FINAL REPORT: PROPOSED AMENDMENT OF ADMINISTRATIVE RULES GOVERNING PHYSICIAN PRACTICE; THERAPEUTIC USE OF MARIJUANA BY PATIENTS SUFFERING FROM A DEBILITATING MEDICAL CONDITION

(La. Rev. Stat. § 49:968(D))

By The

LOUISIANA STATE
BOARD OF MEDICAL EXAMINERS

Submitted To The

COMMITTEE ON HEALTH AND WELFARE,
LOUISIANA SENATE,

COMMITTEE ON HEALTH AND WELFARE,
LOUISIANA HOUSE OF REPRESENTATIVES,

PRESIDENT OF THE SENATE

And

SPEAKER OF THE HOUSE OF REPRESENTATIVES

January 6, 2017
FINAL REPORT: PROPOSED AMENDMENT OF ADMINISTRATIVE RULES GOVERNING PHYSICIAN PRACTICE; THERAPEUTIC USE OF MARIJUANA BY PATIENTS SUFFERING FROM A DEBILITATING MEDICAL CONDITION


This Report is respectfully submitted by the Louisiana State Board of Medical Examiners (the “Board”), within the Department of Health and Hospitals, pursuant to La. Rev. Stat. §49:968(D).

By Notice of Intent published in the October 20, 2016, edition of the Louisiana Register, Vol. 42, No. 10, pp. 1724-1728, the Board proposed to amend its administrative rules governing physicians, LAC Title 46:XLV, Subpart 3 (Practice), Chapter 77 (Marijuana for Therapeutic Use by Patients Suffering from a Debilitating Medical Condition), Subchapter A (General Provisions) 7701, 7703, and 7705, Subchapter B (Prohibitions and Exceptions) 7709, Subchapter C (Registration) 7711, Subchapter D (Marijuana for Therapeutic Purposes, Limitations, Access to Records) 7717 and 7721, Subchapter E (Sanctions, Severability) 7725 and (Appendix) 7729. In accordance with the specific requirements of La. Rev. Stat. §49:968(C). Concurrently with submission of the Notice of Intent to the Register, in accordance with La. Rev. Stat. §40:968, the Board submitted a Report to the Senate and House Committees on Health and Welfare, the President of the Senate and the Speaker of the House of Representatives.1 Following publication of such notice the Board did not receive a request for public hearing; however, it did receive five (5) written comments, each voicing the same concern.

This Report, submitted by the Board pursuant to and as prescribed by La. Rev. Stat. §49:968(D), sets forth a summary of the comments received by the Board on the subject administrative rule amendments and a statement of the Board's response to each comment. A copy of the Notice of Intent published in the October 2016 edition of the Register, accompanies this Report as Appendix A, which the Board intends to adopt as final amendments and to formally promulgate by and upon publication in the February 20, 2017 edition of the Register.

I. Background—By Notice of Intent published in the October 20, 2016, edition of the Louisiana Register, Board proposed to amend its administrative rules governing physicians who

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utilize therapeutic marijuana in the treatment of their patients who are suffering from a debilitating medical condition, LAC 46:XLV Chapter 77. The amendments were proposed to conform the Board’s rules to Act 96 of the 2016 Regular Session of the Louisiana Legislature.

II. Summary of Proposed Rules—The proposed amendments appear in LAC 46:XLV Chapter 77. Among other items, the proposed amendments: incorporate changes in definitions made to the law e.g., changing a prescription to a recommendation (§7705) and a qualified medical condition to a debilitating medical condition (§7701, §7705); expand the conditions for which therapeutic marijuana may be recommended from three to ten (§7705); provide for instances where the United States Food and Drug Administration may subsequently approve therapeutic marijuana for a debilitating medical condition in the same or a different form (§7709A.2); consistent with the law, provide that physicians who recommend therapeutic marijuana must be domiciled in this state (§7711A.3); incorporate certain changes to provisions on medical diagnoses and independent medical judgment consistent with guidance by the Federation of State Medical Boards and update provisions relative to the treatment plan and patient informed consent (§7717); remove the delay in rule implementation so that the rules will be effective upon promulgation (§7725); and update the suggested form for physician recommendation for therapeutic marijuana consistent with the changes to the law (§7729).

III. Summary of the Comments and Board Response—As noted above, during the comment period the Board received five (5) written comments (four from individuals and one from an organization), each voicing the same concern as the others and all calling for the removal of a specified section of the proposed rules. Summaries of all comments, as well as the Board’s responses to each, are set forth below.

