

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part XXXIII. Dental Health Profession

**Chapter 15. Anesthesia/Analgesia Administration
§1511. Required Facilities, Personnel and Equipment
for Sedation Procedures**

A. - A.7.c. ...

d. adequate equipment for the establishment of an intravenous infusion;

A.7.e. - B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:760(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Dentistry, LR 42:55 (January 2016), amended by the Department of Health, Board of Dentistry, LR 43:956 (May 2017), amended by the Department of Health, Board of Dentistry, LR 43:1964 (October 2017), LR 44:

Family Impact Statement

There will be no family impact in regard to issues set forth in R.S. 49:972.

Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973. In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
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 rulemaking 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 of 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 on these proposed rule changes to Arthur Hickham, Jr., Executive Director, Louisiana State Board of Dentistry, One Canal Place, Suite 2680, 365 Canal Street, New Orleans, LA 70130. A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be in writing and received by the board within 20 days of the date of the publication of this notice. Written comments must be submitted to and received by the board within 20 days of the date of the publication of this notice.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for oral presentation, argument, or public hearing must be in writing

and received by the board within 20 days of the date of the publication of this notice.

Arthur F. Hickham, Jr.
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Anesthesia/Analgesia Administration**

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

The proposed rule change will not affect expenditures for state or local governmental units except for a one-time, \$500 publication cost in FY 18 for the LA State Board of Dentistry (LSBD) to publish the notice of intent and proposed rule change in the *Louisiana Register*.

The proposed rule change requires dentists providing moderate or greater sedation to have the ability to establish intravenous infusion of sedation.

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

The proposed rule change will not affect revenue collections for state or local governmental units.

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

The proposed rule change may result in costs for dentists giving moderate or greater sedation who currently do not have adequate equipment to establish intravenous infusion of sedation. As a result, some dentists may incur costs to purchase such equipment. For reference, information obtained from the LSBD indicates that such equipment costs approximately \$10-20.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes will not affect competition or employment.

Arthur F. Hickham, Jr.
Executive Director
1803#038

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Health
Board of Nursing**

Denial or Delay of Licensure (LAC 46:XLVII.3331)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 37:917-918, that the Louisiana State Board of Nursing (LSBN) is proposing rule changes to §3331, denial or delay of licensure. Our mission is "To safeguard the life and health of the citizens of Louisiana by assuring persons practicing as registered nurses and advanced practice registered nurses are competent and safe". The proposed Rule change revises the criteria set forth in Title 46, Professional and Occupational Standards, Part XLVII, Chapter 33, General, Subchapter C, Registration and Registered Nurse Licensure, Section 3331, Denial or Delay

of Licensure, Licensure by Endorsement, Reinstatement, or the Right to Practice Nursing as a Student Nurse. *Louisiana Revised Statute* 14:2(B) enumerates the crimes of violence by which LSBN has aligned proposed Rule changes for applicants that apply for licensure, licensure by endorsement, reinstatement, or the right to practice as a student nurse set forth in §3331. *Louisiana Revised Statute* 14:2(B) enumerates the crimes of violence by which LSBN has aligned proposed Rule changes for applicants that apply for licensure, licensure by endorsement, reinstatement, or the right to practice as a student nurse set forth in §3331. LSBN has more broadly enumerated violations that will be considered for denial and delay of nursing licensure. The scope became broader by allowing the board to use its discretion in determining the number of years that a nursing applicant for licensure, licensure by endorsement, reinstatement, or the right to practice as a student nurse shall be delayed or denied approval for licensure, for reinstatement, to receive a temporary working permit, to be eligible for NCLEX-RN, or to enter or progress into any clinical nursing course. The LSBN has changed the timeframe from a minimum of five years to up to five years.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 33. General

Subchapter C. Registration and Registered Nurse Licensure

§3331. Denial or Delay of Licensure, Licensure by Endorsement, Reinstatement, or the Right to Practice Nursing as a Student Nurse

