

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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April 13, 2015

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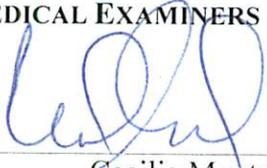
RE: Final Report: Proposed Amendment of Administrative
Rules Governing Physician Assistant Licensure,
Certification and Practice, La. Rev. Stat. §49:968(D)

Dear Sirs:

Pursuant to La. Rev. Stat. §49:968(D), the Louisiana State Board of Medical Examiners is submitting the enclosed report relative to the final adoption of administrative rules amendments governing physician assistants. Notice of Intent of was previously published in the February 20, 2015 edition of the *Louisiana Register*, Vol. 41, No. 2, pp. 431-433. The Board plans to adopt the amendments by and upon publication in the May 20, 2015, edition of the *Louisiana Register*.

Very truly yours,

**LOUISIANA STATE BOARD OF
MEDICAL EXAMINERS**

By: 

Cecilia Mouton, M.D.
Executive Director

Enclosure

**FINAL REPORT RELATIVE TO PROPOSED AMENDMENT
OF ADMINISTRATIVE RULES GOVERNING PHYCIAIAN ASSISTANT
LICENSURE, CERTIFICTION AND PRACTICE**
(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

April 13, 2015

**FINAL REPORT RELATIVE TO PROPOSED AMENDMENT
OF ADMINISTRATIVE RULES GOVERNING PHYSICIAN
ASSISTANT LICENSURE, CERTIFICATION AND PRACTICE**

Apr. 13, 2013

(La. Rev. Stat. §49:968(D))

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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 February 20, 2015, edition of the *Louisiana Register*, Vol. 41, No. 2, pp. 431-433, the Board proposed to amend its PA rules. Concurrently with submission of the Notice of Intent to the *Register*, in accordance with La. Rev. Stat. §40:968, the Board submitted a Report on the proposed rule amendments 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 Notice of Intent the Board did not receive a request for public hearing, nor did it receive any adverse comments during the comment period provided by La. Rev. Stat. §49:953. However, it did receive a number of written comments on the proposed changes, principally from PA students, expressing support for the proposed changes.

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 rules, a statement of the Board's response to each comment, including a concise statement of the principal reasons for and against adoption of any modifications or changes suggested. A copy of the Notice of Intent containing the full text of the proposed amendments that were previously published and appeared in the February 2015 edition of the *Louisiana Register*, accompanies this Report as Appendix A, which the Board intends to adopt as final rules and to formally promulgate in the identical form as was previously published, by and upon publication in the May 20, 2015, edition of the *Louisiana Register*.

The subject rule amendments are proposed for adoption and promulgation pursuant to the Board's administrative rule making authority under the Louisiana Medical Practice Act and the Physician Assistant Practice Act, respectively, and in particular La. Rev. Stat. §§37:1270, 37:1360.23(D) and (F) and 37:1360.31(B)(8).

I. Background—The effect of the proposed amendments is to eliminate the requirement that all PA charts entries be countersigned by a SP within 24, 48 or 72 hours and instead charge

¹*Electronic Mail*, Cecilia Mouton, M.D., Exec. Dir., La. State Bd. Med. Exam., RE: Report Relative to Proposed Amendment of Administrative Rules Governing Physician Assistant Licensure, Certification and Practice (Feb. 9, 2015).

**FINAL REPORT RELATIVE TO PROPOSED AMENDMENT
OF ADMINISTRATIVE RULES GOVERNING PHYSICIAN
ASSISTANT LICENSURE, CERTIFICATION AND PRACTICE**

Apr. 13, 2015

(La. Rev. Stat. §49:968(D))

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the SP and PA with developing a performance plan to insure that medical services delegated by the SP are performed professionally and with reasonable skill and safety to patients. In proposing the amendments, the Board worked closely with representatives of its PA Advisory Committee and the Louisiana Association of PAs.

II. Summary of Proposed Rules—The Board proposed amendments modify the Board’s current PA rules in two (2) respects. First, they eliminate the need for a supervising physician (SP) to countersign all records documenting the activities, functions, services and treatment measures prescribed or delivered to patients by a PA (1521.A.5.f, 4505D, 4506A.2 and 4511A.4). Second, in lieu of countersigning, the proposed amendments charge the SP and PA with developing a performance plan to insure that medical services delegated by the SP are performed with reasonable skill and safety to patients. The performance plan must be included in a PA’s clinical practice guidelines or protocols and identify the SP responsible for plan compliance (4512). Flexibility is provided in plan development, which must include some chart review and any other items that the SP and PA deem appropriate (4512A.2). Increased chart review is necessary for new PAs during the first 12 months of practice and during the first 6 months for a PA shifting into an entirely new area of practice. (4512A.1.a). If the PA/SP work together at the same primary practice site, routinely confer with respect to patient care, and document their services in the charts and records maintained at the primary practice site, the increased chart review requirement is deemed satisfied. (4512A.1.b). Records regarding the plan must be maintained and made available to board representatives upon request. (4512C).

III. Summary of the Comments and Board Response—As noted above, during the comment period the Board received a number of written comments expressing support for the proposed amendments.

