

Title 46
PROFESSIONAL AND
OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 1. General
Subchapter D. Podiatrists Fees

§137. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of podiatrists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984).

§139. Licenses, Permits, and Examination

A. For processing an application for licensure as a podiatrist, a fee of \$300 shall be payable to the board.

B. For issuing a temporary permit, a fee of \$100 shall be payable to the board.

C. For registration for and taking of the oral examination administered by the board, a fee of \$50 shall be payable to the board.

D. When an applicant is required by these rules to take the oral examination administered by the board, the fee prescribed by §139.C shall be added to the applicable application processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:613, 37: 618, 37: 621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:239 (February 2004).

§141. Annual Renewal

A. For processing a podiatrist's annual renewal of license, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:613, 37:618, 37:621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:239 (February 2004).

§143. Podiatric Postgraduate Education Registration

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter K of Chapter 13 of these rules, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:613, 37:618, and 37:621-622.

HISTORICAL NOTE: Promulgated by the Department of

Health and Hospitals, Board of Medical Examiners, LR 30:239 (February 2004).

Title 46
PROFESSIONAL AND
OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and
Certification
Chapter 13. Podiatrists
Subchapter A. General Provisions

§1301. Scope of Chapter

A. The rules of this Chapter govern the licensing of podiatrists to engage in the practice of podiatry in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:612, 37:613 and 37:616.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1088 (July 2003).

§1303. Definitions

A. As used in this Chapter the following terms shall have the meanings specified.

Ankle—the joint between the leg and foot in which the tibia and fibula articulate with the talus.

Applicant—a person who has applied to the board for a license or permit to engage in the practice of podiatry in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate podiatric education.

Application—a written request directed to and received by the board, upon forms supplied by the board, for a license or permit to practice podiatry in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate podiatric education, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Board Qualified—a certification status of the American Board of Podiatric Surgery (ABPS) which is granted pursuant to satisfaction of established requirements.

Foot—that part of the human anatomy which consists of the tarsal bones, metatarsal bones, phalanges, and all supportive or connective tissue, or both, immediately adjacent thereto not to extend proximal to the proximal dome of the talus.

Good Moral Character—as applied to an applicant, means that:

a. the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:624 for the suspension or revocation of podiatry licensure;

b. the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; or

c. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent or misleading in achieving or obtaining any of the qualifications for a license or permit required by this Chapter.

License—the lawful authority of a podiatrist to engage in the practice of podiatry in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

Permit—the lawful authority of a podiatrist to engage in the practice of podiatry in the state of Louisiana for a designated, temporary period of time subject to restrictions and conditions specified by the board, as evidenced by a certificate duly issued by and under the official seal of the board. A permit is of determinate, limited duration and implies no right or entitlement to a license or to renewal of the permit.

Podiatrist—a person possessing a doctor of podiatric medicine degree or an equivalent degree duly awarded by a school or college of podiatry approved by the board.

Podiatry—that profession of the health sciences which deals with:

a. the prevention, examination, diagnosis, medical, surgical and adjuvant treatment of the human foot; and

b. the treatment of the ankle, muscles, or tendons of the lower leg governing the functions of the foot and ankle by a podiatrist who has completed advanced training determined to be sufficient by the board at a program accredited by a nationally recognized accrediting association acceptable by the board.

Podiatry Practice Act or the Act—R.S. 37:611-628, as hereafter amended or supplemented.

Postgraduate Year One (Internship) Registration—the lawful authority of a podiatrist to engage in the first year of continuing postgraduate podiatric training in the state of Louisiana at a podiatric medical education or internship program approved by the board, as evidenced by a certificate of registration duly issued by and under the official seal of the board.

Practice Prerogatives—the authority of a podiatrist to engage in the treatment of the ankle, muscles or tendons of the lower leg governing the functions of the foot and ankle.

State—any state of the United States, the District of Columbia and Puerto Rico.

B. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:612, 37:613, 37:616 and 37:618.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1088 (July 2003), amended LR 35:240 (February 2009).

Subchapter B. Requirements and Qualifications for Licensure, Scope of Practice

§1304. Necessity for License; Practice

PrerogativesError! Bookmark not defined.

A. No individual may hold himself out as a podiatrist or engage in the practice of podiatry in this state unless he or she has been licensed by or holds a permit duly issued by the board.

B. Each podiatrist licensed by the board may engage in the prevention, examination, diagnosis, medical, surgical, and adjuvant treatment of the human foot as defined herein.

C. A podiatrist shall not engage in the treatment of the ankle unless such practice is:

1. within the podiatrist's education and level of training; and

2. included within the scope of practice prerogatives for advanced practice for which the podiatrist has been approved by the board as reflected by certification issued under this Chapter.

D. No individual licensed under this Chapter shall display or use the title "doctor" or its synonym, without the designation "podiatrist" or "podiatric medicine" nor mislead the public as to the limited professional scope of practice to treat human ailments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:240 (February 2009).

§1305. Qualifications for License

A. To be eligible for a license, an applicant shall:

1. be at least 21 years of age;

2. be of good moral character as defined by §1303.A;

3. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

4. possess a doctor of podiatric medicine or equivalent degree duly issued and conferred by a podiatric school or college approved by the board;

5. have taken and passed all three parts of the examination offered by the National Board of Podiatric Medical Examiners, or its successor, or such other national examination as may be approved by the board following consultation with the board's Podiatry Advisory Committee; and

6. with respect to applications for licensure first received by the board on and after January 1, 2005, have completed at least one year of postgraduate podiatric training in an internship or equivalent program accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association or its successor association, and approved by the board.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:612, 37:613 and 37:616.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1089 (July 2003), amended LR 35:240 (February 2009).

§1307. Qualifications for Certification for Advanced Practice; Scope of Practice

A. Certification of an applicant for advanced practice may be issued by the board for either the conservative treatment of the ankle or the surgical treatment of the ankle, or both, depending upon an applicant's education and training.

