and West Feliciana.

(7) District Seven shall be comprised of the parishes of Acadia, Calcasieu, Cameron, Jefferson Davis, Lafayette, and Vermilion.

(8) District Eight shall be comprised of the parishes of Allen, Avoyelles, Beauregard, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides, St. Landry, and Vernon.

§1174. Qualifications

A. Each pharmacist member of the board shall at the time of appointment:

(1) Be a resident of this state for not less than six months.

(2) Be currently licensed to engage in the practice of pharmacy in this state.

(3) Be actively engaged in the practice of pharmacy in this state and may practice in and own a Louisiana-permitted pharmacy.

(4) Have five years of experience in the practice of pharmacy in this state after licensure.

(5) Shall not have been convicted of a felony.

(6) Shall not have been placed on probation by the board.

B. The consumer member of the board shall be a resident of this state who has attained the age of majority and shall not have nor shall ever have had material financial interest in the providing of pharmacy services or who has engaged in any activity directly related to the practice of pharmacy. The consumer representative shall not have been convicted of a felony.

§1175. Appointment process; vacancies

A. The governor shall appoint the members of the board in accordance with other provisions of this Section and the state constitution.

B. When a vacancy occurs in the membership of the board representing one of the eight districts for any reason, including expiration of term, removal, resignation, death, disability, or disqualification, the following nominating process shall be satisfied:

(1) The pharmacist making the nomination shall be a resident of the district where the vacancy occurs.

(2) The pharmacist nominee shall be a resident of the district where the vacancy occurs.

(3) Nomination ballots shall be returned to the board office at least sixty days prior to a vacancy occurring by an expiring term.

(4) Nomination ballots shall be returned to the board office at least thirty days following a

vacancy occurring by death, resignation, inability to act, or other cause.

(5) The nominee shall not have been convicted of a felony.

(6) The nominee shall not have been placed on probation by the board.

C. When the vacancy in question involves the consumer representative, the governor shall fill the vacancy at his pleasure without following the procedure set forth in Subsection B of this Section, provided the consumer representative meets the requirements for such member specified in this Section.

D. The secretary of the board shall be charged with the duty of forwarding to each licensed pharmacist, by United States mail, to the last known address indicated in the board's records, a nomination ballot. The ballot, or an accompanying communication, shall indicate the date, time, and place, for the counting of ballots. At a gathering open to the public, the ballots shall be counted openly by the secretary or by one or more individuals designated by the president. The secretary shall certify to the governor the names of the three nominees receiving the highest number of nominations. From the names submitted to him in this manner, the governor may select and appoint one eligible individual to fill the vacancy in question.

E. In the absence of the secretary, or in the event of his inability or failure to act, the duties of the secretary with respect to the mailing and counting of ballots and the certification to the governor shall be performed by the president of the board.

F. The successor to each member of the board appointed from a pharmacy district shall be appointed from the district having the same number designation as the district from which the member who is being replaced was appointed.

G. Each member of the board appointed from a district to fill a vacancy occurring by death, resignation, inability to act, or other cause, shall serve for the remainder of the term of his predecessor.

§1176. Removal

A. A board member may be removed upon one or more of the following grounds:

(1) The refusal or inability for any reason to perform his duties as a member of the board in an efficient, responsible, and professional manner;

(2) The misuse of office to obtain personal, pecuniary, or material gain or advantage for himself or another through such office;

(3) The violation of the laws governing the practice of pharmacy or the distribution of drugs and/or devices.

B. Removal of a member of the board shall be in accordance with the Administrative Procedure Act or other applicable laws.

C. The governor may remove any member of the board for good cause.

§1177. Terms

A. Except as provided in Section 1175, pharmacist members of the board shall be appointed for a term of six years, beginning on July 1 of the year in which the appointment is made.
(Amended by Act 233 of 2012 Legislature, effective May 22, 2012)

B. The terms of the pharmacist members of the board shall be staggered, so that the terms of no more than six pharmacist members shall expire in any year. Each member shall serve until a successor is appointed and qualified.

C. The at-large consumer representative shall serve at the pleasure of the governor.

§1178. Compensation of board members

A. In accordance with the fee schedule provided in R.S. 37:1184, members of the board shall receive a per diem.

B. Notwithstanding the provisions of R.S. 39:231, the members of the board may be reimbursed for actual and reasonable expenses approved by the board in connection therewith while attending regular or called board meetings or attending to official business of the board.
(Added by Act 1052 of 2003 Legislature, effective August 15, 2003)

§1179. Organization

A. The board shall elect from its members a president, secretary, and one or more vice presidents. The president of the board shall preside at all meetings of the board and shall be responsible for the performance of all duties and functions of the board required or permitted by this Chapter. Each additional officer elected by the board shall perform those duties normally associated with his position and such other duties assigned to him by the board.

B. Officers elected by the board shall serve terms commencing with the day of their election and ending upon election of their successors.
C. Any officer may be removed from office by majority vote of the board, for proper cause after due notice and an opportunity to be heard.
D. The president of the board or, in his absence, the highest-ranking vice president, shall preside at all meetings. The president of the board is the executive officer of the board.
E. The president or the secretary of the board may administer oaths in connection with the duties of the board.
F. The executive director shall be a licensed pharmacist under the provisions of this Chapter and shall not serve concurrently as a member of the board. The executive director shall be in charge of the daily operations of the office of the board. The executive director's responsibilities include, but are not limited to, the following:
    (1) Shall furnish a bond in an amount to be fixed by the board, conditioned upon the faithful performance and discharge of the duties of his office according to law.
    (2) Shall receive a salary fixed by the board, and all necessary expenses incurred in the performance of his official duties.
    (3) Make disbursements by check, voucher, or any other reasonable means deemed appropriate by the board and as authorized by the president and the executive director.
    (4) Attend to the correspondence, and perform such other duties as the board may reasonably require.
    (5) Make, keep, and preserve all books, registers, and records, and be in charge of same, and deliver them to his successor in office.
    (6) If so authorized by the board, supervise and direct the activities of the board's inspectors and investigators, direct and supervise the clerical personnel appointed to assist the board, and undertake other duties as directed by the board with the aid of clerical personnel as necessary for the fulfillment of his duties and responsibilities.
    (7) Receive and receipt for all fees collected.

