

**THE LOUISIANA STATE
BOARD OF MEDICAL EXAMINERS**

**MINUTES
OF
MEETING**

**OCTOBER 14, 2019
NEW ORLEANS, LOUISIANA**

A meeting of the Louisiana State Board of Medical Examiners, pursuant to lawful notice, was convened and called to order at 9:00 a.m., Monday, October 14, 2019, 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
James A. Taylor, Jr., M.D.
Christy Lynn Valentine, M.D.
Leonard Weather, Jr., M.D.

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

Vincent A. Culotta, Jr., M.D., Executive Director
Lawrence H. Cresswell, DO, JD, Director of Investigations
Mary R. Peyton, Esq., General Counsel
Aloma James, Director of Licensure
Carol Chauvin, Compliance Investigator
Jacintha Duthu, Administrative Program Specialist
Rita L. Arceneaux, Executive Staff Officer

Legal counsel to the Board was present as follows:

Philip O. Bergeron
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.** Rita L. Arceneaux, Executive Staff Officer, read the mission statement of the Board.
3. **General Administrative Matters; Oath of Office; Drs. Patrick T. O'Neill and Leonard Weather, Jr.** Dr. Clark welcomed Drs. Patrick T. O'Neill and Leonard Weather, Jr., recently appointed by Governor, John Bel Edwards to the Board. He expressed his appreciation to outgoing members, Drs. Kweli J. Amusa and Daniel K. Winstead for their years of service. They were administered the Oath of Office by the President which will be forwarded to the Governor's office for Senate confirmation.
4. **Minutes of September 16, 2019 Meeting.** The Board reviewed the minutes of its meeting held September 16, 2019. On the motion of Dr. Taylor, duly seconded by Ms. Sport and passed by unanimous voice vote, the Board approved the minutes of the meeting with all the necessary corrections.
5. **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.
6. **General Administrative Matters; Personal Appearance; Ragan LeBlanc, Executive Vice President, Louisiana Academy of Family Physicians, Richard Bridges, M.D., International/Foreign Medical Graduates Licensure and Moonlighting** Richard Bridges, M.D., and Ragan LeBlanc appeared before the Board to request equivalency licensure requirements for international medical graduates as that of US/Canadian graduates. They further recommended that the Board use the list entitled "Medical Schools Recognized by the Medical Board of California as its official reference for approval of medical schools located outside the United States and Canada". Dr. Culotta informed them that the Board is in the process of reviewing its licensure rules to bring them in line with current practices. Following their presentation, on the motion of Dr. Taylor, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board approved giving consideration to the equivalency of licensure for International/Foreign and US/Canadian graduates.
7. **Ruling and Advisory Opinions; Act 426; Dispensing of Medications.** The Board reviewed the draft response prepared in reply to correspondence received from Fred R. DeFrancesch, M.D., relative to Act 426 stating that medical practitioners shall indicate on prescriptions that more than a seven-day supply of an opioid is medically necessary. Following review and discussion of the draft response, on the motion of Dr. Valentine, duly seconded by Ms. Sport, and approved by unanimous voice vote, the Board approved the correspondence for dissemination to Dr. DeFrancesch informing him that he was correct in his reading of the law.

8. Rulings and Advisory Opinions; Telemedicine Services; Sarah C. Hamauei, M.D.

The Board reviewed the draft response to the request of Sarah C. Hamauei, M.D., for a ruling on whether the Northwest Louisiana Human Services District ("NLHSD") behavioral health clinics satisfy the exception to the requirement that a physician conduct an in-person visit prior to prescribing controlled dangerous substances when practicing by telemedicine in this state. Following review and discussion, on the motion of Ms. Sport, duly seconded by Dr. Taylor and passed by unanimous voice vote, the Board approved the response stating that from the materials provided, the Board could not determine whether NLHSD and its three off-site campuses satisfy the exemption to the requirement and would be willing to supplement the response with receipt of additional information.

9. Rules and Regulations; Potpourri Notice/Petition for Rulemaking; Public Hearing.

Pursuant to Act No. 454 of the Louisiana Legislature, codified as La. R.S. 49:953(C)(2), and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et. seq., the Board convened a public hearing at 9:00 a.m., for the purpose of receiving comments on any rule of the Board which any interested person believed is contrary to law, outdated, unnecessary, overly complex or burdensome.