A. Denial of Licensure, Licensure by Endorsement, Reinstatement, or the Right to Practice Nursing as a Student Nurse

1. Applicants for licensure, licensure by endorsement, reinstatement, or the right to practice as a student nurse shall be denied approval for licensure, for reinstatement, to receive a temporary working permit, to be eligible for NCLEX-RN, or to enter or progress into any clinical nursing course, if the applicant has pled guilty, *nolo contendere*, or "best interest of" to, or the equivalent thereto in jurisdictions other than Louisiana, or has been convicted of committing, attempting to commit, or conspiring to commit:

- a. any of the following crimes:
 - i. R.S. 14:28.1, solicitation for murder;
 - ii. R.S. 14:30, first degree murder;
 - iii. R.S. 14:30.1, second degree murder;
 - iv. R.S. 14:32.6, first degree feticide;
 - v. R.S. 14:34, aggravated battery;
 - vi. R.S. 14:34.1, second degree battery;
 - vii. R.S. 14:34.7, aggravated second degree battery;
 - viii. R.S. 14:37.1, assault by drive-by shooting;
 - ix. R.S. 14:42, aggravated or first-degree rape;
 - x. R.S. 14:42.1, forcible or second-degree rape;
 - xi. R.S. 14:43, simple or third-degree rape;
 - xii. R.S. 14:43.1, sexual battery;
 - xiii. R.S. 14:43.2, second degree sexual battery;

- xiv. R.S. 14:43.3, oral sexual battery;
- xv. R.S. 14:43.5, intentional exposure to AIDS virus;
- xvi. R.S. 14:44, aggravated kidnapping;
- xvii. R.S. 14:44.1, second degree kidnapping;
- xviii. R.S. 14:44.2, aggravated kidnapping of a child;
- xix. R.S. 14:45, simple kidnapping;
- xx. R.S. 14:46.2, human trafficking;
- xxi. R.S. 14:46.3, trafficking of children for sexual purposes;
- xxii. R.S. 14:52, aggravated arson;
- xxiii. R.S. 14:64, armed robbery;
- xxiv. R.S. 14:64.1, first degree robbery;
- xxv. R.S. 14:64.3, armed robbery use of firearm, additional penalty;
- xxvi. R.S. 14:64.4, second degree murder;
- xxvii. R.S. 14:81.1, pornography involving juveniles;
- xxviii. R.S. 14:81.2, molestation of a juvenile or a person with a physical or mental disability;
- xxix. R.S. 14:84.4, prohibited sexual conduct between educator and student;
- xxx. R.S. 14:82.2 (C)(4)(5), purchase of commercial sexual activity;
- xxxi. R.S. 14:89, crime against nature;
- xxxii. R.S. 14:89.1, aggravated crime against nature;
- xxxiii. R.S. 14:93.2.3, second degree cruelty to juveniles;
- xxxiv. R.S. 14:93.3, cruelty to persons with infirmities;
- xxxv. R.S. 14:93.5, sexual battery of persons with infirmities;
- xxxvi. R.S. 14:128.1, terrorism; or
- xxxvii. an equivalent crime in jurisdictions other than Louisiana; or

b. a crime designated or defined as an "aggravated offense," as a "criminal offense against a victim who is a minor," as a "sexual offense," or as a "sexual offense against a victim who is a minor," as listed, defined, enumerated, or designated within R.S. 15:541, or any other later-enacted and comparable law(s); or an equivalent crime in jurisdictions other than Louisiana.

2. For purposes of this Section, a first offender pardon, suspension of imposition of sentence, expungement, or similar action shall not negate or diminish the applicability of this Section.

3. ...

4. These provisions of this Section shall not apply to the reinstatement of a license that has been revoked, suspended, or surrendered as a result of disciplinary action taken against a licensee by the board or which reinstatement otherwise would be subject to the provisions of LAC 46:XLVII.3415.

