



## LOUISIANA BOARD OF DRUG AND DEVICE DISTRIBUTORS

12091 Bricksome Avenue, Suite B Baton Rouge, LA 70816  
Phone: 225-295-8567 Fax: 225-295-8568 Website: [www.Lsbwdd.org](http://www.Lsbwdd.org) email: [admin@Lsbwdd.org](mailto:admin@Lsbwdd.org)

### In-State Licensee Newsletter

MARCH 2017

NEW OR CHANGED ITEMS ARE MARKED WITH A BROKEN LINE BOX.

#### **2017 LICENSE RENEWAL - Update**

The annual renewal period for renewal of Louisiana licenses for distribution of legend drugs or legend devices in/into Louisiana for year 2017 concluded on December 31, 2016.

Licenses that were NOT renewed may NOT lawfully operate as a drug or device distributor in Louisiana until the expired license has been reinstated.

YOU SHOULD UTILIZE THE BOARD WEBSITE AT [www.Lsbwdd.org](http://www.Lsbwdd.org), *Licensee Search*, TO VERIFY YOUR SUPPLIERS CURRENTLY HOLD A VALID LOUISIANA LICENSE. Pursuant to Board regulation LAC 46:XXXIV.311.G.1 and 2, licensed distributors located in Louisiana shall not purchase or receive drugs or devices from other than drug and device distributors licensed by the Board to distribute in or into Louisiana. Licensees discovered purchasing or receiving legend drugs or devices from unlicensed suppliers (including those former licensees whose Louisiana licenses are expired) could receive disciplinary action including assessment of fines.

#### **RULE AMENDMENTS**

Final Rule for amendments to Louisiana Administrative Codes in 46:XXXIV (formerly XCI) sections 103, 105, 301, 303, 305, 307, 311, 315, and 801, and adoption of Chapters 13 and 15 were published in the *Louisiana Register* in December 2016; with re-promulgation of section 301 in January 2017 to correct citation errors. The amendments affected sections regarding: Definitions, Exemptions, Drug and Device Distributors-licensing, renewal and reinstatement requirements, required information, qualifications, personnel, storage and handling requirements, recordkeeping, policy and procedures, and organization- Fees, addition of chapters for Wholesale Distributors and Third-party Logistics Providers. The amendments and rule promulgation process is available on the Board's website- *Rule Promulgation* page, LAC 46:XCI - *Chapters 1, 3, 8, 13, and 15*. The revised codes/regulations are available on the website, *Stats and Regs* page. If you wish to receive a copy of the Final Rule, please contact the Board office in writing at 12091 Bricksome Avenue, Suite B, Baton Rouge LA 70816, via fax at 225-295-8568, or via email at [admin@Lsbwdd.org](mailto:admin@Lsbwdd.org).

#### **STATUTORY AMENDMENTS**

*There are no statutory amendments in legislative process at this time.*

#### **INDIVIDUAL'S PERSONAL INFORMATION**

Please do not provide personal information - such as home addresses and telephone numbers, social security numbers, or driver's license numbers - of any individuals such as facility or regulatory contacts, individual owners and designated responsible party (except where required for criminal history records (background) checks on forms provided by the Board), and officers and directors (listings). The Board's files are public accessible.

## **CHANGE OF LICENSED FACILITY INFORMATION**

Changes in any information with regards to such items as contact persons for the facility or physical location, the owners of the licensee including the percentage of interest owned (without a change in ownership), the person designated as the responsible party, the directors and officers, or the regulatory contact person must be submitted to the Board in writing and should be submitted within 60 days after such changes become effective. A *Request for Change of License Information* form is available on the Board's website for use.

During the annual renewal period, changes of such information as noted above may be made legibly on the pre-printed renewal form or online renewal form submission.

Any licensee changing their physical location is required to submit an application (location change) for new licensure of the new location at least 30 days prior to such change of location. A new location physically located in Louisiana requires inspection before a new license will be issued. New locations may not possess

at or distribute from the premise until a Louisiana distributor license has been issued for the location.

If your facility has a change in ownership, you should notify this Board by applying for a new license under the new ownership within 60 days after the owner change becomes effective. Louisiana licenses are issued to facility locations by owner and are non-transferable.

