

**THE LOUISIANA STATE
BOARD OF MEDICAL EXAMINERS**

**MINUTES
OF
MEETING**

**JANUARY 27, 2020
NEW ORLEANS, LOUISIANA**

A meeting of the Louisiana State Board of Medical Examiners, pursuant to lawful notice, was convened and called to order at 8:30 a.m., Monday, January 27, 2020, by order of the President, at the offices of the Board, 630 Camp Street, New Orleans, Louisiana.

Board Members present as follows:

Roderick V. Clark, M.D., President
Joseph Kerry Howell, M.D., Vice-President, M.D.
Terrie R. Thomas, M.D., Secretary-Treasurer
Rita Y. Horton, M.D.
Lester Wayne Johnson, M.D.
Patrick K. O'Neill, M.D.
Kim S. Sport, JD
Leonard Weather, Jr., M.D.

Board Member absent as follows:

James A. Taylor, Jr., M.D.
Christy Lynn Valentine, M.D.

The following members of the Board's staff were present:

Vincent A. Culotta, Jr., M.D., Executive Director
Denise Businelle, Deputy Executive Director
Lawrence H. Cresswell, DO, JD, Director of Investigations
Mary K. Peyton, Esq., General Counsel
Thadra C. White, Esq., Compliance Counsel
Aloma James, Director of Licensure
Leslie Rye, Compliance Investigator
Carol Chauvin, Compliance Investigator
Jacintha Duthu, Administrative Program Specialist

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Rita L. Arceneaux, Executive Staff Officer

Legal counsel to the Board was present as follows:

Don K. McKinney
Michael G. Bagneris (Ret)

Members of the public present as follows:

See list attached

1. **Pledge of Allegiance.** All recited the Pledge of Allegiance.
2. **Mission Statement.** Mrs. Aloma James, Director of Licensure, read the mission statement of the Board.
3. **Minutes of December 9, 2019 Meeting.** The Board reviewed the minutes of its meeting held December 9, 2019. On the motion of Dr. Weather, duly seconded by Ms. Sport and passed by unanimous voice vote, the Board approved the minutes of the meeting with all the necessary corrections.
4. **Status Report on Action Items of Prior Board Meetings; Report on Assignments to Counsel.** The Board noted the action items as assigned to staff and counsel from previous meetings.
5. **Rulings and Advisory Opinions; Podiatry; Scope of Practice; Conscious Sedation; Follow-Up.** The Board reviewed the draft response prepared relative to the request for an advisory opinion received from Kia McNabb, Director of Surgical Services, Beauregard Health System, on whether a CRNA could be utilized “to provide conscious sedation to patients using non-anesthetic drugs and local injection” for podiatric surgery procedures without the presence of an anesthesiologist. Following review and discussion, on the motion of Ms. Sport, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board approved the response as drafted stating that in the Board’s view, the Podiatry Practice Act requires that the administration of conscious sedation in connection with podiatry surgery be performed by a physician anesthesiologist or CRNA acting under the direction and general supervision of a physician anesthesiologist who is proximately present in the operating suite.
6. **Rulings and Advisory Opinions; Utilization Review; Practice of Medicine; Follow-up.** The Board reviewed draft communication prepared in response to the electronic correspondence received from Ian Logan, Crowell & Moring, LLP, seeking an advisory opinion as to whether utilization review/utilization management constitutes the practice of medicine under the laws of Louisiana. On the motion of Dr. Thomas, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board approved the correspondence to Mr. Logan confirming that 2015 legislation impacted the Board’s prior opinion that medical necessity did constitute the practice of medicine, and in sum, Louisiana law now provides that adverse determinations (resulting from utilization review) of health insurance benefits are not the practice of medicine e.g.,

are made for purposes other than diagnosis or treatment of a medical condition.

