

NOTICE OF INTENT

Department of Health Board of Nursing

Authorized Practice
(LAC 46:XLVII.4513)

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. 37:918, that the Board of Nursing (LSBN) is proposing rule changes to Chapter 45, Section 4513, Subsection D, Paragraph 2, Subparagraph b, Clause i, Subclause a-b, under Title 46, Professional and Occupational Standards, Part XLVII. The proposed revision removes barriers preventing all Advanced Practice Registered Nurses (APRNs) from prescribing controlled substances in connection with the treatment of chronic or intractable pain and obesity. The rule change allows all categories of Advanced Practice Registered Nurses with prescriptive authority and controlled, dangerous substance authority to administer Food and Drug Administration (FDA) and Drug Enforcement Administration (DEA) approved controlled substances for chronic pain or intractable pain and obesity. The rule change does not expand prescriptive authority for APRNs; however, it does permit them to treat obesity and chronic pain with controlled substances. The FDA and DEA are the two federal agencies that determine which substances are added to or removed from the various schedules of controlled substances and determine the safety and efficacy of these medications.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLVII. Nurses: Practical Nurses and Registered Nurses

Subpart 2. Registered Nurses

Chapter 45. Advanced Practice Registered Nurses

§4513. Authorized Practice

A. - D.2.b. ...

i. an APRN granted authority to prescribe or distribute controlled substances shall not utilize such substances in connection with the treatment of oneself, a spouse, child or any other family member;

D.2.b.ii. - D.17.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K) and R.S. 37:1031-1034. HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 10:598 (August 1984), amended by the Department of Health and Hospitals, Board of Nursing, LR 22:283 (April 1996), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 22:981 (October 1996), LR 25:1245 (July 1999), LR, amended by the Department of Health and Hospitals, Board of Nursing, 27:727 (May 2001), amended by the Department of Health and Hospitals, Board of Nursing and Board of Medical Examiners, LR 28:487 (March 2002), repromulgated LR 28:1205 (June 2002), amended by the Department of Health and Hospitals, Board of Nursing, LR 31:2023 (August 2005), LR 33:1870 (September 2007), LR 40:63 (January 2014), LR 40:2249 (November 2014), LR 42:572 (April 2016), amended by the Department of Health, Board of Nursing, LR 44:276 (February 2018),), LR 45:1202 (September 2019), LR 49:

Family Impact Statement

The proposed additions and/or changes to the rules of the board, 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 in R.S. 49:973.

Small Business Analysis

The proposed Rule has no known or foreseeable measurable impact on small businesses as described in R.S. 49:974.5.

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 Dr. 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 March 10, 2023.

Karen C. Lyon, PhD, MBA,
APRN-CNS, NEA
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Authorized Practice

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

The proposed rule revision will result in a one-time expenditure of \$250 in FY 23 for the Louisiana State Board of Nursing (LSBN) to publish the notice of intent and proposed rule revision in the Louisiana Register. The proposed rule revision will not affect the expenditures of other state or local governmental units.

Current regulations prohibit Advanced Practice Registered Nurses (APRNs) including Certified Nurse Practitioners, Certified Nurse Midwives, Clinical Nurse Specialists, and Certified Registered Nurse Anesthetists from prescribing or distributing controlled substances in connection with (a) chronic or intractable pain, as defined in Louisiana Administrative Code (LAC) 46:XLVII. §6915-§6923 and (b)

obesity, as defined in LAC 46:XLVII. §6901-§6913. Act 444 of the 2022 Regular Legislative Session authorizes Certified Nurse Practitioners in good standing with the LSBN and who have prescriptive authority conferred by the LSBN to recommend medical marijuana to patients. For the purposes of this legislation, “recommend” means an opinion of any authorized clinician, provided within a bona fide clinician-patient relationship, that, in the sincere judgment of the clinician, therapeutic cannabis may be helpful to the patient’s condition or symptoms and is communicated by any means allowed by the Louisiana Board of Pharmacy.

The proposed revision removes barriers preventing all APRNs from prescribing controlled substances in connection with the treatment of chronic or intractable pain. This will give Certified Nurse Practitioners the necessary discretion to exercise their medical training and judgment to treat conditions with controlled substances and/or medical marijuana. Currently, CNPs are discouraged from recommending medical marijuana because APRNs are prohibited from prescribing controlled substances for debilitating conditions of obesity and chronic pain in the LSBN rules. The proposed rule change allows all categories of Advanced Practice Registered Nurses to administer Food and Drug Administration (FDA) and Drug Enforcement Administration (DEA) approved controlled substances for chronic pain and obesity. The FDA and DEA are the two federal agencies that determine which substances are added to or removed from the various schedules of controlled substances.

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

The proposed rule changes 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 revision will benefit the citizens of Louisiana by allowing CNPs, defined in Act 444 as authorized clinicians, to fully treat chronic or intractable pain and obesity by prescribing controlled substances and/or recommending medical/therapeutic marijuana based on the clinician’s medical knowledge and judgment. The recommendation of medical/therapeutic marijuana promotes delivery of quality health care and benefits patients under the care of a CNP as recipients of quality care. It will also benefit the citizens of Louisiana by allowing all APRNs to recommend controlled substances that have been approved as safe and effective for the treatment of chronic pain and obesity to prescribe those substances.

The proposed rule change will have no foreseeable costs to directly affected persons, small businesses, or non-governmental groups other than the cost of the medical marijuana to the patient or to their insurance providers.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed change will have no effect on competition and employment.

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Interim Legislative Fiscal Officer
Legislative Fiscal Office