§1180. Meetings

A. The board shall meet at least once every twelve months to transact its business. The board shall meet as it deems appropriate. Such additional meetings may be called by the president of the board or by two-thirds of the members of the board.
B. The board shall meet at such place determined prior to giving notice of such meeting and the place of the meeting shall not be changed after such notice is given without adequate prior notice.
C. Notice of all meetings of the board shall be given in the manner and pursuant to requirements prescribed by the Administrative Procedure Act.
D. A simple majority of the members of the board shall constitute a quorum for the conduct of a board meeting and, except where a greater number is required by this Chapter or by any rule to the board, all actions of the board shall be approved by a majority of a quorum.
E. All board meetings and hearings shall be open to the public. The board may, in its discretion and according to law, conduct any portion of its meeting in executive session, closed to the public.

§1181. Domicile of board

The domicile of the board shall be Baton Rouge, Louisiana.

§1182. Powers and duties of the board

A. The board shall be responsible for the control and regulation of the practice of pharmacy and shall:
    (1) Make necessary rules and regulations to carry out the purposes and enforce the provisions of this Chapter and furnish copies of them upon request.
    (2) Hold meetings at least once a year and at other times when necessary for the transaction of business that may legally come before it.
    (3) Make a written report annually to the governor.
    (4) Report to the attorney general of the state all persons violating the provisions of this Chapter.
    (5) License by examination applicants who are qualified to engage in the practice of pharmacy under the provisions of this Chapter.
    (6) License by reciprocity pursuant to the provisions of this Chapter.
    (7) Administer examinations as deemed necessary.

(8) Issue and renew licenses, permits, certifications, registrations and any other designations deemed necessary to engage in the practice of pharmacy.

(9) Establish and enforce compliance with professional standards and rules of conduct of pharmacists engaged in the practice of pharmacy.

(10) Determine and issue standards for recognition and approval of degree programs of schools and colleges of pharmacy whose graduates shall be eligible for licensure in this state, and the specification and enforcement of requirements for practical training, including internship.

(11) Enforce those provisions of this Chapter related to conduct and competence, including but not limited to revocation, summary suspension, suspension, probation, reprimand, warnings, or fines.

(12) Regulate, license, certify, and register the training, qualification, and employment of pharmacy interns and pharmacy technicians.

(13) Establish minimum specifications for the physical facilities, technical equipment, environment, supplies, personnel, and procedures for the storage, compounding and/or dispensing of drugs or devices.

(14) Inspect in a lawful manner the legend drugs and devices which are sold, offered, or exposed for sale, or kept for sale, or which are compounded or dispensed, or kept for compounding or dispensing, at any site, and shall seize any legend drugs and devices found to constitute an imminent danger to the public health, safety, and welfare.

(15) Inspect during hours of operation any licensed, permitted, certified, or registered person, including, but not limited to, pertinent records for the purpose of determining if any provisions of law governing the legal distribution of drugs or devices or the practice of pharmacy are being violated.

(16) Cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to drugs, devices, and the practice of pharmacy.

(17) Except as otherwise provided to the contrary, the board shall exercise all of its duties, powers, and authority in accordance with the Administrative Procedure Act.

(18) Make, keep and preserve all books, registers and records.

(19) Receive and receipt all fees collected.

(20) Make disbursements by check, voucher, or any other reasonable means deemed appropriate by the board and authorized by the president and the executive director.

(21) In accordance with R.S. 37:1184, establish by regulation fees and costs to be imposed for the purpose of implementing and enforcing the provisions of this Chapter.

(22) Have the authority to request and obtain state and national criminal history record information on any person applying for any license, registration, certificate, permit, or any other designation deemed necessary to engage or assist in the practice of pharmacy which the board is authorized by law to issue.
(Added by Act 1052 of 2003 Legislature, effective August 15, 2003)

(23) Have the authority to require of any applicant for any license, registration, certificate, permit, or any other designation deemed necessary to engage or assist in the practice of pharmacy which the board is authorized by law to issue, to provide information which may be necessary to verify an applicant's identity including birth certificates, passport documents, legal status documents, and any other biometric information deemed appropriate by the board. The board may charge and collect from an applicant all fees and costs related thereto.
(Added by Act 1052 of 2003 Legislature, effective August 15, 2003)

(24) Have the authority to compel any person applying for or holding any license, registration, certificate, permit, or any other designation deemed necessary to engage or assist in the practice of pharmacy to submit to an evaluation by such persons as the board may designate.
(Added by Act 1052 of 2003 Legislature, effective August 15, 2003)

B. The board may:

(1) Join such professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the protection of the health, safety, and welfare of the public and/or whose activities assist and facilitate the work of the board.

(2) Receive and expend funds, in addition to its annual or biennial appropriation, from parties other than the state, provided that the following conditions are met:

(a) Such funds are awarded for the pursuit of a specific objective which the board is authorized to accomplish by this Chapter, or which the board is qualified to accomplish by reason of its jurisdiction or professional expertise.

(b) Such funds are expended for the pursuit of the objective for which they are awarded.
(c) Activities connected with or occasioned by the expenditures of such funds do not interfere with the performance of the board's duties and responsibilities, and do not conflict with the exercise of the board's powers as specified by this Chapter.
(d) Such funds are kept in a separate, special account.
(e) Periodic reports are made concerning the board's receipt and expenditure of such funds.

(3) Conduct any investigation, inquiry, or hearing which the board is authorized to hold as required by this Chapter.

(4) Place under seal all drugs or devices that are owned by or in the possession, custody, or control of a licensee at the time his license is suspended or revoked or at the time the board refuses to renew his license. Except as otherwise provided in this Section, drugs or devices so sealed shall not be disposed of until appeal rights under the Administrative Procedure Act have expired, or an appeal filed pursuant to that Act has been determined.

