

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

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. noon 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. noon 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 GOVERNMENTAL 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, SMALL BUSINESSES, OR NON-GOVERNMENTAL 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.