



# Louisiana Board of Pharmacy

3388 Brentwood Drive  
Baton Rouge, Louisiana 70809-1700  
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April 4, 2023

Senator P. Page Cortez  
President, Louisiana Senate  
Via Email: [APA.SenatePresident@legis.la.gov](mailto:APA.SenatePresident@legis.la.gov)

## Electronic Mail – Delivery Receipt Requested

Re: Report No. 1 of 3 for Regulatory Project 2023-06 ~ Staffing Ratios

Dear Senator Cortez:

The Board seeks to amend §709 relative to pharmacy interns and §907 relative to pharmacy technicians. The proposed rule changes in §709 and §907 provide that the ratio of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates to pharmacists on duty shall not exceed four to one in any staff mixture at any given time. Of these four, no more than two may be pharmacy technician candidates. In addition to these four, the ratio of pharmacy interns on rotation with a board approved college of pharmacy to pharmacists on duty shall be no more than three to one.

In connection with this regulatory project, the following items are appended:

- Notice of Intent Page 2
- Fiscal & Economic Impact Statement Page 6

As indicated in the solicitation, we will convene a public hearing at 9:00 a.m. on Friday, May 26, 2023 to receive public comments and testimony on these proposed rule changes. We will summarize those comments and our responses thereto in our next report to you. In the event you have any questions or need additional information about this project, please contact me directly at [jfontenot@pharmacy.la.gov](mailto: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](mailto:APA.S-H&W@legis.la.gov)  
Speaker, House of Representatives  
Via Email: [APA.HouseSpeaker@legis.la.gov](mailto:APA.HouseSpeaker@legis.la.gov)  
Chair, House Health & Welfare Committee  
Via Email: [APA.H-HW@legis.la.gov](mailto:APA.H-HW@legis.la.gov)  
Editor, *Louisiana Register*  
Via Email: [Reg.Submission@la.gov](mailto:Reg.Submission@la.gov)  
Reference File

## NOTICE OF INTENT

### Department of Health Board of Pharmacy

Staffing Ratios (LAC 46:LIII.709, 907)

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 §709 relative to pharmacy interns and §907 relative to pharmacy technicians. The proposed rule changes in §709 and §907 provide that the ratio of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates to pharmacists on duty shall not exceed four to one in any staff mixture at any given time. Of these four, no more than two may be pharmacy technician candidates. In addition to these four, the ratio of pharmacy interns on rotation with a board approved college of pharmacy to pharmacists on duty shall be no more than three to one.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part LIII: Pharmacists

#### Chapter 7. Pharmacy Interns

##### §709. Scope of Practice

A. ...

~~B. The ratio of pharmacy interns to pharmacists shall be 1:1. However, the ratio of pharmacy interns on rotation with a board approved college of pharmacy to pharmacists shall be no more than 3:1. The ratio of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates to pharmacists on duty shall not exceed four to one in any variable at any given time, of which the ratio of pharmacy technician candidates to pharmacists shall be no more than two to one. In addition, the ratio of pharmacy interns on rotation with a board approved college of pharmacy to pharmacists shall be no more than three to one.~~

~~-C.1. – C.3. ...~~

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 36:755 (April 2010), amended by the Department of Health, Board of Pharmacy, LR 48:495 (March 2022), amended LR

\* \* \*

#### Chapter 9. Pharmacy Technicians

##### §907. Scope of Practice

A. Pharmacy technician candidates and pharmacy technicians may assist the pharmacist by performing those duties and functions assigned by the pharmacist while under his direct and immediate supervision.

~~1. The ratio of candidates to pharmacists on duty shall not exceed one to one at any given time.~~

~~2. The ratio of technicians to pharmacists on duty shall not exceed two to one at any given time. However, the ratio of technicians to pharmacists on duty may be increased to three to one if no technician candidates are on duty at the same time. The ratio of pharmacy technician candidates, certified pharmacy technicians, and pharmacy interns to pharmacists on duty shall not exceed four to one in any variable at any given time, of which the ratio of pharmacy technician candidates to pharmacists shall be no more than two to one.~~

B. – C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1212.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 30:2486 (November 2004), effective January 1, 2005, amended LR 32:1049 (June 2006), amended by the Department of Health, Board of Pharmacy, LR 43:2498 (December 2017), effective January 1, 2018, amended LR 48:496 (March 2022), amended LR

### **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 may increase employment opportunities for pharmacy technicians. Under the current rules, only one pharmacy technician candidate per pharmacist may be on duty at any given time. The proposed rules allow for two candidates per pharmacist. In addition, the current rules would prohibit an on-duty staff mix of four technicians, or of three technicians and one technician candidate. The proposed rules would allow for these staffing combinations.
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 benefit the public, pharmacies, and pharmacy personnel by allowing flexible staffing of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates which could result in better staffing of pharmacies, a higher level of care for patients, and a better work environment for pharmacy staff.

### **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 do not establish less stringent compliance 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 do 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 changes 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 changes 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 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 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 Friday, May 26, 2023.

#### **Public Hearing**

A public hearing to solicit comments and testimony on the proposed Rule changes is scheduled for 9:00 a.m. on Friday, May 26, 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

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Staffing Ratios**

##### **I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL 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 \$750 in FY 2023 and \$750 in FY 2024. There will be no additional expenditures or cost savings for LBP or other state or local governmental units.

The proposed rule changes amend §709 relative to pharmacy interns and §907 relative to pharmacy technicians. The proposed rule changes in §709 and §907 provide that the ratio of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates to pharmacists on duty shall not exceed four to one in any staff mixture at any given time. Of these four, no more than two may be pharmacy technician candidates. In addition to these four, the ratio of pharmacy interns on rotation with a board approved college of pharmacy to pharmacists on duty shall be no more than three to one.

