

**FINAL REPORT: PROPOSED ADOPTION OF ADMINISTRATIVE  
RULE AMENDMENTS GOVERNING LICENSURE  
AND CERTIFICATION OF PODIATRISTS  
(LAC 46:XLV.1307)**

By The

LOUISIANA STATE  
BOARD OF MEDICAL EXAMINERS

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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

October 17, 2016

**FINAL REPORT: PROPOSED ADOPTION OF  
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Oct. 17, 2016

(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 August 20, 2016, edition of the *Louisiana Register*, Vol. 42, No. 8, pp. 1351-1352, the Board proposed to amend its rules governing licensure and certification of podiatrists, LAC Title 46:XLV, Subpart 2 (Licensure and Certification), Chapter 13 (Podiatrists), Subchapter B. (Recommendations and Qualifications for Licensure, Scope of Practice), Section 1307G.-H. (Qualifications for Certification for Advanced Practice; Scope of Practice).

In conformity with federal regulation and The Joint Commission policy, the proposed rule amendments provide that if a Louisiana licensed physician or duly authorized advanced practice registered nurse has performed a full history and physical examination (H&P), within 30 days of a podiatric surgical procedure requiring anesthesia, a podiatrist certified by the board for advanced practice may update the H&P for the purpose of pre-operative evaluation provided that: (i) the surgical procedure is performed in a hospital or ambulatory surgical center licensed by the state; (ii) the podiatrist is credentialed by the facility to perform the procedure; and (iii) the updated H&P are directly related to the procedure which the podiatrist is authorized to perform under the scope of his/her license.

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 changes to the Senate and House Committees on Health and Welfare, the President of the Senate and the Speaker of the House of Representatives.<sup>1</sup> Following publication of Notice of Intent the Board did not receive a request for public hearing nor did it receive any written comments on the proposed amendments from a single organization or individual during the comment period provided by La. Rev. Stat. §49:953.

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<sup>1</sup>*Electronic Mail*, Eric D. Torres, Exec. Dir., La. State Bd. Med. Exam., RE: Report Relative to Proposed Amendment of Administrative Rules Governing Licensure and Certification of Podiatrists (LAC 46:XLV.1307) (Aug. 9, 2016).

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This Report, submitted by the Board pursuant to and as prescribed by La. Rev. Stat. §49:968(D), includes as Appendix A, a photocopy of the Notice of Intent containing the full text of the proposed amendments that were previously published and appeared in the August 2016 edition of the *Louisiana Register*, which the Board has adopted and intends to formally promulgate as final rules, in the identical form as was previously published, by and upon publication in the November 20, 2016, edition of the *Louisiana Register*.

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regular newsletter or other direct mailings, which will result in minimal costs to the Board. Local governmental units will not incur any costs as a result of this rule.

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

The proposed rule changes are anticipated to increase annual revenues for the Board by approximately \$18,100 beginning in FY17. Proposed rule changes include the addition of license sub-types to the distributor license issued by the Board and re-structuring of the Board's current initial and renewal fees in association with the new distributor license sub-types. The proposed distributor license sub-types include standard distributor, wholesale distributor, and third-party logistics provider distributor. The delineation of license sub-types increases the initial license fee and annual license renewal fee by \$25 per additional sub-type delineated on the distributor license.

There are approximately 2,170 licenses in the current fiscal year. It is anticipated if twenty percent (20%) of these current licenses (434 licenses) will add one additional license sub-type (\$10,850) and 5% of these current licensees (108 licenses) will add two additional license sub-types (\$5,400) for a total projected increase in annual revenues of \$16,250. In addition, it is estimated there will be 250 new applicants and licensees in FY17. Using the same percentage projection for new applicants (250: 20%=50; 5%=12), there would be an annual estimated increase of \$1,850 in initial license fees.

The total estimated annual revenue increase is approximately \$18,100 beginning in FY17.

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

Current drug and device distributor licensees and applicants for licensure will pay \$25 per additional license sub-type based on the proposed rule changes.

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

No impact on competition and employment is anticipated as a result of the proposed rule change.

George Lovecchio  
Executive Director  
1608#011

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Health  
Board of Medical Examiners**

**Podiatry Licensure and Certification  
(LAC 46:XLV.1307)**

Notice is hereby given 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 Podiatric Practice Act, R.S. 37:611-628, that the board intends to amend its rules on licensure and certification of podiatrists. The proposed changes add a new Subsection (1307G) providing for updating a history and physical examination by podiatrists who hold advanced certification status with the board in specified instances and settings. The changes also renumber the previous Subsection 1307G. as 1307H. The proposed amendments are set forth below.