Comment: All five (5) commenters requested that the Board remove §7721(A)(4) from the proposed rules, which requires the physician making a written recommendation for therapeutic marijuana to specify the form, amount, dosage and instructions for the patient’s use. The commenters noted that such requirements run afoul of federal law concerning physician authority
to prescribe controlled substances. One commenter cited to a 2002 federal case from the U.S. Ninth Circuit Court of Appeal, for the proposition that First Amendment free speech permits recommending marijuana by a physician; however, if a doctor recommends it with the intent that his or her recommendations are actually used to obtain cannabis, that the physician may be subject to action against his or her DEA and/or criminal prosecution.

Response: For the reasons set forth below, the Board declines the commenters’ request to delete §7721A.4.

First, the subsection of the rules subject to all of these comments is not a new one. Section 7721A.4, has been in the rules effect since December 2015. It current wording provides that a written request or recommendation for therapeutic marijuana shall include:

4. the form, amount, dosage and instructions for use of therapeutic marijuana in an amount which is not greater than that necessary to constitute an adequate supply for a period of one month, including amounts for topical treatment.

The proposed amendment to the existing rule merely adds the words “to ensure uninterrupted availability” for better consistency with the law so that, as proposed, the provision would read:

4. the form, amount, dosage and instructions for use of therapeutic marijuana in an amount which is not greater than that necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month, including amounts for topical treatment.”

Louisiana law establishing a physician’s ability to recommend therapeutic marijuana identifies "recommend" or "recommended" as “[A]n order from a physician domiciled in Louisiana and licensed and in good standing with the Louisiana Board of Medical Examiners and

3Conant v. Walters, 309 F.3d 629 (U.S. 9th Cir. 2002).
4Id., Marijuana Policy Project.
5Louisiana Register, Vol. 41, No. 12, p. 2635 (Dec. 2015).
authorized by the board to recommend medical marijuana that is patient specific and drug
specific and is communicated by any means allowed by the Louisiana Board of Pharmacy to a
Louisiana-licensed pharmacist in a Louisiana-permitted dispensing pharmacy as described in
Subsection G of this Section . . . .7 There can be no doubt that Louisiana law envisions that the
physician is making the recommendation with the intent that it will be used to obtain therapeutic
marijuana by his or her patient. Indeed, the preamble in the current rules provides a Warning
emphasizing the disparity between state and federal law and the potential dangers of prescribing
marijuana.8

Second, despite the differences between State and federal law, and the 2002 case issued
by a federal appellate circuit that does not include Louisiana, the United States Justice
Department has stated on several occasions in recent years that it will not focus its prosecutorial
attention on individuals who use medical marijuana in a manner consistent with state laws.9 In
2009, 2013, and again in 2014, the U.S. Department of Justice offered guidance to all U.S.
Attorneys and law enforcement officers to focus their limited resources on eight (8) priorities
with respect to enforcing the Controlled Substance Act against marijuana-related conduct.10

8La. Adm. C. 46:XLV.7701B.
9Memorandum for selected U.S. Attorneys, David W. Ogden, Deputy Attorney General, Investigations and
Prosecutions in States Authorizing the Medical Use of Marijuana (October 19, 2009), available at
Cole, Deputy Attorney General, Guidance Regarding Marijuana Enforcement (August 29, 2013), available at
https://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf.; and Memorandum for all U.S.
Attorneys, James M. Cole, Deputy Attorney General, Guidance Regarding Marijuana Related Financial Crimes
(February 14, 2014), available at https://www.justice.gov/sites/default/files/usao-
10The eight (8) priorities identified by the U.S. Justice Department are preventing: (1) the distribution of marijuana
to minors; (2) revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels; (3)
the diversion of marijuana from states where it is legal under state law in some form to other states; (4) state-authorized
marijuana activity from being used as a cover or pretext for trafficking of other illegal drugs or other illegal activity;
(5) violence and the use of firearms in the cultivation and distribution of marijuana; (6) drugged driving and the
exacerbation of other adverse public health consequences associate with marijuana use; (7) the growing of marijuana
on public lands and the attendant public safety and environmental dangers posed by marijuana production on public
lands; and (8) marijuana possession or use on federal property. Id. Colo Memorandum (August 29, 2013 and
February 14, 2014). The 2014 Memorandum noted that “Under the August 29 guidance, whether marijuana-related
While there is no guarantee that all U.S. Attorneys will steadfastly adhere to this guidance in all instances, none of the eight priorities identified in such guidance are related to physician recommendations for therapeutic marijuana to patients suffering from a debilitating medical condition, which are made in a manner consistent with state law. ¹¹

Third, therapeutic marijuana will be made available to patients in different forms. ¹² The task of selecting the form, amount and dosage of medication intended for the treatment of a medical condition, and providing appropriate instructions for its use, constitutes the practice of medicine, ¹³ not the practice of pharmacy. ¹⁴ Were it not for the patient’s treating physician to provide this information, that is, the recommendation could not be utilized by a patient to obtain therapeutic marijuana.