B. Denial of Licensure, Reinstatement, or the Right to Practice Nursing as a Student Nurse for up to Five Years

1. Applicants for licensure, licensure by endorsement, reinstatement, or the right to practice as a student nurse shall be denied approval for licensure, for reinstatement, to receive a temporary working permit, to be eligible for NCLEX-RN, or to enter or progress into any clinical nursing course for up to five years, if the applicant has pled guilty, *nolo contendere*, or "best interest of" to, or the equivalent

thereto in jurisdictions other than Louisiana, or has been convicted of committing, attempting to commit, or conspiring to commit:

- a. felony which reflects an inability to practice nursing safely with due regard for the health and safety of clients or patients not previously mentioned or related to the aforementioned Paragraph A.1-A.1.b of this Section, or any of the following crimes:
 - i. R.S. 14:31, manslaughter;
 - ii. R.S. 14:32.1, vehicular homicide;
 - iii. R.S. 14:32.7, second degree feticide;
 - iv. R.S. 14:34.2, battery of a police officer;
 - v. R.S. 14:37, aggravated assault;
 - vi. R.S. 14:37.2, aggravated assault upon a peace officer;
 - vii. R.S. 14:37.4, aggravated assault with a firearm;
 - viii. R.S. 14:37.7, domestic abuse aggravated assault;
 - ix. R.S. 14:38.1, mingling harmful substances;
 - x. R.S. 14:40.2, stalking;
 - xi. R.S. 14:46.1, false imprisonment; offender armed with a dangerous weapon;
 - xii. R.S. 14:55, aggravated criminal damage to property;
 - xiii. R.S. 14:60, aggravated burglary;
 - xiv. R.S. 14:62.8, home invasion;
 - xv. R.S. 14:64.2, carjacking;
 - xvi. R.S. 14:65, simple robbery;
 - xvii. R.S. 14:65.1, purse snatching;
 - xviii. R.S. 14:66, extortion;
 - xix. R.S. 14:67.3, unauthorized use of "access card" as theft;
 - xx. R.S. 14:67.11, credit card fraud by persons authorized to provide goods and services;
 - xxi. R.S. 14:67.16, identity theft;
 - xxii. R.S. 14:67.21, theft of assets of a person who is aged or person with a disability;
 - xxiii. R.S. 14:67.22, fraudulent acquisition of a credit card;
 - xxiv. R.S. 14:68.2, unauthorized use of supplemental nutrition assistance program benefits or supplemental nutrition assistance program benefit access devices;
 - xxv. R.S. 14:70.1, Medicaid fraud;
 - xxvi. R.S. 14:70.4, access device fraud;
 - xxvii. R.S. 14:80, felony carnal knowledge of a juvenile;
 - xxviii. R.S. 14:81, indecent behavior with juveniles;
 - xxix. R.S. 14:81.3, computer-aided solicitation of a minor;
 - xxx. R.S. 14:82.1, prostitution; persons under 18;
 - xxxi. R.S. 14:82.2, purchase of commercial sexual activity;
 - xxxii. R.S. 14:83, soliciting for prostitutes;
 - xxxiii. R.S. 14:83.1, inciting prostitution;
 - xxxiv. R.S. 14:83.2, promoting prostitution;
 - xxxv. R.S. 14:84, pandering;
 - xxxvi. R.S. 14:85, letting premises for prostitution;
 - xxxvii. R.S. 14:86, enticing persons into prostitution;
 - xxxviii. R.S. 14:92, contributing to the delinquency of a minor;
 - xxxix. R.S. 14:94, illegal use of weapons or dangerous instrumentalities;

