



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



October 31, 2023

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 2023-02 (Summary Report) ~ Temporary Closure of Pharmacy

Dear Senator Cortez:

As we indicated in our first report to your office on February 3, 2023, the Board seeks to amend §1107 of its rules relative to pharmacy operations. The proposed Rule amendment will address prepared prescriptions affected by the temporary closure of a pharmacy pursuant to a state of emergency declared by the Governor or a need determined by the pharmacist-in-charge during an emergency or Act of God. The proposed Rule amendment allows for the storage of those prescriptions in a secure area and the delivery of those prescriptions to the patient, or an agent or caregiver of the patient, regardless of whether a pharmacist is on duty.

Subsequent to the publication of our Notice of Intent in the February 2023 edition of the Louisiana Register, we conducted a public hearing on March 28, 2023 to receive comments and testimony on the proposed Rule amendment. Pursuant to the public hearing, comments and testimony were received, a summary is attached with the Board's response. The Board took formal notice of the comments and testimony received during its May 24, 2023 Board meeting. After reviewing the comments and testimony, the Board referred the matter to the Board's Regulation Revision Committee to work with stakeholders to address their concerns. Working with stakeholders, the committee developed an amended draft which was approved by the Board during its August 16, 2023 Board meeting. On September 20, 2023, a Potpourri Notice was published in the Louisiana Register because of a substantive change and another public hearing was scheduled for October 30, 2023. No comments or testimony were received and the Board subsequently determined no revisions were warranted. On October 31, 2023 we submitted the project to the Department of Justice's Occupational Licensing Review Program (OLRP) and are awaiting their approval. In connection with this regulatory project, you should find the following documents in this package:

- *Notice of Intent*, as published in the February 2023 edition of the Louisiana Register
- Record from the March 28, 2023 Public Hearing
- *Potpourri Notice*, as published in the September 2023 edition of the Louisiana Register
- Record from the October 30, 2023 Public Hearing
- Full text of proposed Rule, as amended and intended for publication in the Louisiana Register

Regulatory Project 2023-02 (Summary Report)

Temporary Closure of Pharmacy

Page 2

Subject to review by the Joint Legislative Oversight Committee on Health & Welfare and approval by the OLRP, the Board proposes to publish the proposed Rule amendment, as amended, in the December 2023 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 - Via Email: APA.S-H&W@legis.la.gov
Speaker, House of Representatives - Via Email: APA.HouseSpeaker@legis.la.gov
Chair, House Health & Welfare Committee - Via Email: APA.H-HW@legis.la.gov
Editor, Louisiana Register - Via Email: Reg.Submission@la.gov
Reference File

NOTICE OF INTENT

Department of Health Board of Pharmacy

Temporary Closure of Pharmacy (LAC 46:LIII.1107)

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 Board of Pharmacy hereby gives notice of its intent to amend §1107 of its rules relative to pharmacy operations. The proposed Rule amendment will address prepared prescriptions affected by the temporary closure of a pharmacy pursuant to a state of emergency declared by the governor or a need determined by the pharmacist-in-charge. The proposed Rule amendment allows for the storage of those prescriptions in a secure area and the delivery of those prescriptions to the patient, or an agent or caregiver of the patient, regardless of whether a pharmacist is on duty.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 11. Pharmacies

Subchapter A. General Requirements

§1107. Pharmacy Operations

A. - D. ...

E. Temporary Closure of Pharmacy

1. When the governor issues or renews a state of emergency pursuant to the Emergency Assistance and Disaster Act of 1993, R.S. 29:721 et seq., or a state of public health emergency pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq., or when the pharmacist-in-charge determines it necessary to close the pharmacy for a temporary period of time, the following provisions shall apply.

a. The pharmacy shall notify the board in written form with information as to the anticipated duration of the temporary closure as well as the provisions for continuity of patient care no later than the next business day.

b. The pharmacy may establish a secure storage area separate from, but adjoining to, the secured prescription department within which the pharmacy may store prescriptions prepared for delivery to the patient, or his agent or caregiver. In the alternative, but only after receiving approval from the board, the pharmacy may establish a temporary secure storage area separate from and not adjoining the prescription department within which the

pharmacy may store prescriptions prepared for delivery to the patient, or his agent or caregiver.