Comment: One of the four (4) individual commenters also suggested that the Board, rather than the treating physician, select the form, amount and dosage limits for patients, as well as time over which the drug may be available, based on differing diagnoses. The commenter suggested that the Board develop a registry involving the issuance of ID cards to be presented to a dispensary, which maintains a patient database documenting the patient’s condition, physician’s conduct implicates one or more of these enforcement priorities should be the primary question in considering prosecution under the CSA.” ¹⁵


¹³In pertinent part, as defined by the Act, the “practice of medicine” means “[T]he holding out of one’s self to the public as being engaged in the business of, the actual engagement in, the diagnosing, treating curing, or relieving of any bodily or mental disease, condition, infirmity, deformity, defect, ailment, or injury in any human being... whether by the use of any drug, instrument or force... or any other agency or means; or the examining... of any person or material from any person for such purpose... . . . .” Emphasis supplied, La. Rev. Stat. §37:1262(1).

¹⁴Pursuant to La. Rev. Stat. §37:1163(43) The “practice of pharmacy” or “practice of the profession of pharmacy” means and includes “[T]he compounding, filling, dispensing, exchanging, giving, offering for sale, or selling, drugs, medicines, or poisons, pursuant to prescriptions or orders of physicians, dentists, veterinarians, or other licensed practitioners, or any other act, service operation or transaction incidental to or forming a part of any of the foregoing acts, requiring, involving or employing the science or art of any branch of the pharmacy profession, study or training.” Emphasis supplied.
diagnosis and the quantity established by the Board, thus eliminating the need for physicians to specify dosage.

Response. The commenter’s suggestions are beyond the scope of the current rule-making effort. In addition, the suggestions are inconsistent with current law and beyond the scope of the Board’s authority. For these reasons, and those set forth in response to Comment 1 above, the Board declines the commenter’s suggestions.

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have any impact on competition or employment in either the public or private sector.

Eric D. Torres  
Executive Director  
16104071

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

NOTICE OF INTENT
Department of Health
Board of Medical Examiners

Physician Practice; Marijuana for Therapeutic Use by Patients Suffering From a Debilitating Medical Condition (LAC 46:XLV Chapter 77)

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, the Board intends to amend its Rules governing physicians who utilize therapeutic marijuana in the treatment of their patients who are suffering from a debilitating medical condition, LAC 46:XLV Chapter 77. The proposed amendments are needed to conform the Board’s rules to Act 96 of the 2016 Regular Session of the Louisiana Legislature. Among other items, the proposed changes: incorporate changes in definitions made to the law e.g., changing a prescription to a recommendation (§7705) and a qualified medical condition to a debilitating medical condition (§7701, §7705); expand the conditions for which therapeutic marijuana may be recommended from three to ten (§7705); provide for instances where the United States Food and Drug Administration may subsequently approve therapeutic marijuana for a debilitating medical condition in the same or a different form (§7709A.2); consistent with the law, provide that physicians who recommend therapeutic marijuana must be domiciled in this state (§7711A.3); incorporate certain changes to provisions on medical diagnoses and independent medical judgment consistent with guidance by the Federation of State Medical Boards and update provisions relative to the treatment plan and patient informed consent (§7717); remove the delay in rule implementation so that the rules will be effective upon promulgation (§7725); and update the suggested form for physician recommendation for therapeutic marijuana consistent with the changes to the law (§7729).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 77. Marijuana for Therapeutic Use by Patients Suffering from a Debilitating Medical Condition
Subchapter A. General Provisions
§7701. Preamble, Warning, and Suggested Consultation
A. Preamble—State Law. Pursuant to Act 261, R.S. 40:1046, of the 2015 Session of the Louisiana Legislature, as amended and supplemented by Act 96 of the 2016 Session of
the Louisiana Legislature, the Louisiana State Board of Medical Examiners was directed to:

1. promulgate rules and regulations authorizing physicians licensed to practice in this state to recommend marijuana for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition; and

A.2. - C. ...