- xl. R.S. 14:102, cruelty to animals, simple;
- xli. R.S. 14:106(A)(5), obscenity (by solicitation of a person under the age of 17);
- xlii. R.S. 14:108.1(C), aggravated flight from an officer;
- xliii. R.S. 14:283, video voyeurism;
- xliv. R.S. 14:283.1, voyeurism (second or subsequent conviction); or
- b. a crime involving the production, manufacturing, distribution or dispensing of a controlled dangerous substance as provided for and defined in R.S. 40:961 through 40:995, otherwise referred to as the uniform controlled dangerous substances law, or an equivalent crime in jurisdictions other than Louisiana, including without limitation:
 - i. R.S. 40:962.1.1, possession of 12 grams or more of ephedrine, pseudoephedrine, or phenylpropanolamine or their salts, optical isomers, and salts of optical isomers;
 - ii. R.S. 40:962.1.2, restriction on the sale and purchase of nonprescription products containing dextromethorphan, its salts or optical isomers, and salts of optical isomers;
 - iii. R.S. 40:966, penalty for distribution or possession with intent to distribute narcotic drugs listed in schedule I; possession of marijuana, possession of synthetic cannabinoids, possession of heroin;
 - iv. R.S. 40:967, prohibited acts—schedule II, penalties;
 - v. R.S. 40:968, prohibited acts—schedule III, penalties;
 - vi. R.S. 40:969, prohibited acts—schedule IV, penalties;
 - vii. R.S. 40:970, prohibited acts—schedule V, penalties;
 - viii. R.S. 40:971, prohibited acts; all schedules;
 - ix. R.S. 40:971.1, prohibited acts; false representation;
 - x. R.S. 40:971.2, unlawfully prescribing, distributing, dispensing, or assisting in illegally obtaining controlled dangerous substances;
 - xi. R.S. 40:979, attempt and conspiracy;
 - xii. R.S. 40:981, distribution to persons under 18;
 - xiii. R.S. 40:981.1, distribution to a student;
 - xiv. R.S. 40:981.2, soliciting minors to produce, manufacture, distribute, or dispense controlled dangerous substances;
 - xv. R.S. 40:981.3, violation of uniform controlled dangerous substances law; drug free zone;
 - xvi. R.S. 40:983, creation or operation of a clandestine laboratory for the unlawful manufacture of a controlled dangerous substance; definition; penalties;
 - xvii. R.S. 40:983.1, creation or operation of a clandestine laboratory for the unlawful manufacture of controlled dangerous substance on or within one thousand feet of school property;
 - xviii. R.S. 40:989, dangerous chemical substances; butyl nitrate, nitrous oxide, and amyl nitrate; use and transference;
 - xix. R.S. 40:989.1, unlawful production, manufacture, distribution, or possession of hallucinogenic plants;

xx. R.S. 40:989.2, unlawful production, manufacturing, distribution, or possession of prohibited plant products;

xxi. R.S. 40:989.3, unlawful distribution of products containing *Mitragyna speciosa* to minors;

xxii. R.S. 40:996.6, violations (stop order); or

c. two or more misdemeanors which reflect an inability to practice nursing safely with due regard for the health and safety of clients or patients, including but not limited to:

i. R.S. 14: 35, simple battery;

ii. R.S. 14:37, aggravated assault;

iii. R.S. 14: 43, sexual battery;

iv. R.S. 14:59, criminal mischief;

v. R.S. 14:63.3, entry on or remaining in places after being forbidden;

vi. R.S. 14:83, soliciting for prostitutes;

vii. any crimes related to alcohol or drugs; or

d. a misdemeanor which reflects an inability to practice nursing safely with due regard for the health and safety of clients or patients where aggravating circumstances also exist, including but not limited to ongoing substance abuse or dependency, discovered as part of an investigation.

2. Applicants who are denied licensure, licensure by endorsement, reinstatement, or the right to practice nursing as a student nurse as set forth in Paragraph B.1 of this Section shall not be eligible to submit a new application until the following conditions are met:

a. the applicant presents evidence of:

i. the final disposition of the criminal case involving the applicant including, if applicable, the completion of all court-ordered probation and/or parole; community supervision, restitution; and

ii. the applicant can practice nursing safely. The evidence may include, but not be limited to, certified court documents, comprehensive evaluations by board approved-evaluators, employer references, and other evidence of rehabilitation. Prior to requesting a board hearing, all evidence the applicant desires to be considered shall be presented to board staff; and

b. a hearing or conference shall be held before the board to review the evidence, to afford the applicant the opportunity to prove that the cause for the denial no longer exists, and to provide an opportunity for the board to evaluate the evidence presented and determine whether or not a new application can be submitted and considered without being subject to the mandatory delay provisions of Paragraph B.1 of this Section when no new or other grounds for such delay exist.

