

NOTICE OF INTENT

Department of Health Board of Medical Examiners

Physician Assistants, Licensure and Certification;
Practice (LAC 46:XLV.Chapter 15, 4506 and 4507)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270 and Louisiana law governing Physician Assistants (PAs), R.S. 37:1360.21-1360.38, the board intends to amend its rules governing PAs, LAC 46:XLV Chapters 15 and 45, to conform them to Act 475 of the 2018 Regular Session of the Louisiana Legislature and to update the rules generally as made necessary by the passage of time and for consistency with current practices. Among other items, the proposed amendments: increase from four to eight the number of PAs for whom a physician may serve as primary supervising physician (PSP) (4507D.); restate and clarify the PA qualifications for prescriptive authority for consistency with current law (1521A.); limit qualifications for PA prescriptive authority to those set forth in the law (1521); update associated references to rule citations from 1521 to 1527 where indicated (e.g., 1503A, 1523A.3, 1525A.2, 1527A.4 and 4506C.2.d.); and relocate existing requirements for continuing medical education from 1529C.-D. to 1517B.3. Further, because PAs are the only category of healthcare providers licensed by the Board whose rules do not contain a delinquent fee for late renewal/reinstatement, the proposed changes include such a provision in a new section on reinstatement (1519). The proposed amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 15. Physician Assistants

§1503. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

* * *

Protocol or Clinical Practice Guidelines or Clinical Practice Guidelines or Protocols—a written set of directives or instructions regarding routine medical conditions, to be followed by a physician assistant in patient care activities. If prescriptive authority has been delegated to the physician assistant by the supervising physician the clinical practice guidelines or protocols shall contain each of the components specified by §1527. The Advisory Committee shall periodically publish and disseminate to supervising physicians and all physician assistants, model forms and examples of clinical practice guidelines and protocols. The supervising physician

and physician assistant shall maintain a written copy of such clinical practice guidelines and protocols, which shall be made immediately available for inspection by authorized representatives of the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:27 (January 1999), LR 31:73 (January 2005), LR 34:244 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1174 (June 2017), LR 45:

§1517. Expiration of Licensure; Renewals; Continuing Education; Modification; Notification of Intent to Practice

A. ...

B. Every license issued by the board under this Chapter shall be renewed annually on or before the last day of the month in which the licensee was born, by submitting to the board an application for renewal in a format approved by the board, together with:

1. - 2. ...

3. confirmation of the completion of such continuing education as is required to maintain current NCCPA certification. A physician assistant shall maintain a record of certification of attendance for at least four years from the date of completion of the continuing education activity. Such record shall be made available to the board within thirty days of its request.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1360.23, and 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 24:1498 (August 1998), LR 25:31 (January 1999), LR 30:238 (February 2004), LR 34:245 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1176 (June 2017); LR

§1519. Reinstatement of Expired License

A. A license that has not been placed on in-active status pursuant to §1517 of these rules, which has expired as a result of non-renewal for less than two years from the date of expiration, may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;
2. a recent photograph of the applicant;
3. current NCCPA certification;
4. such other information and documentation as is referred to or specified in this Chapter or as the

board may require to evidence qualification for licensure; and

5. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:

a. if the application is made less than one year from the date of expiration, the penalty shall be equal to the renewal fee of the license;

b. if the application is made more than one but less than two years from the date of expiration, the penalty shall be equal to twice the renewal fee of the license.

C. A physician assistant whose license has lapsed and expired for a period in excess of two years shall not be eligible for reinstatement consideration but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

D. A temporary license is not subject to reinstatement.

E. A request for reinstatement may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

F. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement of the license as a physician assistant shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1360.23, 37:1360.24 and 37:1360.26.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:

§1521. Qualifications for Physician Assistant Registration of Prescriptive Authority

A. Legend Drugs, Medical Devices and Controlled Substances. To be eligible for registration of prescriptive authority, a physician assistant shall:

1. have completed a minimum of five hundred clinical training hours prior to graduation from an approved physician assistant education program;

2. hold an active, unrestricted license to practice as a physician assistant duly issued by the board;

3. have received authority to prescribe to the extent delegated by a supervising physician; and

4. apply for a controlled dangerous substance license from the Louisiana Board of Pharmacy and register with the United States Drug Enforcement Agency, if delegated authority to prescribe Schedule II, III, IV, or V controlled substances by the supervising physician.

B. The board may deny registration of prescriptive authority to an otherwise eligible physician assistant for any of the causes enumerated by R.S. 37:1360.33, or any other violation of the provisions of the Louisiana Physician Assistant Practice Act, R.S. 37:1361.21 et seq. or its rules applicable to physician assistants.

C. The burden of satisfying the board as to the eligibility of the applicant for approval of registration

of prescriptive authority shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 1360.23(D) and (F), and 1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:75 (January 2005), amended LR 38:3174 (December 2012), LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:1176 (June 2017), LR 45:

§1523. Qualifications of Supervising Physician for Registration of Delegation of Prescriptive Authority

A. Legend Drugs and Medical Devices. To be eligible for approval of registration to delegate authority to prescribe legend drugs or medical devices, or both, to a physician assistant a supervising physician shall:

1. - 2. ...

3. have prepared and signed clinical practice guidelines or protocols that comply with §1527 of these rules.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:76 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1176 (June 2017), LR 45:

§1525. Physician Assistant Application for Registration of Prescriptive Authority; Procedure

A. Physician assistant application for registration of prescriptive authority shall be made upon forms supplied by the board and shall include:

1. ...

