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

Date: August 13, 2026

Subject: Louisiana State Board of Pharmacy
Proposed Amendment to LAC 46:LIII.1139
Regulatory Project 2026-05 Off Site Services

I. SUMMARY

The Louisiana State Board of Pharmacy (the “**Board**”) proposes amending LAC 46:LIII.1139 (the “**Proposed Amendment**”), to revise the definition of “Remote Processing Services” to add final product verification to the list of activities included and to clarify the definition by adding the phrase “using technology.”

The Board published a Notice of Intent to promulgate the Proposed Amendment on May 20, 2026.¹ The Notice invited public comments and testimony on the Proposed Amendment on June 26, 2026. The Board received two written comments from CVS and Walgreens providing support for the Proposed Amendment.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 July 24, 2026. The OLRP invited public comments on the Proposed Amendment from July 24, 2026 through August 7, 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.³ An occupational regulation is a “rule defined in the Administrative Procedure Act 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

¹ Louisiana Register, Vol. 52, No. 5, at pgs. 824-826

² Id. at 826

³ LSA-R.S. 49:260 (D) (2)

excluded.”⁴ The Louisiana Administrative Procedure Act (“**APA**”) defines a rule as an agency (Board) requirement for conduct or action prescribing the procedure or practice requirements of the agency (Board).⁵ 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.⁶

As set forth below, the OLRP has determined the Board’s Proposed Amendment to LAC 46:LIII.1139 does 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

A. Proposed LAC 46:LIII.1139-Definitions

The Board proposes amending the definition of “Remote Processing Services” in LAC 46:LIII.1139 to clarify that remote processing may be performed “using technology” and to add “final product verification” to the activities that may be performed by one permitted pharmacy on behalf of another permitted pharmacy. The Proposed Amendment retains the existing limitation that remote processing does not include the physical preparation or physical transfer of drugs.

The Board has statutory authority to make rules and regulations necessary to carry out its duties⁸ and to establish and enforce compliance with professional standards and rules of conduct of pharmacists engaged in the practice of pharmacy.⁹ The Board is further authorized to establish minimum specifications for the physical facilities, technical equipment, environment, supplies, personnel, and procedures for the storage, compounding, and dispensing of drugs or devices.¹⁰ Accordingly, it is within the Board’s authority to amend its definition of “Remote Processing Services” to address the use of technology and the verification of the final product.

The Board states that it received a request from CVS Health to add “final product verification” to the services included within the definition of “Remote Processing Services.” Following a pilot project in a limited number of pharmacies, the Board determined that a rule change was appropriate

⁴ LSA-R.S. 49:260 (G)(4)

⁵ LSA-R.S. 49:951 (8)

⁶ Black’s Law Dictionary, 12th Edition p. 116

⁷ LSA- R.S. 37:1163

⁸ LSA-R.S. 37:1182 (A)(1)

⁹ LSA-R.S. 37:1182 (A)(9)

¹⁰ LSA-R.S. 37:1182 (A)(13)

and that the change will allow a pharmacist to conduct the final product verification from a permitted pharmacy other than the pharmacy at which the product is physically located.

Furthermore, the Board acknowledges that only CVS Pharmacy currently possesses technology capable of performing remote final product verification and therefore may possess an initial technological advantage. However, the Proposed Amendment does not limit remote final product verification to CVS Pharmacy or require the use of any particular proprietary technology. The amendment applies equally to permitted pharmacies and does not prevent competing pharmacies or pharmacy information-system vendors from developing or utilizing technology capable of performing remote final product verification. Additionally, Walgreens, a direct competitor of CVS Pharmacy, submitted written comments supporting the Proposed Amendment. Accordingly, any existing technological advantage possessed by CVS Pharmacy does not appear to result from a regulatory restriction imposed by the Proposed Amendment.

Rather than imposing an additional restriction on market participation or the provision of pharmacy services, the Proposed Amendment expands the activities that permitted pharmacies may perform through remote processing by authorizing final product verification through technology. It does not restrict entry, reduce the number of providers authorized to provide pharmacy services, limit output, regulate prices, or otherwise impose additional conditions on market participation. Accordingly, the Proposed Amendment does not have any reasonably foreseeable anti-competitive effects and therefore does not constitute an occupational regulation.

Therefore, the Board may proceed with amending §1139 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 pharmacy.¹² Because the Proposed Amendment is within the Board’s statutory authority and not an occupational regulation with any reasonably foreseeable anti-competitive effects, the Board may proceed with promulgation of these amendments without further input from the OLRP.

¹¹ LSA-R.S. 37:1163, LA R.S. 37:1171

¹² LSA-R.S. 37:1182

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OCCUPATIONAL LICENSING REVIEW PROGRAM

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

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