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To: Mr. M. Joseph Fontenot, Jr.
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From: Farra Mughal
Louisiana Department of Justice
Occupational Licensing Review Program

Date: February 3, 2026

Subject: Louisiana State Board of Pharmacy
Proposed Amendment to LAC 46:LIII.2501(A)(4)
Regulatory Project 2025-07 ~ Prescription Drug Delivery

I. SUMMARY

The Louisiana State Board of Pharmacy (the “**Board**”) proposes amending LAC 46:LIII.2501(A)(4) (the “**Proposed Amendment**”), relative to the delivery of prescription drugs. The Proposed Amendment addresses standards, notification, packaging, and temperature control for prescription drug delivery, as well as possession and control of prescription drugs whether through the use of a common carrier, contract carrier, or pharmacy employee. The Proposed Amendment also requires pharmacies to replace any prescription drug that is compromised in any way during delivery.

The Board published a Notice of Intent to promulgate the Proposed Amendment on October 20, 2025.¹ The Notice invited public comments and testimony on this Proposed Amendment on November 26, 2025 and received no written or oral public comments.²

Pursuant to La. R.S. 49:260, the Board submitted the Proposed Amendment to the Louisiana Department of Justice’s Occupational Licensing Review Program (“**OLRP**”) on December 15, 2025. The OLRP invited public comments on the Proposed Amendment December 17, 2025 through December 30, 2025 and received no comments.

The OLRP has the statutory authority to review the substance of each proposed occupational regulation submitted to ensure compliance with clearly articulated state policy and adherence to applicable state law.³ An Occupational Regulation is a “rule defined in the Administrative Procedure Act (“**APA**”) that has reasonably foreseeable anti-competitive effects. Any license,

¹ Louisiana Register, Vol. 51, No. 10, at pgs. 1714-1716

² Id. at 1715

³ LA R.S. 49:260 (D)(2)

permit, or regulation established by a ... board not composed of a controlling number of active market participants is excluded.”⁴ Anti-Competitive behavior is an act, or series of acts, that have the effect of harming the market or the process of competition among businesses, or a tendency to reduce or eliminate competition, with no legitimate business purpose.⁵

The Louisiana APA defines a rule as any agency statement, guide, or requirement of general applicability that implements or interprets substantive law or policy, or that prescribes agency procedures or practices, excluding statements governing only internal agency management, declaratory rulings or orders, and provisions adopting, increasing, or decreasing fees.⁶ The term includes provisions establishing fines, penalties, preferential status, or licensure or certification criteria, as well as the amendment of an existing rule. A rule may be generally applicable, even if it applies only to an identifiable class or a limited geographical area.

As set forth below, the OLRP has determined the Board’s Proposed Amendments to LAC 46:LIII.2501(A)(4) do not constitute an occupational regulation with any reasonably foreseeable anti-competitive effects. Therefore, the Board may proceed with promulgation as drafted in accordance with the Louisiana APA without further input from the OLRP.

II. ANALYSIS

The Louisiana Pharmacy Practice Act (“**LPPA**”), La. R.S. 37:1161 *et seq.*, subjects the practice of pharmacy in the State of Louisiana to the regulation of the Board to promote, preserve, and protect the public health, safety, and welfare through effective control of the regulation of the pharmaceutical practice and the licensure, permitting, certification, registration, control, and regulation of all persons or sites in or out of this state that sell drugs or devices within this state.⁷ The Board has the statutory authority to make necessary rules and regulations to carry out and enforce the purpose of the LPPA.⁸

A. Proposed LAC 46:LIII.2501(A)(4)

The Board proposes the enactment of §2501(A)(4) to require pharmacies to implement safeguards to protect medication integrity when delivering prescriptions to patients or their authorized agents. The Proposed Amendment (i) requires pharmacies to ensure all prescription drugs delivered to the patient or their authorized agent be in compliance with nationally recognized standards, either established by the manufacture or the United States Pharmacopeia (USP), (ii) requires pharmacies to notify the patient or their agent of delivery, (iii) requires that prescriptions delivered by a common or contract carrier be enclosed in tamper-evident packaging, (iv) requires temperature control throughout the delivery process, (v) prohibits a drug from being returned to the pharmacy if the pharmacy relinquished physical possession and control of a prescription during delivery, and

⁴ LA R.S. 49:260 (G)(4)

⁵ Black’s Law Dictionary, 12th Edition p. 116

⁶ LA R.S. 49:951 (8)

⁷ LA R.S. 37:1163

⁸ LA R.S. 37:1182 (A)(1)

(vi) requires pharmacies to replace any prescription drug that is compromised in any way during delivery.

The Board has statutory authority to establish procedures for the storage, compounding, and dispensing of drugs or devices.⁹ La. R.S. 37:1164 (12) defines “dispense” or “dispensing” to mean the interpretation, evaluation, and implementation of a prescription drug order, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. Additionally, the term “dispense” includes the transfer of possession of a drug or device to the patient or the patient's agent.¹⁰ Accordingly, the Board has the statutory authority to implement safeguards to protect medication integrity when delivering prescriptions to patients or their authorized agents.

While the Proposed Amendment establishes requirements to ensure the safe delivery of prescription drugs, it does not create any barriers to market entry. Thus, the Proposed Amendment is a rule governing the practice of pharmacy and is not an occupational regulation with any reasonably foreseeable anti-competitive effects.

The Board asserts the Proposed Amendment responds to recent reports of prescription drugs being shipped or delivered to patients without adequate protection from extreme temperatures. The Board further asserts that without these safeguards, the public may be harmed by medications that have been exposed to conditions that are not compliant with storage conditions in FDA-approved labeling. Thus, the Proposed Amendment clearly adheres to the Board's stated policy of promoting, preserving, and protecting the public health, safety, and welfare.

Therefore, the Proposed Amendment is not an occupational regulation, and the Board may proceed with promulgation without further input from the OLRP in accordance with the Louisiana APA.

III. DETERMINATION

The Board is a state regulatory body created by the LPPA to “promote, preserve, and protect the public health, safety, and welfare by and through the effective control and regulation of the practice of pharmacy; the licensure of pharmacists; and the licensure, permitting, certification, registration, control, and regulation of all persons or sites in or out of this state that sell drugs or devices to consumers and/or patients or assist in the practice of pharmacy within the state.”¹¹ The Board is responsible for the control and regulation of the practice of pharmacy¹² and holds the statutory authority to make necessary rules and regulations to carry out and enforce the purpose of the LPPA.¹³ Because the Proposed Amendment to LAC 46:LIII.2501(A)(4) is not an occupational regulation with any reasonably foreseeable anti-competitive effects, the Board may proceed with promulgating this amendment without further input from the OLRP.

⁹ LA R.S. 37:1182 (A)(13)

¹⁰ LA. R.S. 37:1164 (12)

¹¹ LA R.S. 37:1163, LA R.S. 37:1171

¹² LA R.S. 37:1182

¹³ LA R.S. 37:1182 (A)(1)

OFFICE OF THE ATTORNEY GENERAL
OCCUPATIONAL LICENSING REVIEW PROGRAM

A handwritten signature in blue ink, appearing to read "Farra Mughal".

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