In accordance with La. R.S. 37:3478.A, no person shall participate or engage in the business of distribution without a license issued by this Board; therefore a new location must be licensed before the move and distribution is conducted from the new location. Failure to adhere to current laws and regulations could result in disciplinary action being taken against the licensee.

Location changes and/or change in ownership may **NOT** be reported on the annual license renewal form; application for new licensure must be submitted. New licenses issued during the renewal period will be valid for the calendar year issued and will be required to be renewed for the upcoming calendar year.

## **REPORTING DISCIPLINARY ACTION FROM OTHER STATES**

The disciplinary action questions on the Louisiana distributor license application form and annual renewal form must be answered for the facility location applying for or renewing Louisiana licensure. Louisiana distributor licenses are facility location specific. Thereby, final disposition documents for disciplinary action taken in other states must pertain to the applicant/ licensee facility location that is being applied for or renewed only.

During renewals, if a *yes* is checked for disciplinary action in another state for the licensee facility on the renewal form and the information has already been provided to the Board via an initial application earlier in the year, or the previous year renewal, or provided during the year, another copy of the documents should **NOT** be submitted to the Board as a copy is already on file. The option available on the application or renewal form in the disciplinary action section denoting that the information has already been submitted should be checked-off. If the disciplinary action in another state occurred during the year since the last renewal or initial license issuance, a copy of the final disposition of the action documents from the other state and pertaining to the applicant/licensee location only must be provided to the Board.

Again, disciplinary action notification and documents must pertain to the applying/licensed facility location only. Disciplinary action information for other facility locations owned by the applicant/licensee company should not be provided except if the other locations are licensed or applying and only with the application or renewal for that specific location licensure.

## **ARE ALL OF YOUR LOCATIONS LICENSED**

Separate licenses are required for each facility or physical location directly or indirectly owned or operated by the same business entity or for a parent entity with divisions, subdivisions, subsidiaries, and/or affiliate companies when operations are conducted at more than one location and there exists joint ownership and control among all entities.

If your business has more than one location that either sells and/or distributes legend drugs or devices, make sure each location is licensed for distribution of legend drug or device.

## **CRIMINAL HISTORY RECORDS CHECK REQUIREMENT**

Criminal history records (background) checks are required for the designated responsible party (DRP) and any individual owners possessing greater than 10% owner interest in the applicant company for all new license applicants physically located in Louisiana; and for those licensees physically located in Louisiana previously issued a Louisiana license if they appoint a new designated responsible party or add a new individual owner who will possess greater than 10% owner interest in the licensee.

## **DESIGNATED RESPONSIBLE PARTY QUALIFICATIONS**

Designated Responsible Parties (DRPs) are required to: be at least 21 years of age; have at least two years full-time employment history with either a legend drug/device or medical gas distributor or pharmacy in a capacity related to distribution or dispensing, and recordkeeping of legend drugs or devices; and be employed by the applicant/licensee in a full-time position which is actively involved in or aware of the actual daily operations of the applicant/licensee distribution location (or 3PLP distribution operation if a 3PLP is utilized for facilitation of delivery of the licensee's drugs or devices); and is physically present at the applicant/licensee facility daily during regular business hours. The Board has developed a worksheet to assist you with determining if an individual you wish to appoint as DRP meets the required qualifications. The worksheet is available on the Board's website; the worksheet is not required to be submitted to the Board with the application or change of information request. A DRP may serve in the capacity as DRP for only one licensee location at a time, except where more than one licensee is co-located in the same facility location.

## **NEW LICENSES ISSUED DURING CALENDAR YEAR**

In accordance with Louisiana Administrative Code Title 46, Part XXXIV, Sections:

301.C - **All new licenses issued by the Board shall expire on December 31 of the calendar year issued.**

301.D - A license shall be renewed annually by timely submitting an application and the license renewal fee.

301.E - Each application for renewal of the license must be made between October 1 and December 31 of each year on a form provided by the Board

301.F - Licenses renewed annually between October 1 and December 31 shall expire on December 31 of the following calendar year.

Please note that NEW licenses issued during the renewal period of October 1 through December 31 each year will expire on December 31 of the calendar year issued and would be required to be renewed within the renewal period for the next calendar year.