(5) Collect professional demographic data.

(6) Employ or contract for inspectors, chemists, agents, clerical help, legal assistance and other personnel necessary for the proper operation of the board office and for any other purpose under this Chapter.

(7) Establish minimum standards for maintaining the integrity and confidentiality of prescription information and other patient health care information.

(8) Acquire, develop, maintain, expand, sell, lease, mortgage, borrow funds, or otherwise contract with respect to immovable property as it may deem necessary or appropriate to accomplish the provisions of this Chapter. The board shall have the authority to borrow funds with the approval of the State Bond Commission and to expend funds of the board for the acquisition of immovable property and improvements thereon. In the event that the board sells immovable property and improvements thereon, the revenue derived from the sale shall be retained by the board and shall not be subject to reversion to the state general fund.
(Added by Act 131 of 2004 Legislature, effective August 15, 2004)

(9) Assess and collect expenses incurred for the inspection of nonresident licensees.
(Added by Act 282 of 2013 Legislature, effective August 1, 2013)

§1183. Records prima facie evidence

The books, registers, and all records of the board shall be prima facie evidence of the matter therein recorded, in any court of law.

§1184. Fees

Notwithstanding any other provision of this Chapter, the fees and costs established by the board in accordance with R.S. 37:1182(A) shall not be less than the following schedule:

	Minimum
(1) Miscellaneous fees and costs	
(a) Photocopies of documents per page	$0.50
(b) Certification of document as true copy	$5.00
(c) Certification of document as office record	$5.00
(d) Certification of license	$20.00
(e) Official list of licensed pharmacists	$150.00
(f) Official list of certified technicians	$150.00
(g) Official list of pharmacy permits	$150.00
(h) Handling and mailing per page	$1.00
(i) Administrative hearing fee	$250.00
(j) Pharmacy intern registration	$10.00
(k) Law book	$40.00
(l) Certification of practical experience to another state	$10.00
(m) Official list of registered pharmacy interns	$150.00
(n) Official list of registered pharmacy technician candidates	$150.00
(2) Licenses, permits, certification, registrations and examinations for pharmacists	
(a)(i) Annual renewal fee for license	$100.00

(ii) Pharmacy education support fee	$100.00
(b) Delinquent fee in addition to renewal fee	$50.00
(c) Reinstatement of a license which has been suspended, revoked, or which has lapsed due to non-renewal	$200.00
(d) Credential certification	$50.00
(e) Examination and licensing	$300.00
(f) Reciprocity fees	$150.00
(g) Certificates, duplicates	$75.00
(h) Certificates, silver	$100.00
(i) New issuance of certificates	$75.00
(3) Licenses, permits, certification, registration, and any other designations for pharmacy locations	
(a)(i) New pharmacy permit fee	$150.00
(ii) Pharmacy education support fee	$100.00
(b) Pharmacy change of location	$150.00
(c) Pharmacy change of ownership	$150.00
(d) Pharmacy permit renewal fee	$125.00
(e) Delinquent permit renewal fee	$62.50
(f) Pharmacy CDS permit fee	$25.00
(g) Delinquent pharmacy CDS permit fee	$12.50
(h) Reinstatement of a permit which has been suspended, revoked, or which has lapsed due to non-renewal	$200.00
(i) Automated medication system registration	$150.00
(j) Emergency drug kits for long-term care facilities	$25.00
(4) Certification and examination for pharmacy technicians	
(a) Examination and certification	$100.00
(b) Annual renewal certification fee	$50.00
(c) Certificate, duplicate	$50.00
(d) Reinstatement of a pharmacy technician certificate which has been suspended, revoked, or which has lapsed by non-renewal	$200.00
(e) Delinquent certificate renewal fee	$25.00
(f) Pharmacy technician candidate registration	$25.00
(5) Per diem	$75.00

(Amended by Act 267 of 2005 Legislature, effective August 15, 2005; amended by Act 298 of 2015 Legislature, effective August 1, 2015.)

(end of Part B of Chapter 14)

Part C. Licensing, Registration, and Certification of Persons

§1201. Unlawful practice

A. Except as otherwise provided in this Chapter, it shall be unlawful for any individual to engage in the practice of pharmacy unless currently licensed or registered to practice under the provisions of this Chapter.

B. Licensed practitioners authorized under the laws of this state to compound drugs and to dispense drugs to their patients in the practice of their respective professions shall meet the same standards, record keeping requirements, and all other requirements for the dispensing of drugs applicable to pharmacists.

C. It shall be unlawful for any individual to assist in the practice of pharmacy unless currently registered or certified by the board.

§1202. Qualifications for licensure by examination

A. To obtain a license to engage in the practice of pharmacy, an applicant for licensure by examination shall:

(1) Be at least twenty-one years of age.

(2) Be of good moral character and temperate habits.

(3) Meet the following educational requirements:

(a) Have graduated and received a professional degree from an approved college of pharmacy.

(b) Have graduated from a foreign college of pharmacy, completed a transcript verification program, taken and passed a college of pharmacy equivalency examination program, and completed a process of communication ability testing as defined by the board in order to assure that the applicant meets the standards necessary to protect public health, safety, and welfare.

(4) Supply proof, substantiated by proper affidavits, of a minimum of one year of service and experience through an internship or other program that has been approved by the board under the supervision of a licensed pharmacist, which service shall be predominantly related to the provision of pharmacy primary care and the dispensing of drugs and medical supplies, the compounding of prescriptions, and the keeping of records and the making of reports as required under state and federal law.

(5) Have submitted to the board an application, in the time frame and form prescribed by the board, by regulation.

(Amended by Act 357 of 2012 Legislature, effective August 1, 2012)

(6) Have paid fees specified by the board for the examination, and issuance of the license, certificate, or registration and any related materials.

(7) Have passed an examination or examinations required by the board.

B. Examinations.

(1) Due notice of all meetings for examination of applicants shall be given to all approved colleges of pharmacy in the state.