10. Rulings and Advisory Opinions; Collaborative Practice; Physicians/APRNs.

The Board reviewed the draft response to Terence J. Alost, M.D., addressing his question as to whether APRNs in this state may have in-patient admitting privileges, serve as the attending provider and otherwise managed the patient's care in the absence of the collaborating physician. Following review and discussion, on the motion of Dr. Valentine, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board approved the response to Dr. Alost advising him that while it is clear that an APRN may, at the discretion of a given hospital be granted hospital privileges, the Board must defer to the Louisiana Department of Health ("LDH") as to whether it would be appropriate for APRNs to hold in-patient admitting privileges and serve as the attending provider. The Board also relayed its plans to contact LDH to explore compliance issues, to reach out to the Louisiana State Board of Nursing to determine if there are steps that may be mutually undertaken to address patient quality of care issues by way of a joint rulemaking effort and provide informational measure to insure that physicians appreciate their ability to structure the terms of a collaborative practice agreement to suit their own practice settings and needs, as well as to meet their responsibility to comply with the law and the Board's rules.

11. Rulings and Advisory Opinions; Personal Appearance; Todd Eppler, FACHE, CEO, DeSoto Regional Hospital ("DRH"); Hospitalist Program; Follow-Up. Todd Eppler, FACHE, CEO, DeSoto Regional Hospital, provided follow-up information regarding the hospitalist programs, stating that the collaborating physician will always have a back-up and that it is not unusual for a nurse practitioner to have several collaborating physicians.

12. Communication and Information; Personal Appearance; Jim Smith, M.D., Chief Science Officer, MyCannalog. Jim Smith, M.D., Chief Science Officer and Wallace Luke, Chief Executive Officer, MyCannalog, gave a presentation on their digital health software specifically created for physicians who recommend therapeutic marijuana in Louisiana. Following their presentation, it was the consensus of the Board to refer them to the Louisiana Department of Health to seek their input/guidance.

13. Rulings and Advisory Opinions; Physician Assistant; Scope of Practice; Employment of Supervising Physician as an Independent Contractor. The Board reviewed the draft response prepared for approval to correspondence 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. Following review and discussion, on the motion of Ms. Sport, duly seconded by Dr. Thomas and passed by unanimous voice vote, the Board approved the response to Dr. Stokes to deny the request for an exception to the Board's rules to employ a supervising physician as an independent contractor.

14. Rulings and Advisory Opinions; Intraocular Injections; Louisiana Association of Eye Physicians and Surgeons. The Board reviewed the electronic correspondence received from Jay Culotta, M.D., requesting an advisory opinion from the Board on the ability of APRNs and/or Physician Assistants to perform intravitreal injections of medications for diseases such as macular degeneration, diabetic retinopathy and other problems. Following review and discussion, it was the consensus of the Board to draft a response for the next meeting of the Board referring the question relative to APRNs to the Louisiana State Board of Nursing and to seek the input of the PA Advisory Committee.

15. Rulings and Advisory Opinions; Optometry Scope of Practice. The Board reviewed the communication received from Lee Stevens, M.D., President, Louisiana State Medical Society, asking the Board to study and determine whether it is within the scope of practice of an optometrist to diagnose and treat hypertension. Following review and discussion, on the motion of Dr. Thomas, duly seconded by Dr. Weather to seek the input of the Louisiana State Board of Optometry Examiners.

16. Rulings and Advisory Opinions; Ketamine Infusions. The Board reviewed the electronic correspondence received from Ervey Clarke, Clinical Director, Kalypso Wellness, seeking the input of the Board on the use of low-dose ketamine infusions for chronic pain conditions, depression and anxiety. Mr. Clarke asked whether someone other than a physician may administer ketamine infusions, such as PAs, CRNAs, FNP, RN, etc. Following review and discussion, it was the consensus of the Board to provide Mr. Clarke a copy of the Board's previous advisory opinion on this matter.

17. General Administrative Matters; President's Report. The Board reviewed the report of its President on his activities since the last meeting of the Board. In addition to his written report, Dr. Clark stated that a meeting with the Louisiana State Board of Nursing had been scheduled for October 23, 2019.

18. 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. In addition to his written report, Dr. Culotta reported that Board Retreat/Conference had been scheduled for Monday, November 18, 2019.