c. Access to prescriptions stored in the temporary secure storage area shall be restricted to individuals designated by the pharmacist-in-charge.

d. Prepared prescriptions stored in a temporary secure storage area may be delivered to the patient, or his agent or caregiver, whether or not a pharmacist is on duty, but only when so authorized by the pharmacist-in-charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2088 (October 2003), effective January 1, 2004, LR 34:1408 (July 2008), amended by the Department of Health, Board of Pharmacy, LR 47:1643 (November 2021), LR 48:2105 (August 2022), amended LR 49:

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 amendment 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 amendment 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 amendment will have no effect on the functioning of the family.

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

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed Rule amendment 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 amendment 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 amendment 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 amendment 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 amendment will have no effect on employment or workforce development.

4. The Effect on Taxes and Tax Credits. The proposed Rule amendment 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 amendment 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 amendment does not establish less stringent compliance requirements for small business. The proposed Rule amendment will require the affected pharmacy to notify the board in written form with information as to the anticipated duration of the temporary closure as well as the provisions for continuity of patient care no later than the next business day. Given the limited occurrences of temporary closures of pharmacies, the effect on reporting requirements for small businesses will be minimal.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed Rule amendment does not establish less stringent 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 amendment will have no effect on consolidation or simplification of 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 amendment will have no effect on establishment of performance standards for small businesses to replace design or operational standards for small business.

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 amendment.

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 amendment 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 amendment 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 amendment 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 M. Joseph Fontenot Jr., Executive Director, 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 amendments. The deadline for the receipt of all written comments is 12 p.m. on Tuesday, March 28, 2023.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule changes is scheduled for 9:00 a.m. on Tuesday, March 28, 2023 at the office of the Louisiana Board of Pharmacy, 3388 Brentwood Drive, Baton Rouge, LA 70809-1700. 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. that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

M. Joseph Fontenot Jr.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Temporary Closure of Pharmacy

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

The proposed Rule amendment will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final Rules in the state register, resulting in printing expenses of \$250 in FY 2023 and \$250 in FY 2024. There will be no additional expenditures or cost savings for LBP or other state governmental units.

To the extent a local governmental unit operates a pharmacy, there could be additional costs to pharmacies who choose to establish a secure storage area within which the pharmacy may store prescriptions prepared for delivery to the patient, or his agent or caregiver. The cost of doing so will vary among pharmacies.

The proposed Rule amendment will address prepared prescriptions affected by the temporary closure of a pharmacy pursuant to a state of emergency declared by the Governor or a need determined by the pharmacist-in-charge. The proposed Rule amendment allows for the storage of those prescriptions in a secure area and the delivery of those prescriptions to the patient, or an agent or caregiver of the patient, regardless of whether a pharmacist is on duty.

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

The proposed Rule amendment will not affect revenue collections of state or local governmental units.

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

The proposed Rule amendment will benefit consumers by addressing the prepared prescriptions affected by the temporary closure of a pharmacy pursuant to a state of emergency declared by the Governor or a need determined by the pharmacist-in-charge. The proposed Rule amendment allows for the storage of those prescriptions in a secure area and the delivery of those prescriptions to the patient, or an agent or caregiver of the patient, regardless of whether a pharmacist is on duty.

The proposed Rule amendment will affect an indeterminate number of pharmacies who choose to establish a secure storage area within which the pharmacy may store prescriptions prepared for delivery to the patient, or his agent or caregiver. The cost of doing so will vary among pharmacies.

The proposed Rule amendment will have an indeterminable impact on a licensee's receipts or revenue by allowing the sale of prepared prescriptions during the temporary closure of a pharmacy pursuant to a state of emergency declared by the Governor or a need determined by the pharmacist-in-charge. The impact would vary due to the length of the temporary closure, the number of prescriptions sold during the temporary closure, and the price of those prescriptions sold.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule amendment will have no effect on competition or employment.

