

NOTICE OF INTENT

Department of Health and Hospitals
Board of Medical Examiners

Licensure and Certification; Continuing Medical Education
on Controlled Dangerous Substances
(LAC 46:XLV.4001-4005)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 *et seq.*, pursuant to the authority of the Louisiana Medical Practice Act, R.S. 37:1270, the Louisiana Podiatry Practice Act, La. Rev. Stat. §§37:621, 37:628; the Louisiana Physician Assistant Practice Act, La. Rev. Stat. §37:1360.23, the Louisiana Medical Psychology Practice Act, La. Rev. Stat. §§37:1360.51-1360.72, and in conformity with the Uniform Controlled Dangerous Substances Law, R.S. 40:978, as amended by Act 76 of the 2017 Regular Session of the Louisiana Legislature, the Louisiana State Board of Medical Examiners (Board) intends to adopt rules requiring continuing medical education (CME) on controlled dangerous substances (CDS) prerequisite to licensure renewal for health care providers licensed by the Board whose scope of practice includes CDS prescriptive authority. The proposed rules provide for: a one-time CME requirement, definitions, identify approved/qualifying CME and how to access it, and an hour-for-hour credit towards the annual CME requirement for license renewal. Such rules also provide for CME documentation, non-compliance, an exception for non-prescribers of CDS, and resolution of conflicts with the Board's other CME rules. The proposed rules are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL
STANDARDS

Part XLV. Medical Professions

Subpart 2. Licensure and Certification

Chapter 40. Continuing Medical Education on
Controlled Dangerous Substances

Subchapter A. General Provisions

§4001. Scope of Chapter

A. The rules of this Subchapter provide for the one-time continuing medical education (CME) requirement for controlled dangerous substances prerequisite to license renewal of an authorized prescriber, and prescribe definitions and the procedures applicable to approved/qualifying CME, credit for satisfaction, documentation, non-compliance, an exception and conflict resolution with other CME rules of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(8), 1270(B)(6), 37:621, 37:628, 37:1360.23 and 37:1360.51-1360.72.

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

§4003. Definitions

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

Authorized Prescriber—a physician, podiatrist, physician assistant, medical psychologist and any other category of health care provider as may hereafter be licensed

by the board under this Part, whose scope of practice includes authority to prescribe, dispense, or administer CDS.

Board—the Louisiana State Board of Medical Examiners, as constituted under R.S. 37:1263.

Controlled Dangerous Substances or *CDS*—any substance defined, enumerated or included in federal or state statute or regulations 21 C.F.R. §§1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(8), 1270(B)(6), 37:621, 37:628, 37:1360.23 and 37:1360.51-1360.72.

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§4005. Continuing Medical Educational Requirement
for Controlled Dangerous Substances

A. CME Requirement for Authorized Prescribers of CDS. Notwithstanding any other provision of this Part, every authorized prescriber seeking the renewal of a license for the first time on and after January 1, 2019, shall, as part of the CME required by this Part, and as a condition prerequisite to licensure renewal, successfully complete three hours of CME approved by the board on CDS prescribing practices (the *CME requirement*). Such CME shall include instruction relating to drug diversion training, best practices regarding prescribing of CDS, appropriate treatment for addiction and, for physicians, the treatment of chronic pain. The CME requirement may be satisfied by completing a three-hour CME program, three one-hour CME programs, or any other combination of CME programs totaling three-hours.

B. Approved/Qualifying Continuing Medical Education Programs. Any:

1. Category 1 CME program sponsored or offered by an organization or entity approved under Sections 437, 1375, 1529D or 3955 of this Part to sponsor or offer CME for purposes of license renewal of physicians, podiatrists, physician assistants, or medical psychologist, respectively, shall be deemed approved for purposes of satisfying the CME requirement provided: the board or its designee determines the CME program adequately addresses the areas of required instruction set forth in Section 4005A; and such organization or entity is capable of submitting proof of an attendee's completion of the CME activity electronically to the board;

2. CME program developed by the board, whether Category 1 or otherwise, shall be deemed approved for purposes of satisfying the CME requirement;

3. Information on how to access approved, qualifying CME will be maintained by the board and made available on its website www.lsbme.la.gov.

C. CME Credit. An authorized prescriber required to complete the CME requirement shall receive an hour-for-hour credit towards the annual requirement for CME provided in this Part for license renewal.

D. Documentation:

1. authorized prescribers shall request the organization or entity sponsoring or offering the CME to submit proof of completion of the CME activity electronically to the board in a form and manner specified by the board;

2. an authorized prescriber shall maintain a record of completion of the CME activity for four years. Satisfactory

evidence shall consist of a certificate or other documentation which shall, at a minimum, contain the:

- a. program title(s);
- b. sponsor(s) name;
- c. attendee's name;
- d. inclusive date or dates and location of the CME event; and
- e. documented verification of successful completion of the CME activity by stamp, signature, official or other proof acceptable to the board.

3. If more than one CME activity is taken to meet the CME requirement a record of completion of each activity shall be maintained.

4. CME which is not approved by the board shall not satisfy the CME requirement.

E. Non-Compliance; Reinstatement of Licensure. The license of an authorized prescriber:

1. who fails to comply with the CME requirement shall not be renewed by the board;

2. which has not been renewed for failure to satisfy the CME requirement may be reinstated upon application to the board, accompanied by payment of the renewal fee required by Subpart 1 of these rules, in addition to all other applicable fees and costs, together with confirmation of completion of the CME required by this Section.

F. Exception. An authorized prescriber renewing his/her license for the first time in the year 2019, may be excused from the CME requirement upon the submission of certification, in a form and manner specified by the board, attesting that he/she has not prescribed, administered or dispensed any CDS during the entire year covered by the authorized prescriber's expiring license. The certification shall be verified by the board through the Louisiana Prescription Monitoring Program Act, R.S. 40:1001 *et seq.* An exempted individual who subsequently prescribes, administers or dispenses a CDS shall satisfy the CME requirement as a condition to license renewal for the year immediately following that in which the CDS was prescribed, administered or dispensed.

G. Conflict. In the event of a conflict between the provisions of this Section concerning the one-time CME requirement for CDS, and those of any other Section in this Part, the provisions of this Section shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(8), 1270(B)(6), 37:621, 37:628, 37:1360.23 and 37:1360.51-1360.72.

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Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed rules on the family has been considered. It is not anticipated that the proposed rules 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 rules 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 rules 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 rules on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed rules 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 rules 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 4:00 p.m., January 19, 2018.

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 Wednesday, January 24, 2018 at 9:30 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.

Vincent A. Culotta, Jr., M.D.
Executive Director