19. General Administrative Matters; Clinical Laboratory Personnel Advisory Committee; Appointment. The Board reviewed the Louisiana State Medical Society's nomination to the Clinical Laboratory Personnel Advisory Committee. On the motion of Dr. Taylor, duly seconded

by Dr. Howell, and passed by unanimous voice vote, the Board approved the appointment of Richard E. Bridges, M.D., to the CLP Advisory Committee.

20. General Administrative Matters; Palliative Care Interdisciplinary Advisory Council.

The Board noted the list of nominees for appointment to the Palliative Care Interdisciplinary Advisory Council. Following a ballot vote cast by all present in accordance with Act 351, Drs. Cori Morrison, representing a Board-certified pediatrician, Mordecai N. Potash, representing a Board-certified pain management specialist and Drs. Mary Raven and Sonia Malhotra, representing palliative/hospice care, were appointed to the Palliative Care Interdisciplinary Advisory Council.

21. General Administrative Matters; Medicaid Pharmaceutical and Therapeutics Committee.

The Board noted the list of nominees for appointment to the Medicaid Pharmaceutical and Therapeutics Committee. Following a ballot vote cast by all present, Drs. Melvin G. Bourgeois, Charles Coleman, Marius McFarland and Mary Raven were nominated for appointment to the Medicaid Pharmaceutical and Therapeutics Committee.

22. General Administrative Matters; Guidelines for Non-Compete Agreements.

The Board reviewed the correspondence received from Katherine Williams, M.D., FACOG IF, President-Elect, Louisiana State Medical Society, asking the Board to consider researching and publishing guidelines for physicians regarding non-compete agreements often contained in employment contracts. Following review and discussion, it was the consensus of the Board to gather information and prepare a draft response for approval at the next meeting of the Board.

23. General Administrative Matters; Draft Newsletter. The Board reviewed a draft of the next edition of the *Newsletter*. Following review and discussion, on the motion of Dr. Howell, duly seconded by Dr. Weather and passed by unanimous voice vote, the Board approved the *Newsletter* for dissemination to all licensees and publication on the Board's website.

24. General Administrative Matters; Financial Reports. The Board received the financial report given by Danny Allday, CPA that included a list of his services. The Board reviewed the Income Statement, Balance Sheet and Cash Balance Summary for the first seven months ending July 31, 2019 along with that of the Clinical Laboratory Personnel account. Following review and discussion, on the motion of Dr. Valentine, duly seconded by Dr. Howell, and passed by unanimous voice vote, the Board approved the Financial Reports.

25. Rules and Regulations.

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

b. Rules/Amendments; Noticed for Intent to Adopt: Therapeutic Marijuana: Pursuant to the Board's request, a rulemaking effort commenced to accommodate several changes in the law resulting from Acts 496 (HB 627, Rep. Lyons) and 708 (HB 579, Rep. James) of the 2018 Regular Session of the Legislature. In conformity with the law, the proposed changes: (i) add various conditions to the definition of a *debilitating medical condition*, for which therapeutic marijuana may be recommended by a physician; and (ii) clarifies two provisions in conformity with the Board's prior advice (e.g., 7705A.5, 7714A.4). The draft also highlighted several provisions that were the subject of a request for rule making, which the Board denied/deferred pending the conclusion of the 2018 legislative