M. Joseph Fontenot, Jr.
Executive Director
2302#023

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office



Louisiana Board of Pharmacy

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



NOTICE IS HEREBY GIVEN that a Public Hearing has been ordered and called for 9:00 a.m. on Tuesday, March 28, 2023 at the Board office, for the purpose to wit:

A G E N D A

Revised 02-20-2023

1. Call to Order **9:04 A.M.**
2. Appearances
3. Solicitation of Comments & Testimony on Proposed Rule Changes
 - A. Regulatory Project 2023-01 ~ Prescriptions
 - B. Regulatory Project 2023-02 ~ Temporary Closure of Pharmacy
 - C. Regulatory Project 2023-03 ~ Pharmacy Benefit Managers
 - D. Regulatory Project 2023-04 ~ Healthcare Workplace Violence Prevention
4. Opportunity for Public Comment
5. Adjourn **12:00 noon**

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 M. Joseph Fontenot Jr., Executive Director, at the Board office. He is responsible for responding to inquiries regarding the proposed Rule amendments. The deadline for the receipt of all written comments is 12 p.m. Tuesday, March 28, 2023.

Public Hearing

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. that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

NOTICE: In compliance with Act 256 of the 2019 Louisiana Legislature, the Board gives public notice that any information submitted to the Board may become public record unless specifically exempted by the Public Records Law, R.S. 44:1 *et seq.*

Louisiana Board of Pharmacy

Public Hearing Attendance Record ~ March 28, 2023

Project 2023-01 ~ Prescriptions

Project 2023-02 ~ Temporary Closure of Pharmacy

Project 2023-03 ~ Pharmacy Benefit Managers

Project 2023-04 ~ Healthcare Workplace Violence Prevention

Name	Address	E-mail	Group or Agency Represented
1. Shelly Dupré	301 Main St Ste 2200 BR	shelly@impactmanagement.com	LARP
2. RANDAL Johnson	543 Spanish Bay Baton Rouge LA 70802	johnson@LIPA.org	LIPA
3. Jasmi Martin	3970 Driftwood Dr. Zachary, LA 70350	jmartin@lane rmc.org	lane RMC
4. Alison Landry	14137 Barataria Ave BR, LA 70810	alison.landry@emolhs.org	OLOL
5. Crystal Carter	620 Florida St. Ste 210 BR, LA 70801	crystal.carter@amstrategies.co	LPA

Public Hearing Attendance Record ~ March 28, 2023

Page 2

Name	Address	E-mail	Group or Agency Represented
6. Rob Rieger Christopher Joseph	19th Flr. Riverwalk II 450 Laurel St. B2, LA 70801	Robert.rieger@law.co-- christopher.joseph@law.co--	PLMA
7. Dana Antoon	1812 W Thomas St Hammock LA 70401	danaligh2014@gmail.com	Channell Drugs
8. Jessica Elliott	14011 Highgrave Ave. BR 70818	jessica@lapretail.org	LARP
9.			
10.			



Louisiana Board of Pharmacy

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



Summary of Testimony & Public Comments

Regulatory Project 2023-02 ~ Temporary Closure of Pharmacy at March 28, 2023 Public Hearing

1. Letter from Randal Johnson on behalf of the Louisiana Independent Pharmacies Association (LIPA)

Mr. Johnson expressed concerns regarding the proposed rule amendment. His concerns center around the language giving a pharmacist-in-charge the ability to declare a temporary closure of a pharmacy at any point in time, regardless of a state of emergency, and allow any noncredentialed person to enter the designated area to retrieve a prescription for delivery to a patient without patient counseling or providing an opportunity for the patient to ask questions.

Mr. Johnson expressed an additional concern with the proposed rule amendment in that it could lead to a situation in which the prescriptions are filled out of state and are shipped to a permitted pharmacy where a licensed pharmacist could receive and place these prescriptions in a designated location and depart, leaving the delivery to any person designated by the pharmacist-in-charge. He noted this situation could effectively deny patients access to their local pharmacist leading to lower-quality healthcare outcomes.

Mr. Johnson recommended language requiring a state of emergency declared by the governor and a need determined by the pharmacist-in-charge to close the pharmacy temporarily.

2. Comments from Randal Johnson on behalf of LIPA during the Public Hearing

Mr. Johnson reiterated the same concerns noted in his letter referenced in number one above.