Comment: All commenters were supportive of proposed changes for a number of reasons the amendments would, among other items, provide a more meaningful performance review process of PA services, improve the availability and quality of healthcare in Louisiana, and enhance PA employment opportunities in this state.

Response: The Board noted its appreciation for the views expressed by the various commenters. Further formal reply is not required.

* * *

2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments to Kelly Parker, Executive Director, 8706 Jefferson Highway, Suite B, Baton Rouge, LA 70809. All comments must be submitted by 12 p.m. on March 23, 2015.

Kelly Parker
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Provisional Licensure of Psychologists**

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

The estimated implementation cost for the proposed rule to the Board is approximately \$800 in state FY 15. These costs are related to publishing the proposed and final rule in the *Louisiana Register*. The proposed rule codifies and provides updates to regulations to include provisionally licensed psychologists pursuant to Act 137 of the 2014 Legislative Session. There is no implementation costs or savings to other state or local governmental units.

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

The proposed rule establishes licensure for a provisionally licensed psychologist and creates a fee schedule for application and license renewal. The impact on self-generated revenues to the Board of Examiners of Psychologists is expected to be immaterial. There is no estimated impact on state or local government revenue collections as a result of the proposed rule change.

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

The proposed rules provide updates to regulations to include regulations for provisionally licensed psychologists pursuant to Act 137 of the 2014 Legislative Session.

The cost of any provisional licensure fees is to be borne by the applicant for provisional licensure and paid to the Board. The amended language will not affect current licenses. The proposed language is consistent with recommended national guidelines issued by the Association of State and Provincial Psychology Boards (ASPPB) and American Psychological Association (APA).

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Creation of a provisionally licensed psychologist may afford individuals with an enhanced opportunity to gain employment while acquiring minimal practice hours for full licensure.

Kelly Parker
Executive Director
1502#079

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health and Hospitals
Board of Medical Examiners**

Physician Assistants, Licensure and Certification; Practice (LAC 46:XLV.1521, 4505, 4506, 4511, and 4512)

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 the Louisiana Physician Assistant Practice Act, R.S. 37:1360.21-1360.38, the board intends to amend its rules governing physician assistants (PAs), LAC 46:XLV.1521.A.5.f, 1521.A.5.h., 4505.D, 4506.A.2, 4511.A.4 and 4512. The proposed amendments eliminate the need for a supervising physician (SP) to countersign all records documenting the activities, functions, services and treatment measures prescribed or delivered to patients by a PA (§§1521.A.5.f, 4505.D, 4506.A.2 and 4511.A.4). Section 4512 provides that a performance plan must be included in a PA's clinical practice guidelines or protocols and identify the SP responsible for plan compliance (§4512.B). Flexibility is provided in plan development, which must include some chart review and any other items that the SP and PA deem appropriate (§4512.A.2). Increased chart review is necessary for new PAs during the first 12 months of practice and during the first 6 months for a PA shifting into an entirely new area of practice. (§4512.A.1.a). If the PA/SP work together at the same primary practice site, routinely confer with respect to patient care, and document their services in the charts and records maintained at the primary practice site, the increased chart review requirement is deemed satisfied. (§4512.A.1.b). Records regarding the plan must be maintained and made available to board representatives upon request. (§4512.C). The proposed amendments are set forth below.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 15. Physician Assistants**

**§1521. Qualifications for Physician Assistant
Registration of Prescriptive Authority**

A. Legend Drugs/Medical Devices. To be eligible for registration of prescriptive authority for legend drugs or medical devices, or both, a physician assistant shall:

1. - 4.b. ...

5. practice under supervision as specified in clinical practice guidelines or protocols that shall, at a minimum, include:

a. - e. ...

f. an acknowledgment of the mutual obligations and responsibilities of the supervising physician and physician assistant to comply with all requirements of §4511 of these rules; and

g. ...

h. a performance plan, as specified in Section 4512 of these rules.

B. - E. ...

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:

Subpart 3. Practice

Chapter 45. Physician Assistants

§4505. Services Performed by Physician Assistants

A. - C. ...

D. A physician assistant may administer medication to a patient, or transmit orally, electronically, or in writing on a patient's record, a prescription from his or her supervising physician to a person who may lawfully furnish such medication or medical device. The supervising physician's prescription, transmitted by the physician assistant, for any patient cared for by the physician assistant, shall be based on a patient-specific order by the supervising physician. At the direction and under the supervision of the supervising physician, a physician assistant may hand deliver to a patient of the supervising physician a properly labeled prescription drug prepackaged by a physician, a manufacturer or a pharmacist.

E. - E.6. ...

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 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 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:32 (January 1999), LR 31:78 (January 2005), LR 41:

§4506. Services Performed by Physician Assistants

Registered to Prescribe Medication or Medical Devices; Prescription Forms; Prohibitions

A.1. - A.1.c. ...

2. The medical record of any patient for whom the physician assistant has prescribed medication or a medical device, or delivered a bona fide medication sample, shall be properly documented by the physician assistant.