B. Qualifications for Certification in Conservative Treatment of the Ankle. To be eligible for certification for the conservative treatment of the ankle an applicant who possesses and meets the qualifications and requirements of §1305A.1.-5 of this Chapter shall have completed at least one year of postgraduate podiatric training in an internship or equivalent program accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association or its successor association, and approved by the board.

C. Scope of Practice for Conservative Treatment of the Ankle. The scope of practice for the conservative treatment of the ankle shall be limited to the following:

1. the prevention, examination, diagnosis, medical, surgical, and adjuvant treatment of the human foot, as defined in §1303.A, which is authorized for a doctor of podiatric medicine without certification in advanced practice;

2. the medical treatment of the ankle to include the muscles or tendons of the lower leg governing the functions of the foot and ankle;

3. surgical treatment of the superficial conditions of the ankle involving the skin and overlying tissues and extending proximally; and

4. assisting an orthopedic surgeon or a doctor of podiatric medicine whose practice prerogatives include surgical treatment of the ankle, as defined in this Section.

D. Qualifications for Certification in Surgical Treatment of the Ankle. To be eligible for certification in the surgical

treatment of the ankle, whether for initial licensure or annual renewal, an applicant who possesses and meets the qualifications and requirements of §1305A.1-5 of this Chapter shall:

1. have completed a surgical residency approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, consisting of:

a. a three-year podiatric surgery residency (PSR 36) program or greater; or

b. a three-year podiatric medicine and surgery residency (PM and S 36) program or greater; or

c. a two-year podiatric surgery residency (PSR 24) program and:

i. be board-certified in reconstructive rear foot and ankle surgery (RRA) by the American Board of Foot and Ankle Surgery (ABFAS), formerly the American Board of Podiatric Surgery (APBS); or

ii. be board-certified in foot surgery and board qualified in reconstructive rear foot/ankle surgery (RRA) by the ABFAS.

E. Scope of Practice for Surgical Treatment of the Ankle. The scope of practice for surgical treatment of the ankle shall be limited to the following:

1. the scope of practice as described in this Section for the conservative treatment of the ankle; and

2. surgical treatment of the ankle and muscles or tendons of the lower leg governing the functions of the foot and ankle, limited to procedures listed by the Council on Podiatric Medical Education (CPME) and the American Board of Podiatric Surgery (ABPS) as found in the CPME 320 and ABPS 220 documents (and their successors) as being required for graduate podiatric medical education and board certification at the time that an applicant's application for initial licensure or annual renewal is filed with the board.

F. Surgical procedures authorized under this Section shall only be performed in the following types of facilities:

1. a licensed and accredited hospital as defined in R.S. 40:2102(A) and R.S. 37:611(3)(a), if the podiatrist is granted privileges to do the procedures;

2. a licensed and accredited trauma center as defined in R.S. 40:2171(3) and R.S. 37:611(3)(a), if the podiatrist is granted privileges to do the procedures; or

3. a licensed and accredited ambulatory surgical center as defined in R.S. 40:2133(A) and R.S. 37:611(3)(a) if the podiatrist is granted privileges to do the same procedure in a hospital as described in §1307F.1 or a trauma center as described in §1307F.2 of this Subsection.

G. Patient history and examination. A podiatrist certified for advanced practice under this Section:

1. with two or more years of postgraduate training, may independently perform a complete history and physical (H and P) on his or her patients for the purpose of pre-operative evaluation and diagnosis before a podiatric procedure the podiatrist is authorized to perform under the scope of his or her license

2. may independently perform a complete H and P for Institutional Review Board approved research studies.

H. The burden of satisfying the board as to the qualifications and eligibility of the applicant for certification of practice prerogatives shall be upon the applicant. An

applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:241 (February 2009), amended by the Department of Health, Board of Medical Examiners, LR 42:1519 (September 2016), amended by the Department of Health, Board of Medical Examiners, LR 42:2197 (December 2016), LR 47:729 (June 2021).

§1309. Procedural Requirements [Reserved]

§1311. Waiver of Examination Requirements [Reserved]

Subchapter C. Board Approval of Podiatry Schools and Colleges

§1313. Scope of Subchapter [Reserved]

§1315. Applicability of Approval [Reserved]

§1317. List of Approved Schools [Reserved]

Subchapter D. Licensure by Reciprocity

§1319. Definitions

A. As used in this Chapter the following terms shall have the meanings specified.

Reciprocity—the issuance of a license to practice podiatry in this state on the basis of podiatric licensure issued by another state podiatric licensing authority, pursuant to written examination and other requirements acceptable to the board as specified by §§1305 and 1307 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:241 (February 2009).

§1321. Qualifications for Podiatry Licensure by Reciprocity

A. An applicant who possesses and meets all of the qualifications and requirements specified by §§1305 and/or 1307 of this Chapter, except for the requirement of successfully passing the examination specified by §1305.A.5 within the prior 10 years, shall nonetheless be eligible for licensing if such applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license to practice podiatry issued by the podiatry licensing authority of another state and the applicant has, within 10 years prior to the date of application, taken and successfully passed a written certification or recertification examination administered by a

specialty board recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

B. An applicant who possesses all of the qualifications for licensure by reciprocity specified by Subsection A of this Section, except for the requirement of having taken or passed a written certification or recertification examination within 10 years of the date of application, shall nonetheless be considered eligible for licensure by reciprocity if such applicant has, within 10 years prior to the date of application, taken and successfully passed the National Boards Part III or the podiatric medical licensure examination administered by the National Board of Podiatric Medical Examiners, or such other examination or competency testing, as may be designated and approved by the board following consultation with the board's Podiatry Advisory Committee.

C. An applicant who possess all of the qualifications for licensure by reciprocity specified by Subsections A and B of this Section who has not continuously practiced podiatry over the two years immediately prior to submission of an application to the board shall, as an additional requirement for eligibility for licensure by reciprocity, demonstrate competency by the successful passage of an examination or by such other testing as may be designated and approved by the board following consultation with the board's Podiatry Advisory Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:242 (February 2009).