7. Rulings and Advisory Opinions; Physician Assistants; Scope of Practice; Interpretation of X-Rays; Follow-up. The Board reviewed a draft response prepared relative to the request for an advisory opinion received from Lyn S. Savioe, Benton, Benton & Associates on whether the interpretation of x-rays is a service that may be delegated by a physician to a physician assistant. Following review and discussion, on the motion of Dr. Johnson, duly seconded by Dr. Howell, and passed by unanimous voice vote, the Board voted to defer action on this matter in order to seek input from the appropriate stakeholders with the goal of offering guidance to the supervising physician and physician assistant to ensure the task is appropriately delegated. In addition, to seek best practices from other states regarding this matter.

8. Rulings and Advisory Opinions; Crash Cart Determination; Follow-up. The Board reviewed the draft correspondence prepared in response to the electronic correspondence received from Carol Hubbard, Office Manager, Saini Medical Associates, LLC, requesting clarification on whether an internal medical clinic is mandated by law to keep and maintain a crash cart on site. Following review and discussion, on the motion of Dr. Howell, duly seconded by Dr. O'Neill and passed by unanimous voice vote, the Board approved the correspondence for dissemination informing Ms. Hubbard that the Board does not regulate medical facilities or clinics. However, within the Board's specific scope of regulatory and enforcement responsibility, neither the Medical Practice Act nor the Board's rules, address any specific legal requirements relative to the resources that must be maintained at an internal medicine clinic. The question of whether to keep and maintain a crash cart in a clinic is a standard of care issue and the Board expects that physicians will equip their outpatient clinics with the resources for diagnosis and treatment that are commensurate with the nature and level of care provided at the clinic.

9. Rulings and Advisory Opinions; Physician Assistant; Scope of Practice; Employment of Supervising Physician as an Independent Contractor; Second-Request. The Board reviewed the second request received from Jonathan D. Stokes, Esq., Gold Weems, seeking an exception to La. Rev. 1508(A)(3) relative the employment of a supervising physician by a physician assistant. Mr. Stokes presented a modified operating and independent contractor agreement for consideration. Following review and discussion, it was the consensus of the Board to draft a reply for review at the next meeting.

10. Rulings and Advisory Opinions; Delegation to Unlicensed Allied Health Professionals. The Board reviewed the electronic correspondence received from Anne Todd, LPN asking for an advisory opinion on whether it is appropriate for physicians, nurse practitioners, or physician assistants to delegate IVs and IV related tasks, including IV pushes to unlicensed allied health personnel, such as medical assistants. Following review and discussion, it was the consensus of the Board to draft a response in line with a previous opinion on this matter.

11. Communication and Information; Louisiana Dermatology Society. The Board reviewed the "prepared initial comment by the Louisiana Dermatology Society Statement on Safe In-Office Preparation of Buffered Lidocaine as a Local Anesthetic." Following review and discussion, it was the consensus of the Board to ask for clarification as to what they are asking of the Board.

12. General Administrative Matters; President's Report. The Board received the report of its President on his activities since the last meeting of the Board. In addition to his written report, Dr. Clark further emphasized the need for various rule-making efforts and allowed Dr. Cresswell to report on various changes in the Investigations Department. Dr. Cresswell reported that all investigators received training on the handling of sexual assault cases and they have adopted the Federation of State Medical Board's Policy on Sexual Assault. He reported he would like to implement the use of a patient advocate for those cases and would present more information on the possible use of a social worker for this role at a subsequent meeting.

13. General Administrative Matters; Executive Director's Report. The Board reviewed the report of its Executive Director on his activities since the last meeting of the Board. No further action was required or taken on this matter.

14. General Administrative Matters; Prescription Monitoring Program ("PMP") Advisory Council. The Board received the report of the quarterly meeting of the PMP Advisory Council held January 14, 2020 in Baton Rouge. The Board discussed putting a power point presentation and/or link relating to prescribing on our website.

15. General Administrative Matters; Newsletter Draft. The Board reviewed a draft of the January 2020 edition of the *Newsletter*. On the motion of Ms. Sport, duly seconded by Dr. Howell, and passed by unanimous voice vote, the Board approved the *Newsletter* for publication with any necessary corrections.

16. General Administrative Matters; Financial Matters. The Board made the following decisions related to travel for the 2020 calendar year.