3. Letter from Ricky Guidry, President of the Louisiana Pharmacists Association (LPA), on behalf of the association.

LPA objects to the proposed rule amendment asking the Board to consider additional language in establishing the criteria for a temporary closure because the current proposed language is too broad and flexible. Additionally, LPA would like the Board to consider language requiring the person designated by the pharmacist-in-charge to possess qualifications.

4. Email from Kevin Nielsen of Nielsen's City Drug Store in Bogalusa, LA.

Mr. Nielsen's email stated, "Please stop the NOI, this will add yet another feather in the cap of chain pharmacies and continue to kill the mom and pop stores like me."



Louisiana Board of Pharmacy

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



June 5, 2023

Randal Johnson, CEO
Louisiana Independent Pharmacies Association
543 Spanish Town Road
Baton Rouge, LA 70802
Via E-mail: johnson@lipa.org

Re: Regulatory Project 2023-02 ~ Temporary Closure of Pharmacy

Dear Mr. Johnson:

Thank you for your interest in this regulatory project and for taking the time to prepare and submit comments in response to the Public Hearing held on March 28, 2023 relative to the Board's proposed rule amendment. The Board evaluated your comments during their May 24, 2023 meeting and directed this reply to you.

In the email you submitted in regards to the project, you expressed concerns with the language in the proposed rule amendment, specifically in regards to giving the PIC the ability to temporarily close the pharmacy and allow uncredentialed persons to deliver already prepared prescriptions to patients without a state of emergency.

The Board, after reviewing your email, decided to refer the project back to the Regulation Revision Committee to work with you and other stakeholders in reviewing and remedying the language.

Once again, thank you for your interest in this regulatory project and for taking the time to prepare and submit your comments.

For the Board:

Joe Fontenot
Executive Director



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



September 3, 2023

Randal Johnson, CEO
Louisiana Independent Pharmacies Association
543 Spanish Town Road
Baton Rouge, LA 70802
Via E-mail: johnson@lipa.org

Re: Regulatory Project 2023-02 ~ Temporary Closure of Pharmacy

Dear Mr. Johnson:

As mentioned in my letter dated June 5, 2023, the Board evaluated your comments during their May 24, 2023 meeting and referred the above referenced regulatory project back to the Regulation Revision Committee to work with you and other stakeholders to review and improve the proposed language.

On July 18, 2023 the committee met and Mr. Cross with LIPA was in attendance and participated in the dialogue. The result was the development of Draft #4 which was presented to the Board during their August 16, 2023 meeting. The Board approved the draft and authorized staff to continue the promulgation process. The language added to the proposed rule should alleviate the concerns expressed. A copy of the draft is attached to this letter.

Once again, thank you for your interest in this regulatory project and for taking the time to prepare and submit your comments.

For the Board:

Joe Fontenot
Executive Director



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



June 5, 2023

Ricky Guidry, President
Louisiana Pharmacists Association
450 Laurel St., Ste. 1400
Baton Rouge, LA 70801
Via E-mail: julie.fuselier@amstrategies.co

Re: Regulatory Project 2023-02 ~ Temporary Closure of Pharmacy

Dear Mr. Guidry:

Thank you for your interest in this regulatory project and for taking the time to prepare and submit comments in response to the Public Hearing held on March 28, 2023 relative to the Board's proposed rule amendment. The Board evaluated your comments during their May 24, 2023 meeting and directed this reply to you.

In the email you submitted in regards to the project, you expressed concerns that the proposed rule is too broad, too flexible, and could jeopardize patient care.

The Board, after reviewing your email, decided to refer the project back to the Regulation Revision Committee to work with you and other stakeholders in reviewing and remedying the language.

Once again, thank you for your interest in this regulatory project and for taking the time to prepare and submit your comments.

For the Board:

Joe Fontenot
Executive Director



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



September 3, 2023

Ricky Guidry, President
Louisiana Pharmacists Association
450 Laurel St., Ste. 1400
Baton Rouge, LA 70801
Via E-mail: julie.fuselier@amstrategies.co

Re: Regulatory Project 2023-02 ~ Temporary Closure of Pharmacy

Dear Mr. Guidry:

As mentioned in my letter dated June 5, 2023, the Board evaluated your comments during their May 24, 2023 meeting and referred the above referenced regulatory project back to the Regulation Revision Committee to work with you and other stakeholders to review and improve the proposed language.