Subchapter E. Application

§1323. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensure as a podiatrist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:242 (February 2009).

§1325. Application for Licensure; Procedure

A. Application for licensure must be made in a format approved by the board and shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in §§1305 and/or 1307 of this Chapter;
2. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;
3. payment of the applicable fee as provided in Chapter 1 of these rules; and
4. such other information and documentation as the board may require.

B. Upon submission of or concurrently with submission of a completed application an applicant shall, by appointment, make a personal appearance before the board, a member of the board, or its designee, as a condition to the board's consideration of such application. The recommendation of the board, board member, or designee as to the applicant's fitness for licensure shall be made a part of the applicant's file.

C. The board may reject or refuse to consider any application which is not complete in every detail. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:242 (February 2009).

§1327. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license, permit, certificate, or registration, each person, firm, corporation, clinic, office, or institution by whom or with whom the applicant has been employed in the practice of podiatry, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization or specialty board to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensing to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in the manner so directed by the board and to waive all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to this Section to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefore including,

without limitation, the podiatric licensing authority of any state; the Federal Drug Enforcement Agency; the Louisiana Board of Pharmacy; the Department of Health and Hospitals; federal, state, county, parish and municipal health and law enforcement agencies; and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:242 (February 2009).

Subchapter F. Examination

§1329. Designation of Examinations [Reserved]

§1331. Eligibility for Examination [Reserved]

§1333. Observance of Examination [Reserved]

§1335. Subversion of Examination Process [Reserved]

§1337. Finding of Subversion [Reserved]

§1339. Sanctions for Subversion of Examination [Reserved]

§1341. Passing Scores [Reserved]

§1343. Restriction, Limitations on Examinations [Reserved]

§1345. Examinations in or for Another State [Reserved]

§1347. Lost, Stolen or Destroyed Examinations [Reserved]

Subchapter G. Temporary License

§1349. Temporary License in General [Reserved]

§1351. License Pending Examination [Reserved]

§1353. Provisional Temporary Permit Pending Application for Visa [Reserved]

§1355. License Pending Reexamination [Reserved]

Subchapter H. Licensure Issuance, Termination, Renewal, Reinstatement

§1357. Issuance of Licensure

A. If the qualifications, requirements, and procedures prescribed or incorporated by this Chapter are met to the satisfaction of the board, the board shall license the applicant to engage in the practice of podiatry in the state of Louisiana.

B. Licensure issued by the board under this Chapter, as evidenced by a certificate duly issued by the board shall reflect an applicant's practice prerogatives based upon the applicant's education and level of training in accordance with the qualifications specified by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:243 (February 2009).

§1359. Expiration of License or Permit

A. Every license or permit issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall expire, and thereby become null, void and to no effect, on the last day of the year in which such license or permit was issued.

B. Notwithstanding the provisions of §1359.A, every license, but not a permit, issued by the board under this Chapter to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year, on the first day of the month in which the licensee was born.

C. The timely submission of a properly completed application for renewal of a license, as provided in §1361, shall operate to continue the expiring licensing in full force and effect pending issuance of the renewal license.

D. Permits are not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:621.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998).

§1361. Renewal of License

A. Every license or permit issued by the board shall be renewed annually on or before the first day of the month in which the licensee was born by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fee prescribed by the board and documentation of satisfaction of the continuing medical education requirement prescribed by Subchapter J of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and 37:621.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998), amended LR 29:1089 (July 2003).

§1363. Reinstatement of Expired License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter set forth, provided that application for reinstatement is made within four years of the date of expiration. A podiatrist whose license has lapsed and expired for a period in excess of four years or who is otherwise ineligible for reinstatement under this Section may apply to the board for an initial original or

reciprocal license pursuant to these rules and/or the Podiatry Practice Act.

B. An applicant seeking reinstatement more than one year from the date on which his license expired shall demonstrate, as a condition of reinstatement, satisfaction of the continuing medical education requirement of §1373 of Subchapter J of these rules for each year since the date of the expiration of licensure. As additional conditions of reinstatement the board may require:

1. that the applicant complete a statistical affidavit upon a form supplied by the board and provide a recent photograph;

2. that the applicant possess a current, unrestricted license to practice podiatry issued by another state; and/or

3. if the applicant does not at the time of the application for reinstatement possess a current, unrestricted license to practice podiatry issued by another state, that the applicant take and successfully pass:

- a. all or a designated portion of the examination specified by R.S. 37:613; or

- b. a written certification or recertification examination approved, offered or sponsored by the American Podiatric Medical Association or its successor association and acceptable to the board.

C. An applicant whose license to practice podiatry has been revoked, suspended or placed on probation by the licensing authority of another state or who has voluntarily or involuntarily surrendered his license to practice podiatry in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges following the date on which his license to practice podiatry in Louisiana expired shall be deemed ineligible for reinstatement of licensure.

D. An application for reinstatement of licensure meeting the requirements and conditions of this Section may nonetheless be denied for any of the causes for which an application for original licensure may be refused by the board as specified in R.S. 37:624.

E. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation from reputable podiatrists of the former licensee's last professional location, together with the applicable fees and costs prescribed by the board, plus a penalty computed as follows.

1. If the application for reinstatement is made less than two years from the date of license expiration, the penalty shall be equal to the renewal fee.

2. If the application for reinstatement is made more than two years but less than three years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

3. If the application for reinstatement is made more than three years from the date of license expiration, the penalty shall be equal to three times the renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:617, 37:621, 37:622 and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1089 (July 2003).

Subchapter I. Podiatry Advisory Committee

§1365. Constitution of Committee

A. To assist the board in the review of an applicant's qualifications for licensure and renewal of licensure under this Chapter, the board shall constitute and appoint a Podiatry Advisory Committee (advisory committee) which shall be organized and shall function in accordance with the provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:243 (February 2009).