Travel Expenses. Motion was made by Dr. Howell, duly seconded by Ms. Sport and passed by unanimous voice vote authorizing the Executive Director to approve routine and special travel for Board Members, Board staff, Board consultants and legal counsel for calendar year 2020, including but not limited to the following:

- 1) Travel expenses in connection with attendance at all Board meetings and Board Committee meetings.
- 2) Travel expenses in connection with appearances at appropriate private or state entities on behalf of or to represent the Board.
- 3) Travel expenses in connection with investigations conducted by the Board, to include travel expenses of witnesses.
- 4) Travel expenses in connection with any court or deposition appearance for the purpose of providing testimony on behalf of the Board.
- 5) Travel expenses for attending the annual meetings of the Louisiana State Medical Society and the Louisiana State Medical Association, with payment of per diem for any member giving an annual report to said organizations.

6) Travel expenses in connection with meetings of the following national organizations and any committee thereof on which a member of the Board or a member of the Board's staff serves on behalf of the Board, including but not limited to the Federation of State Medical Boards, Administrators in Medicine and National Board of Medical Examiners, and authorized meetings for educational purposes.

7) Travel expenses of its Committee members, where applicable by law, to Committee meetings.

8) Travel expenses of its Committee members, where applicable by law, for attendance at conference/conventions/seminars approved in advance by the Executive Director.

17. Rules and Regulations; Rules Under Development; Physicians; Advertising, Board Certification; Personal Appearance; Thomas Sands, M.D. Thomas Sands, M.D., appeared before the Board to discuss moving forward with the rules under development; Physician, Advertising Board Certification. Dr. Sands spoke to the mission statement of the Board that is to protect the public and felt one way to do this was to put the patient in a position to feel competent with the training of their physician. The Board informed Dr. Sands that one way to do this is to have it removed from the statute. Following their dismissal, it was the consensus of the Board to maintain the report on the regulatory agenda.

18. Rules and Regulations.

a. Final Rules/Amendments: None since the last meeting.

b. Rules/Amendments; Noticed for Intent to Adopt: Physicians; Complaints and Investigations: – Pursuant to the Board's request, a rulemaking effort is being commenced to conform its rules on complaints and investigations to various changes in the law resulting from Act 599 (HB 778, Rep. K. Jackson) of the 2018 Regular Session of the Legislature. A draft was presented for initial review and consideration. Following review and discussion at its October 2018 meeting, it was the consensus of the Board to provide a preview draft to various stakeholders prior to providing *Notice of Intent* to adopt the amendments. Following a report that there had been no negative feedback from the various stakeholders, at its December 2018 meeting, the Board voted to provide *Notice of Intent*. At the request of the President, the rule effort was delayed until the March 2019 meeting to provide the Board the opportunity to consider a new rule on the assessment of fees in administrative disciplinary proceedings. During the June 2019 meeting, the Board voted to provide *Notice of Intent* to adopt the originally proposed amendments in the *Louisiana Register* and give further consideration to the rule on assessment of costs. The proposed changes were transmitted to and approved by the Occupational Review Commission. *Notice of Intent* appeared in the December 20, 2019 edition of the *Louisiana Register*. Physician Practice; Therapeutic Marijuana: Act 284 (2019 Regular Session), amended state law governing medical marijuana in a manner that impacts the Board's existing rules in several respects e.g., removes the: (i) requirement for annual reporting by the Board to the legislature as to any additional diseases or conditions that should be added or removed from the list of debilitating conditions; (ii) requirement that a physician utilize

step therapy or fail first protocols; and (iii) physician domiciliary requirement for a physician to recommend marijuana. At its August 2019 meeting, the Board voted to provide *Notice of Intent* to adopt the rule amendments in the *Louisiana Register*. The proposed changes were transmitted to and approved by the Louisiana Occupational Review Commission at its meeting of October 30, 2019. The *Notice of Intent* appeared in the December 20, 2019 edition of the *Louisiana Register*. Technical errors by the *Louisiana Register* resulted in a republication of the *Notice of Intent* with an Editor's Note of explanation in the January 2020 edition of the *Register*.

