

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

Marijuana Pharmacy (LAC 46:LIII.2441, 2443, and 2451)

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 three sections within Chapter 24 of its rules relative to marijuana pharmacy. The proposed change in §2441 repeals the definition of marijuana which has changed since the rule was promulgated in 2017. The proposed change in §2443 repeals the limitation that a single container hold no more than a one-month supply of marijuana. The proposed change in §2451 removes the limitation that marijuana pharmacies may sell only marijuana products, over-the-counter medications, durable medical equipment, and other retail items.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LIII. Pharmacists

Chapter 24. Limited Service Providers

Subchapter E. Marijuana Pharmacy

§2441. Definitions

A. As used in this Subchapter, the following terms shall have the meaning ascribed to them in this Section:

* * *

Marijuana—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1538 (August 2017), amended LR 45:1473 (October 2019), amended LR 46:

§2443. Marijuana Products

A. - D.1.c. ...

d. Repealed.

D.1.e - E.4.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1540 (August 2017), amended LR 45:1473 (October 2019), amended LR 46:

§2451. Operation of Marijuana Pharmacy

A. - M. ...

N. No marijuana pharmacy shall acquire, possess or dispense any controlled substance other than medical marijuana products authorized by R.S. 40:1046.

O. - U. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Pharmacy, LR 43:1547 (August 2017), amended LR 46:

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

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

5. The Effect on the Behavior and Personal Responsibility of Children. The proposed rule change 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 change 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 change 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 change will have no effect on early childhood development or preschool through postsecondary education development.

3. The Effect on Employment and Workforce Development. To the extent a marijuana pharmacy elects to dispense an expanded offering of prescription drugs, the proposed rule change may improve the economic viability of the marijuana pharmacy which could improve employment opportunities at that pharmacy.

4. The Effect on Taxes and Tax Credits. The proposed rule change 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 change 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 change does not change the current compliance or reporting requirements for small businesses.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed rule change does not change the current schedule or deadline for compliance or reporting requirements.

3. The Consolidation or Simplification of Compliance or Reporting Requirements for Small Businesses. The proposed rule change does not change the current compliance or reporting requirements for small businesses.

4. The Establishment of Performance Standards for Small Businesses to Replace Design or Operational Standards Required in the Proposed Rule. The proposed rule change will repeal an operational standard which limits the type of products that may be sold at a marijuana pharmacy, which may improve the economic viability of the marijuana pharmacy.

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.

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 change 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 change 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 change 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 Malcolm J Broussard, 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.

Public Hearing

A public hearing to solicit comments and testimony on the proposed Rule amendment is scheduled for 9 a.m. on Friday, May 29, 2020. During the hearing, all interested persons will be afforded an opportunity to submit data, views, or arguments, either orally or in writing. The deadline for the receipt of all comments is 12:00 noon that same day. To request reasonable accommodations for persons with disabilities, please call the board office at 225.925.6496.

Malcolm J Broussard
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Marijuana Pharmacy

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

The proposed rule change will require the Louisiana Board of Pharmacy (LBP) to publish the proposed and final rules in the state register, resulting in a one-time expense of \$1,000 in FY 20 and \$1,000 in FY 21. There will be no additional expenditures or cost savings for LBP or other state or local governmental units.

The proposed rule change repeals the limitation that a single container hold no more than a one-month supply of marijuana. The proposed rule change also repeals the limitation that a marijuana pharmacy may not sell prescription drugs, allowing marijuana pharmacies to sell prescription drugs that are not controlled substances.

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

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

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

The proposed rule change will allow the pharmacist at a marijuana pharmacy to dispense a single container that may contain more or less than a one-month supply of marijuana. In addition, marijuana pharmacies will be allowed to dispense prescription drugs that are not classified as controlled substances. That allowance may improve the economic viability of marijuana pharmacies, which are currently restricted to marijuana products, over-the-counter medications, and other retail items.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will not affect competition; however, it could improve employment if the economic viability of marijuana pharmacies is improved.