(2) The board shall determine the content and subject matter of each examination and approve the site and date of the administration of the examination.

(3) The examination shall be prepared to measure the knowledge of the applicant to engage in the practice of pharmacy. The board may employ, cooperate, and contract with any organization or consultant in the preparation and grading of an examination, but shall retain the sole discretion and responsibility for determining which applicants have passed such an examination.

(4) An applicant who takes and satisfactorily completes any board required examinations shall become licensed within one year of the examination dates or the results of the examinations shall become invalid.

(5) An applicant, who takes any board required examinations and is unsuccessful, may repeat the examinations as administratively defined.

(6) An applicant who takes any board required examinations or any examination or examinations in other jurisdictions and is unsuccessful for the third time shall not thereafter be eligible to take the board examination without satisfying the requirements of the board as administratively defined.

(a) An individual who has taken and failed the examinations more than three times may not practice as a pharmacy intern, as administratively defined.

(b) An individual who has taken and failed for the third time a comparable examination to the board's examination within another jurisdiction shall not be eligible to take the examination of the board without satisfying the requirements of the board as administratively defined.

C. Internship and other training programs.

(1) All applicants for licensure by examination shall obtain practical experience in the practice of pharmacy concurrent with attending or after graduation from an approved college of pharmacy, or both, under such terms and conditions as determined by regulation.

(2) The board shall establish such licensure requirements for pharmacy interns and standards for internship, or any other experiential program necessary to qualify an applicant for the licensure examination, and shall also determine the qualifications of preceptors used in practical experience programs as determined by regulation.

§1203. Qualifications for reciprocity

A. In order for a pharmacist currently licensed in another jurisdiction to obtain a license as a pharmacist by reciprocity in this state, an applicant shall:

(1) Have attained the age of twenty-one years.

(2) Have good moral character and be of temperate habits.

(3) Have possessed at the time of initial licensure as a pharmacist all qualifications necessary to have been eligible for licensure at that time in this state.

(4) Have engaged in the practice of pharmacy for a period of at least one year or have met the internship requirements of this state within the one year period immediately previous to the date of such application.

(5) Have submitted an application in the form prescribed by the board.
(Amended by Act 357 of 2012 Legislature, effective August 1, 202)

(6) Have presented to the board evidence of initial licensure by examination and evidence that such license is in good standing.

(7) Have presented to the board evidence of any disciplinary, criminal, or other adverse action, including arrests, taken against him by another licensing jurisdiction, government agency, law enforcement agency, or court. Such action may serve as grounds for the denial of reciprocity to an applicant.
(*Amended by Act 164 of 2006 Legislature, effective August 15, 2006*)

(8) Have paid the fees specified by the board to defray the expenses of making an investigation of his character, general reputation, and licensure status in the state in which he has resided.

(9) Have passed all examinations required by the board.

B. No applicant shall be eligible for licensure by reciprocity unless the state or jurisdiction in which the applicant was initially licensed as a pharmacist also grants reciprocity to a pharmacist duly licensed by examination in this state, under comparable circumstances and conditions.

C. Upon successful completion of the requirements of Subsections A and B, the board shall license the pharmacist within fourteen working days.

§1204. Certificates to be signed by board

The board members shall sign all original pharmacist certificates of licensure issued by the board.

§1205. Duplicate certificates

In case a certificate of a licensed pharmacist is lost, destroyed, or otherwise missing, the board shall issue a duplicate thereof, upon receipt of an affidavit attested to by the pharmacist setting forth the facts and circumstances surrounding the loss of the certificate and payment of the fee or fees as specified by the board.

§1206. Silver certificate

The board may issue a silver certificate for twenty-five continuous years of registration.

§1207. Renewal of license, registration, and certification; expiration; reinstatement

A. (1) Each person licensed, registered, or certified by the board shall apply for renewal annually at a time designated by the board and pay a fee specified by the board. A person who desires to continue in the practice of pharmacy or assist in the practice of pharmacy in this state shall file with the board 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, for renewal.

(2) (a) (i) The board shall assess on each annual pharmacist license renewal as required by this Section an additional fee of one hundred dollars 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 license renewal form issued to a pharmacist an optional election whereby the person 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. The board shall make available applications for renewal of licenses, registrations, and certificates to each licensed, registered, and certified person by a date designated by the board.
(Amended by Act 357 of 2012 Legislature, effective August 1, 2012)

C. If a person fails to make application to the board for renewal of his license, certification, or registration within a period determined by the board, the license, certification, or registration is expired and shall be deemed null and void.

D. In order to reinstate the expired license, certification, or registration, the person shall meet requirements set by the board by regulation.

§1208. Waiver of licensure or certification renewal while in military service

Upon written request of any licensed pharmacist or certified technician serving in active duty in the military service of the United States or any of its allies, the board may waive the requirement for the annual renewal of pharmacist license or technician certificate, including the annual renewal fees.
(Amended by Act 358 of 2012 Legislature, effective August 1, 2012)

§1209. Waiver of renewal fee when licensed fifty years; award

The board, in recognition of contributions to the practice of pharmacy, shall waive the annual renewal fee requirement for annual renewal of licensure for licensed pharmacists who have been duly registered and licensed to practice in Louisiana for not less than fifty years; in lieu thereof the board shall award to such pharmacists an honorary gold-embossed certificate. Such pharmacists desiring to continue to practice pharmacy shall file the annual renewal application and shall meet all other requirements for active licensure.
(*Amended by Act 164 of 2006 Legislature, effective August 15, 2006*)

§1210. Continuing education in pharmacy

The board shall establish requirements for continuing education in pharmacy, including the determination of acceptable program content. The board shall adopt rules and regulations necessary to carry out the stated objectives and purposes, to enforce the provisions of this Section.

§1211. Pharmacy intern

The board shall establish an internship program for the purpose of providing the practical experience necessary for licensure as a pharmacist. The board shall adopt rules and regulations regarding the standards and qualifications for internship programs.