c. **Rules/Amendments Under Development: Physician Compounding Medication:** At its December 2014 and January 2015 meetings, the Board reviewed Emergency Rules adopted by the Louisiana Board of Pharmacy to reflect certain changes in federal law concerning compounded medication. Following review and discussion, the Board elected to undertake a rulemaking effort as to physicians who compound medication in order to insure consistency with federal and state law and regulations. A draft will be presented for initial review and consideration in due course. **Physician Advertising; Board Certification:** At its March 2015 meeting, the Board determined to undertake a rulemaking effort to establish a process for its approval of certifying boards, alternative to the ABMS and AOA, for purposes of physician advertising of *Board Certification*. The Board directed that a draft be prepared and presented for review and approval. In conformity with the Board's direction, a draft was presented for initial review and discussion at the April 2015 meeting. At its May 2015 meeting, the Board approved publication of a *Notice of Intent* to adopt the rule amendments in the *Louisiana Register*. An additional word change was discussed and pre-notice input was received from interested parties. Following review and discussion, the Board elected to defer this effort to allow further consideration and input by other stakeholders. Inasmuch as further input had not been received, it was the consensus of the Board to write to several interested parties to ask for their input by the May meeting of the Board. During the May 2016 meeting, the Board reviewed the additional information submitted by the various stakeholders and entertained brief presentations by interested parties. Following discussion, the Board voted to defer action on this rule-making effort pending further review and voted to designate a Special Committee consisting of individuals recommended by the deans of the state's medical schools and a former Board member, to provide information on the processes involved in the accreditation of physician post-graduate training. During its January 2017 meeting, the Board received the committee's input. Following discussion, the Board requested certain changes to the draft previously appearing on its agenda, along with additional information for its consideration. Following further discussion and consideration at its April 2017 meeting, the Board voted to provide *Notice of Intent* to adopt Draft 2(A). During the March 2018 meeting, the Board determined to defer moving forward to the next step of the rulemaking process until it had an opportunity to further explore and consider all other available options, as well as the outcome of a bill introduced in this session of the Louisiana Legislature that would remove its jurisdiction to act in this matter (See SB 186). It is anticipated that the Board will discuss moving forward on this matter at the next meeting of the Board. **Physicians; Licensure:** Amendments to the physician licensure rules as suggested by staff was presented for initial review and discussion to update generally for consistency with current standards and make other substantive and technical modifications made necessary by the passage of time and current practices. Following review and discussion at its January 2018 meeting, the Board suggested proceeding slowly with the proposed changes to consider how such changes

may affect other Sections of the rules. In the interim, the Board approved moving forward with the suggested amendment to §417B to clarify that a renewal reminder would be mailed to licensees in lieu of an actual application. **Physicians; Complaints and Investigations:** During its June 2019 meeting, the Board voted to provide *Notice of Intent* to adopt the originally proposed amendments in the *Louisiana Register* and to give consideration to a rule on assessment of costs. The draft remains under consideration by the Board. **Petitions for Rulemaking:** A rule for the form for petitions for adoption, amendment or repeal of a rule, and the procedure for their submission, consideration and disposition remains under consideration. **Physician Licensure; Waiver of Qualifications:** On the motion of Ms. Sport, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board voted to amend its rules to extend a waiver of licensure qualifications (currently limited by §§315 and 327 to applicants appointed by a medical school to a full-time position at a rank of assistant professor or above) to applicants who will be full-time employees of a *major teaching hospital* as defined by the rules. **Physician Licensure; International Medical Graduates:** On the motion of Dr. O'Neill, duly seconded by Dr. Weather and passed by unanimous voice vote, the Board moved to adopt rules to confirm the requirements for post-graduate training (PGY) for international medical graduates with those applicable to US graduates, provided the applicant graduated from an approved medical school. **Physician Licensure; Continuing Medical Education:** On the motion of Dr. Howell, duly seconded by Ms. Sport, and passed by unanimous voice vote, the Board voted to defer action on the request to amend its continuing medical education ("CME") rules for all categories of licensees (starting first with physicians) to utilize an electronic reporting service for tracking and reporting CME hours.