§1367. Composition; Appointment

A. The advisory committee shall be comprised of six members five of whom shall be podiatrists and one of whom will be an orthopedic surgeon specializing in treatment of the foot. All members of the advisory committee will be licensed by the board and practice and reside in this state.

B. Insofar as possible or practical, in its appointment of members to the advisory committee the board shall maintain geographic diversity so as to provide representative membership on the advisory committee by podiatrists residing and practicing in north, central, southwestern, and southeastern Louisiana.

C. Of the board's initial appointment of members to the advisory committee following the effective date of these rules, three appointees shall be designated to serve terms expiring on the last day of the year of their appointment and three to serve terms expiring on the last day of the year succeeding the year of their appointment. Thereafter, each member of the advisory committee shall serve a term of two years, subject to removal at any time at the pleasure of the board. Members appointed to the advisory committee by the board to fill a vacancy occurring on the advisory committee, other than by expiration of the designated term, shall serve for the unexpired term. A member of the advisory committee may be appointed by the board for not more than three consecutive terms other than the initial appointments provided herein. Board appointments to the advisory committee shall be effective when made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the year following the date of appointment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:243 (February 2009).

§1369. Delegated Duties and Responsibilities

A. The advisory committee is hereby authorized by the board to:

1. advise and assist the board in the ongoing evaluation of the podiatric licensing and other competency examinations required by the board;

2. assist the board in examining the qualifications and credentials of and interviewing applicants for podiatric licensure and making recommendations thereon to the board;

3. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules and regulations;

4. serve as a liaison between and among the board, podiatrists and podiatry professional associations;

5. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board; and

6. advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by Subchapter J of these rules, including the authority and responsibility to:

a. evaluate organizations and entities providing or offering to provide continuing professional education programs for podiatrists and providing recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §1375 of this Chapter;

b. review documentation of continuing professional education by podiatrists, verify the accuracy of such documentation, and evaluate and make recommendations to the board with respect to whether programs and activities supplied by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and

c. request and obtain from applicants for renewal of licensure such additional information as the advisory committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

B. In discharging the functions authorized under this Section the advisory committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the advisory committee members pursuant to §§1369.A.2 and 1369.A.6 shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:243 (February 2009).

Subchapter J. Continuing Medical Education

§1371. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing medical education (CME) requisite to the renewal or reinstatement of licensure as provided by §§1361 and 1363 of these rules and prescribe the procedures applicable to satisfaction and documentation of continuing medical education in connection with applications for renewal or reinstatement of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), 37:621 and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1373. Continuing Medical Educational Requirement

A. Subject to the waiver of and exceptions to CME provided by §§1383 and 1385, respectively, every podiatrist seeking the renewal or reinstatement of licensure, to be effective on or after January 1, 2005, shall annually evidence and document, upon forms supplied by the board, the successful completion of not less than 20 hours of board approved CME.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), 37:621 and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1375. Qualifying Continuing Medical Education Programs

A. Any program, course, seminar or other activity offering Category 1 CME shall be deemed approved for purposes of satisfying the continuing medical education requirement under this Subchapter, if approved, sponsored or offered by:

1. the American Podiatric Medical Association, or its successor association;
2. an organization or entity accredited by the Accreditation Council for Continuing Medical Education (ACCME);
3. a member board of the American Board of Medical Specialties;
4. an organization or entity accredited by the Louisiana State Medical Society or any other ACCME recognized state medical society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1377. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing medical education requirement prescribed by §1373 shall be included with each application for renewal or reinstatement of licensure form mailed by the board pursuant to §§1361 or 1363. Such form shall be completed and delivered to the board with the podiatrist's application.

B. Podiatrists will not be required to transmit documentation of compliance with the continuing medical education requirement for renewal or reinstatement of licensure, unless otherwise required by these rules or requested by the board pursuant to §1377.E.

C. A podiatrist shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing medical education activity. Satisfactory evidence shall consist of a certificate or other documentation which shall, at a minimum, contain the:

1. program title;
2. sponsor's name;
3. podiatrist's name;
4. inclusive date or dates and location of the CME event; and
5. documented verification of successful completion of 20 hours of Category 1 CME by stamp, signature or other official proof acceptable to the board.

D. The board shall select for an audit of continuing medical education activities no fewer than two percent of the applicants for renewal or reinstatement each year. In addition, the board has the right to audit any questionable documentation of activities.

E. Verification of continuing medical education satisfying the requirement of this Subchapter shall be submitted to the board within 30 days of the date of mailing of notification of audit or such longer period as the board may designate in such notification. A podiatrist's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

F. Any certification of continuing medical education not presumptively approved by the board pursuant to §1375 shall not be considered as qualifying for CME recognition by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), 37:621 and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1379. Failure to Satisfy Continuing Medical Education RequirementError! Bookmark not defined.

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirement prescribed by these rules shall be given written notice of such failure by the board. Such notice shall be mailed to the most recent address of the licensee as reflected in the official records of the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which such license shall be deemed expired, unrenewed and subject to suspension or revocation without further notice unless the applicant shall have furnished the board, within such 90 days, satisfactory evidence by affidavit, that:

1. the applicant has satisfied the applicable continuing medical education requirement;
2. the applicant's failure to satisfy the continuing medical education requirement was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §1383; or
3. the applicant is exempt from such requirement pursuant to §1385.

B. The license of a podiatrist which has expired for nonrenewal or has been suspended or revoked for failure to satisfy the CME requirement of these rules may be reinstated pursuant to §1363 upon written application to the board, accompanied by payment of the application fee prescribed by §1363, in addition to all other applicable fees and costs, together with documentation and certification that the applicant has, for each year since the date on which the applicant's cense was last issued or renewed, completed an aggregate of 20 hours of board approved CME.