§1212. Pharmacy technicians

The board may register individuals as pharmacy technician candidates and certify individuals as pharmacy technicians, both of whom may assist a pharmacist in the practice of pharmacy, as specified in board rules. Notwithstanding any provision in law to the contrary, in all cases, a pharmacist must verify the accuracy of a prescription before the drug or device may be transferred to a patient or patient's agent. The board may also set minimum training and education requirements and examinations for certification as a pharmacy technician as it deems

necessary. The board may, by rule, establish ratios for pharmacy technician candidates to pharmacists and pharmacy technicians to pharmacists, but in no case shall such ratio be less than two pharmacy technicians to one pharmacist.
(Amended by Act 131 of 2004 Legislature, effective August 15, 2004; Act 387 of 2005 Legislature, effective August 15, 2005)

§1213. Notification of change of business place or employment

A pharmacist, pharmacy technician, pharmacy intern, or pharmacy technician candidate shall notify the board, in writing, of any change of employment within a time frame determined by the board by rule.
(Amended by Act 357 of 2012 Legislature, effective August 1, 2012)

§1214. Notification of change of address

A pharmacist, pharmacy technician, pharmacy intern, or pharmacy technician candidate shall notify the board, in writing, of a change of address within a time frame determined by the board by rule.
(Amended by Act 357 of 2012 Legislature, effective August 1, 2012)

§1215. Display of licenses, certificates, and registrations

(Repealed by Act 357 of 2012 Legislature, effective August 1, 2012)

§1216. Authorization to obtain criminal history record information

A. As used in this Section, the following terms shall have the following meaning:

(1) *"Applicant"* means an individual who has made application to the board for the issuance, or reinstatement of any license, registration, certificate, permit, or any other designation deemed necessary to engage or assist in the practice of pharmacy that the board is authorized by law to issue.

(2) "*Bureau*" means the Louisiana Bureau of Criminal Identification and Information of the office of state police within the Department of Public Safety and Corrections.

(3) *"Criminal history record information"* means information collected by state and federal criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, bills of information, or any formal criminal charges, and any disposition arising therefrom, including sentencing, criminal correctional supervision, and release, but does not include intelligence for investigatory purposes, nor does it include any identification information which does not indicate involvement of the individual in the criminal justice system.

(4) *"FBI"* means the Federal Bureau of Investigation of the United States Department of Justice.

(5) *"Licensure"* means any license, permit, certification, or registration that the board is authorized to issue.

B. In addition to any other requirements established by regulation, the board may require an applicant, as a condition for eligibility for licensure:

(1) To submit a full set of fingerprints, in a form and manner prescribed by the board.

(2) To permit the board to request and obtain state and national criminal history record information on the applicant.

(3) To collect from the applicant, in addition to all other applicable fees and costs, such amount as may be incurred by the board in requesting and obtaining state and national criminal history record information on the applicant.

C. In accordance with the provisions and procedures prescribed by this Section, the board may request and obtain state and national criminal history record information from the bureau and the FBI relative to any applicant for licensure whose fingerprints the board has obtained pursuant to this Section for the purpose of determining the applicant's suitability and eligibility for licensure.

D. Upon request by the board and upon the board's submission of an applicant's fingerprints, and such other identifying information as may be required, the bureau shall conduct a search of its criminal history record information relative to the applicant and report the results of its search to the board within sixty days from receipt of any such request. The bureau may charge the board a processing fee pursuant to R.S. 15:587 for conducting and reporting on any such search.

E. If the criminal history record information reported by the bureau to the board does not provide grounds for disqualification of the applicant for licensure under the applicable law administered by the board, the board shall have the authority to forward the applicant's fingerprints and such other identifying information as may be required to the FBI with a request for a search of national criminal history record information relative to the applicant.

F. Any and all state or national criminal history record information obtained by the board from the bureau or FBI which is not already a matter of public record shall be deemed nonpublic and confidential information restricted to the exclusive use of the board, its members, officers, investigators, agents, and attorneys in evaluating the applicant's eligibility or disqualification for licensure. No such information or records related thereto shall, except with the written consent of the applicant or by order of a court of competent jurisdiction, be released or otherwise disclosed by the board to any other person or agency.

(Added by Act 1052 of 2003 Legislature, effective August 15, 2003)

§1217. Authorization to compel evaluation

A. As used in this Section the following terms shall have the following meaning:

(1) *"Evaluation"* means a diagnostic assessment for impairment by a board-approved addictionist.

(2) *"Impaired"* or *"impairment"* means a condition that causes an infringement on the ability of a person to practice, or assist in the practice, of pharmacy sufficient to pose a danger to the public. Impairment may be caused by but is not limited to alcoholism, substance abuse or addiction, mental illness, or physical illness.

(3) *"Licensee"* means an applicant for or a person renewing any license, registration, certificate, permit, or any other designation deemed necessary to engage or assist in the practice of pharmacy issued by the board.

B. In determining whether or not an impairment exists, the board, either through its impairment committee or upon joint agreement by the impairment committee chairman and the executive director, upon reasonable suspicion of such impairment shall have the authority to compel a licensee to submit to an evaluation, by such persons as the board may designate either in the course of an investigation or a disciplinary proceeding.

C. Reasonable suspicion of impairment shall be presumed based upon preliminary evidence that the licensee is impaired based on specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience. For purposes of this Section, facts and inferences may be based upon but not limited to any of the following:

(1) Observable phenomena while practicing or assisting in the practice of pharmacy such as direct observation of alcohol or drug use or abuse or of the physical symptoms or manifestations of being impaired due to alcohol or other drug use;

(2) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;

(3) A report of alcohol or other drug use provided by a reliable and credible source;

(4) Evidence that a licensee has received a positive result from any drug or alcohol test during the individual's employment with an employer;

(5) Evidence that a licensee has tampered with any drug or alcohol test during the individual's employment with an employer; or

(6) Evidence that a licensee has illegally manufactured, sold, distributed, solicited, possessed, used, or transferred drugs.

D. Information submitted pursuant to this Section shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such evaluation.

E. A licensee shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice or assistance in the practice of pharmacy with reasonable skill and safety to patients.

