

## NOTICE OF INTENT

### Department of Health Board of Medical Examiners

#### Provisional Temporary Permits (LAC 46:XLV.402)

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 proposes to amend its rules governing provisional temporary permits so as to provide for an emergency temporary permit to issue for previously licensed practitioners who meet certain criteria (46:XLV.412) and to provide that the board may waive obtaining a criminal history on such a temporary permit during a declared emergency (46:XLV.402). The proposed amendments are set forth on the next page.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XLV. Medical Professions

#### Subpart 2. Licensure and Certification

#### Subchapter H. Restricted Licensure, Permits

#### §402. Provisional Temporary Permit Pending Results of Criminal History Record Information

A. - C.2. ...

D. The board may waive the procedures and requirements for submitting, requesting and obtaining criminal history record information, specified in §402.A, for a non-renewable provisional temporary permit issued under this Subchapter that is effective for not more than 90 days or an emergency temporary permit issued under §412 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275 and R.S. 37:1277, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:843 (June 2001), amended LR 33:1344 (July 2007), LR 36:1243 (June 2010); amended by the Department of Health, Board of Medical Examiners, LR 46:

#### §412. Emergency Temporary Permits

A. - G.3. ...

H. The board may, in its discretion, extend or renew an expired emergency temporary permit for—additional 60-day periods provided all conditions prerequisite to original issuance are satisfied.

I. - K. ...

L. The board may, upon its electronic receipt of a completed application and/or such information as may be required to verify the individual as a former licensee, issue a permit under this Section to an individual who does not possess a current license to practice medicine or as allied health care practitioner in this state, provided:

1. such individual:

- a. was formerly licensed by the board;
- b. was not, in the preceding 15 years, disciplined by the board;
- c. at the time his or her license last expired, held an unrestricted license in-good standing with the board and was not subject to board order, investigation or disciplinary proceedings;
- d. affirms that there is no known condition that would impair his/her ability to practice safely;

e. practices within the scope and expertise of his/her education, training and experience and that of the formerly held license issued by the board;

f. has made arrangements and registered to provide health care services with a hospital, institution or facility licensed by the Louisiana Department of Health (LDH) or at another site approved by LDH or the board, that:

i. is registered as a host entity pursuant to the Uniform Emergency Volunteer Health Practitioners Act, R.S. 29:781, et seq.; and

ii. initiated the individual's application process by providing electronic confirmation to LDH and the board that it supports permit issuance and will accept, credential and grant privileges to the individual to provide voluntary health care services for the facility.

g. limits the provision of health care services to patients of the hospital, institution or facility licensed by LDH or at another site specified or approved by LDH or the board, at which he is registered to provide services pursuant to the Uniform Emergency Volunteer Health Practitioners Act, R.S. 29:781, et seq.;

2. a permit issued under §412.L shall be available to a physician who holds a reduced-fee license pursuant to §418 of these rules without the necessity of satisfying the requirements of §418.C;

3. permit issuance under this Section may be verified from the board's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 1275; R.S. 37:3301-3312; R.S. 37:3421-3433; R.S. 37:1311-1329; R.S. 37:3240-3257; R.S. 37:3001-3014; R.S. 37:1331-1343; R.S. 37:1360.21-1360.38; R.S. 37:611-628; R.S. 37:2861-2870; R.S. 37:1292; R.S. 37:3351-3361 and R.S. 29:769(E), R.S. 29:785 and R.S. 29:788.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 33:91 (January 2007), amended by the Department of Health, Board of Medical Examiners, LR 46:

#### 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 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 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 amendments 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 Jacintha Duthu, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 2290. She is responsible for responding to inquiries. Written comments will be accepted until the 16th day of November, 2020 at 4 o'clock p.m.

### 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 the 24th day of November, 2020, starting at 9 o'clock 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, especially during COVID, as the attendance may need to occur virtually via Zoom.

Vincent A. Culotta, Jr., MD  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Provisional Temporary Permits

### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

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 proposes to amend its rules governing provisional temporary permits so as to provide for an emergency temporary permit to issue for previously licensed practitioners who meet certain criteria (46:XLV.412) and to provide that the Board may waive obtaining a criminal history on such a temporary permit during a declared emergency (46:XLV.402).

The proposed changes will result in a one-time publication expense estimated at \$789.00, in FY 20 for the Louisiana State Board of Medical Examiners (LSBME). Otherwise, there is no anticipated impact on the LSBME or any state or local governmental unit, inclusive of adjustments in workload and paperwork requirements.

The proposed changes amend the LSBME's rules in two ways. First, the changes to §402 allow the Board, in its discretion, to waive the procedures and requirements for submitting, requesting and obtaining criminal history record information for an emergency temporary permit issued under §412. Second, the changes to §412H allow the Board, in its discretion to extend of renew an expired emergency temporary permit for additional 60-day time periods provided all conditions prerequisite to original issuance are satisfied. Third, the changes to 412L. create a new temporary emergency permit for a practitioner:

(a) previously licensed by the Board as long as the practitioner's license at last expiration was in good standing and

not under investigation and/or involved in disciplinary proceedings;

(b) who has not been disciplined in the last 15 years;

(c) who has no known condition that would impair his/her ability to practice safely;

(d) who practices within the scope and expertise of his/her training, education and experience and previous licensure;

(e) who has made arrangements and registered to provide health care services with a hospital, institution or facility licensed by the Louisiana Dept of Health (LDH) or at another site approved by LDH or the Board that is registered as a host entity under the Uniform Emergency Volunteer Health Practitioners Act (La. R.S. 29:781 et seq.) (UEVHP Act) and that initiated the applicant's permit application process by providing electronic confirmation to LDH and the Board that it supports permit issuance and which will accept and credential/grant privileges to the applicant to provide voluntary health care services for the facility; and,

(f) who is limited to the location specified by LDH and/or approved by the Board, to provide services pursuant to the UEVHP Act.

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

While the LSBME has no reliable data, it is believed that only a very limited number of previously licensed applicants are likely to apply for the emergency temporary permit on the basis of the proposed amendments. The LSBME is not in a position to estimate the proposed amendments' effect in this respect as no information or data is available either as to the number of formerly licensed health care practitioners who may be offered a position at an approved host hospital, institution or facility licensed by LDH, who will confirm to LDH and the Board that it supports permit issuance and will accept, credential and grant privileges to the permit applicant. It is anticipated that qualifying applicants will be infrequent and any such applicant would be subject to any medical licensing fees specified by the LSBME's rules. Accordingly, there is no anticipated effect on the revenue collections of the LSBME or other state or local governmental units.

### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that the proposed amendments will have a material effect on costs, paperwork or workload of physicians or other health care providers licensed by the LSBME, nor on receipts and/or income of licensees, small businesses, or non-governmental groups.

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

It is not anticipated that the proposed changes will have any negative impact on competition or employment. The additional emergency temporary permit is meant to expand the number of health care practitioners available to respond to a declared public health emergency or disaster, in which, it is anticipated, there is usually a shortage of licensed health care practitioners available to respond.

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Alan M. Boxberger  
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