C. The license of a podiatrist which has been suspended or revoked on more than one occasion for failure to satisfy the CME requirement of these rules shall be deemed in violation of R.S. 37:624(15), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a podiatrist to practice podiatry in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), 37:621, 37:624 and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1381. Falsification of Continuing Medical EducationError! Bookmark not defined.

A. Any licensee or applicant who falsely certifies attendance at and/or completion of the required continuing medical education requirement of §1373 shall be deemed in violation of R.S. 37:624(2) and/or (15), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a podiatrist to practice podiatry in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), 37:624 and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1091 (July 2003).

§1383. Waiver of Requirement

A. The board may, in its discretion, waive all or part of the CME required by these rules in favor of a podiatrist who makes written request to the board and evidences to its satisfaction a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the individual's satisfaction of the CME requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1091 (July 2003).

§1385. Exceptions to the Continuing Medical Education RequirementError! Bookmark not defined.

A. The CME requirement prescribed by this Subchapter prerequisite to renewal or reinstatement of licensure shall not be applicable to a podiatrist:

1. engaged in military service longer than one year's duration outside of Louisiana;
2. who has held an initial Louisiana license on the basis of examination for less than one year; or
3. who is in a postgraduate year one podiatric training program approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1091 (July 2003).

Subchapter K. Postgraduate Year One (Internship) Registration

§1391. Necessity for Registration

A. As used in this Section, *postgraduate year one (PGY-1)* or *internship* means the first year of postgraduate podiatric training, following graduation from a school or college of podiatry, that is approved by the Council of Podiatric Medical Education of the American Podiatric Medical Association, or its successor, and the board. For purposes of this Section PGY-1 includes only the first year of any such training following graduation from a podiatry school or college and does not include training which may be designated PGY-1 level subsequent to prior training at such level in any specialty, field, or program.

B. No person who does not possess a license or permit issued under this Chapter shall enroll or participate in a PGY-1 podiatric educational program, or internship, unless he is duly registered with the board pursuant to this Subchapter.

C. Notwithstanding registration under this Subchapter, no person who does not possess a license or permit issued under

this Chapter shall enroll or participate in a first year postgraduate podiatric educational program, an internship, or any other program howsoever designated or whenever taken, which permits or requires such persons to exercise independent judgment, assume independent responsibility for patient care or otherwise to engage in the practice of podiatry.

D. Upon a finding that a person or registrant has violated the proscriptions of this Section, the board may:

1. suspend or revoke such person's registration under this Subchapter or impose probationary conditions thereon;
2. consider and declare such person or registrant ineligible for a podiatry license or permit under this Chapter; and/or
3. cause the institution of judicial proceedings against such person for injunctive relief pursuant to R.S. 37:625.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1091 (July 2003).

§1393. Qualifications for RegistrationError! Bookmark not defined.

A. To be eligible for registration under this Subchapter an applicant shall possess all of the substantive qualifications for licensure specified by R.S. 37:613 and §1305 and shall be a graduate of a podiatry school or college approved by the board.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for registration shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1092 (July 2003).

§1395. Procedural RequirementsError! Bookmark not defined.

A. In addition to the substantive qualifications specified in §1393, to be eligible for registration under this Subchapter an applicant shall:

1. submit to the board a completed application, upon forms supplied by the board, subscribed by the applicant and by the administrator or chief executive officer of the hospital or medical institution in which the PGY-I program is to be conducted, accompanied by a recent photograph of the applicant;

2. make a personal appearance by appointment before a member of the board or its designee, or at the office of the board before its designated officer, and present evidence of the qualifications specified by §1393; provided, however, that an applicant who has completed his podiatric education but who does not yet possess a degree as required by R.S. 37:613(4) may be deemed eligible for registration upon submission to the board of a letter subscribed by the dean of an approved school or college of podiatry, certifying that the applicant has completed his academic and podiatric education at such school or college, that the applicant is a candidate for the degree of doctor of podiatric medicine or its equivalent at the next scheduled convocation of such school or college, and specifying the date on which such degree will be awarded; and

3. pay all applicable fees and costs prescribed by the board.

B. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1092 (July 2003).

§1397. Issuance and Term of RegistrationError! Bookmark not defined.

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§1393 and 1395 are met to the satisfaction of the board, the board shall issue a certificate to the applicant evidencing his registration under this Subchapter for enrollment and participation in a PGY-I podiatric training program in the state of Louisiana.

B. Registration issued under this Subchapter shall be effective on and as of the date on which an applicant's PGY-I podiatric training program is to commence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1092 (July 2003).

Title 46
PROFESSIONAL AND
OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice

Chapter 42. Illegal Payments; Required Disclosures of Financial Interests; Prohibition on Rural Physician Self-Referral

§4201. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter interpret, implement, and provide for the enforcement of R.S. 37:1744 and R.S. 37:1745, requiring disclosure of a physician's financial interest in another health care provider to whom or to which the physician refers a patient and prohibiting certain payments in return for referring or soliciting patients.

B. Declaration of Purpose; Interpretation and Application. Physicians owe a fiduciary duty to patients to exercise their professional judgment in the best interests of their patients in providing, furnishing, prescribing, recommending, or referring patients for health care items and services, without regard to personal financial recompense. The purpose of these rules and the laws they implement is to prevent payments by or to a physician as a financial incentive for the referral of patients to a physician or other health care provider for diagnostic or therapeutic services or items. These rules shall be interpreted, construed, and applied so as to give effect to such purposes and intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744, 37:1745, and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1111 (October 1994).

§4203. Definitions and Construction

Bookmark not defined.

A. Definitions. As used in this Chapter:

Board—the Louisiana State Board of Medical Examiners.

Financial Interest—a significant ownership or investment interest established through debt, equity, or other means and held, directly or indirectly, by a physician or a member of a physician's immediate family, or any form of direct or indirect remuneration for referral.

