

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1380 (December 1992) effective January 1, 1993, LR 29:2099 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, amended LR 48:

§2303. Nonresident Pharmacy Requirements

A. The nonresident pharmacy shall hold a current pharmacy permit in good standing in the state in which it is located.

B. Each pharmacist dispensing drugs into Louisiana shall be licensed as a pharmacist in good standing in the state where he practices.

C. Every nonresident pharmacy doing business in Louisiana by dispensing and delivering prescription drugs and devices to offenders in the custody of the Louisiana Department of Public Safety and Corrections or local law enforcement agency shall obtain and maintain a nonresident correctional center pharmacy permit, and further, shall comply with the provisions of Chapter 18 of this Part, with the single exception of the necessity for acquiring a separate correctional center pharmacy permit.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1380 (December 1992) effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, LR 39:3074 (November 2013), amended by the Department of Health, Board of Pharmacy, LR 46:574 (April 2020), amended LR 48:

§2305. Nonresident Pharmacy Permit Requirements

A. The nonresident pharmacy shall apply for a permit and annual permit renewals on forms provided by the board. The board may require such information as reasonably necessary to carry out the provisions of R.S. 37:1232, including, without limitation, the name, address, and position of each officer and director of a corporation or of the owners, if the pharmacy is not a corporation.

B. The nonresident pharmacy shall pay an annual permit fee as defined by the Board.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1380 (December 1992) effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 48:

§2307. Pharmacist-in-Charge

A. - C. ...

D. Policy and Procedure Manual. The pharmacist-in-charge shall be responsible for the implementation of policies and procedures regarding quality pharmacy services including drug control, distribution, patient compliance accountability, inspection, and record keeping.

E. - H. ...

I. Change of Pharmacist-in-Charge. Written notice to the board shall be required when the pharmacist-in-charge designation for a pharmacy has changed.

1. The permit holder shall notify the board within 30 days of the prior pharmacist-in-charge's departure date. The

NOTICE OF INTENT

**Department of Health
Board of Pharmacy**

Nonresident Pharmacies (LAC 46:LIII.Chapter 23)

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 several sections of its rules relative to nonresident pharmacies. Proposed changes in §§2301, 2305, 2309, 2311, 2317, and 2319 include the replacement of the term "out of state" with "nonresident" making it consistent with the chapter and section titles. The proposed change in §2303.A is meant to clarify the intent for a nonresident pharmacy to hold a current pharmacy permit in their resident state. The proposed change in §2303.B removes the plural form of word "state" to clarify the intent for the pharmacist to be licensed in the state in which the pharmacy permit is located. The proposed change in §2303.C removes the requirement for a nonresident pharmacy to designate a resident agent and a registered office in Louisiana which eliminates an unnecessary regulatory burden. The proposed change in §2305.B replaces the statutory reference used for the annual permit fee because the current fee has been moved to proposed rule. The proposed change in §2307.D modifies the responsibility on the pharmacist-in-charge from developing and maintaining policies to implementing policies and procedures which more accurately reflects current trends. The proposed changes in §2307.I extend the notification requirement regarding a change of pharmacist-in-charge on the nonresident pharmacy permit holder and on a newly appointed pharmacist-in-charge to match the requirement for resident pharmacies, from 10 days to 30 days. The proposed changes in §2307.J removes the requirement for notarization of the affidavit and also makes a correction to which record the document is filed.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LIII. Pharmacists

Chapter 23. Nonresident Pharmacy

§2301. Purpose

A. Nonresident pharmacies shall comply with the provisions of this Chapter in order to be and remain permitted to operate in Louisiana as a nonresident pharmacy.

B. ...

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

permit holder shall designate a new pharmacist-in-charge within 10 days of the departure of the prior pharmacist-in-charge.

2. The new pharmacist-in-charge shall afford the board written notice of his newly designated pharmacist-in-charge status within 30 days of the departure of the prior pharmacist-in-charge.

3. A pharmacist-in-charge who voluntarily leaves a pharmacy shall give written notice to the board and the owner of the permit at least 10 days prior to this voluntary departure, unless replaced in a shorter period of time.

J. Affidavit of Responsibility and Duties. The designated pharmacist-in-charge shall sign an affidavit on a form supplied by the board indicating his understanding and acceptance of the duties and responsibilities of a pharmacist-in-charge. This document shall be submitted to the board for inclusion in the pharmacist's record in the board office.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1381 (December 1992) effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, LR 33:1133 (June 2007), amended by the Department of Health, Board of Pharmacy, LR 43:50 (January 2017), amended LR 48:

§2309. Applicable Laws and Regulations

A. Louisiana pharmacy laws and regulations shall be applicable to regulate the practice of pharmacy for that portion of the nonresident pharmacy's Louisiana pharmacy practice or operation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1381 (December 1992) effective January 1, 1993, LR 29:2100 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 48:

§2311. Inspection

A. The facilities and records of the nonresident pharmacy shall be subject to inspection by the board or its designated agent(s).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1381 (December 1992) effective January 1, 1993, LR 29:2101 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 48:

§2317. Nonresident Pharmacy Closure Procedures

A. Notice. Notice shall be afforded the board not less than 10 days prior to the anticipated closure date of a nonresident pharmacy. Said notice shall include the location of all transferred prescription files for Louisiana residents.

B. Permit. The nonresident pharmacy permit holder shall surrender the pharmacy permit to the board upon closure.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1381 (December 1992) effective January 1, 1993, LR 29:2101 (October 2003),

effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 48:

§2319. Jurisdiction

A. Nonresident pharmacies soliciting, receiving, and dispensing and delivering prescription drugs and devices, including controlled dangerous substances as defined in 21 USC §1, et seq. and 21 CFR 1 et seq., or their successors, and delivered to residents in Louisiana constitutes doing business in Louisiana.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Pharmacy, LR 14:708 (October 1988), effective January 1, 1989, amended LR 18:1381 (December 1992) effective January 1, 1993, LR 29:2101 (October 2003), effective January 1, 2004, amended by the Department of Health, Board of Pharmacy, LR 48:

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 will have no effect on employment or workforce development.

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 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 changes in §2307.I will provide additional time to the owner of the nonresident pharmacy permit to report a change in pharmacist-in-charge to the Board – from 10 days to 30 days.

2. The Establishment of Less Stringent Schedules or Deadlines for Compliance or Reporting Requirements for Small Businesses. The proposed rule changes in §2307.I will provide additional time to the owner of the nonresident pharmacy permit to report a change in pharmacist-in-charge to the board, from 10 days to 30 days.

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 standards.

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 qualifications required 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.

Public Hearing

A public hearing to solicit comments and testimony on the proposed rule changes is scheduled for 9 a.m. on Friday, August 26, 2022 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: Nonresident Pharmacies

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 \$2,000 in FY 2023. There will be no additional expenditures or cost savings for LBP.

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

These 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 replace the term “out-of-state” with “nonresident” and create parity between nonresident and resident pharmacies chapter requirements. The proposed rule could benefit nonresident pharmacy permit owners by removing the requirement to designate a resident agent and registered office in Louisiana thereby eliminating potential costs for doing so. Resident pharmacies had a similar requirement in the past, though this was removed.

The primary reason for the removal of the registered office and resident agent requirement is that existing regulation exceeds the authority of current law, which specifies a pharmacy “may” have a resident agent and registered office, while existing regulation states they “shall.”

The other proposed language changes have no costs or economic benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will have no effect on competition or employment.

M. Joseph Fontenot Jr.
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Legislative Fiscal Office