F. For the purpose of this Section, a licensee shall be deemed to have consented to submit to an evaluation when directed in writing by the board and further to have waived all objections to the admissibility of the testimony of the person conducting any evaluation at any proceeding or hearing before the board on grounds that such testimony or evaluation constitutes a privileged communication.

G. In any proceeding by the board pursuant to the provisions of this Section, the record of such board proceedings involving the evaluation shall not be used in any other administrative or judicial proceeding outside of the board's jurisdiction

H. Whenever the board directs a licensee to submit to an evaluation, the time from the date of the board's directive until the submission to the board of the report of the evaluation shall not be included in the computation of the time limit for any hearing that may occur in the matter.

(Added by Act 1052 of 2003 Legislature, effective August 15, 2003)

§1218. Administration of influenza immunization

A pharmacist may administer an influenza immunization to any person seven years of age or older without a prescription or medical order, contingent upon all of the following provisions:

(1) The pharmacist shall administer influenza immunizations in conformance with the most current annual influenza vaccination administration protocol as set forth by the United States Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practice (ACIP).

(2) The pharmacist shall report each influenza immunization to the Louisiana Office of Public Health Immunization Registry at the time of the immunization or as soon as reasonably practicable thereafter.

(3) The pharmacist shall report all adverse events he observes or which are reported to him to the Vaccine Adverse Events Reporting System (VAERS), the cooperative program of the CDC and the United States Food and Drug Administration for vaccine safety, or its successor program; and further, the pharmacist shall refer the patient with an adverse event to the influenza immunization for appropriate medical care.

(4) The pharmacist shall maintain for at least two years a record of each influenza immunization administered.

(5) The pharmacist shall obtain the appropriate credential to administer influenza immunizations from the board, as administratively defined, prior to administering any such immunization.

(Added by Act 287 of 2010 Legislature, effective August 15, 2010)

§1218.1 Administration of immunizations and vaccines other than influenza immunizations

A. A pharmacist may administer to an individual age seventeen or older an immunization or a vaccine without a patient-specific prescription or medical order if the immunization or the vaccine is administered in conformance with the most current immunization administration protocol as set forth by the United States Centers for Disease Control and Prevention Advisory Committee on Immunization Practice. At the time that a pharmacist administers an immunization or vaccine under the provisions of this Section, the pharmacist shall also inform the individual that the administration of an immunization or vaccine under this Section is not to be construed as being in lieu of an annual checkup with the individual's primary care or family physician.

(1) The pharmacist shall report each immunization to the Department of Health and Hospitals, office of public health's Louisiana Immunization Network for Kids Statewide at the time of the immunization or as soon as reasonably practicable thereafter, as this is the official state vaccination record.

(2) The pharmacist shall report all adverse events he observes or which are reported to him to the Vaccine Adverse Events Reporting System, the cooperative program of the United States Centers for Disease Control and Prevention and the United States Food and Drug Administration for vaccine safety, or its successor program; and further, the pharmacist shall refer the patient with an adverse event to an immunization for appropriate medical care.

(3) The pharmacist shall maintain for at least two years a record of each immunization administered.

(4) The pharmacist shall obtain the appropriate credentials to administer immunizations from the board, as administratively defined, prior to administering any such immunization.

(5) The pharmacist shall request the name of a patient's primary care provider prior to the administering of any immunization. If the patient identifies such primary care provider to the pharmacist, the pharmacist shall notify the primary care provider, by written or electronic communication, as soon as reasonably possible thereafter that the immunization was administered.

B. This Section shall not apply to the administering of an immunization pursuant to R.S. 37:1218.

(Added by Act 651 of 2012 Legislature, effective August 1, 2012; amended by Act 769 of 2014 Legislature, effective August 1, 2014.)

(end of Part C of Chapter 14)

Part D. 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 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.)

§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, health care 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 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.

(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.)

§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.)

(end of Part D of Chapter 14)

Part E. Discipline

§1241. Refusal, restriction, suspension, or revocation of license

A. The board may, after due notice and hearing, assess a fine not to exceed the sum of five thousand dollars for each offense, refuse to license, register, certify, or permit any applicant, refuse to renew the license or permit of any person, or may revoke, summarily suspend, suspend, place on probation, reprimand, issue a warning against the person who was issued the license, registration, certificate, permit or any other designation deemed necessary to engage in the practice of pharmacy upon proof that the person:

(1) Practiced or assisted in the practice of pharmacy, or knowingly permitted or has permitted anyone in his employ or under his supervision to practice or assist in the practice of pharmacy, in violation of the provisions of this Chapter and any rules and regulations promulgated thereto in accordance with the Administrative Procedure Act.

(2) Attempted to or obtained a license, registration, certificate, permit or any other designation deemed necessary to engage in the practice of pharmacy by fraud or misrepresentation.

(3) Committed repeated occasions of negligence or incompetence in the practice or assistance in the practice of pharmacy.

(4) Has been convicted of a felony or other public offense involving moral turpitude in the courts of any state, territory, or country. Conviction, as used in this Paragraph, shall include a finding or verdict of guilty, an admission of guilt, or a plea of nolo contendere.

(5) Is habitually intemperate or is addicted to the use of alcohol or habit forming drugs.

(6) Has had his license, permit, certification, registration or any other designations deemed necessary to engage in the practice of pharmacy revoked or suspended, or has had other disciplinary action taken, or has had his application for licensure refused, revoked, or suspended by the proper authorities of another state, territory, or country based upon conduct by the licensee similar to conduct that would constitute grounds for action as defined in this Section.

(7) Has failed to report to the board any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that would constitute grounds for action as defined in this Section.

(8) Has failed to report to the board the surrender of a license, permit, certification, registration or any other designations deemed necessary to engage in the practice of pharmacy in another state or jurisdiction while under disciplinary investigation by any of those authorities or bodies for conduct that would constitute grounds for action as defined in this Section.

(9) Has failed to report to the board any adverse judgment, settlement, or award arising from a malpractice claim arising related to conduct that would constitute grounds for action as defined in this Section.