2. confirmation that the supervising physician has delegated prescriptive authority to the physician assistant and the nature, extent, and limits thereof, including the Schedules of any controlled substances delegated, as documented in clinical practice guidelines or protocols conforming to §1527;

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 31:77 (January 2005), LR 45:

§1527. Supervising Physician Application for Registration of Delegation of Prescriptive Authority; Procedure

A. Physician application for approval and registration of delegation of prescriptive authority to a physician assistant shall be made upon forms supplied by the board and shall include:

1. - 3. ...

4. confirmation that clinical practice guidelines or protocols conforming to this Section have been signed by the supervising physician and physician assistant;

A.5. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:77 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1177 (June 2017), LR 45:

§1529. Expiration of Registration of Prescriptive Authority; Renewal

A. Registration of prescriptive authority shall not be effective until the physician assistant receives notification of approval from the board. Such registration and the physician assistant's prescriptive authority shall terminate and become void, null and to no effect upon the earlier of:

1. - 2. ...

3. a finding by the board of any of the causes that would render a physician assistant ineligible for registration of prescriptive authority set forth in §1521.B or a supervising physician ineligible to delegate such authority pursuant to §1523.C;

A.4. - B. ...

C. The PA, together with the SP, shall annually verify the accuracy of registration information on file with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:77 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1177 (June 2017), LR 45:

Subpart 3. Practice

Chapter 45. Physician Assistants

§4506. Services Performed by Physician Assistants Registered to Prescribe Medication or Medical Devices; Prescription Forms; Prohibitions

A.1. - B.5. ...

C. A physician assistant who has been delegated prescriptive authority shall not:

1. ...

2. prescribe medication or medical devices:

a. - c. ...

d. in the absence of clinical practice guidelines or protocols specified by §1527;

C.2.e. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F) six, and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:79 (January 2005), amended LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:1178 (June 2017), LR 45:

§4507. Authority and Limitations of Supervising Physician

A. - C.5.b. ...

D. An SP may not serve as a PSP for more than eight PAs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), and R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended LR 17:1106 (November 1991), LR 22:205 (March 1996), LR 25:32 (January 1999), LR 34:246 (February 2008), LR 38:1233 (May 2012), amended by the Department of Health, Board of Medical Examiners, LR 43:1178 (June 2017), LR 45:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Small Business Analysis

It is not anticipated that the proposed rule will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:965.2 et. seq.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., January 21, 2019.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in

accordance with the Louisiana Administrative Procedure Act, the hearing will be held on January 28, 2019 at 11 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Vincent A. Culotta, Jr., M.D.,
Executive Director

**FISCAL AND ECONOMIC IMPACT
STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Physician Assistants,
Licensure and Certification; Practice**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS)
TO STATE OR LOCAL GOVERNMENT UNITS
(Summary)**

The proposed rule changes will result in a one-time publication expense of \$1,704 in FY 19 for the LA State Board of Medical Examiners (LSBME).

The proposed changes amend the LSBME's physician assistant (PA) rules to conform them to Act 475 of the 2018 Regular and make other substantive changes and technical updates not associated with Act 475. The proposed rule changes increase the number of PAs for whom a physician may serve as the primary supervising physician (PSP) by 4, from 4 to 8; restate and clarify the PA qualifications for prescriptive authority for consistency with Act 475; limit qualifications for PA prescriptive authority to those set forth in Act 475; and make changes to align with current administrative practices. Furthermore, the proposed rule changes include a new section for reinstatement of an expired license, including a delinquent fee for late renewal/reinstatement.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF
STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule changes will increase SGR collections for the LSBME by an indeterminable, though likely marginal, amount. Included in the proposed rule changes is a delinquent fee schedule based on the \$150 license renewal fee for an individual who fails to renew a license timely. For persons renewing within a year of their license expiring, the delinquent fee is equivalent to the license fee (\$150). For persons renewing later than one year, but within two years of license expiration, the delinquent fee is equivalent to twice the renewal fee (\$300). Any revenue increase is indeterminable, because the number of persons who may lapse their licenses, as well as when they will renew them, is unknown. However, because a PA may place their license on inactive status without incurring a delinquent fee for later reinstatement, it is not anticipated that this change will have a material impact on revenue collections of the board.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS
TO DIRECTLY AFFECTED PERSONS OR
NONGOVERNMENTAL GROUPS (Summary)**

The proposed rule changes increase the number of PAs (from 4 to 8) for whom a physician may serve as a primary supervising physician. This change doubles the number of supervising physicians available to serve as PSPs for PAs.

Furthermore, the proposed rule changes clarify that the clinical training required for prescriptive authority

must be obtained during, rather than after, completion of an approved PA education program. By limiting the qualifications for such authority to those specified by law, the amendments may expedite PA eligibility for prescriptive authority, which may facilitate patient access to prescriptive care. These changes may have a positive but indeterminable impact on the delivery of health care to the citizens of this state by PAs and their supervising physicians.

Finally, a PA who allows his or her license to lapse without requesting that it be placed on inactive status, as permitted by existing rules (1517), will be required to pay a one-time delinquent fee in association with license reinstatement equal to the license renewal fee (\$150) or two times the license renewal fee (\$300).

**IV. ESTIMATED EFFECT ON COMPETITION AND
EMPLOYMENT (Summary)**

The expansion of the number of PAs for whom a physician may serve as a PSP may increase employment opportunities for PAs in Louisiana to the extent physicians are able to supervise additional PAs.

The proposed rule changes are not anticipated to affect competition.

Vincent A. Culotta, Jr., M.D.
Executive Director
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Evan Brasseaux
Staff Director
Legislative Fiscal Office