session. During the September 2018 meeting, the Board reviewed the proposed amendments and considered items noted in a request for rulemaking. Following discussion and comment from numerous members of the public, the Board voted to adopt a number of proposed amendments including (i) to include post-traumatic stress disorder and chronic/intractable pain as debilitating medical conditions, given their addition to the law by Act 709 of the 2018 Regular Session of the Legislature (7705A) See: definition of *Debilitating Medical Condition*; (ii) eliminate the 100 patient limit (impose no limit) on the number of patients for whom a physician registered with the Board may recommend therapeutic marijuana (7707A.2, 7709B.); (iii) remove the requirement that the physician re-examine the patient at intervals not to exceed 90 days and instead leave the frequency of follow-up examinations to the judgment of the treating physician (7717A.6); adopt other changes made necessary for conformity with the law and consistency with prior Board advice. Given that requirement of the law that defines a recommendation for therapeutic marijuana to be an “order from a physician...authorized by the Board to recommend medical marijuana that is patient-specific and disease-specific”, the Board did not modify the rule requirements relative to form, amount, dosage and instruction for use (7721A.4: 7729D). In addition, the Board suggested additional amendments to the rules for conditions associated with autism spectrum disorder (Act 496 of the 2018 Regular Session) for review. Following review and discussion at its October 2018 meeting, it was the consensus of the Board to defer providing *Notice of Intent* to adopt the amendments until it had further opportunity to consider and explore the amendment to certain new definitions made necessary by Act 496. Upon further consideration and discussion at its December 2018 meeting, the Board voted to (i) revise the definitions for “consult or consultation” and “pediatric subspecialist”; (ii) in response to a request for clarification by the Louisiana Hospital Association, amend the definition of “Bona-Fide Physician-Patient Relationship” (7705A) to eliminate the unintended consequences of in-person examinations conducted at locations other than a physician’s physical practice location, which are contained in the physician’s registration with the Board; and (iii) provide *Notice of Intent* to adopt all of the proposed amendments following approval from the OLRC. The *Notice of Intent* appeared in the April 2019 edition of the *Louisiana Register*. A request for a public hearing was submitted to the Board, *albeit* untimely, by a professional association concerning the proposed definition of “pediatric subspecialist”. The submission was considered and accepted by staff as a written comment and the commenter was advised that it would be considered at the June 2019 meeting. Following review and discussion during the June 2019 meeting, the Board approved submission of the required reports to the OLRC and Legislative Oversight Committees and, provided no changes were recommended, promulgation of the amendments upon publication in the *Louisiana Register*. On July 2, 2019, a report was submitted to the OLRC for consideration at the Commission’s next meeting. The OLRC scheduled a meeting for August 22, 2019. The OLRC before the meeting was convened advised the Board that inasmuch as no changes were made since the original publication of the *Notice of Intent* a second review was not necessary. On August 28, 2019, the final report was submitted to the Legislature. The oversight period prescribed by law has expired. The proposed changes were transmitted to the *Louisiana Register* for promulgation upon publication in the October 20, 2019 edition. **Physician; Fellowship Training Permit:** Pursuant to the Board’s request, a rulemaking effort has been undertaken to amend its rules to provide for a short-term training permit that would accommodate fellowship training that is not accredited by the ACGME, that is offered by a

Louisiana medical school or major teaching hospital with an underlying ACGME accredited residency training program in the same specialty as the fellowship. The Board reviewed a draft of the rules presented for review and discussion. Following review and discussion at its October and December 2018 meetings, it was the consensus of the Board to provide a preview draft to various stakeholders. After the report from various stakeholders was received, the Board voted to provide a *Notice of Intent* to adopt the rules and to submit to the OLRC for approval. The OLRC approved the proposed amendments. The *Notice of Intent* appeared in the April 2019 edition of the *Louisiana Register*. Neither a request for a public hearing or written comments was received during the comment period. Following review and discussion during the June 2019 meeting, the Board approved submission of the required reports to the OLRC and Legislative Oversight Committees and, provided no changes were recommended, promulgation of the amendments upon publication in the *Louisiana Register*. On July 2, 2019, a report was submitted to the OLRC for consideration at the Commission's next meeting. The OLRC scheduled a meeting for August 22, 2019, which was rescheduled for August 27, 2019. The OLRC, before the scheduled meeting, advised the Board that inasmuch as no changes were made since the original publication of the *Notice of Intent* a second review was not necessary. On August 28, 2019, the final report was submitted to the Legislature. The oversight period prescribed by law has expired. The proposed changes were transmitted to the *Louisiana Register* for promulgation upon publication in the October 20, 2019 edition of the *Louisiana 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). **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:** – 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 the Louisiana Occupational Review Commission for their next meeting. **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 the Louisiana Occupational Review Commission for the next meeting. d. **Potpourri Notice/Petitions for Rulemaking (Act 454 Notice):** Pursuant to Act. 454 of the 2018 Regular Session of the Louisiana Legislature, codified as La. R.S. 49:953(C)(2), at least once prior to January 1, 2020, and at least once during every six-year period thereafter, each agency which engages in rulemaking is required to conduct a public hearing for the purpose of allowing any interested person the opportunity to comment on any rule of the agency which the person believes is contrary to law, outdated, unnecessary, overly complex, or burdensome. The agency is required to publish notice of the meeting in the *Louisiana Register*, give notice electronically to the appropriate legislative oversight committees, and provide notice to all persons who have made timely request of the agency for notice of rule changes, no later than thirty days prior to the

meeting. As with all such efforts, the agency is required to consider the comments and issue a response to each submission describing the principal advantages and disadvantages of the suggested changes. It may also prepare a statement explaining the basis and rationale for the rule in question identifying the data and evidence upon which the rule is based. All submission, which must be made in writing and responses, must be submitted to the legislative oversight committees. Consistent with the law, a *Potpourri* Notice was presented for consideration and approval obtained for a convenient date and time for a public hearing to be held. The public hearing was scheduled for October 14, 2019 at 9:00 a.m. Agencies are also required to prescribe by rule the form for petitions for adoption, amendment or repeal of a rule and the procedure for their submission, consideration and disposition. A draft rule to address such petition was provided for initial review and consideration during its June 2019 meeting and remains under consideration.