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

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

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

The proposed rule changes benefit the public, pharmacies, and pharmacy personnel by allowing flexible staffing of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates which could result in better staffing of pharmacies, a higher level of care for patients, and a better work environment for pharmacy staff.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes may increase employment opportunities for pharmacy technicians. Under the current rules, only one pharmacy technician candidate per pharmacist may be on duty at any given time. The proposed rules allow for two candidates per pharmacist. In addition, the current rules would prohibit an on-duty staff mix of four technicians, or of three technicians and one technician candidate. The proposed rules would allow for these staffing combinations.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

Person Preparing Statement:	M. Joseph Fontenot Jr. Executive Director	Dept.: Dept. of Health
		Office: Board of Pharmacy
Telephone:	225.925.6481	Title: Staffing Ratios
Return Address:	3388 Brentwood Drive Baton Rouge, LA 70809	Effective Date of Rule: Upon promulgation August 20, 2023 (est.)

**SUMMARY**  
(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL 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 \$750 in FY 2023 and \$750 in FY 2024. There will be no additional expenditures or cost savings for LBP or other state or local governmental units.

The proposed rule changes amend §709 relative to pharmacy interns and §907 relative to pharmacy technicians. The proposed rule changes in §709 and §907 provide that the ratio of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates to pharmacists on duty shall not exceed four to one in any staff mixture at any given time. Of these four, no more than two may be pharmacy technician candidates. In addition to these four, the ratio of pharmacy interns on rotation with a board approved college of pharmacy to pharmacists on duty shall be no more than three to one.

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

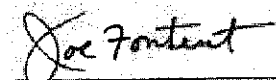
The proposed rule changes will not affect revenue collections of state or local governmental units.

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

The proposed rule changes benefit the public, pharmacies, and pharmacy personnel by allowing flexible staffing of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates which could result in better staffing of pharmacies, a higher level of care for patients, and a better work environment for pharmacy staff.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT** (Summary)

The proposed rule changes may increase employment opportunities for pharmacy technicians. Under the current rules, only one pharmacy technician candidate per pharmacist may be on duty at any given time. The proposed rules allow for two candidates per pharmacist. In addition, the current rules would prohibit an on-duty staff mix of four technicians, or of three technicians and one technician candidate. The proposed rules would allow for these staffing combinations.

  
\_\_\_\_\_  
Signature of Agency Head or Designee

M. Joseph Fontenot Jr., Executive Director  
Typed Name and Title of Agency Head

March 31, 2023  
Date of Signature

  
\_\_\_\_\_  
Legislative Fiscal Officer or Designee

3/31/23  
Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule changes amend §709 relative to pharmacy interns and §907 relative to pharmacy technicians. The proposed rule changes in §709 and §907 provide that the ratio of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates to pharmacists on duty shall not exceed four to one in any variable at any given time, of which the ratio of pharmacy technician candidates to pharmacists may not exceed two to one. The proposed rule change in §709 also limits the ratio of pharmacy interns on rotation with a board approved college of pharmacy to pharmacist to no more than three to one. A copy of the notice of intent is appended.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

During the COVID-19 pandemic, the Board of Pharmacy implemented several policies due to the public health emergency. One such policy dealt with flexible staffing ratios. In order to incorporate interim policy *PPM I.D.12 - COVID-19 PHE: Flexible Staffing Ratios* into its rules, LBP determined it appropriate to amend Sections 709 and 907 of its rules relative to pharmacy interns and pharmacy technicians.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

LBP has allocated \$1500 for printing the Notice of Intent and the rule. LBP operates on self-generated funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) \_\_\_\_\_ Yes. If yes, attach documentation.

(b)   X   NO. If no, provide justification as to why this rule change should be published at this time

LBP operates on self-generated funds, and they have determined the proposed rule changes are in the public's best interest.

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 23	FY 24	FY 25
Personal Services			
Operating Expenses	\$750	\$750	
Professional Services			
Other Charges			
Equipment			
Major Repairs & Constr.			
TOTAL	\$750	\$750	None
POSITIONS (#)	None	None	None

2. Provide a narrative explanation of the costs or savings shown in "A. 1.," including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

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 \$750 in FY 2023 and \$750 in FY 2024. There will be no additional expenditures or cost savings for LBP or other state agencies.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 23	FY 24	FY 25
State General Fund			
Agency Self-Generated	\$750	\$750	
Dedicated			
Federal Funds			
Other (Specify)			
TOTAL	\$750	\$750	None

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

LBP has sufficient self-generated funds available to implement the proposed rule changes.

**B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

The proposed rule changes will not impact local governmental units.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

The proposed rule changes will not impact funding sources of local governmental units.



FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

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

<u>REVENUE INCREASE/DECREASE</u>	<u>FY 23</u>	<u>FY 24</u>	<u>FY 25</u>
State General Fund			
Agency Self-Generated			
Dedicated Funds*			
Federal Funds			
Local Funds			
<b>TOTAL</b>	None	None	None

\*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

N/A

**FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET**

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS**

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The proposed rule changes benefit the public, pharmacies, and pharmacy personnel by allowing flexible staffing of pharmacy interns, certified pharmacy technicians, and pharmacy technician candidates which could result in better staffing of pharmacies, a higher level of care for patients, and a better work environment for pharmacy staff.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

The proposed rule changes will not impact a licensee's receipts or revenue.

**IV. EFFECTS ON COMPETITION AND EMPLOYMENT**

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed rule changes may increase employment opportunities for pharmacy technicians. Under the current rules, only one pharmacy technician candidate per pharmacist may be on duty at any given time. The proposed rules allow for two candidates per pharmacist. In addition, the current rules would prohibit an on-duty staff mix of four technicians, or of three technicians and one technician candidate. The proposed rules would allow for these staffing combinations.