C. Delay of Licensure, Licensure by Endorsement, Reinstatement, or the Right to Practice Nursing as a Student Nurse

1. Applicants for licensure, licensure by endorsement, reinstatement, and for practice as a student nurse may be delayed approval for licensure, for reinstatement, to receive a temporary working permit, to be eligible for NCLEX-RN, or to enter or progress into any clinical nursing course, if the applicant:

a. has a pending criminal charge involving any violence or danger to another person, or involving a crime that constitutes a threat to patient care, or one that involves

drug possession, use, production, manufacturing, distribution or dispensing; or

b. has any pending disciplinary action or any restrictions of any nature by any licensing/certifying board in any state; or

c. has pled guilty, *nolo contendere*, "best interest of", or the equivalent thereto in jurisdictions other than Louisiana, or has been convicted of committing, attempting to commit, or conspiring to commit, or allowed to participate in a pre-trial diversion program or a district attorney's probation program in lieu of prosecution for, a crime which may not constitute grounds for denial, but nonetheless reflects the inability of the applicant to practice nursing safely; and the conditions of the court or the pre-trial diversion program have not been met; or the applicant is currently serving a court ordered probation or parole at the time the applicant submits an application; or

d. has been diagnosed with or treated for a physical or mental condition which may interfere with or affect the ability of the applicant to practice nursing safely;

e. has been diagnosed with or treated for substance dependence or substance use disorders.

2. Applicants who are delayed licensure, licensure by endorsement, reinstatement, or the right to practice nursing as a student nurse are not eligible for consideration of a new application until the following conditions are met:

a. if the delay is based on the existence of a pending criminal charge, the applicant shall present evidence the charge(s) has/have been dismissed, said evidence to include documents indicating the dismissal was predicated upon the applicant's successful completion of a pre-trial diversion program, a district attorney's probation program, or completion of conditions imposed for consideration of suspension of sentence under La. C.Cr.P. arts. 893 or 894 or their respective equivalents in jurisdictions other than Louisiana; or

i. if the charge results in a felony conviction, other than for the commission of a crime which constitutes grounds for denial of the application, the applicant shall present evidence of the final disposition of the criminal case involving the applicant including, if applicable, the completion of all court-ordered probation and/or parole;

ii. if the charge results in a misdemeanor conviction, other than for the commission of a crime which constitutes grounds for denial of the application, the applicant shall present evidence of the final disposition of the criminal case including, if applicable, the completion of all court ordered probation and/or parole;

b. if the delay is based upon pending disciplinary action, the applicant shall present evidence of unencumbered license(s) or certification from all affected jurisdictions, which evidence shall prove the matter has been resolved satisfactorily; or

c. if the delay is based upon the existence of a physical or mental condition, the applicant shall present comprehensive psychological, psychiatric, chemical dependency and/or other appropriate medical evaluations completed with board-approved evaluators, which may include, but not be limited to, forensic evaluations with polygraph examination, and any other evidence which demonstrates the ability of the applicant to practice nursing safely;

d. if the delay is based on the existence of a substance use disorder or dependency and/or treatment for that disorder/dependency, the applicant shall demonstrate to the board's satisfaction continuous, on-going, and consistent sobriety and successful participation in, or completion of, all treatment recommendations, all of which shall be reviewed on a case-by-case basis;

e. a hearing or conference may be held before the board to review and to evaluate any evidence, to afford the applicant an opportunity to prove the cause for the delay no longer exists, or the cause is being treated successfully, or is in remission, and to provide an opportunity for the board to determine whether or not a new application may be submitted and considered without being subject to the delay provisions of Paragraph B.1 of this Section when no new or other grounds for such a delay exist.