B. - C.6. ...

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 and Hospitals, Board of Medical Examiners, LR 31:79 (January 2005), amended LR 41:

§4511. Mutual Obligations and Responsibilities

A. The physician assistant and supervising physician shall:

1. - 3. ...

4. insure that, with respect to each direct patient encounter, all activities, functions, services, treatment measures, medical devices or medication prescribed or

delivered to the patient by the physician assistant are properly documented in written form in the patient's record by the physician assistant;

A.5. - 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 and Human Resources, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:206 (March 1996), LR 25:33 (January 1999), LR 31:79 (January 2005), LR 41:

§4512. Performance Plan

A. For each practice setting, a PA and SP shall develop and implement a meaningful performance plan for evaluating whether the PA has performed medical services delegated by the SP with professional competence and with reasonable skill and safety to patients. At a minimum, the plan shall include:

1. for new graduates/major shift in practice:

a. *different primary practice sites*—if the PA's primary practice site (as defined in §1503.A of these rules e.g., the location at which a PA spends the majority of time engaged in the performance of his or her profession) is different from the SP's primary practice site then, during the first 12 months of supervised practice after passing the credentialing examination, and the first 6 months after entering into an entirely new field of practice, such as from primary care or one of its sub-specialties to a surgical specialty or sub-specialty, monthly chart review conducted by a SP of no less than 50 percent of the PA's patient encounters, as documented in the patient records;

b. *same primary practice site*—where the SP and PA work together, have the same primary practice site, routinely confer with respect to patient care, and the PA and SP document their services in the charts and records maintained at the primary practice site, the requirements of §4512.A.1.a shall be considered satisfied;

2. for all other PAs not falling within §4512.A.1: a review of such number of charts and records of the PA on a monthly basis as the SP deems appropriate to meet the purposes of §4512.A. If the PA has prescriptive authority the plan shall include a review of a representative sample of the PA's prescriptions. The plan should also include any other items that the SP and PA deem appropriate to insure that the purposes of this Section are met (e.g., documented conferences between the PA and SP concerning specific patients, a sample of medical orders, referrals or consultations issued by the PA, observation of the PA's performance, the SP's examination of a patient when he or she deems such indicated, etc.).

B. The plan shall be a component of the clinical practice guidelines. The SP responsible for compliance with the plan shall be designated in the PA's clinical practice guidelines. Questions respecting the applicability of this paragraph in specific cases shall be determined at the discretion of the board.

C. Accurate records and documentation regarding the plan for each PA, including a list of the charts and any other items reviewed, shall be maintained for three years and made available to board representatives upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23, 37:1360.28.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:

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 development 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 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., March 23, 2015. If a public hearing is requested to provide data, views, arguments, information or comments in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on March 27, 2015, at 9:30 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.

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.

Cecilia Mouton, 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 GOVERNMENTAL UNITS (Summary)

Other than the rule publication costs of \$654 in FY15, it is not anticipated that the proposed rule changes will impact costs

or savings to the Board of Medical Examiners (Board) or any state or local governmental unit. The proposed rule changes eliminate the current requirement that Supervising Physicians must countersign specific enumerated actions prescribed or delivered by a Physician Assistant in the treatment of a patient. The rule changes detail practice guidelines and protocols to facilitate this change.

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

It is not anticipated that the proposed rule changes will impact revenue collections of the Board of Medical Examiners or any state or local governmental unit.

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

The Board proposes to amend its Physician Assistant (PA) Rules to eliminate the current requirement that all documented activities, functions, services and treatment measures prescribed or delivered to patients by a PA must be countersigned by the supervising physician (SP). (1521.A.5.f, 4505D, 4506A.2 and 4511A.4). The changes also add Section 4512, which calls for the development and inclusion of a performance plan into a PA's existing clinical practice guidelines or protocols and the identity of the SP responsible for plan compliance (4512B). Flexibility is provided to the parties to develop a plan that works best in their particular practice setting. The plan must include some chart review and any other items that the SP and PA deem appropriate (4512A.2). Increased chart review is required for new PAs during the first 12 months of practice and during the first 6 months for a PA shifting into an entirely new area of practice. If the PA/SP work together at the same primary practice site, routinely confer with respect to patient care, and document their services in the charts and records maintained at the primary practice site, the increased chart review requirement is deemed satisfied. (4512A.1). Records regarding the plan must be maintained and made available to board representatives upon request. (4512C).

PAs and SPs will spend some amount of time developing a performance plan. The board is not in a position to estimate the proposed impact on individual medical practices with regard to developing this plan but believes it will be much less than that currently devoted by SPs to countersigning PA chart entries. The proposed amendments may result in a savings in time and/or reduction in workload for SPs and, in turn, serve to increase receipts and/or income of SPs to an indeterminable amount. Otherwise, it is not anticipated that the proposed amendments will have any material effect on receipts, costs, paperwork or workload of PAs or SPs licensed to practice in this state or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes may decrease, to some extent, the time required to supervise a PA by physicians who utilize them in their practice. This may, to an extent not quantifiable, enhance employment opportunities for PAs. Otherwise, it is not anticipated that the proposed amendments will have any impact on competition or employment in either the public or private sector.

Cecilia Mouton, M.D.
Executive Director
1502#044

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office