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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: September 17, 2025

Subject: Louisiana State Board of Pharmacy
Proposed Amendment to LAC 46:LIII.2705(C)(4)
Regulatory Project 2025-06 ~ Practitioner CDS License

I. SUMMARY

The Louisiana State Board of Pharmacy (the “**Board**”) proposes amending LAC 46:LIII.2705(C)(4) (the “**Proposed Amendment**”), relative to the controlled dangerous substance (CDS) license for practitioners. The Proposed Amendment seeks to clarify that health care providers identified as “authorized clinicians” in R.S. 40:1046(B) are permitted to apply for and be issued a CDS license.

The Board published a Notice of Intent to promulgate the Proposed Amendment on April 20, 2025.¹ The Notice invited public comments and testimony on this Proposed Amendment on May 27, 2025² and received no written or oral public comments.

Licensing and permitting requirements are barriers to market competition and the Proposed Amendment to §2705(C)(4) is therefore properly considered an occupational regulation with reasonably foreseeable anti-competitive effects.³

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 17, 2025. The OLRP invited public comments on the Proposed Amendment from July 18, 2025 through August 1, 2025 and received no comments. As set forth below, the OLRP has determined the

¹ Louisiana Register, Vol. 51, No. 4, at pgs. 597-599

² Id. at 599

³ La. R.S. 49:260 G(4)

Board's Proposed Amendment to LAC 46: LIII §2705(C)(4) adheres to clearly articulated state policy and therefore approves this Amendment for adoption as drafted.

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 the 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.⁴ The Uniform Controlled Dangerous Substances Law authorizes the board to promulgate rules and regulations relating to the registration, control, and the licensing of the manufacture, distribution, and dispensing of CDS within this state.⁵ Specifically, the Board requires every person who conducts research with, manufactures, distributes, procures, possesses, prescribes, or dispenses any controlled dangerous substance within this state to obtain a controlled dangerous substance license issued by the Louisiana Board of Pharmacy in accordance with the rules and regulations promulgated by the Board prior to engaging in such activity.⁶

The Board proposes amending §2705(C)(4) to clarify that health care providers identified as “authorized clinicians” in La. R.S. 40:1046(B) are eligible to apply for and be issued CDS licenses. The Board asserts this clarification is necessary to align with Act 444 of the 2022 Regular Session of the Louisiana Legislature. The enactment of Act 444 amended La. R.S. 40:1046(B) to expand the authority to prescribe or recommend medical marijuana to “authorized clinicians” and defined the term to include licensed physicians, advanced practice registered nurses with prescriptive authority, and medical psychologists. However, the current version of LAC 46:LIII.2705(C)(4) states that only physicians licensed by the Louisiana State Board of Medical Examiners are eligible to apply for and be issued a CDS license to prescribe or recommend marijuana for therapeutic uses.

In addition to possessing a valid and verifiable license or other credential issued by a standing professional board in the state of Louisiana, a prescribing practitioner is required to possess a CDS license to prescribe or recommend controlled dangerous substances⁷ and must obtain a controlled dangerous substance (CDS) license from the Board prior to engaging in such activities.⁸ A controlled dangerous substance refers to any drug, substance, or chemical that is regulated by law due to its potential for abuse and is classified under schedules based on the potential for abuse. According to La. R.S. 40:964(C)(40) marijuana is classified as a Scheduled I controlled dangerous substance. As such, it is within the Board's statutory authority to issue CDS licenses to qualifying health care providers to prescribe or recommend medical marijuana for therapeutic uses.

⁴ LA R.S. 37:1163

⁵ LA R.S. 40:972-40:975

⁶ LA R. S. 40:973(A)(1)

⁷ LAC 46:LIII.2705(C)(1)

⁸ LA R.S. 40:973(A)(1)

Although, the Louisiana Legislature during the 2022 Regular Session expanded the authority to issue prescriptions or recommendations to health care providers identified as “authorized clinicians,” the Board is statutorily authorized to issue or renew CDS licenses.⁹ Licensing and permitting requirements function as barriers to market entry by reducing the pool of eligible practitioners, imposing mandatory qualifications, fees, and procedural requirements that may limit the ability of individuals to enter into a profession. However, the Proposed Amendment is likely to reduce these barriers to entry by expanding the pool of medical providers who may apply for and be issued a CDS license and is likely to have a pro-competitive impact.

Additionally, the Proposed Amendment increases the likelihood that patients who are statutorily eligible or have debilitating medical conditions will receive prescriptions or recommendations for medical marijuana due to the increase in the number of health care providers who may prescribe or recommend marijuana for therapeutic uses. Thus, the Proposed Amendment adheres to state policy by promoting public health and safety.

The OLRP finds that the Proposed Amendment is within the Board’s statutory authority and adheres to clearly articulated state policy, and therefore the Board may promulgate the rule 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.”¹⁰ The Board is responsible for the control and regulation of the practice of pharmacy¹¹ and holds the statutory authority to issue and renew licenses, permits, certifications, and any other designations necessary.¹² Because the Proposed Amendment to LAC 46:LIII.2705(C)(4) is within the Board’s statutory authority and adheres to clearly articulated state policy, this Amendment is approved as submitted to the Attorney General and may be adopted by the Board.

⁹ LA R.S. 40:973(A)(1)

¹⁰ LA R.S. 37:1163, LA R.S. 37:1171

¹¹ LA R.S. 37:1182

¹² LA R.S. 37:1182 (A)(8)

OFFICE OF THE ATTORNEY GENERAL
OCCUPATIONAL LICENSING REVIEW PROGRAM

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

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