## **FEES and SERVICE CHARGES**

In accordance with La. R.S. 37:3479 and Board regulations (formerly LAC 46:XCI.801), the board may collect the following fees.

1. Initial License Fee - \$400
2. License Renewal Fee - \$300
3. Initial Inspection Fee - \$100
4. Duplicate License Fee - \$10
5. License Reinstatement Fee for licenses suspended, revoked, or expired - \$300
6. License Verification Fee - \$15

Requests for duplicate license certificate should be made in writing to the Board office and must include payment of the \$10 fee. Requests for license verifications must include payment of the \$15 fee per each verification requested.

Name change requests, not associated with a change in ownership, must be made by approved request form available on the Board's website and submitted along with a \$25 processing charge. Requests for electronic Excel spreadsheet listing of Louisiana licensees must be made by written request, including an email address for receipt of the electronic list, along with a \$10 processing charge.

## **MEDICAL GAS DISTRIBUTORS ALSO DISTRIBUTING LEGEND DEVICES**

DISTRIBUTOR LICENSEES DISTRIBUTING MEDICAL GASES who also distribute legend devices must adhere to Board promulgated rules with regards to security and inventory. Pursuant to LAC 46:XXXIV.309.A.2, a facility used for device distribution must be secure from unauthorized entry: access from outside the premises shall be kept to a minimum and be well-controlled; the outside perimeter of the premises shall be well-lighted; and entry into areas where devices are held shall be limited to

authorized personnel. The facility shall be equipped with a monitored alarm system to detect entry after hours and shall be equipped with a security system that will provide suitable protection against theft or diversion. Pursuant to LAC 46:XXXIV.311.A, device distributors must establish and maintain perpetual inventories and records of all transactions regarding the receipt and distribution or other disposition of devices.

## **NOTICE TO PHARMACIES THAT ALSO DISTRIBUTE**

Pharmacies that are licensed with the Louisiana Board of Drug and Device Distributors for drug and device distribution and who are selling/ distributing controlled substances should contact the Louisiana Board of Pharmacy to determine if a separate (from the CDS registration currently held for the pharmacy) controlled dangerous substance license as issued by the Board of Pharmacy is required as a distributor.

LOUISIANA BOARD OF PHARMACY, Controlled Dangerous Substance Program  
225-925-6496, [www.pharmacy.la.gov](http://www.pharmacy.la.gov).

## **INSPECTIONS**

*BOARD INSPECTOR(S) MAY NOT ANNOUNCE OR SCHEDULE INSPECTIONS IN ADVANCE.*

Your facility will be inspected during your normal business hours. During that time, the facility's recorded designated responsible party (DRP) must be available to produce records and assist the Board inspector with the inspection. If the DRP is not at the facility due to authorized leave when the inspector arrives for the inspection, there must be someone

designated to act in his or her place to allow the inspection authorized in La. R.S. 37:3470 to take place. It is your responsibility to be in compliance when the inspector arrives. Even non-compliance issues corrected while the inspector is present will be considered violations and reported to the Board's compliance officer.

## **PERPETUAL INVENTORY**

Board regulation LAC 46:XXXIV.311.A provides:

"Drug or device distributors shall establish and maintain perpetual inventories and records of all transactions regarding the receipt and distribution or other disposition of drugs or devices. These records shall include the following information:

1. source of the drugs or devices, the name and principal address of the seller or transferor, and the address of the facility or physical location from which the drugs or devices were shipped;
2. the identity and quantity of the drugs or devices received and distributed or disposed of; and
3. the dates of receipt and distribution of the drugs or devices."

Medical gas distributors are not required to maintain a perpetual inventory on oxygen, but are required to maintain perpetual inventories on all other medical gases and legend devices (if applicable).

## **DISPOSAL OF EXPIRED OR QUARANTINED DRUGS OR DEVICES**

Remember that all disposals of legend drugs or devices must be fully documented for a complete inventory record.

Legend drugs or devices should only be transferred to entities authorized by law or regulation to procure and possess legend drugs or devices.

## **DAY GATES**

The Board recommends to all licensees who leave warehouse doors open during regular business hours to set up a "Day Gate" or a manned location to limit access into the warehouse for security of product. Open warehouse doors located where no licensee personnel is within line of site can create an opportunity for product to be stolen.