Group Practice—a group of two or more physicians legally organized as a general partnership, registered limited liability partnership, professional medical corporation, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar organization or association:

a. in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides,

including medical or podiatric care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel;

b. for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed under a billing number assigned to the group and amounts so received are treated as receipts of the group;

c. in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined;

d. in which no physician who is a member of the group directly or indirectly receives compensation based on the volume or value of referrals by the physician, except payment of a share of the overall profits of the group, which may include a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share of profits or bonus is not determined in any manner which is directly related to the volume or value of referrals by such physician;

e. in which members of the group personally conduct no less than 75 percent of the physician-patient encounters of the group practice; and

f. in the case of a faculty practice plan associated with a hospital, institution of higher education, or medical school with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, solely with respect to services provided within such faculty practice plan.

Health Care Item—any substance, product, device, equipment, supplies, or other tangible good or article which is or may be used or useful in the provision of health care.

Health Care Provider—any person licensed by a department, board, commission, or other agency of the state of Louisiana to provide, or which does in fact provide, preventive, diagnostic, or therapeutic health care services or items.

Immediate Family—as respects a physician, the physician's spouse, children, parents, and siblings.

Investment Interest—a security issued by an entity, including, without limitation, shares in a corporation, interests in or units of a partnership, bonds, debentures, notes, or other debt instruments.

Payment—the tender, transfer, distribution, exchange, or provision of money, goods, services, or anything of economic value.

Person—includes a natural person or a partnership, corporation, organization, association, facility, institution, or any governmental subdivision, department, board, commission, or other entity.

Physician—includes a doctor of medicine or a doctor of podiatric medicine.

Referral—any direction, recommendation, or suggestion given by a health care provider to a patient, directly or indirectly, which is likely to determine, control, or influence the patient's choice of another health care provider for the provision of health care services or items.

Remuneration for Referral—any arrangement or scheme, involving any remuneration, directly or indirectly, in cash or in kind, between a physician, or an immediate family member of such physician, and another health care provider which is intended to induce referrals by the physician to the health care provider or by the health care provider to the physician, other than any amount paid by an employer to an employee who has a bona fide employment relationship with the employer, for employment in the furnishing of any health care item or service.

B. Construction. Masculine terms wheresoever used in this Chapter shall be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744, 37:1745, and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1111 (October 1994).

Subchapter A. Illegal Payments

§4205. Prohibition of Payments for Referrals

A. A physician shall not knowingly and willfully make or offer to make any payment, directly or indirectly, overtly or covertly, in cash or in kind, to induce another person to refer an individual to the physician for the furnishing or arranging for the furnishing of any health care item or service.

B. A physician shall not knowingly and willfully solicit, receive, or accept any payment, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring a patient to a health care provider for the furnishing or arranging for the furnishing of any health care item or service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1112 (October 1994).

§4207. ExceptionsError! Bookmark not defined.

A. Proportionate Return on Investment. Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §4205 of these rules, provided that:

1. the amount of payment to an investor in return for the investment interest is directly proportional to the amount or value of the capital investment (including the fair market value of any pre-operational services rendered) of that investor;

2. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be no different from the terms offered to other investors;

3. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals, items or services furnished, or the amount of business otherwise generated from that investor to the entity;

4. there is no requirement that an investor make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for becoming or remaining an investor;

5. the entity or any investor does not market or furnish the entity's items or services to investors differently than to non-investors; and

6. the entity does not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity if the investor uses any part of such loan to obtain the investment interest.

B. General Exceptions. Any payment, remuneration, practice, or arrangement which is not prohibited by or unlawful under §1128B(b) of the Federal Social Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under Title XVIII or Title XIX of the Act, including those payments and practices sanctioned by the secretary of the United States Department of Health and Human Services, through the Office of Inspector General, pursuant to §1128B(b)(3)(E) of the Act, through regulations promulgated at 42 CFR §1001.952, as the

same may hereafter be amended, shall not be deemed a payment prohibited by R.S. 37:1745.B or by §4205 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1112 (October 1994).

§4209. Effect of Violation

A. Any violation of or failure of compliance with the prohibitions and provision of §4205 of this Chapter shall be deemed a violation of the Medical Practice Act, R.S. 37:1285 or of the Podiatry Practice Act, R.S. 37:624, as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

Subchapter B. Disclosure of Financial Interests in Third-Party Health Care Providers

§4211. Required Disclosure of Financial Interest Error! Bookmark not defined.

A. Mandatory Disclosure. A physician shall not make any referral of a patient outside the physician's group practice for the provision of health care items or services by another health care provider in which the referring physician has a financial interest (as defined by §4203.A.3 and §4211.B), unless, in advance of any such referral, the referring physician discloses to the patient, in accordance with §4215 of this Chapter, the existence and nature of such financial interest.

B. Special Definition: Significant Financial Interest. As to a physician, an ownership or investment interest shall be considered "significant," within the meaning of §4211.A, if such interest satisfies any of the following tests.

1. Such interest, in dollar amount or value, represents five percent or more of the gross assets of the health care provider in which such interest is held.

2. Such interest represents five percent or more of the voting securities of the health care provider in which such interest is held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§4213. Prohibited Arrangements

A. Any arrangement or scheme, including cross-referral arrangements, which a physician knows or should know has a principal purpose of ensuring or inducing referrals by the physician to another health care provider, which, if made directly by the physician would be a violation of §4211, shall constitute a violation of §4211.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§4215. Form of Disclosure

A. Required Contents. The disclosure required by §4211 of this Chapter shall be made in writing, shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making the referral, and shall include:

1. the physician's name, address, and telephone number;
2. the name and address of the health care provider to whom the patient is being referred by the physician;
3. the nature of the items or services which the patient is to receive from the health care provider to which the patient is being referred; and
4. the existence and nature of the physician's financial interest in the health care provider to which the patient is being referred.