19. Rules and Regulations; Rules Under Development; Podiatry; Performance of History and Physicals; Personal Appearance; Denise Elliott, DPM, Member, Podiatry Advisory Committee. Denise Elliott, DPM, Member, Podiatry Advisory Committee, appeared before the Board to discuss their request to amend §1307G of the Podiatry rules to provide that licensed advanced practice podiatrists with 2 or more years of postgraduate training, may independently perform a complete history and physical ("H&P") on patients for the purpose of preoperative evaluation before a procedure performed by the podiatrist subject to the Podiatry Practice Act. Ms. Elliott explained that all podiatrist are trained to perform H&Ps in their postgraduate training program and that Louisiana was one of seven states that do not allow the podiatrist to do H&Ps. Following her dismissal, on the motion of Dr. Weather, duly seconded by Dr. O'Neill and passed by majority voice vote¹, the Board approved moving forward with the rule amendment.

20. General Administrative Matters; New Business; Recording of Public Session. On the motion of Dr. Howell, duly seconded by Dr. Thomas, and passed by unanimous voice vote, the Board voted to take up an item of new business; recording of the public session of the meeting. Dr. Culotta explained the Board has the capabilities of producing an audio record via an MPG file. Following discussion, it was the consensus of the Board to defer action on this matter to gather more information as to the mechanics of recording the public session.

21. Public Comments. The President asked if anyone from the public had questions and/or any further comments. Hearing none the public session concluded.

¹ Dr. Horton was opposed to this motion,

[22.] Minutes of December 9, 2019 Executive Sessions. On the motion of Ms. Sport, duly seconded by Dr. Horton and passed by unanimous voice vote, the Board convened in executive session to review the minutes of its executive sessions conducted during the meeting of December 9, 2019. Following review and discussion, the Board resumed in open session. On the motion of Ms. Sport, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board approved the minutes of the executive sessions conducted during its meeting of December 9, 2019 with any necessary corrections.

[23.] Report on Pending Litigation. On the motion of Dr. Thomas, duly seconded by Dr. Weather, the Board convened in executive session to receive the report of legal counsel on pending litigation to which the Board was a party, and the status of proceedings for judicial review of prior Board decisions, La. Rev. Stat. § 42:17A(2). Following review and discussion, on the motion of Ms. Sport, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board voted to allow counsel to handle the pending litigation Case No. 19-3050 filed in the USDC for the District of Columbia.

[24.] Personal Appearances/Docket Calendar. On the motion of Dr. Thomas, duly seconded by Dr. O'Neill, and passed by unanimous voice vote, the Board convened in executive session, to review the calendar of personal appearances and docketed hearings, as matters relating to the character and professional conduct of a licensee and allegations of misconduct, La. Rev. Stat. 42:17 A(1), (4). No further action was required or taken on this matter.

[25.] Investigative Reports. On the motion of Ms. Sport, duly seconded by Dr. Howell, and passed by unanimous voice vote, the Board convened in executive session, to consider the investigative reports as a matter relating to the character and professional conduct of a licensee, and allegations of misconduct, La. Rev. Stat. §42:17A(1) and (4). Following review and discussion the Board resumed in open session. On the motion of Dr. Howell, duly seconded by Dr. Thomas and passed by unanimous voice vote, the Board made the following decisions:

- a. Administrative Complaints: The following Administrative Complaints were accepted and approved for scheduling of a pre-trial conference and formal hearing:

Docket No., 18-I-337
Docket No., 19-I-119²

- b. Interim Action: The Board approved the Interim Action that had been handled by the President:

Docket No., 20-I-026

- c. Formal Investigations: The Board approved commencing formal investigations in the following matters:

Investigation No., 19-I-479

² Dr. O'Neill recused himself from any and all participation in discussion and/or consideration of this matter.