## SOME VIOLATIONS NOTED DURING FACILITY INSPECTIONS

Some violations of state statutes and Board rules frequently found during inspection of licensed facilities within Louisiana including, but not limited to, the following:

- LAC 46:XXXIV.303.C (and La. R.S. 37:3474.2(A)) – A license is valid only for the facility or location for which it is issued (participating or engaging in distribution without a license). (*Moving and conducting distribution before acquiring a new license for the new location.*)
- LAC 46:XXXIV.311.A – Establishing and maintaining perpetual inventories and records of all transactions regarding the receipt and distribution or other disposition of drugs or devices.
- LAC 46:XXXIV.311.E – Copies of current licenses for customers who are authorized by law or regulation to procure and possess drugs or devices shall be maintained for all customers that are shipped or sold drugs or devices; and
- LAC 46:XXXIV.313 – Establishing, maintaining, and adhering to written (working) policies and procedures.
- LAC 46:XXXIV.311.G – Purchasing or receiving legend drugs or devices from a supplier not licensed as a distributor of legend drugs or legend devices to ship or sell in/into Louisiana.

Violations of these as well as any of the statutes and rules governing the distribution of legend drugs or devices in/into Louisiana may result in disciplinary action against the licensee, with the assessment of fines of up to \$1,000 per violation.

## AUTHORIZED RECIPIENTS

In accordance with La. R.S. 37:3480, sales or distribution of legend drugs or devices shall be made only to an authorized recipient – i.e., a person such as a natural or juridical person including an individual, corporation or other legal business entity - who is authorized by law or regulation to procure or possess legend drugs or devices. Any location to which legend drugs or devices are delivered must also be authorized to procure or possess such drugs or devices. In accordance with Board regulation LAC 46:XXXIV.311.E, and to ensure that the customers you sell/distribute to are authorized to procure or possess legend drugs or devices, drug and device distributors are required to maintain copies of licenses for all customers that are shipped or sold legend drugs or devices. Verification of customer licenses or registration printed from state licensing websites is acceptable to have on file in compliance with Board regulation requirements.

The Board will accept, as verification of an authorized recipient of legend drugs or devices, the following types of licenses, certificates, or permits:

**D.E.A License**

**Louisiana Controlled Dangerous Substance License**

**Medical Examiner’s License for Physicians**

**Dentist License**

**Veterinarian License**

**Therapeutic Pharmaceutical Agent Certificate-**

**Board of Optometry for Optometrists**

**Pharmacy License (Do not use Drug Kit Permit)**

**Durable Medical Equipment Registration**

(Pharmacy Board)

**Louisiana Drug and Device Distributors License**

**Louisiana Dept. of Health & Hospitals Permit:**

**Food & Drug Permit 461 – OTC & Prescription  
Drugs**

**Food & Drug Permit 462 – OTC, Prescription Drugs  
and Controlled Substances**

**Food & Drug Permit 463 – Prescription Drugs**

**Food & Drug Permit 464 – Prescription & Controlled  
Substances**

**Food & Drug Permit 465 – Controlled Substances**

**Food & Drug Permit 467 – Prescription Generic  
Drugs**

**Food & Drug Permit 468 – OTC Generic &  
Prescription Generic Drugs**

The types of licenses, permits, and certifications that can be used as verification of an authorized recipient of medical gases include those listed above and the following:

**Emergency Medical Technician (EMT) Certification**

**First Responder Certification**

**Louisiana Dept. of Health & Hospitals**

**Food & Drug Permit 473 – Medical Gases**

**Advanced Cardiovascular Life Support Experienced Provider (ACLSEP) Certification**

(American Heart Association)

A Divers Alert Network (DAN) certificate or a certificate issued by the American Red Cross cannot be used and is not medical authorization for the holder to refill oxygen cylinders with medical grade oxygen in Louisiana. These two certificates are not acceptable.

A Medical Gas Installer license or Medical Gas/Vacuum Systems Verifier license as issued by the State Plumbing Board of Louisiana does not authorize the holder to procure and possess legend (Rx) medical gases including medical grade nitrogen. Mechanical Contractors or plumbers are not authorized to procure or possess legend medical gases for testing of medical gas delivery system installations. The mechanical contractor or plumber must have a contracted medical director which allows the mechanical contractor or plumber to procure the legend medical gas through the auspice of the medical director's license. Otherwise, the legend medical gases must be procured by the location where the delivery system is being installed – such as but not limited to hospitals, medical clinics, surgery centers, dentists, physician offices, or other entities that hold a license authorizing the procurement and possession of legend medical gases.