On July 18, 2023 the committee met with stakeholders and developed Draft #4 which was presented to the Board during their August 16, 2023 meeting. The Board approved the draft and authorized staff to continue the promulgation process. The language added to the proposed rule should alleviate the concerns expressed. A copy of the draft is appended to this letter.

Once again, thank you for your interest in this regulatory project and for taking the time to prepare and submit your comments.

For the Board:

Joe Fontenot
Executive Director



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



June 5, 2023

Kevin Nielsen
Nielsen's City Drug Store, Inc
330 Austin Street
Bogalusa, LA 70427
Via E-mail: ctydrugs@bellsouth.net

Re: Regulatory Project 2023-02 ~ Temporary Closure of Pharmacy

Dear Mr. Nielsen:

Thank you for your interest in this regulatory project and for taking the time to prepare and submit comments in response to the Public Hearing held on March 28, 2023 relative to the Board's proposed rule amendment. The Board evaluated your comments during their May 24, 2023 meeting and directed this reply to you.

In the email you submitted in regards to the project, you requested the Board to "please stop the NOI".

The Board, after reviewing your email and others, decided to refer the project back to the Regulation Revision Committee to work with you and other stakeholders in reviewing and remedying the language.

Once again, thank you for your interest in this regulatory project and for taking the time to prepare and submit your comments.

For the Board:

Joe Fontenot
Executive Director



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



September 3, 2023

Kevin Nielsen
Nielsen's City Drug Store, Inc
330 Austin Street
Bogalusa, LA 70427
Via E-mail: ctydrugs@bellsouth.net

Re: Regulatory Project 2023-02 ~ Temporary Closure of Pharmacy

Dear Mr. Nielsen:

As mentioned in my letter dated June 5, 2023, the Board evaluated your comments during their May 24, 2023 meeting and referred the above referenced regulatory project back to the Regulation Revision Committee to work with you and other stakeholders to review and improve the proposed language.

On July 18, 2023 the committee met with stakeholders and developed Draft #4 which was presented to the Board during their August 16, 2023 meeting. The Board approved the draft and authorized staff to continue the promulgation process. A copy of the draft is appended to this letter.

Once again, thank you for your interest in this regulatory project and for taking the time to prepare and submit your comments.

For the Board:

Joe Fontenot
Executive Director

2309#015

POTPOURRI

**Department of Health
Board of Pharmacy**

Temporary Closure of Pharmacy (LAC 46:LIII.1107)

The Board of Pharmacy published a Notice of Intent to amend §1107 of its rules relative to pharmacy operations in the February 20, 2023 edition of the *Louisiana Register*, volume 49, pages 369-371. Pursuant to the board's consideration of comments and testimony received during the March 28, 2023 public hearing, the board proposes to amend the original proposed Rule by adding "in an emergency" to §1107.E and "during an emergency or Act of God" to §1107.E.1

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 11. Pharmacies

Subchapter A. General Requirements

§1107. Pharmacy Operations

A. - D. ...

E. Temporary Closure of Pharmacy in an Emergency

1. When the governor issues or renews a state of emergency pursuant to the Emergency Assistance and Disaster Act of 1993, R.S. 29:721 et seq., or a state of public health emergency pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq., or when the pharmacist-in-charge determines it necessary to close the pharmacy for a temporary period of time during an

emergency or Act of God, the following provisions shall apply:

1.a - d ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2088 (October 2003), effective January 1, 2004, LR 34:1408 (July 2008), amended by the Department of Health, Board of Pharmacy, LR 47:1643 (November 2021), LR 48:2105 (August 2022), amended LR 49:

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 M. Joseph Fontenot Jr., Executive Director, 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 amendment. The deadline for the receipt of all written comments is 12 p.m. on Monday, October 30, 2023.

Public Hearing

A public hearing to solicit comments and testimony on the proposed revisions to the original Notice of Intent is scheduled for 9:00 a.m. on Monday, October 30, 2023 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. that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225-925-6496.