Investigation No., 19-I-552
Investigation No., 19-I-423³

- d. Formal Investigations: The Board approved an extension of 90 days to commence a formal investigation in the following matters:

Investigation No., 19-960	Investigation No., 19-1030
Investigation No., 19-927	Investigation No., 19-693
Investigation No., 19-990	Investigation No., 18-961
Investigation No., 19-355	Investigation No., 19-356
Investigation No., 19-357	Investigation No., 19-364
Investigation No., 19-698	Investigation No., 19-703
Investigation No., 19-721	Investigation No., 19-722
Investigation No., 19-723	Investigation No., 19-973
Investigation No., 19-993	Investigation No., 18-775
Investigation No., 19-10	Investigation No., 19-115
Investigation No., 19-389	Investigation No., 19-427
Investigation No., 19-499	Investigation No., 19-648
Investigation No., 19-842	Investigation No., 19-968
Investigation No., 19-1018	Investigation No., 19-1077
Investigation No., 19-1053	Investigation No., 19-494
Investigation No., 19-870	Investigation No., 19-950
Investigation No., 19-813	Investigation No., 19-738
Investigation No., 19-804	Investigation No., 19-1032
Investigation No., 19-444	Investigation No., 19-715
Investigation No., 19-894	Investigation No., 19-607
Investigation No., 19-923	Investigation No., 19-298
Investigation No., 19-842	Investigation No., 19-709
Investigation No., 19-498	Investigation No., 19-986
Investigation No., 19-965	Investigation No., 19-809
Investigation No., 19-332	Investigation No., 19-672
Investigation No., 19-955	Investigation No., 19-991

- e. Consent Order: The following Consent Order was rejected:

Docket No., 17-I-153

- f. Consent Orders: The following Consent Orders were accepted:

Benjamin Marion Stage, M.D., Docket No., 19-I-700⁴
David H. Van Thiel, M.D., Docket No., 19-I-925
Andrew Z. Williams, M.D., Docket No., 19-I-1036⁵

3 Dr. Horton recused herself from any and all participation in discussion and/or consideration of this matter.

4 Dr. Johnson recused himself from any and all participation in discussion and/or consideration of this matter.

5 Dr. O'Neill recused himself from any and all participation in discussion and/or consideration of this matter.

Gerald Charles Morris, M.D., Docket No., 18-I-1525

g. Closed/Dismissed: The following matters were approved for closure/dismissal:

Investigation No., 19-I-1044
Investigation No., 19-1047
Investigation No., 19-1076
Investigation No., 19-756⁶
Investigation No., 19-958
Investigation No., 19-661
Investigation No., 19-989
Investigation No., 19-1022
Investigation No., 19-403
Investigation No., 19-I-878
Investigation No., 19-1031
Investigation No., 19-1005
Investigation No., 19-715
Investigation No., 19-1071
Investigation No., 19-947
Investigation No., 19-972
Investigation No., 19-919
Investigation No., 19-958
Investigation No., 19-924
Investigation No., 19-1118
Investigation No., 19-1128
Investigation No., 18-905
Investigation No., 19-809
Investigation No., 18-I-870⁷

Investigation No., 19-I-364
Investigation No., 19-1020
Investigation No., 19-870
Investigation No., 19-1075
Investigation No., 19-658
Investigation No., 19-660
Investigation No., 19-795
Investigation No., 19-018
Investigation No., 18-I-306
Investigation No., 19-1050
Investigation No., 19-1039
Investigation No., 19-959
Investigation No., 19-715
Investigation No., 19-879
Investigation No., 19-693
Investigation No., 19-1078
Investigation No., 19-957
Investigation No., 19-583
Investigation No., 19-474
Investigation No., 19-987
Investigation No., 19-985
Investigation No., 19-961
Investigation No., 19-972
Investigation No., 19-I-320

h. Closed/Dismissed: The following matters recommended for closure/dismissal with a Letter of Concern were accepted:

Investigation No., 18-I-365
Investigation No., 19-I-956
Investigation No., 19-I-320⁸

Investigation No., 18-I-179
Investigation No., 19-I-740

i. Closed/Dismissed: The following matter recommended for closure/dismissal with a Letter of Concern was rejected:

Docket No., 19-I-689

6 Dr. Clark recused himself from any and all participation in discussion and/or consideration of this matter.

7 Ms. Sport was opposed to this motion.

8 Ms. Sport was opposed to this motion.

- j. Closed Complaints Cases: The Board reviewed the Closed Complaint Case Report for the month of December 2019.