For nursing homes, hospice care facilities, and hospitals, a drug distributor *cannot* use copies of the Louisiana Department of Health and Hospitals license to operate/occupational license (is generally, a 3-digit license number) that specifies a licensed capacity number on file.

For customers not having one of the above accepted license/ permits/ certificates, the Board will accept a letter from a licensed practitioner stating designation as the Medical Director/ Supervisor for the customer and that the practitioner is allowing the customer to acquire legend drugs and/or devices under the practitioner's legal authority, along with a copy of the practitioner's current medical license.

For customers not having one of the above accepted licenses/ permits/ certificates for the acquisition and possession of medical gases, the Board will accept a letter from a licensed EMT, First Responder, or medical practitioner stating that he/she is employed by and is responsible for acquiring medical gases for the customer, along with a copy of the EMT, First Responder, or medical practitioner's valid, current license.

For ocean vessels that may be fixed, transient, or engaged in international trade with a medical director employed, a copy of the medical director's medical license along with a copy of the employment contract or statement of employment may be accepted. If no medical director is employed, the master or first officer of the vessel may procure and possess legend drugs or devices on behalf of the vessel as long as they provide and you maintain on file: (1) a copy of the vessel's requisition/purchase order for the drugs and/or devices; and (2) a copy of the delivery ticket/receipt signed by the master or first officer and stamped with the vessel's official seal. All documentation must include the vessels name, official number, and country of registry.

Nuclear or Positron Emission Tomography (PET) pharmacies engaged in distribution of legend drugs may accept the RAM (Radioactive Material) license from their customers for only radioactive drugs. All other drug sales require a license or permit as previously listed above.

## **UNLICENSED SUPPLIERS**

All drug or device distributors physically located and conducting operations in Louisiana should verify that each shipping location of every legend drug or legend device supplier they purchase from is licensed by this Board to distribute legend drugs/ devices into Louisiana.

In accordance with LAC 46:XXXIV.311.G, drug or device distributors located in Louisiana shall not purchase or receive drugs or devices from other than drug or device distributors licensed by this Board to distribute in or into Louisiana and they shall notify the Board of any distributors not licensed by this Board that may be distributing in or into Louisiana or offering to distribute in or into Louisiana.

Louisiana licenses are valid only for the facility or physical location for which it is issued to (LAC 46:XXXIV.303.C).

The Board requires a separate license for EACH facility or physical location owned or operated by the same business entity that distributes legend drugs or devices in/into Louisiana (LAC 46:XXXIV.301.B.1).

An entity must license all locations from which legend drugs or devices are sold and/or shipped (LAC 46:XXXIV.301.B.2).

## DISCIPLINARY ACTIONS

**Docket No. 2016001, AOSS MEDICAL SUPPLY, INC.,** Monroe LA, Louisiana license number 4029- The licensee admitted it violated La. R.S. 37:3474.1(6) and (8) whereby it sold, distributed or offered to sell or distribute adulterated, counterfeited or misbranded drugs or devices and violated provisions of the Board statutes and regulations; and 46:XCI.311.G(1) and (2) whereby it purchased or received drugs or devices from other than a distributor licensed by the Board and did not notify the Board of distributors not licensed by the Board selling or offering to sell into Louisiana without a license in two separate instances. The licensee accepted a consent agreement and paid a fine in the amount of \$16,000 and administrative costs of \$1,937.50.

**Docket No. 2016002, REGIONAL HEALTH SERVICES LLC dba Regional Medical Rental and Sales,** Alexandria LA, Louisiana license number 8438- The licensee agreed it violated La.R.S. 37:3474.1.A.(8) and LAC 46:XCI.311A.2 and 311.C whereby it failed to maintain a current and perpetual inventory and records of all transactions for all drugs, devices, and medical gases and by failing to have inventories and records available for inspection and photocopying by any official authorized by the Board for a period of three years following disposition. The licensee accepted a consent agreement and paid a fine of \$1,000 and administrative costs of \$250.

