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From: Farra Mughal  
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Occupational Licensing Review Program

Date: April 22, 2026

Subject: Louisiana State Board of Pharmacy  
Proposed Amendment to LAC 46:LIII.1705, 1715, 1717, 1719, 1721, 1723, and 1725  
Regulatory Project 2026-04 ~ Institutional Pharmacy

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## I. SUMMARY

The Louisiana State Board of Pharmacy (the “**Board**”) proposes amending LAC 46:LIII. 1705, 1715, 1717, 1719, 1721, 1723, and 1725 (the “**Proposed Amendments**”), relative to institutional and drug abuse treatment center pharmacies. The Proposed Amendments (i) remove the restriction on the type of pharmacy permit that may be issued to a pharmacy located within an institutional facility, (ii) repeal §1705.B and §1705.C regarding hospital and correctional center pharmacies which are addressed in Chapter 15 and Chapter 18 of the Board’s rules, and (iii) remove regulations regarding drug abuse treatment center pharmacies from Chapter 17 of the Board’s rules.

The Board published a Notice of Intent to promulgate the Proposed Amendments on January 20, 2026.<sup>1</sup> The Notice invited public comments and testimony on the Proposed Amendments on February 26, 2026 and received no written or oral public comments.<sup>2</sup>

Pursuant to La. R.S. 49:260, the Board submitted the Proposed Amendments to the Louisiana Department of Justice’s Occupational Licensing Review Program (“**OLRP**”) on March 13, 2026. The OLRP invited public comments on the Proposed Amendments March 16, 2026 through March 29, 2026 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.<sup>3</sup> An occupational regulation is a “rule defined in the Administrative Procedure

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<sup>1</sup> Louisiana Register Vol. 52, No. 1 pgs. 128-130

<sup>2</sup> Id. at 130

<sup>3</sup> LSA-R.S. 49:260 (D)(2)

Act (“*APA*”) that has reasonably foreseeable anti-competitive effects. Any license, permit, or regulation established by a ... board not composed of a controlling number of active market participants is excluded.”<sup>4</sup> 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.<sup>5</sup>

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.<sup>6</sup> 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 that §1705 and §1721 constitute occupational regulations within the meaning of La. R.S. 49:260. However, these amendments do not have reasonably foreseeable anticompetitive effects, as they remove or reduce existing permitting requirements rather than impose new restrictions or limit market participation.

Additionally, the OLRP has determined that §§1715, 1717, 1719, 1723, and 1725 are rules governing the practice of pharmacy and therefore do not constitute occupational regulations with anticompetitive effects within the meaning of La. R.S. 49:260. Accordingly, the Board may promulgate the Proposed Amendments without further input from the OLRP in accordance with the Louisiana APA.

## **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.<sup>7</sup> The Board is responsible for issuing and renewing permits deemed necessary to engage in the practice of pharmacy.<sup>8</sup> Specifically, the Board is authorized to establish the criteria that each permit holder must meet to qualify for a permit in each classification and may issue a permit with varying restrictions to such persons where the Board deems it necessary.<sup>9</sup>

### **A. Proposed LAC 46:LIII.1705- Institutional Pharmacy Permit**

The Board proposes amending §1705 to modify the permitting requirement for pharmacies located within institutional facilities and repealing §1705.B and §1705.C regarding hospital and

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<sup>4</sup> LSA-R.S. 49:260 (G)(4)

<sup>5</sup> Black’s Law Dictionary, 12<sup>th</sup> Edition p. 116

<sup>6</sup> LSA-R.S. 49:951 (8)

<sup>7</sup> LSA-R.S. 37:1163

<sup>8</sup> LSA-R.S. 37:1182 (A)(8)

<sup>9</sup> LSA-R.S. 37:1223(B)

correctional center pharmacies which are addressed in Chapter 15 and Chapter 18 of the Board's rules. Specifically, the amendment changes the requirement that an institutional pharmacy permit "shall be required" to language providing that the Board "may issue" an institutional pharmacy permit for such facilities.

The proposed amendment is intended to provide flexibility in permit classification for pharmacies located within institutional facilities. Specifically, the revision allows an applicant to apply for and be issued either a retail community pharmacy permit or an institutional pharmacy permit, depending on the scope of services to be provided. A retail community pharmacy permit authorizes the pharmacy to serve the general public and may be located within any pharmacy setting, including an institutional facility. In contrast, an institutional pharmacy permit limits the pharmacy's services to residents or patients of that institution.

The Board noted circumstances in which a pharmacy operating within an institutional facility sought to change its permit classification from an institutional pharmacy permit to a retail community pharmacy permit in order to expand its patient base. The amendment accommodates such scenarios by allowing the Board discretion to issue the appropriate permit classification at the outset. Where a patient intends to serve only patients of the institutional facility, issuance of an institutional pharmacy permit remains appropriate.

Under the current rule, a pharmacy department located within an institutional facility, other than a hospital or penal institution, for residents or patients of that institutional facility is required to obtain an institutional pharmacy permit. The Proposed Amendment states that the Board *may* issue an institutional pharmacy permit to operate a pharmacy located within an institutional facility, thereby allowing the Board to determine whether an institutional pharmacy permit is appropriate for a given facility. The revision allows an applicant to seek either an institutional pharmacy permit or a retail community pharmacy permit, depending on the scope of services to be provided. Accordingly, the amendment provides flexibility in permit classification while maintaining appropriate regulatory distinctions based on the pharmacy's intended patient population.

Additionally, the proposed amendment repeals §§1705.B and 1705.C, which direct that pharmacies operated within hospitals and correctional centers must comply with Chapters 15 and 18, respectively. These provisions are duplicative of requirements set forth elsewhere in the Board's rules, and their removal is a structural change intended to eliminate redundancy and improve organizational clarity.

