Louisiana Board of Pharmacy

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

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To: Attorney General Liz Murrill
Attn: Department of Justice, Occupational Licensing Review Program

From: Joe Fontenot, Executive Director
Louisiana Board of Pharmacy

Subject: **Regulatory Project 2025-01 ~ Pharmacist-in-Charge (PIC) Requirements**

The Board of Pharmacy seeks to amend Section 1105 of its rules relative to Pharmacist-in-Charge (PIC). The proposed Rule change in Section 1105.A. reduces the minimum experience requirement for a pharmacist to qualify for a PIC privilege from two years of active pharmacy practice to one year. The proposed Rule change in Section 1105.C. adds the authority and accountability of the owner of the pharmacy permit to the existing responsibility of the PIC for the complete supervision, management, and compliance with laws and regulations pertaining to the practice of pharmacy of the entire prescription department.

To facilitate the Department of Justice's review of the proposed rule, the Louisiana Board of Pharmacy provides answers to the following questions.

1. Describe any relevant factual background to the occupational regulation and the purpose of the occupational regulation?

The pharmacist-in-charge (PIC) is ultimately responsible for the complete supervision, management, and compliance with all federal and state pharmacy laws and regulations pertaining to the practice of pharmacy of the entire prescription department (permit). This responsibility necessarily includes accountability for any violation involving federal or state laws or regulations occurring within the prescription department supervised by a pharmacist-in-charge.

The Board's Regulation Revision Committee was requested to consider a reduction to the experience requirement for a pharmacist to qualify for the PIC privilege. The original regulation pertaining to the experience requirement was put in place because some new pharmacist graduates who became a PIC found themselves in front of the Board's Violations Committee for pharmacy permit violations and the common theme was – I am a recent graduate with little to no experience and I didn't know. Based on this, the Board promulgated the regulation.

The request to consider a reduction in the experience requirement was prompted by the current pharmacist job market. Some chain pharmacies are finding it extremely difficult to find pharmacist willing and able to become the PIC of a pharmacy permit.

Board staff researched the regulations of our neighboring states (Texas, Arkansas, Oklahoma, Mississippi, Alabama, and Tennessee) and found these Boards of Pharmacy do not impose an experience requirement.

After considering all of the above, the committee and subsequently the Board decided a reduction was warranted.

2. Is the occupational regulation within the scope of the occupational licensing board's general authority to regulate in a given occupation or industry? If so, identify the law that provides the authority for the rule and describe how the occupational regulation is within the scope.

Yes.

R.S. 37:1164. Definitions.
(37) "Pharmacist-in-charge" means a pharmacist currently licensed by the board who accepts responsibility for the operation of a pharmacy in conformance with all laws and regulations pertinent to the practice of pharmacy and the distribution of drugs, and who is personally in full and actual charge of such pharmacy and personnel.

R.S. 37:1182. Powers and Duties of the board.
A. The board shall be responsible for the control and regulation of the practice of pharmacy and shall:
(1) Make necessary rules and regulations to carry out the purposes and enforce the provisions of this Chapter and furnish copies of them upon request.
(9) Establish and enforce compliance with professional standards and rules of conduct of pharmacists engaged in the practice of pharmacy.

3. Check all of the following that apply as reasons the occupational regulation is subject to review

[X] Creates a barrier to market competition
[ ] Fixes prices, limits price competition, or results in high prices for a product or service provided by or to a license holder.
[ ] Reduces competition or excludes present or potential competitors from the occupation regulated by the board
[ ] Limits output or supply in this state of any good or service provided by the members of the regulated occupation.
[ ] Reduces the number of providers that can serve a particular set of customers
[ ] Other activity (please describe)

A licensed pharmacist without the necessary experience would not qualify for the PIC privilege thereby creating a barrier.

4. Identify the clearly articulated state policy (e.g., health, safety, welfare, or consumer protection) in state statute, or any supporting evidence of the harm the action/proposed action is intended to protect against?

The purpose of the Louisiana Pharmacy Practice Act, as stated in LA R.S 37:1163, is 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.

5. Do any less restrictive alternatives to the occupational regulation exist for addressing the same harm? If so, include a comparison of the occupational regulation to the alternatives and a justification for not pursuing a less restrictive alternative. If no less restrictive alternatives exist, explain why.

In this case, the proposal is less restrictive than the current rule.

6. Describe the process that the occupational licensing board followed in developing the proposed rule, including any public hearings held, studies conducted, and data collected or analyzed.

- 10-17-2024 – Regulation Revision Committee meeting held to consider the proposal. The committee developed draft #2 and voted to recommend to the Board their approval.
- 11-20-2024 – Board approved the proposal and it became Regulatory Project 2025-01.
- 12-13-2024 – FEIS submitted to the Legislative Fiscal Office (LFO) for approval.
- 01-09-2025 – LFO approved fiscal and economic impact statement.
- 01-09-2025 – 1st Report submitted to Oversight Committee on Health & Welfare and the *Register*
- 01-20-2025 – NOI published in the *2025 Louisiana Register*, *Volume 51*, January Edition.
- 01-20-2025 – Notice of Rulemaking Activity & Public Hearing Notice distributed.
- 02-26-2025 – Public Hearing at the Board office.

7. Does the occupational regulation relate to a matter on which there is pending litigation or a final court order? *No*

8. Please identify the board members voting in favor of this rule, and state whether the member is an active market participant.
Board meeting held on November 20, 2024, 17 members were present, none absent. The vote in favor of the proposed rule was unanimous (16-0, with President McKay not voting as Chair). Members present: Robert Cloud, David Collins, David Darce, Jennifer Dupree, Jacqueline Hall, Richard Indovina, Jr., Charles Jones, Kevin LaGrange, Richard Mannino, Marty McKay, Chris Melancon, Troy Menard, Anthony Mercante, Robert Ray, Don Resweber, Richard Soileau, and Raymond Strong. All members voting are active market participants except for Mr. Resweber, the public member.

9. Is there anything else that the occupational licensing board would like the Department to know about the proposed rule? *No*