3. The provisions of this Section shall not apply to the reinstatement of a license which has been revoked, suspended, or surrendered as a result of disciplinary action taken against a licensee by the board or which reinstatement otherwise would be subject to the provisions of LAC 46:XLVII.3415.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918, 920 and 921.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Nursing, LR 23:961 (August 1997), repromulgated LR 24:1293 (July 1998), amended LR 27:202 (February 2001), LR 38:818 (March 2012), amended by the Department of Health, Board of Nursing, LR 44:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, Louisiana State Board of Nursing should not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically, there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. a family's earnings and budget;
5. the behavior and personal responsibility of the children; or
6. the family's ability or that of the local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on child, individual, or family poverty in relation to individual or community asset development as described on R.S. 49:973.

Provider Impact Statement

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will not have an impact on the staffing level requirements or qualifications required to provide the same level of service,

no direct or indirect cost to the provider to provide the same level of service, and will have no impact on the provider's ability to provide the same level of service as described in HCR 170.

Public Comments

Interested persons may submit written comments on the proposed Rule to Karen C. Lyon, 17373 Perkins Road, Baton Rouge, LA 70810, or by facsimile to (225) 755-7585. All comments must be submitted by 5 p.m. on or before April 10, 2018.

Dr. Karen C. Lyon
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Denial or Delay of Licensure

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

The proposed rule changes will result in a one-time publication cost of \$500 for the Louisiana State Board of Nursing (LSBN) in FY 18. The proposed rule change revises crimes and misdemeanors for which a person may be denied licensure and/or have their licensure delayed by up to 5 years. For reference, LA R.S. 14:2(B) enumerates the crimes of violence by which LSBN has aligned the proposed rule changes for applicants that apply for licensure, licensure by endorsement, reinstatement, or the right to practice as a student nurse set forth in the administrative rules.

The proposed rule changes will not affect expenditures of local governmental units.

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

The proposed rule changes will not affect revenue collections of state or local governmental units.

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

The proposed rule changes revise LSBN disciplinary action for certain crimes of violence. The proposed rule changes affect persons applying for licensure, licensure by endorsement, reinstatement, or the right to practice as a student nurse. The proposed rule changes will not result in costs to any person or non-governmental groups, however, the proposed rule changes may result in economic benefits to certain nurses who, prior to the changes proposed, would have been permanently restricted from obtaining a RN or APRN license and/or delayed from receiving such licenses. Because certain crimes and conditions have been moved from permanent delay/deny status to delay or deny for 5 years, RNs and APRNs who are disciplined for those crimes will have the opportunity to request reinstatement of their license, restoring their ability to work and be paid accordingly. For reference, the current average annual salary of RNs in Louisiana ranges between \$50,000 and \$75,000.

Furthermore, the proposed rule changes amend provisions for nurses with substance use disorders/dependencies, allowing such nurses to receive licensure after demonstrating continuous sobriety "to the [LSBN's] satisfaction," rather than for two years as outlined in current rule. This flexibility may benefit the aforementioned nurses, potentially allowing them to become licensed sooner than the current two-year sobriety requirement.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes may affect employment of RNs and APRNs whose licenses are denied or delayed with resultant suspension, probation, or other disciplinary stipulations that may influence employers' decisions to hire these nurses.

The proposed rule changes will not affect competition.

Karen C. Lyon
Executive Director
1803#019

Gregory V. Albrecht
Chief Economist
Legislative Fiscal Office

NOTICE OF INTENT Department of Health Board of Optometry Examiners

Optometry
(LAC 46:LI.107, 109, 111, 112,
115, 301, 501, 503, 701, and 801)

Notice is hereby given, in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., that the Louisiana State Board of Optometry Examiners, pursuant to authority vested in the Louisiana State Board of Optometry Examiners by the Optometry Practice Act, R.S. 37:1041-1068, intends to amend Title 46, Part LI by adopting the following proposed amendments to the rules set forth below.