B. Permissible Contents. The form of disclosure required by §4211 of this Chapter may include a signed acknowledgment by the patient or the patient's authorized representative that the required disclosure has been given.

C. Approved Form. Notice to a patient given substantially in the form of Disclosure of Financial Interest prescribed in the Appendix to these rules (§4219) shall be presumptively deemed to satisfy the disclosure requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§4217. Effect of Violation; Sanctions

A. Effect of Violation. Any violation of or failure of compliance with the prohibitions and provision of §4211 of this Chapter shall be deemed a violation of the Medical Practice Act, R.S. 37:1285 or of the Podiatry Practice Act, R.S. 37:624, as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

B. Administrative Sanctions. In addition to the sanctions provided for by §4217, upon proof of violation of §4211 by a physician, the board may order that all or any portion of any amounts paid by a patient, and/or by any third-party payer on behalf of a patient, for health care items or services furnished upon a referral by the physician in violation of §4211, be refunded by the physician to such patient and/or third-party payer, together with legal interest on such payments at the rate prescribed by law calculated from the date on which any such payment was made by the patient and/or third-party payers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§4219. Appendix—Disclosure of Financial Interest Form

[Name of Physician/Group]
[Address]
[Telephone Number]

DISCLOSURE OF
FINANCIAL INTEREST
As Required by R.S. 37:1744 and
LAC 46:XLV.4211-4215

TO: _____

DATE: _____

(Name of Patient to Be Referred)

(Patient Address)

Louisiana law requires physicians and other health care providers to make certain disclosures to a patient when they refer a patient to another health care provider or facility in which the physician has a significant financial interest. [I am/we are] referring you, or the named patient for whom you are legal representative, to:

(Name and Address of Provider to Whom Patient is Referred)

to obtain the following health care services, products, or items:

(Purpose of the Referral)

[I/we] have a financial interest in the health care provider to whom we are referring you, the nature and extent of which are as follows:

PATIENT ACKNOWLEDGEMENT

I, the above-named patient, or legal representative of such patient, hereby acknowledge receipt, on the date indicated and prior to the described referral, of a copy of the foregoing Disclosure of Financial Interest.

(Signature of Patient or Patient's Representative)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1114 (October 1994).

Chapter 67. Preventing Transmission of Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV) during Exposure-Prone Invasive Procedures

§6701. Scope of Chapter

A. As authorized and mandated by R.S. 37:1747, the rules of this Chapter prescribe practice and reporting requirements for physicians, podiatrists, physician's assistants, respiratory therapists, and other board-licensed or certified practitioners to protect the public from the risk of the transmission of Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1123 (October 1992).

§6703. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Board—the Louisiana State Board of Medical Examiners.

Body Fluids—amniotic, pericardial, peritoneal, pleural, synovial, and cerebrospinal fluids, semen, vaginal secretions, and other body fluids, secretions, and excretions containing visible blood.

Exposure-Prone Procedure—an invasive procedure in which there is an increased risk of percutaneous injury to the practitioner by virtue of digital palpation of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the practitioner and the blood or body fluids of the patient. All invasive procedures are not considered exposure-prone; an invasive procedure (defined below) is considered an exposure-prone procedure only when it is a type of invasive procedure described by this definition.

Function Ancillary to an Invasive Procedure—the preparation, processing, or handling of blood, fluids, tissues, or instruments which may be introduced into or come into contact with any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body in connection with the performance of an invasive procedure.

HBV—the hepatitis B virus.

HBsAg Seropositive—with respect to a practitioner, that a test of the practitioner's blood under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of hepatitis B surface antigens and that no subsequent test has confirmed that hepatitis B surface antigens are no longer present.

HIV—the human immunodeficiency virus, whether HIV-1 or HIV-2.

HIV Seropositive—with respect to a practitioner, that a test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of HIV antibodies.

Invasive Procedure—any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body.

Practitioner—a physician, podiatrist, physician's assistant, respiratory therapist, or other health care provider licensed or certified by the board and

authorized by applicable laws and regulations to perform or participate in invasive procedures or functions ancillary to invasive procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1123 (October 1992).

§6705. Use of Infection Control

PrecautionsError! Bookmark not defined.

A. General Requirements. A practitioner who performs or participates in an invasive procedure or performs a function ancillary to an invasive procedure shall, in performance of or participation in any such procedure or function, be familiar with, observe and rigorously adhere to both general infection control practices and universal blood and body-fluid precautions as then recommended by the Federal Centers for Disease Control to minimize the risk of the transmission of HBV or HIV from a practitioner to a patient, from a patient to a practitioner, or from a patient to a patient.

B. Universal Blood and Body-Fluid Precautions. For purposes of this Section, adherence to universal blood and body-fluid precautions requires observance of the following minimum standards.

1. Protective Barriers. A practitioner shall routinely use appropriate barrier precautions to prevent skin and mucous-membrane contact with blood and other body fluids of all patients. Gloves and surgical masks shall be worn and shall be changed after contact with each patient. Protective eyewear or face shields and gowns or aprons made of materials that provide an effective barrier shall be worn during procedures that commonly result in the generation of droplets, splashing of blood or body fluids, or the generation of bone chips. A practitioner who performs, participates in, or assists in a vaginal or caesarean delivery shall wear gloves and gowns when handling the placenta or the infant until blood and amniotic fluid have been removed from the infant's skin and shall wear gloves during post-delivery care of the umbilical cord. If, during any invasive procedure, a glove is torn or punctured, the glove should be removed and a new glove used as promptly as patient safety permits.

2. Hand Washing. Hands and other skin surfaces shall be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands shall be washed immediately after gloves are removed.

3. Percutaneous Injury Precautions. A practitioner shall take appropriate precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when

cleaning used instruments; during disposal of used needles; and when handling sharp instruments after procedures. If a needlestick injury occurs, the needle or instrument involved in the incident should be removed from the sterile field. To prevent needlestick injuries, needles should not be recapped, purposely bent, or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades, and other sharp items should be placed for disposal in puncture-resistant containers located as close as practical to the use area. Large-bore reusable needles should be placed in puncture-resistant containers for transport to the reprocessing area.