**Title 46  
PROFESSIONAL AND OCCUPATIONAL  
STANDARDS**

**Part XLV. Medical Professions**

**Subpart 2. Licensure and Certification**

**Chapter 13. Podiatrists**

**Subchapter B. Requirements and Qualifications for  
Licensure, Scope of Practice**

**§1307. Qualifications for Certification for Advanced  
Practice; Scope of Practice**

A. - F.3. ...

G Patient history and examination. Provided a history and physical (H&P) examination has been performed by a Louisiana licensed physician or duly authorized advanced practice registered nurse within thirty days of a podiatric surgical procedure, a podiatrist certified for advanced practice under this Section may perform an update to the H&P for the purpose of pre-operative evaluation provided the:

1. podiatric surgical procedure is performed in a hospital or ambulatory surgical center (ASC) licensed by the state;

2. podiatrist's credentials have been approved by the hospital or ASC medical staff and the podiatrist has been authorized to perform the procedure in accordance with the hospital or ASC's prescribed policies and procedures; and

3. updated examination and history are directly related to the podiatry procedure the podiatrist is authorized to perform under the scope of his or her license.

H. The burden of satisfying the board as to the qualifications and eligibility of the applicant for certification of practice prerogatives 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, 37:611-37:628.

**HISTORICAL NOTE:** Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:241 (February 2009), amended by the Department of Health, Board of Medical Examiners, LR 42:

**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, Louisiana, 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., September 19, 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 in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on September 28, 2016 at 10 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, Louisiana 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Eric D. Torres  
Executive Director

### FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

**RULE TITLE: Podiatry Licensure and Certification**

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

The estimated implementation costs to the Louisiana State Board of Medical Examiners is approximately \$248 in FY 17 for notice and rule publication costs. There are no estimated implementation savings to state or local governmental units through promulgation of the proposed rules changes. The proposed rule change provides that if a Louisiana licensed physician or duly authorized advance practice registered nurse has performed a full history and physical examination (H&P) of a patient within 30 days of a podiatric surgical procedure a podiatrist certified by the board for advanced practice may update the H&P for the purpose of pre-operative evaluation. However, a certified podiatrist may update the H&P provided that: (i) the surgical procedure is performed in a hospital or ambulatory surgical center licensed by the state; (ii) the podiatrist is credentialed by the facility to perform the procedure; and (iii) the updated H&P are directly related to the procedure which the podiatrist is authorized to perform under the scope of his/her license.

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

There is no anticipated effect on the Board's revenue collections or those of any other state or local governmental unit.

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

All podiatrists certified by the Board for advanced practice, who perform surgery requiring anesthesia services in a licensed hospital or ambulatory surgery center (ASC), will be favorably

impacted by the rule changes. This rule change will provide these certified podiatrists the ability to update a H&P for podiatric surgery requiring anesthesia services. The proposed change may reduce costs currently incurred by virtue of the need for another provider to update a H&P within 24 of a podiatric surgery requiring anesthesia services. Otherwise, the proposed changes will not have a material effect on costs, paperwork or workload of podiatrist or other providers.

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

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

Eric D. Torres, E.T.  
Executive Director  
1608#060

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Department of Health Bureau of Health Services Financing

#### Healthcare Services Provider Fees Emergency Ambulance Service Providers (LAC 48:1.4001,4003 and 4007)

The Department of Health, Bureau of Health Services Financing proposes to adopt LAC 50:1.4001, 4003 and 4007 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 46:2625. 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, Office of Management and Finance, amended and repromulgated the regulations governing provider fees for certain health care services pertaining to the administration of fees and the rights and obligations of service providers on whom such fees are imposed (Louisiana Register, Volume 26, Number 7).

Act 305 of the 2016 Regular Session of the Louisiana Legislature directed the Department of Health to establish qualifying criteria and implement a provider fee for qualified providers of emergency ground ambulance services.

In compliance with Act 305, the Department of Health, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing provider fees for certain health care services in order to implement a provider fee assessment for qualifying emergency ground ambulance service providers (Louisiana Register, Volume 42, Number 8). This proposed Rule is being promulgated to continue the provisions of the August 1, 2016 Emergency Rule.

#### Title 48

### PUBLIC HEALTH—MEDICAL ASSISTANCE

#### Part I. General Administration

#### Subpart 1. General

#### Chapter 40. Provider Fees

#### §4001. Specific Fees

##### A. Definition

*Net Operating Revenue*—the gross revenues of an emergency ground ambulance service provider for the provision of emergency ground ambulance transportation services, excluding any Medicaid reimbursement, less any