D. Repealed.


HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2631 (December 2015), amended by the Department of Health Hospitals, Board of Medical Examiners, LR 43:

§7703. Scope of Chapter

A. This Chapter is being adopted in order to comply with the obligations imposed upon the board by Act 261, R.S. 40:1046, of the 2015 Session of the Louisiana Legislature, as amended and supplemented by Act 96 of the 2016 Session of the Louisiana Legislature, and govern a physician’s recommendation for the therapeutic use of marijuana for a patient suffering from a debilitating medical condition with whom the physician has established a bona fide physician-patient relationship.


HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

§7705. Definitions

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

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Conventional Treatment or Conventional Medicine—therapeutic modalities and medications offered or employed by a physician in the treatment of a debilitating medical condition which are generally accepted and recognized as falling within the standard of care in the course of medical practice based upon medical training, experience and peer reviewed scientific literature.

Debilitating Medical Condition (also referred to in this Chapter as a Qualifying Medical Condition)—cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn’s disease, muscular dystrophy, or multiple sclerosis, and/or such other diseases or conditions that may subsequently be identified as a debilitating medical condition by amendment of R.S. 40:1046 or other state law.

***

Qualifying Medical Condition—a debilitating medical condition, as defined in this Section.

Recommend or Recommendation (also referred to in this Chapter as a Written Request or Recommendation—a physician’s written transmission in a form and manner specified in §7721 of this Chapter, to a licensed therapeutic marijuana pharmacy. The issuance of a recommendation must be in good faith and in the usual course of the physician’s professional practice.

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Step Therapy or Fail First Protocols—as used in this Chapter means that if the USFDA approves the use of therapeutic marijuana for a debilitating medical condition, in a form or derivative that is different than provided for in this Chapter, the USFDA form or derivative shall be used first. If the physician determines that such USFDA approved form or derivative has been ineffective in the treatment of the patient’s debilitating medical condition, the physician may then recommend a form of therapeutic marijuana provided in this Chapter for use by the patient as medically necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter B. Prohibitions and Exceptions

§7709. Exceptions

A. This Chapter is subject to the following exceptions.

1. The rules of this Chapter shall not apply to a physician’s prescription of cannabinoid derived pharmaceuticals that are approved by the USFDA for administration to patients.

2. If the USFDA approves the use of therapeutic marijuana:

   a. in the same form provided for in this Chapter for a debilitating medical condition, identified in §7705.A, that medical condition shall no longer be covered by this Chapter;

   b. in a form or derivative different than provided for in this Chapter for a debilitating medical condition, identified in §7705.A, that disease state shall remain covered by this Chapter. However, the patient shall first be treated through utilization of step therapy or fail first protocols.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

Subchapter C. Registration

§7711. Registration, Physician Eligibility

A. To be eligible for registration under this Chapter a physician shall, as of the date of the application:

1.-2. ...

3. be domiciled in and practice at a physical practice location in this state; and

4.-D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:

Subchapter D. Marijuana for Therapeutic Purposes, Limitations, Access to Records

§7717. Use of Marijuana for Therapeutic Purposes, Limitations

A. ...

1. Medical Diagnosis. A medical diagnosis of a debilitating medical condition shall be clinically established
and clearly documented in the patient's medical record, based on an in-person physical examination. The diagnosis shall be supported by an assessment of the patient which, at a minimum, shall include a review of the patient's present illness, medical and surgical history, social history, alcohol and substance use history (including addiction, mental illness and psychotic disorders), prescription history, and an assessment of current coexisting illnesses, diseases, or conditions.

2. ...

3. Independent Medical Judgment. A physician's decision to utilize marijuana in the treatment of a patient must be based on the physician's independent medical judgment. The indication, appropriateness, and safety of the recommendation shall be evaluated in accordance with current standards of practice and in compliance with the laws of this state and the rules of this Chapter.

4. Treatment Plan. An individualized treatment plan shall be formulated and documented in the patient's medical record which includes medical justification for the use of marijuana. In addition, the plan shall include documentation:
   a. that conventional treatment for the patient's debilitating medical condition have been considered, are being undertaken or have been attempted without adequate or reasonable success or a statement that the patient has refused such methods;
   b. whether therapeutic marijuana could interfere with any ongoing conventional treatment; and
   c. the intended role of therapeutic marijuana within the overall plan.