4. **Resuscitation Devices.** To minimize the need for emergency mouth-to-mouth resuscitation, a practitioner shall ensure that mouthpieces, resuscitation bags, or other ventilation devices are available for use in areas in which the need for resuscitation is predictable.

5. **Sterilization and Disinfection.** Instruments or devices that enter sterile tissue or the vascular system of any patient or through which blood flows should be sterilized before reuse. Devices or items that contact intact mucous membranes should be sterilized or receive high-level disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1124 (October 1992).

§6707. Prohibitions and Restrictions

A. Except as may be permitted pursuant to §6709 of this Chapter, a practitioner who is HBsAg seropositive or HIV seropositive, or who otherwise knows or should know that he or she carries and is capable of transmitting HBV or HIV, shall not thereafter perform or participate directly in an exposure-prone procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1124 (October 1992).

§6709. Exception; Informed Consent of Patient

A. **Conditions.** Notwithstanding the prohibition of §6707 of this Chapter, an HBsAg or HIV seropositive practitioner may nonetheless perform or participate in an exposure-prone procedure with respect to a patient when each of the following four conditions is met.

1. The practitioner has affirmatively advised the patient, or the patient's lawfully authorized

representative, that the practitioner has been diagnosed as HBsAg seropositive and/or HIV seropositive, as the case may be.

2. The patient, or the patient's lawfully authorized representative, has been advised of the risk of the practitioner's transmission of HBV and/or HIV to the patient during an exposure-prone procedure. The practitioner, if a physician or podiatrist, shall personally communicate such information to the patient or patient's representative. If the practitioner is other than a physician or podiatrist, such information shall also be communicated to the patient's physician.

3. The patient, or the patient's lawfully authorized representative, has subscribed a written instrument setting forth:

a. identification of the exposure-prone procedure to be performed by the practitioner with respect to the patient;

b. an acknowledgment that the advice required by §6709.A.1 and 2 have been given to and understood by the patient or the patient's representative; and

c. the consent of the patient, or the patient's lawfully authorized representative to the performance of or participation in the designated procedure by the practitioner.

4. The practitioner's HBsAg and/or HIV seropositivity has been affirmatively disclosed to each practitioner or other health care personnel who participates or assists in the exposure-prone procedure.

B. **Revocation of Consent.** Consent given pursuant to §6709.A may be revoked by a patient, or a patient's lawfully authorized representative, at any time prior to performance of the subject procedure by any verbal or written communication to the practitioner expressing an intent to revoke, rescind, or withdraw such consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1125 (October 1992).

§6711. Self-Reporting

A. **Applicability.** Any practitioner who in the course of practice may at any time undertake to perform or participate in an exposure-prone procedure and who is or becomes HBsAg seropositive or HIV seropositive shall give notice of such seropositivity to the board in accordance with the provisions of this Section.

B. Procedure. On or before the applicable initial request deadline specified by §6711.C, a practitioner required by §6711.A to report his or her HBsAg or HIV seropositivity to the board shall request a self-reporting form from the board's physician medical consultant, by mail directed to the confidential attention of the medical consultant or by personal telephone communication with the medical consultant at the board's offices. In making such request, a requesting practitioner shall advise the medical consultant of the address to which the self-reporting form should be mailed or delivered. Upon receipt of any such request, the medical consultant will promptly mail or deliver a board-approved self-reporting form to the requesting practitioner, accompanied by an addressed, postage-prepaid envelope directed to the confidential attention of the medical consultant. Within 10 days of receipt of such form the requesting practitioner shall complete, subscribe, and cause such self-reporting form to be delivered or mailed to the medical consultant.

C. Initial Request Deadlines. The initial request deadline for a practitioner:

1. who is HBsAg or HIV seropositive on or prior to the effective date of this Chapter, or who becomes HBsAg or HIV seropositive within 60 days from the effective date of this Chapter, shall be 90 days from the effective date of this Chapter;
2. who becomes HBsAg or HIV seropositive more than 60 days from the effective date of this Chapter shall be 30 days from the date on which the practitioner becomes seropositive; and
3. who is HBsAg or HIV seropositive on the date on which any license, permit, or certification is issued by the board to the practitioner shall be 10 days from such date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1125 (October 1992).

§6713. Confidentiality of Reported Information

A. General Confidentiality. Reports and information furnished to the board pursuant to §6711 of this Chapter and records of the board relative to such information shall not be deemed to constitute public records, but shall be deemed and maintained by the board as confidential and privileged and shall not be subject to disclosure by means of subpoena in any judicial, administrative, or investigative proceeding; providing that such reports, information, and records may be disclosed by the board as necessary for the

board to investigate or prosecute alleged violations of this Chapter.

B. Confidentiality of Identity of Seropositive Practitioners. The identity of practitioners who have reported their status as carriers of HBV or HIV to the board's medical consultant pursuant to §6711 hereof shall be maintained in confidence by the medical consultants and shall not be disclosed to any member, employee, agent, attorney, or representative of the board nor to any other person, firm, organization, or entity, governmental or private, except as may be necessary in the investigation or prosecution of suspected violations of this Chapter.

C. Disclosure of Statistical Data. Provided that the identity or self-reporting practitioners is not disclosed, either directly or indirectly, the provisions of this Section shall not be deemed to prevent disclosure by the medical consultant or the board, to governmental public health agencies with a legitimate need therefor, of statistical data derived from such reports, including, without limitation, the number and licensure class of practitioners having reported themselves as HBsAg and/or HIV seropositive and their geographical distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1125 (October 1992).

§6715. InterpretationError! Bookmark not defined.

A. Nothing in this Chapter shall be construed to require the mandatory testing of any practitioner for HBsAg or HIV seropositivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1126 (October 1992).