M. Joseph Fontenot Jr.
Executive Director



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



NOTICE IS HEREBY GIVEN that a Public Hearing has been ordered and called for 9:00 a.m. on Monday, October 30, 2023 at the Board office, for the purpose to wit:

A G E N D A

Revised 09-11-2023

1. Call to Order
2. Appearances
3. Solicitation of Comments & Testimony on Proposed Rule Changes
 - A. Regulatory Project 2023-02 ~ Temporary Closure of Pharmacy – Potpourri Notice
4. Opportunity for Public Comment
5. Adjourn

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 M. Joseph Fontenot Jr., Executive Director, at the Board office. He is responsible for responding to inquiries regarding the proposed Rule amendments. The deadline for the receipt of all written comments is 12 p.m. on Monday, October 30, 2023.

Public Hearing

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. that same day. To request a disability accommodation, please contact Joe Fontenot, Executive Director, at 225.925.6496 or email at jfontenot@pharmacy.la.gov.

NOTICE: In compliance with Act 256 of the 2019 Louisiana Legislature, the Board gives public notice that any information submitted to the Board may become public record unless specifically exempted by the Public Records Law, R.S. 44:1 *et seq.*

NOTICE: To request a disability accommodation, please contact Joe Fontenot, Executive Director, at 225.925.6496 or email at jfontenot@pharmacy.la.gov.

Louisiana Board of Pharmacy

Public Hearing Attendance Record ~ October 30, 2023

Regulatory Project 2023-02 ~ Temporary Closure of Pharmacy

Name	Address	E-mail	Group or Agency Represented
1.			
2.			
3.			
4.			
5.			



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



Summary of Testimony & Public Comments

**Regulatory Project 2023-02 ~ Temporary Closure of Pharmacy
at
October 30, 2023 Public Hearing**

No testimony or public comments received.

RULE

Department of Health

Board of Pharmacy

Temporary Closure of Pharmacy (LAC 46:LIII.1107)

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 Board of Pharmacy amended §1107 of its rules relative to pharmacy operations. The amended Rule addresses prepared prescriptions affected by the temporary closure of a pharmacy pursuant to a state of emergency declared by the Governor or a need determined by the pharmacist-in-charge during an emergency or Act of God. The amended Rule allows for the storage of those prescriptions in a secure area and the delivery of those prescriptions to the patient, or an agent or caregiver of the patient, regardless of whether a pharmacist is on duty. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII: Pharmacists

Chapter 11. Pharmacies

Subchapter A. General Requirements

§1107. Pharmacy Operations

A. – D. ...

E. Temporary Closure of Pharmacy in an Emergency

1. When the Governor issues or renews a state of emergency pursuant to the Emergency Assistance and Disaster Act of 1993, R.S. 29:721 et seq., or a state of public health emergency pursuant to the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq., or when the pharmacist-in-charge determines it necessary to close the pharmacy for a temporary period of time during an emergency or Act of God, the following provisions shall apply:

- a. The pharmacy shall notify the board in written form with information as to the anticipated duration of the temporary closure as well as the provisions for continuity of patient care no later than the next business day.
- b. The pharmacy may establish a secure storage area separate from, but adjoining to, the secured prescription department within which the pharmacy may store prescriptions prepared for delivery to the patient, or his agent or caregiver. In the alternative, but only after receiving approval from the board, the pharmacy may establish a temporary secure storage area separate from and not adjoining the prescription department within which the pharmacy may store prescriptions prepared for delivery to the patient, or his agent or caregiver.
- c. Access to prescriptions stored in the temporary secure storage area shall be restricted to individuals designated by the pharmacist-in-charge.
- d. Prepared prescriptions stored in a temporary secure storage area may be delivered to the patient, or his agent or caregiver, whether or not a pharmacist is on duty, but only when so authorized by the pharmacist-in-charge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1182.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 23:1310 (October 1997), amended LR 29:2088 (October 2003), effective January 1, 2004, LR 34:1408 (July 2008), amended by the Department of Health, Board of Pharmacy, LR 47:1643 (November 2021), LR 48:2105 (August 2022), amended LR

M. Joseph Fontenot Jr.

Executive Director