



Louisiana Board of Pharmacy

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



July 6, 2022

Senator P. Page Cortez
President, Louisiana Senate
Via Email: APA.SenatePresident@legis.la.gov

Electronic Mail – Delivery Receipt Requested

Re: Report No. 2 of 3 for Regulatory Project 2022-4 ~ Pharmacy Benefit Managers

Dear Senator Cortez:

As we indicated in our first report to your office on April 8, the Board initiated this regulatory project to amend its rules for pharmacy benefit managers to repeal the requirement for the inclusion of an audited financial statement in the application for a new pharmacy benefit manager permit.

Subsequent to the publication of our *Notice of Intent* in the April 2022 edition of the Louisiana Register, we conducted a public hearing on May 27 to receive comments and testimony on the proposed rule changes. We received no comments or testimony. The Board subsequently determined no revisions were warranted. During their June 29 meeting, the Occupational Licensing Review Commission authorized the Board to complete the promulgation process. In connection with this regulatory project, you should find the following documents in this package:

- *Notice of Intent*, as published in the April 2022 Louisiana Register Page 2
- Record from the May 27, 2022 Public Hearing Page 5
- Full text of proposed rule, as intended for publication in the Louisiana Register Page 6

Subject to review by the Joint Legislative Oversight Committee on Health & Welfare, the Board proposes to publish the original proposed rule changes without amendment as a *Rule* in the August 20, 2022 edition of the Louisiana Register with an immediate effective date. If you have any questions about the enclosed information or our procedures, please contact me directly at jfontenot@pharmacy.la.gov or 225.925.6481.

For the Board:

M. Joseph Fontenot Jr.
Executive Director

cc: Chair, Senate Health & Welfare Committee – APA.S-H&W@legis.la.gov
Speaker, House of Representatives – APA.HouseSpeaker@legis.la.gov
Chair, House Health & Welfare Committee – APA.H-HW@legis.la.gov
Editor, Louisiana Register – Reg.Submission@la.gov
Reference File

NOTICE OF INTENT

Department of Health Board of Pharmacy

Pharmacy Benefit Managers
(LAC 46:LIII.3001 and 3005)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy hereby gives notice of its intent to amend §§3001 and 3005 of its rules relative to pharmacy benefit managers to reduce the regulatory burden on pharmacy benefit manager permit applicants by eliminating the requirement to provide an audited financial statement. The proposed change in §3001 repeals the definition of audited financial statement and the proposed change in §3005 removes the application requirement to provide a copy of an audited financial statement by the applicant.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 30. Pharmacy Benefit Managers

§3001. Definitions

A. The following terms shall have the meaning ascribed to them in this Section:

Audited Financial Statement—Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1253.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 47:591 (May 2021), amended LR 48:

§3005. Permitting Procedures

A. Application for Initial Issuance of Permit

1. ...

2. The application shall include copies of the following documents:

a. - b. ...

c. Repealed.

A.3. - E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1253.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 47:591 (May 2021), amended LR 48:

Family Impact Statement

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a family impact statement on the Rule proposed for adoption, repeal, or amendment. The following statements will be published in the *Louisiana Register* with the proposed agency Rule.

1. The Effect on the Stability of the Family. The proposed rule changes will have no effect on the stability of the family.

2. The Effect on the Authority and Rights of Parents Regarding the Education and Supervision of their Children. The proposed rule changes will have no effect on the

authority and rights of parents regarding the education and supervision of their children.

3. The Effect on the Functioning of the Family. The proposed rule changes will have no effect on the functioning of the family.

4. The Effect on Family Earnings and Family Budget. The proposed rule changes will have no effect on family earnings and family budget.

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule changes will have no effect on the behavior and personal responsibility of children.

6. The Ability of the Family or a Local Government to Perform the Function as Contained in the Proposed Rule. The proposed rule changes will have no effect on the ability of the family or a local government to perform the activity as contained in the proposed rule.

Poverty Impact Statement

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a poverty impact statement on the Rule proposed for adoption, repeal, or amendment.

1. The Effect on Household Income, Assets, and Financial Security. The proposed rule changes will have no effect on household income, assets, or financial security.

2. The Effect on Early Childhood Development and Preschool through Postsecondary Education Development. The proposed rule changes will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. The proposed rule changes will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed rule changes will have no effect on taxes or tax credits.

5. The Effect on Child and Dependent Care, Housing, Health Care, Nutrition, Transportation, and Utilities Assistance. The proposed rule changes will have no effect on child and dependent care, housing, health care, nutrition, transportation, or utilities assistance.

Small Business Analysis

In accordance with Section 965 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a regulatory flexibility analysis on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, each of the following methods of reducing the impact of the proposed Rule on small businesses.

1. The Establishment of Less Stringent Compliance or Reporting Requirements for Small Businesses. The proposed rule changes will have no effect on compliance or reporting requirements for small business.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed rule changes will have no effect on schedules or deadlines for compliance or reporting requirements for small business.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed rule changes will have no effect on compliance or reporting requirements for small business.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed rule changes will have no effect on standards.

5. The Exemption of Small Businesses from All or Any Part of the Requirements Contained in the Proposed Rule. There are no exemptions for small businesses in the proposed rule changes.

Provider Impact Statement

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a provider impact statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. The proposed rule changes will have no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.

2. The Total Direct and Indirect Effect on the Cost to the Provider to Provide the Same Level of Service. The proposed rule changes will have no effect on the cost to the provider to provide the same level of service.

3. The Overall Effect on the Ability of the Provider to Provide the Same Level of service. The proposed rule changes will have no effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments, via United States Postal Service or other mail carrier, or in the alternative by personal delivery to Joe Fontenot, Executive Director - Designate, at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. He is responsible for responding to inquiries regarding the proposed Rule.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule is scheduled for 9:00 a.m. on Friday, May 27, 2022 at the Board office. During the hearing, all interested persons will be afforded an opportunity to submit comments and testimony, either verbally or in writing. The deadline for the receipt of all comments and testimony is 12 p.m. noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Joe Fontenot

Executive Director-Designate

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Pharmacy Benefit Managers

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

The proposed rule changes will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in printing expenses of \$500 in FY 2022 and \$500 in FY 2023. There will be no additional

expenditures or cost savings for LBP or other state or local governmental units.

The proposed changes reduce the regulatory burden on pharmacy benefit manager applicants by eliminating the requirement to provide a copy of an audited financial statement with an initial permit application.

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

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

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule changes will reduce the regulatory burden on pharmacy benefit manager applicants by eliminating the requirement to provide a copy of an audited financial statement with an initial permit application. This will impact an anticipated 40 applications.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no effect on competition and employment.

Joe Fontenot
Executive Director-Designate
2204#049

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office



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Summary of Testimony & Public Comments
re
Regulatory Project 2022-4 ~ Pharmacy Benefit Managers
at
May 27, 2022 Public Hearing

No comments or testimony received.

RULE

Department of Health Board of Pharmacy

Pharmacy Benefit Managers (LAC 46:LIII.3001 and 3005)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950 et seq.) and the Pharmacy Practice Act (R.S. 37:1161 et seq.), the Louisiana Board of Pharmacy has amended §§3001 and 3005 of its rules relative to pharmacy benefit managers to reduce the regulatory burden on pharmacy benefit manager permit applicants by eliminating the requirement to provide an audited financial statement. The change in §3001 repeals the definition of audited financial statement and the change in §3005 removes the application requirement to provide a copy of an audited financial statement. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII: Pharmacists

Chapter 30. Pharmacy Benefit Managers

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M. Joseph Fontenot, Jr.

Executive Director