(10) Has departed from or failed to conform to the minimal standards of acceptable and prevailing pharmacy practice, whether or not actual injury to a patient has occurred.

(11) Has committed fraud by a licensee in connection with the practice of pharmacy, including, but not limited to Medicaid fraud, Medicare fraud, or insurance fraud.

(12) Has engaged, or aided and abetted a person to engage in the practice of pharmacy without a license, registration, certificate, permit or any other designation deemed necessary to engage in the practice of pharmacy.

(13) Has failed to pay the costs assessed in a disciplinary hearing.

(14) Has engaged in any conduct that subverts or attempts to subvert any examination or the administration of any examination authorized under this Chapter.

(15) Has evaded, or assisted, directly or indirectly, another person in evading any local, state or federal laws or regulations pertaining to the practice of pharmacy.

(16) Has divulged or revealed confidential information or personally identifiable information to a person other than as authorized by state or federal law or the rules of the board.

(17) (a) Has knowingly selected an equivalent drug product if the practitioner, or authorized prescriber instructs otherwise, by either of the following:

(i) On a written prescription drug order, handwriting a mark in a check-off box labeled with “Dispense as Written”, or the abbreviation “DAW”, or both, and personally handwriting his signature on a printed single signature line. A written prescription drug order shall indicate the practitioner’s or authorized prescriber’s name, licensure designation, and practice affiliation, if any.

(ii) On an oral prescription, verbally indicating that a specific brand name drug or

product is ordered by the practitioner or authorized prescriber or his agent. The pharmacist shall note such information on the file copy of the prescription.

(b) The patient shall be informed of, and consent to, the equivalent drug product interchange when the practitioner or authorized prescriber permits the equivalent drug product interchange.

(c) In order to comply with 42 CFR 447.332, for prescriptions reimbursable by Medicaid, the practitioner or authorized prescriber may prohibit equivalent drug product interchange only by handwriting the words "brand medically necessary" or "brand necessary" directly on the written prescription drug order or on a sheet attached to the prescription. Recipients of Medicaid prescription benefits demonstrate implied consent by their participation in the program, provided the practitioner or authorized prescriber has not prohibited equivalent drug product interchange in the manner specified in Subparagraph (a) of this paragraph.

(Amended by Act 852 of 2001 Legislature, effective January 1, 2002; Act 164 of 2006 Legislature, effective August 15, 2006.)

(18) Has knowingly received or possessed any drug or device that is, or has been, adulterated or misbranded, or knowingly or intentionally delivered or proffered any such product to the public.

(19) Has engaged in false, misleading, or fraudulent advertising as defined by the board.

(20) Has solicited professional practice by means of providing physicians or other practitioners with prescription blanks imprinted with any material referring to a pharmacy or pharmacist.

(21) Has advertised by including any reference, direct or indirect, to any controlled dangerous substances as provided for in Schedules II, III, IV, and V of R. S. 40:964 hereof inclusive.

(22) Has failed to furnish to the board, its investigators, or representatives any information legally requested by the board.

(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 the practitioner from having an ownership interest in a pharmacy.

(Items 23 and 24 added by Act 409 of 2015 Legislature, effective August 1, 2015.)

B. The board may require a pharmacy to produce any information the board deems reasonably necessary to investigate alleged violations of and otherwise enforce Paragraphs (A)(23) and (A)(24) of this Section.

(Added by Act 409 of 2015 Legislature, effective August 1, 2015.)

C. In addition to the disciplinary action or fine assessed by the board, the board may assess all costs incurred in connection with the proceedings, including but not limited to investigator, stenographer, and attorney fees.

D. Each day on which a violation occurs is a separate violation for the purposes of this Part.

E. The board may, by regulation, defer action with regard to an impaired licensed, registered, or certified person who voluntarily signs an agreement, in a form satisfactory to the board, agreeing not to practice pharmacy and to enter an approved treatment and monitoring program in accordance with this Section, provided that this Section should not apply to a licensee who has been convicted of, pleads guilty to, or enters a plea of nolo contendere to a felonious act prohibited by or a conviction relating to a controlled substance in a court of law of the United States or any state, territory, or country.

F. The board retains jurisdiction over all such unlicensed, uncertified, or unpermitted persons relative to violations of and enforcement of the provisions of this Chapter. However, nothing contained in this Chapter shall prevent any licensed practitioner of medicine, dentistry, or veterinary medicine from compounding, dispensing, administering to, or supplying his patients with the necessary drugs and medicines for their use.

G. Any individual who, after a hearing, shall be found by the board to have unlawfully engaged in the practice of pharmacy shall be subject to a fine not to exceed the sum of five thousand dollars to be imposed by the board. Each such violation of this Chapter or the regulations promulgated hereunder pertaining to unlawfully engaging in the practice of pharmacy shall also constitute a misdemeanor punishable upon conviction by a fine of no more than five hundred dollars or by imprisonment for no more than six months,

or both.

§1242. Violations; penalties

Any person who shall practice or assist in the practice of pharmacy without a currently valid license, registration, certificate, permit, or any other designation deemed necessary to engage in the practice of pharmacy shall be guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars and not more than one thousand dollars, or imprisoned for not more than six months, or both, and, in addition, may have his license and/or permit restricted, suspended, or revoked by the board. Each act of such unlawful practice shall constitute a distinct and separate offense.

§1243. Enforcement of Chapter through court action

The board may institute any action in a court of competent jurisdiction to enforce compliance with any provision of this Chapter or with any regulation, subpoena, or order of the board made pursuant to the provisions of this Chapter.

§1244. Injunction; penalty; attorney fees; costs

A. The board may seek in any court of competent jurisdiction a writ of injunction enjoining any person from practicing or assisting in the practice of pharmacy, until such person obtains the necessary license, registration, certificate, or permit under the provisions of this Chapter. This injunction shall not be subject to being released upon bond.