**Docket No. 2016003, McKESSON MEDICAL SURGICAL, INC.,** St. Rose LA, Louisiana license number 4667- The licensee agreed it violated La.R.S. 37:3471.1.A(8) and LAC 46:XCI.311.E whereby it failed to maintain copies of current licenses for customers that are shipped or sold drugs or devices. The licensee accepted a consent agreement and paid a fine of \$2,500 and administrative costs of \$250.

## IGNORANCE OF THE LAW IS NO EXCUSE

State statutes and Board promulgated rules can be viewed on the Board's website at [www.Lsbwdd.org](http://www.Lsbwdd.org). A copy of the statutes and rules may be obtained by contacting the Board office at 12091 Bricksome Avenue, Suite B, Baton Rouge, LA 70816, 225-295-8567, fax 225- 295-8568, email [admin@Lsbwdd.org](mailto:admin@Lsbwdd.org). THE BOARD ENCOURAGES YOU TO KEEP A COPY HANDY FOR FUTURE REFERENCE.

## AGENCIES OVERSEEING DISTRIBUTION IN LOUISIANA

There are several state and federal government agencies that work together for the regulation of the distribution of legend (prescription) drugs and devices in and within the state of Louisiana.

This Board, the LOUISIANA BOARD OF DRUG AND DEVICE DISTRIBUTORS is charged by the state legislature to license and regulate distributors of legend drugs and legend devices - including but not limited to distribution by manufacturers, repackagers, own-label distributors, jobbers, third-party logistics providers, retail pharmacy warehouses, brokers, agents, and wholesale distributors - that sale or facilitate delivery of legend drugs and legend devices in/into Louisiana to entities other than the consumer/patient.

The FOOD AND DRUG PROGRAM of the Louisiana Department of Health and Hospitals, Office of Public Health, Center for Environmental Health/Sanitarian Services is responsible for ensuring the sanitary manufacture and storage of drugs, medical devices, and medical gases within Louisiana.

The Louisiana Board of Pharmacy is the state regulatory agency for the practice of pharmacy and also manages the state CONTROLLED DANGEROUS SUBSTANCE PROGRAM which licenses locations where controlled substances are held and/or distributed.

The UNITED STATES DRUG ENFORCEMENT AGENCY (DEA), Office of Diversion Control is the federal agency for registration and enforcement of the provisions of the Controlled Substance Act as they pertain to the manufacture, distribution, and dispensing of legally produced controlled substances.

The UNITED STATES FOOD AND DRUG ADMINISTRATION (FDA) is the federal agency that registers, regulates, and enforces drug and device pre-marketing approval, manufacturing standards, and safety and effectiveness.

Contract information for these state agencies as well as local state offices of these federal agencies can be obtained from the Board office or on the Board's website under *Links*.

## **BOARD WEBSITE**

The BOARD'S WEBSITE, [www.Lsbwdd.org](http://www.Lsbwdd.org), has many active functions and helpful links. You can complete and print an application form (application instructions also available on website), view previous licensee newsletters, view a list of the current Board Members and staff, view and print the state statutes and Board rules, verify license information of drug or device distributors licensed by the Board, complete and print a name change request (not associated with a change in ownership), and view licensing information - such as general license information, inspection and policy & procedure guidelines for in-state licensees/ applicants, making a request for license verification, and the fee schedule.

There are links to other agencies including the Louisiana Board of Pharmacy, Louisiana Board of Dentistry, and the Louisiana Board of Medical Examiners. License information printed from these sites can be kept on file as customer license verification copies for distributors in Louisiana.

There is a link to the FDA website that can be used to review recalls and safety alerts issued by the FDA.

You can get information on applying for a license with the Louisiana Controlled Dangerous Substance Program through the Board of Pharmacy.

There is also a link to the NDC directory.

The *Louisiana Board of Drug and Device Distributors* licensee newsletter is considered an official method of notification to drug and device distributors licensed by the Board. **These Newsletters can be used in administrative hearings as proof of notification.** Please read them carefully. We encourage you to keep them for future reference. Newsletters are available on the Board's website for viewing.

Please share this newsletter so that your employees may benefit by learning more about regulation of the industry.

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