



Louisiana Board of Pharmacy

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



July 28, 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 2023-06 (Summary Report) ~ Staffing Ratios

Dear Senator Cortez:

As we indicated in our first report to your office on April 4, 2023, 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.

Subsequent to the publication of our Notice of Intent in the April 2023 edition of the *Louisiana Register*, we conducted a public hearing on May 26 to receive comments and testimony on the proposed rule. We received no comments or testimony. The Board subsequently determined no revisions were warranted. On June 7 we submitted the project to the Department of Justice's Occupational Licensing Review Program 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 April 2023 edition of the *Louisiana Register*
- Record from the May 26, 2023 Public Hearing
- Full text of proposed rule, as intended for publication in the *Louisiana Register*

Subject to review by the Joint Legislative Oversight Committee on Health & Welfare, the Board proposes to publish the original proposed rules without amendment as a Rule in the September 20, 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

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 49:

NOTICE OF INTENT

Department of Health Board of Pharmacy

Staffing Ratios (LAC 46:LIII.709 and 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, 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. - 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 49:

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 pharmacy technician candidates, certified pharmacy technicians, and pharmacy interns to pharmacists on duty shall not exceed four to one in any

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 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 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 \$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 NONGOVERNMENTAL 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.

M. Joseph Fontenot Jr.
Executive Director
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Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office



Louisiana Board of Pharmacy

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NOTICE IS HEREBY GIVEN that a Public Hearing has been ordered and called for 9:00 a.m. on Friday, May 26, 2023 at the Board office, for the purpose to wit:

A G E N D A

Revised 04-19-2023

1. Call to Order **9:00 A.M.**
2. Appearances
3. Solicitation of Comments & Testimony on Proposed Rule Changes
 - A. Regulatory Project 2023-05 ~ Pharmacy Change of Ownership
 - B. Regulatory Project 2023-06 ~ Staffing Ratios
 - C. Regulatory Project 2023-07 ~ Marijuana Pharmacy
 - D. Regulatory Project 2023-08 ~ DATA-Waiver Registration Elimination
4. Opportunity for Public Comment
5. Adjourn **12:01 P.M.**

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 Friday, May 26, 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.

Louisiana Board of Pharmacy

Public Hearing Attendance Record ~ May 26, 2023

Regulatory Project 2023-05 ~ Pharmacy Change of Ownership

Regulatory Project 2023-06 ~ Staffing Ratios

Regulatory Project 2023-07 ~ Marijuana Pharmacy

Regulatory Project 2023-08 ~ DATA-Waiver Registration Elimination

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



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May 26, 2023

Public Hearing

Opportunity for Public Comment

1. Name N/A representing _____

Comments:

2. Name _____ representing _____

Comments:

3. Name _____ representing _____

Comments:

4. Name _____ representing _____

Comments:



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Summary of Testimony & Public Comments

**Regulatory Project 2023-06 ~ Staffing Ratios
at
May 26, 2023 Public Hearing**

No comments or testimony received.

RULE

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 amended §709 relative to pharmacy interns and §907 relative to pharmacy technicians. The 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. This Rule is hereby adopted on the day of promulgation.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII: Pharmacists

Chapter 7. Pharmacy Interns

§709. Scope of Practice

A. ...

B. 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.

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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 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.

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M. Joseph Fontenot, Jr.
Executive Director