5. Informed Consent. A physician shall explain the potential risks and benefits of both the therapeutic use of marijuana and any alternative conventional treatment to the patient. Among other items, informed consent should caution against driving, operating machinery or performing any task that requires the patient to be alert or react when under the influence of the drug and the need for secure storage to reduce the risk of exposure to children or diversion by others. Unless approved by the USFDA for treatment of the patient's debilitating medical condition, a physician shall also advise patients that therapeutic marijuana is experimental, unconventional, and has not been approved by the USFDA for the treatment of the patient's debilitating medical condition, and that possession may be viewed as illegal under federal law and subject to federal (and workplace) enforcement action. Discussion of the risks and benefits should be clearly noted in the patient's record. If the patient is a minor a custodial parent or legal guardian shall be fully informed of the risks and benefits and consent to such use.

A.6. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

§7721. Form of Written Request or Recommendation

A. Required Contents. A written request or recommendation for therapeutic marijuana shall include:

1. - 3. ...

4. the form, amount, dosage and instructions for use of therapeutic marijuana in an amount which is not greater than that necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month, including amounts for topical treatment; and

A.5. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:

Subchapter E. Sanctions, Severability

§7725. Effective Sanctions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), repealed by the Department of Health, Board of Medical Examiners LR 43.
§7729. Appendix—Form for Recommendation for Therapeutic Marijuana

—THIS IS NOT A PRESCRIPTION—
PHYSICIAN RECOMMENDATION FORM

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Section C. Patient’s Debilitating Medical Condition(s) (Required)

<table>
<thead>
<tr>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acquired Immune Deficiency Syndrome</td>
</tr>
<tr>
<td>Cachexia or Wasting Syndrome</td>
</tr>
<tr>
<td>Cancer</td>
</tr>
<tr>
<td>Crohn’s Disease</td>
</tr>
<tr>
<td>Epilepsy</td>
</tr>
<tr>
<td>Multiple Sclerosis</td>
</tr>
<tr>
<td>Muscular Dystrophy</td>
</tr>
<tr>
<td>Positive Status for Human Immunodeficiency Virus</td>
</tr>
<tr>
<td>Spasticity</td>
</tr>
<tr>
<td>Seizure Disorders</td>
</tr>
</tbody>
</table>

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Section E. Certification, Signature and Date (Required)

By signing below, I attest that the information entered on this recommendation is true and accurate. I further attest that the above-named individual is my patient, who suffers from a debilitating medical condition and that this recommendation is submitted by and in conformity with Louisiana Law, R.S. 40:1046, and administrative rules promulgated by the Louisiana State Board of Medical Examiners, LAC 46:XLV.Chapter 77.

Signature of Physician: X

Date:


HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:

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.

Public Comments
Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ext. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., November 21, 2016.

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 November 28, 2016 at 11:30 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.

Eric D. Torres
Executive Director

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Louisiana Register Vol. 42, No. 10 October 20, 2016
Physicians who recommend, and patients who receive therapeutic marijuana on their physician's recommendation, will be directly affected by the proposed rule changes.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

It is not anticipated that the proposed rule changes will have any impact on competition or employment in either the public or private sector.

Eric D. Torres  
Executive Director  
1616072

Gregory V. Albrecht  
Chief Economist  
Legislative Fiscal Office

NOTICE OF INTENT
Department of Health  
Bureau of Health Services Financing

Forensic Supervised Transitional Residential and Aftercare Facilities  
Licensing Standards  
(LAC 48:1.Chapters 72)

The Department of Health, Bureau of Health Services Financing proposes to repeal and replace LAC 48:1.Chapter 72 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 28:31-28:37. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated licensing standards for forensic supervised transitional residential and aftercare (FSTRA) facilities (Louisiana Register, Volume 37, Number 4). The department now proposes to repeal and replace the provisions governing FSTRA licensing standards to include language related to the culture change movement in nursing facilities, to update language to be consistent with licensing and enforcement processes, and to be more concise in providing regulatory information to providers and the public.

Title 48  
PUBLIC HEALTH—GENERAL  
Part 1. General Administration  
Subpart 3. Licensing and Certification  
Chapter 72. Forensic Supervised Transitional Residential and Aftercare Facilities  
Licensing Standards  
Subchapter A. General Provisions  
§7201. Introduction

A. These rules and regulations contain the minimum licensure standards for forensic supervised transitional residential and aftercare (FSTRA) facilities, pursuant to R.S. 28:31-28:37. These licensing regulations contain core requirements as well as module specific requirements, depending upon the services provided by the forensic supervised transitional residential and aftercare facility. The modules to be licensed under a FSTRA license are:

1. secure community supervised transitional/residential facility; and
2. secure forensic facility.

B. A forensic supervised transitional residential and aftercare facility serves clients referred by state forensic hospitals or state forensic inpatient psychiatric units operated...