The Board has the statutory authority to make rules and regulations necessary to carry out its duties.<sup>10</sup> Additionally, the Board is authorized to establish the criteria that each permit holder must meet to qualify for a permit in each classification.<sup>11</sup> As such, the Board has the authority to revise the permitting structure applicable to pharmacies located within institutional facilities and make structural edits to remove language referencing hospital and correctional center pharmacy permits which the Board has outlined in other chapters of its rules.

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<sup>10</sup> LSA-R.S. 37:1182 (A)(1)

<sup>11</sup> LSA-R.S. 37:1223(B)

While permitting requirements may act as a barrier to market entry, the proposed amendment may reduce such barriers by removing the mandatory requirement that pharmacies located in institutional facilities must obtain an institutional pharmacy permit and instead allowing flexibility in the type of permit issued based on the scope of services provided

Furthermore, it is the policy of the state to promote, preserve, and protect the public health, safety, and welfare by regulating all persons or sites that sell drugs or devices to consumers and/or patients within the state.<sup>12</sup> Although the proposed amendment reduces barriers by allowing flexibility in permit classification, it continues to adhere to public policy by maintaining regulatory oversight of pharmacies operating within institutional facilities while providing the Board with flexibility in how that oversight is applied.

Because the proposed amendment is within the Board's statutory authority, adheres to clearly articulated state policy, and does not introduce new anticompetitive restrictions, the Board may proceed with promulgation as drafted.

**B. Proposed LAC 46: 1715, 1717, 1719, 1721, 1723, and 1725 – Drug Abuse Treatment Center Pharmacies**

The Board proposes repealing §1715, 1717, 1719, 1721, 1723, and 1725 to remove regulations governing drug abuse treatment center pharmacies. The proposed amendments remove (i) the stated purpose of Subchapter C (§1715), (ii) the requirement that drug abuse treatment center pharmacies must refer to Chapter 11 for all regulations not specifically stated in Subchapter C (§1717), (iii) definitions commonly used throughout the subchapter (§1719), (iv) the requirement to obtain a Drug Abuse Treatment Center Pharmacy permit (§1721), (v) the requirement that persons enrolled in a drug abuse treatment center shall wait for their prescriptions in an area physically separated from the controlled dangerous substance storage and dispensing area (§1723), and (vi) recordkeeping and reporting requirements that all persons licensed by the Department of Health to operate a drug abuse treatment center and who possess a Drug Enforcement Administration (DEA) must follow (§1725).

The Board has the statutory authority to make rules and regulations necessary to carry out its duties.<sup>13</sup> Additionally, the Board is authorized to establish the criteria that each permit holder must meet to qualify for a permit in each classification.<sup>14</sup> As such, the Board has the authority to repeal regulations it has determined are no longer necessary.

While these provisions impose operational and compliance requirements, their repeal reduces regulatory burdens by eliminating a distinct permit classification and associated requirements specific to drug abuse treatment center pharmacies. The repeal does not impose new restrictions or create additional barriers to market entry.

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<sup>12</sup> LA R.S. 37:1163

<sup>13</sup> LSA-R.S. 37:1182 (A)(1)

<sup>14</sup> LSA-R.S. 37:1223(B)

The Board has indicated that the repealed provisions were determined to be unnecessary and that drug abuse treatment center pharmacies will adhere to the remainder of Chapter 17 and Chapter 11 of the Board's rules. To the extent pharmacies operating within drug abuse treatment facilities remain subject to other applicable provisions of the Board's rules and state and federal law, the repeal of Chapter 17, Subchapter C, merely modifies the structure through which such regulation is applied rather than eliminating the Board's regulatory authority.

Currently, §1721 constitutes an occupational regulation under La R.S. 49:260, as it requires a drug abuse treatment pharmacy permit to operate a pharmacy located within a drug abuse treatment facility for patients of that facility. However, its repeal does not have reasonably foreseeable effects, as it eliminates an existing permitting requirement rather than imposing new restrictions or limiting market participation. In contrast, §§1715, 1717, 1719, 1723, and 1725 are rules governing the practice of pharmacy and do not constitute occupational regulations within the meaning of La R.S. 49:260. The repeal of these provisions likewise does not have any reasonably foreseeable anticompetitive effects, as it removes existing requirements rather than restricting competition.

Because the proposed repeal is within the Board's statutory authority, adheres to clearly articulated state policy, and does not introduce new anticompetitive actions, the Board may proceed with promulgation as drafted 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."<sup>15</sup> The Board is responsible for the control and regulation of the practice of pharmacy<sup>16</sup> and holds the statutory authority to issue and renew licenses, permits, certifications, and any other designations necessary.<sup>17</sup>

The OLRP has determined that the proposed amendment to §1705 and the repeal of §1721 constitute occupational regulations within the meaning of La. R.S. 49:260. However, these amendments do not have reasonably foreseeable anticompetitive effects, as they remove or reduce existing permitting requirements rather than impose new restrictions or limit market participation.

Additionally, the OLRP has determined that §1715, 1717, 1719, 1723, and 1725 are rules governing the practice of pharmacy and therefore do not constitute occupational regulations with anticompetitive effects within the meaning of La. R.S. 49:260. Because the Proposed Amendments are within the Board's statutory authority, adhere to clearly articulated state policy,

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<sup>15</sup> LSA-R.S. 37:1163, LA R.S. 37:1171

<sup>16</sup> LSA-R.S. 37:1182

<sup>17</sup> LSA-R.S. 37:1182 (A)(8)

and do not introduce new anticompetitive restrictions, the Proposed Amendments are approved as submitted and may be promulgated by the Board in accordance with the Louisiana APA.

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

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