[26.] Investigative Report; Personal Appearance; Jorge M. Contreras, M.D. On the motion of Dr. Howell, duly seconded by Dr. Thomas and passed by unanimous voice vote, the Board convened in executive session, for the personal appearance of Jorge M. Contreras, M.D., accompanied by his attorney, Brian J. Capiteli, Esq., as a matter relating to the character and professional conduct and allegations of misconduct of a licensee, La .Rev. Stat. § 42:17A(1) and (4). Dr. Contreras appeared before the Board in connection with the acceptance of his Consent Order.

[27.] General Disciplinary Matters; Personal Appearance; Patrick Dale LeLeux, M.D.⁹. On the motion of Dr. O'Neill, duly seconded by Dr. Thomas and passed by unanimous voice vote, the Board convened in executive session, for the personal appearance of Patrick Dale LeLeux, M.D., concerning a matter relating to the character and professional conduct and allegations of misconduct of a licensee, La.Rev.Stat. § 42:6.1A(1) and (4). Dr. LeLeux appeared before the Board in connection with his request for modification of the terms of his Consent Order. Following his dismissal, the Board resumed in open session. On the motion of Ms. Sport, duly seconded by Dr. Thomas and passed by unanimous voice vote, the Board approved his request for modification of the terms of the Consent Order dated September 17, 2018.

[28.] Professional Liability Report. On the motion of Dr. Thomas, duly seconded by Dr. O'Neill and passed by unanimous voice vote, the Board convened in executive session to consider the report on professional liability cases reviewed since the last meeting of the Board as matters relating to the character and professional conduct of a licensee and allegations of misconduct, La. Rev. Stat. § 42:17A(1) and (4). No further action was required or taken on this matter.

[29.] General Disciplinary Matters. On the motion of Ms. Sport, duly seconded by Dr. Horton, the Board convened in executive session to consider the request relating to the execution or modification of a Decision and/or Consent Order as matters relating to the character and professional conduct of licensees, pursuant to La. Rev. Stat. §42:17A(1) and (4). Following review and discussion, the Board resumed in open session and upon the motion of Dr. O'Neill, duly seconded by Ms. Sport and passed by unanimous voice vote, made the following decisions:

- a. Nicholson, Robert Joseph, M.D. – To approve the request of Robert Joseph Nicholson, M.D., to add an additional practice site as required in accordance with the terms of his Order.
- b. Allied Health Monitoring Report – To note receipt of the Allied Health Monitoring Report submitted for the 4th quarter of 2019.

[30.] Licensure and Certification; Other Licensure Matters; Provisional Temporary

⁹ Dr. Howell recused himself from any and all participation in discussion and/or consideration of this matter.

Permit. On the motion of Dr. Weather, duly seconded by Dr. Thomas, the Board convened in executive session to consider the request for an extension of a Provisional Temporary Permit for an applicant for licensure as a matter of the character, professional competence, or physical or mental health of an applicant, pursuant to La.Rev.Stat. 42:17A(1). Following review and discussion, upon motion of Dr. Howell duly seconded by Dr. Thomas and passed by unanimous voice vote, the Board approved the request for an extension of the Provisional Temporary Permit issued to Barry Michael Levet, M.D.

31. Licensure and Certification; Other Licensure Matters; Continuing Medical Education ("CME"). The Board reviewed the request received from the Licensure Department relative to guidance regarding the interpretation of the Board's rules and regulations on CME. Following review and discussion, on the motion of Ms. Sport, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board approved the following:

In the method prescribed by law and/or applicable rules, regarding communication with the Board's licensees, the Licensure Department shall notify each Board licensee 120, 90, 60 and 30 days prior to the expiration of each individual's license of the following:

- (a) Whether that individual has met his or her requirements for CME credits for that current year.*
- (b) Whether the licensee is eligible to renew his or her license at that point; and*
- (c) If not, the first date upon which the person may renew; the reason the person is ineligible for renewal; and, the tasks required to be completed for the licensee to be compliant.*