B. In the suit for an injunction, the board may demand of the defendant a penalty of not more than five thousand dollars, as well as reasonable attorneys' fees and the costs of court. This judgment for penalty, attorneys' fees and costs may be rendered in the same judgment in which the injunction is made absolute.

C. The trial of the proceeding by injunction shall be summary and by the judge without a jury.

D. Nothing herein shall be construed as barring criminal prosecutions for violations of this Chapter.

§1245. Investigation, notice, and hearing

A. The board may upon its own motion, or upon a verified written complaint of any person setting forth facts which, if proved, would constitute grounds for:

   (1) Refusal to issue or renew.

   (2) Suspension or revocation of any such license, certificate, or permit, investigate the action of any person applying for, holding or claiming to hold, any such license, registration, certificate, or permit, or other designation deemed necessary to engage in the practice of pharmacy.

B. The board shall, at least thirty days prior to the date set for the hearing, notify in writing the applicant for, or holder of, any such license, registration, certificate, permit, or any other designation deemed necessary to engage in the practice of pharmacy, of any charges made, and shall afford the accused person an opportunity to be heard in reference thereto. The written notice may be served by delivering it personally to the accused person, or by mailing it by registered or certified mail to the accused person's last address on record with the board. At the time and place fixed in the notice, the board shall proceed to hear the charges. The accused person, the complainant, and a representative of the board, shall each have an opportunity to present in person, or by counsel, such matters as may be pertinent to the charges and to any defense thereto. The board may continue such hearing from time to time, and from place to place, as may be necessary or proper.

C. If an application for any license, registration, certificate, permit, or any other designation deemed necessary to engage in the practice of pharmacy or renewal thereof, is refused, or if any license, registration, certificate, permit, or any other designation deemed necessary to engage in the practice of pharmacy is restricted, suspended, or revoked, the board shall notify the applicant thereof, or the holder thereof, in writing, of its decision and the reason for such action.

§1246. Issuance of subpoenas; witnesses; production of records; maintenance of confidentiality

A. The board, or its designated agent, may issue subpoenas or subpoenas duces tecum requiring the attendance and testimony of witnesses and the production of any evidence or documentation that relates to any matter properly under investigation or in question before the board or committee conducting the hearing or investigation.

B. Each witness who appears before the board pursuant to subpoena shall receive for his attendance the fees and mileage provided for witnesses in civil cases in the courts of this state.

C. No subpoena shall be issued at the request of a party other than the board unless the fees and mileage provided for in Subsection B of this Section are deposited to the board in advance.

D. In case of refusal to obey a subpoena or subpoena duces tecum issued to any person or entity, the board may apply to any district court within the jurisdiction where the inquiry is conducted or within the jurisdiction where such person is domiciled, resides, or transacts business, to issue to such person or entity an order requiring him to appear before the board, its members, agent, or agency, to produce evidence if ordered or to give testimony concerning the matter under investigation or in question.

E. Notwithstanding any privilege or confidentiality recognized by law, no person engaging or assisting in the provision of pharmacy services with which such pharmacist is affiliated shall, acting under any such privilege, fail or refuse to respond to a lawfully issued subpoena of the board for any pharmaceutical or medical information, testimony, records, data, reports or other documents, tangible items, or information relative to any patient served by any such pharmacist or person assisting a pharmacist under investigation. However, the identity of any patient identified in or such records or information shall be maintained in confidence by the board and shall be deemed a privilege of confidentiality existing in favor of any such patient. For the purpose of maintaining such confidentiality of patient identity, the board shall cause any such records or the transcript of any such testimony to be altered so as to prevent the disclosure of the identity of the patient to whom such records or testimony relates.

§1247. Rehearings

A decision or order in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board, within ten days from the date of its entry.

§1248. Review of board orders

A. Any person to whom the board has refused to issue a license, registration, certificate, or permit, or any other designation deemed necessary to engage in the practice of pharmacy, or whose license, registration, certificate, or permit, or any other designation deemed necessary to engage in the practice of pharmacy has been suspended or revoked, may appeal from the decision and order of board to the Nineteenth Judicial District Court for the parish of East Baton Rouge.

B. Absent agreement of counsel for all parties, no stay of enforcement of a decision issued by the board during pendency of an appeal pursuant to the provisions of this Section shall be granted unless the district court finds that the applicant has established that the issuance of the stay does not:

(1) threaten harm to other interested parties, including persons for whom the applicant may render pharmacy services; or

(2) constitute a threat to the health and welfare to the citizens of the state.

C. No stay shall be granted ex parte. The court shall schedule a hearing on the request for a stay order within ten days from filing of the request. The decision shall be rendered within five days after the conclusion of the hearing.

§1249. Reinstatement or re-issuance of license, registration, certificate, permit, or any other designation deemed necessary to engage in the practice of pharmacy

A. At any time after the suspension or revocation of any such license, registration, certificate, permit, or any other designation deemed necessary to engage in the practice of pharmacy, the board may restore the license, registration, certificate, permit, or any other designation deemed necessary to engage in the practice of pharmacy to the accused person, but only at an official meeting of the board, after written notice, and by vote of a majority of the members of the board present and voting. If a license, registration, certificate, permit, or any other designation deemed necessary to engage in the practice of pharmacy is reinstated or reissued following previously applied sanctions relative to a violation of this Chapter, said reinstatement or reissuance shall have affixed thereto an attachment or addendum specifically setting forth any restrictions placed upon said reinstated or reissued license, registration, certificate, permit, or any other designation deemed necessary to engage in the practice of pharmacy by the board.

B. In case of reinstatement, the reinstated license, registration, certificate, or permit holder shall pay all costs or fines, or both, and a reinstatement fee as provided for in the board's fee schedule established pursuant to R.S. 37:1184.

§1250. Exceptions

Nothing in this Chapter shall be construed to prevent or restrict the practice of nursing by a licensed registered nurse or an advanced practice registered nurse in accordance with R.S. 37:911, et seq., R.S. 37:1031 through 1034, or

any other laws, rules, or regulations governing the practice of nursing in the state of Louisiana.

(end of Part E of Chapter 14)