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DEPARTMENT OF JUSTICE
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To: Mr. M. Joseph Fontenot, Jr.
Executive Director
Louisiana State Board of Pharmacy

From: Farra Mughal
Louisiana Department of Justice
Occupational Licensing Review Program

Date: August 14, 2026

Subject: Louisiana State Board of Pharmacy
Proposed Amendment to LAC 46:LIII.1115
Regulatory Project 2026-05 Advertising

I. SUMMARY

The Louisiana State Board of Pharmacy (the “**Board**”) proposes amending LAC 46:LIII.1115 (the “**Proposed Amendment**”), to remove “apothecary,” “apothecary shop,” and “chemist’s shop” from the list of words that may not be used in the name of any business other than a pharmacy permitted by the Board.

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 this Proposed Amendment on June 26, 2026, and received no written comments.

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 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.² 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 excluded.”³ The Louisiana Administrative Procedure Act (“**APA**”) defines a rule as an agency

¹ Louisiana Register, Vol. 52, No. 5, at pgs. 823-824

² LSA-R.S. 49:260 (D) (2)

³ LSA-R.S. 49:260 (G)(4)

(Board) requirement for conduct or action prescribing the procedure or practice requirements of the agency (Board).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

As set forth below, the OLRP has determined the Board’s Proposed Amendment to LAC 46: LIII §1115 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.⁶

A. Proposed LAC 46:LIII.1115-Advertising

The Board proposes amending LAC 46:LIII.1115 to remove “apothecary,” “apothecary shop,” and “chemist’s shop” from the list of words that a business other than a pharmacy may not use in their name.

The Board states that while these terms traditionally would identify a business as a pharmacy, their modern usage is associated with natural wellness and self-care.

The Board has statutory authority to make rules and regulations necessary to carry out its duties.⁷ Accordingly, it is within the Board’s statutory authority to permit businesses that are not pharmacies to use the terms “apothecary,” “apothecary shop,” and “chemist’s shop.”

The Proposed Amendment does not affect licensees or regulate the practice of pharmacy because it does not establish, modify, or eliminate licensure qualifications, scope of practice requirements, fees, renewal standards, disciplinary criteria, or enforcement thresholds applicable to regulated individuals or entities. Rather, the Proposed Amendment removes an existing restriction on the use of certain terms by businesses that are not pharmacies. Thus, the Proposed Amendment does not constitute an occupational regulation as defined by La. R.S. 49:260.

Additionally, there are no reasonably foreseeable anticompetitive effects, as the Proposed Amendment does not limit competition, reduce consumer choice, or create barriers to market participation. Therefore, the Board may proceed with the promulgation of the Proposed Amendment in accordance with the Louisiana APA without further input from the OLRP.

⁴ LSA-R.S. 49:951 (8)

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

⁶ LSA- R.S. 37:1163

⁷ LSA-R.S. 37:1182 (A)(1)

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.”⁸ The Board is responsible for the control and regulation of the practice of pharmacy.⁹ Because the Proposed Amendment to LAC 46: LIII §1115 is within the Board’s statutory authority and is 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.

OFFICE OF THE ATTORNEY GENERAL
OCCUPATIONAL LICENSING REVIEW PROGRAM

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

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⁸ LSA-R.S. 37:1163, LA R.S. 37:1171

⁹ LSA-R.S. 37:1182