32. Licensure and Certification; Other Licensure Matters; Assignment of License Numbers; Issuance of Temporary Permit/License Pending Criminal Background Check. The Board reviewed the request of the Licensure Department for guidance on the issuance of license numbers upon re-application and/or reinstatement and the issuance of a temporary permit pending a criminal background check. Following review and discussion, on the motion of Dr. O'Neill duly seconded by Ms. Sport and passed by unanimous voice vote, the Board approved the following:

- 1. With regard to all license applicants who have previously held a full, unrestricted license in Louisiana, the Licensure Department will continue using the individual's previously assigned original license number. Thus, for applicants who have previously held a Louisiana license, no new license numbers will be issued without specific permission of the Board. If the Licensure Department deems it necessary to issue a new license number to such an individual, it may seek specific permission of the Board, and explain the circumstances as to why a new number is needed. During any interim period, a temporary number assignment may be made to be adjusted based on the Board's decision.*
- 2. No temporary permit, which requires a criminal background check as part of its qualification criteria, and no initial license will be issued without satisfactory completion of the entire criminal background check. The Board may allow a temporary permit to issue under the provisions of LAC 46:XLV.4-2. Where the applicant presents evidence of the*

need to the Board, the Board approves, and the granting of the temporary permit is unlikely to detrimentally impact the health, safety and welfare of the public.

33. Licensure and Certification; Other Licensure Matters; Appropriate License Application. The Board reviewed the request for guidance on the appropriate license application to be used by previously revoked or suspended physicians, those whose licensure has lapsed for more than four years and/or those who are otherwise ineligible for reinstatement. Following review and discussion, on the motion of Dr. O'Neill duly seconded by Dr. Thomas and passed by unanimous voice vote, the Board approved the following:

- 1. With regard to all physician license applicants, who have previously held a full, unrestricted license in Louisiana and whose license was (a) lapsed for four years or more for any reason, or (b) suspended, or (c) revoked, and who are re-applying to Louisiana for licensure, such applicants are not eligible for reinstatement under LAC 46.XLV.419, but must apply to the Board for an initial, original or reciprocal license and shall utilize the Board's approved "Application for Physician's Licensure" and not a "Renewal Application".*
- 2. With regard to the physician license applicants specified in No. 1, such applicants are not "initial" licensure applicants for the purposes of reporting to the National Practitioners Databank because it is not the first time the person has applied for a full, unrestricted license with the Board. Thus, any denial of such licensure is a 'reportable event' and will be reported to the National Practitioners Databank.*

[34.] General Administrative Matters; Legislative Auditors Performance Audit Report; Plan of Action; Follow-Up. On the motion of Dr. Thomas, duly seconded by Dr. Howell, and passed by unanimous voice vote, the Board convened in executive session, to consider the follow-up report on the Legislative Auditors Performance Audit Final Report, pursuant to, La.Rev.Stat., 42:17A(10). No further action was required or taken on this matter.

[35.] Act 2018-655 Complaints Report. On the motion of Dr. Horton, duly seconded by Dr. Johnson, and passed by unanimous voice vote, the Board convened in executive session to receive the 655 Complaint Report as a matter relating to the Board's actions and procedures in administrative matters relating to the character and professional conduct of licensees and the handling of those complaints and/or allegations of misconduct, La.Rev.Stat. §42:17A(1). No further action was required or taken on this matter.

36. General Administrative Matters. At the request of the President and as referenced in the President's Report, Dr. Howell presented and the Board discussed a set of PowerPoint slides describing the results of his and Ms. Sport's interviews with employees in the Investigations Department to identify areas for improvement.

37. Next Meeting of the Board. The President reminded the members that the next meeting of the Board was scheduled for February 17, 18, 2020.

I HEREBY CERTIFY that the foregoing is a full, true and correct account of the proceedings of the meeting of the Louisiana State Board of Medical Examiners, save for executive session of

**MINUTES OF MEETING
JANUARY 27, 2020**

the Board conducted therein, held on January 27, 2020 and approved by the Board on the 17th day of February, 2020.

Witness my hand and seal of the Louisiana State Board of Medical Examiners this 17th day of February 2020.

Terrie Roselyn Thomas, M.D.
Secretary-Treasurer

Attest:

Roderick Vince Clark, M.D., MBA
President