A preamble which explains the basis and rationale for the intended action, and summarizing the information and data supporting the intended action has not been prepared. A description of the subjects and issues involved is as follows:

Section 107(B)(3)(i) adds schedule II of the uniform controlled dangerous substances law to this list of schedules which may be prescribed by a licensed optometrist within the limitations provided therein.

Section 107(B)(3)(i) changes the length of time a licensed optometrist may prescribe a diagnostic and therapeutic pharmaceutical agent listed in schedule I, II, IV and V of the uniform controlled dangerous substances law from 48 hours to 7 days.

Section 107(B)(3)(ii) removes schedule II of the uniform controlled dangerous substances law provided in *Louisiana Revised Statute* 40:963 from the list of substances which shall be prohibited from use by a licensed optometrist.

Section 107(B)(3)(iii) allows a licensed optometrist to prescribe one additional seven day prescription if warranted by a follow-up exam, whereas the old Rule only allowed a licensed optometrist to prescribe one additional 48-hour prescription.

Section 109(A) subsections (4), (5), (6) and (7) allow an optometrist to accept employment from a licensed hospital or hospital affiliate, a licensed ambulatory surgical treatment center owned in full or in part by Louisiana-licensed physicians or optometrists, a government sponsored healthcare program or facility and an entity which is a combination or joint venture of any entity authorized under Rule 109(A).

Section 109(B) is deleted and replaced with new §112 dealing with Controlling Professional Judgment of Optometrists.

Section 109(C) is deleted.

Section 111(A) adds multiple exceptions to the prohibition against splitting fees with persons and entities which are not licensed to practice optometry in the state of Louisiana by allowing an optometrist to split fees with (a) a professional optometric corporation or professional medical corporation organized pursuant to title 12 of the *Louisiana Revised Statutes* and domiciled in the state of Louisiana; (b) a partnership or limited liability company domiciled in the state of Louisiana and for whom each partner or member is either an optometrist or physician duly licensed in the state of Louisiana or a professional optometric or medical corporation; (c) an optometrist or physician licensed in the State of Louisiana; (d) a licensed hospital or hospital affiliate; (e) a licensed ambulatory surgical center owned in full or in part by Louisiana-licensed physicians or optometrists; (f) a government sponsored healthcare program or facility; (g) an entity that is a combination or joint venture any and of the foregoing entities.

Section 111(B) allows an optometrist to (a) pay an employee in the regular course of employment and (b) pay a fair market value fee to a person or entity organized or operating for the primary purpose of providing billing services, collection services, administrative preparation, practice management, marketing materials, cooperative buying and/or group purchasing options for or on behalf of an entity listed in Section 111(A) based upon a percentage of professional service fees billed or collected, a flat fee or any other arrangement that directly or indirectly divides professional fees, so long as (a) the optometrist at all times controls the amount of the fees charged and collected for professional services; (b) the fee paid to the service provider is not for the solicitation or referral of a patient; and (c) no significant function of the service provider involves activities other than the provision of billing services, collection services, administrative preparation, practice management, marketing materials, cooperative buying and/or group purchasing options.

Section 111(C) makes it clear that the prohibitions in Rule 111 do not prohibit a licensed optometrist from participating in a government-approved shared savings or alternative payment model such as an accountable care organization, physician specialty model or Medicare Advantage Innovation model.

Section 111(D) makes any violation of Rule 111 a violation of *Louisiana Revised Statute* 37:1061.

Section 115(F) makes it a violation for an optometrist to falsely create or alter a medical record or destroy a medical record except as authorized by law.

Rule 301(A)(2)(c) removes certain organizations from the list of entities from which optometrists may use to obtain the required hours of continuing education relating to ocular and systematic pharmacology and/or current diagnosis and treatment of ocular disease.

Section 501 adds several new actions which constitute a failure to abide by the minimal standards of acceptable and prevailing optometry practice, including, (1) interdiction or commitment by due process of law; (2) sexual misconduct, including, but not limited to, any improper act of sexual intimacy, contact, exposure, gratification, abuse, exploitation or other sexual behavior with or in the presence of a patient or any other individual related to the practice of optometry;