26. Rules and Regulations. In connection with the various requests for exception to the Board's licensure rules, Dr. Johnson offered the following hypothesis: Exception to rules for licensure run the risk of being perceived as arbitrary or ill-conceived. In reference to this issue, which for two years has prompted much appropriate discussion by the Board, and on occasion resulted in exceptions to established rules, for the consideration of the Board and staff, I offer the following motion for the purposes of a current appraisal of rule or rules which govern the eligibility for licensure of certain applicants as to their completion of various requirements which in today's dynamic medical and surgical educational milieu may indeed be antiquated, out of step, and restrictive. As examples, I would submit certain ACGME requirements and certain attainments vis-à-vis specialty Board certifications as opposed to step exams. This motion recommends an in-depth comprehensive evaluation of current rules and would encompass testimony before the Board from medical academia, staff of the Board, representatives of the people, and citizens themselves. The discussion before the Board should include but not necessarily be confined to two primary avenues of inquiry:

- 1) Derivation of rules as they stand today. How and why they came to be.
- 2) Discussion of inherent changes in medical education and the proper evaluation of medical education by current standards, as to how this should effect appropriate, measured, and reasonable changes in the Board certification requirements for licensure, which would inherently decrease the need for exceptions to rules.

The motion was duly seconded by Dr. Horton and passed by unanimous voice vote of the Board.

27. Public Comments. The President asked if anyone from the public had questions and/or comments. Victor Chou, M.D., offered his observations on the therapeutic use of medical marijuana. He commented that since the implementation of its use three months ago, that in his opinion the program has been successful. He said that 75% of his patients have benefitted from its use with no side effects. He stated that the use of medical marijuana is not covered by all insurance companies, therefore, there is an out-of-pocket expense for the patient. He had not seen an overwhelming number of patients seeking medical marijuana and that he had seen less than a dozen patients for seizure disorders in pediatric patients. When asked if he would treat seizure disorders patients with medical marijuana he answered he would not.

[28.] Minutes of September 16, 2019 Executive Sessions. On the motion of Dr. Valentine, 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 September 16, 2019. Following review and discussion, the Board resumed in open session. On the motion of Dr. Valentine, 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 September 16, 2019 with any necessary corrections.

[29.] Report on Pending Litigation. On the motion of Dr. Thomas, duly seconded by Dr. Taylor, 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. Valentine and passed by unanimous voice vote, the Board authorized the President to work with counsel to handle the motion(s) in the matter of Robin Ford vs. Louisiana State Board of Medical Examiners and Christy L. Valentine, United States District Court for the Eastern District of Louisiana. No. 2:18-cv-04149.

[30.] Personal Appearances/Docket Calendar. On the motion of Dr. Weather, duly seconded by Dr. Johnson, 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.

[31.] Healthcare Professionals' Foundation of Louisiana; Personal Appearance; James David Hammond, M.D., Medical Director. On the motion of Dr. Johnson, duly seconded by Dr. Horton and passed by unanimous voice vote, the Board convened in executive session to receive the report of James David Hammond, M.D., Medical Director, relating to physician health and well-being 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). No further action was required or taken on this matter.

[32.] Investigative Report; Personal Appearance; Carl Henry Hines, 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 Carl Henry Hines, M.D., 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. Hines appeared before the Board in connection with the acceptance of his Consent Order.

[33.] General Disciplinary Matters; Personal Appearance; Ira Pincus Markowitz, M.D. On the motion of Dr. Valentine, duly seconded by Dr. Thomas and passed by unanimous voice vote, the Board convened in executive session, for the personal appearance of Ira Pincus Markowitz, 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. Markowitz appeared before the Board in connection with his request for reinstatement of his license to a full, unrestricted status, off probation. Following his dismissal, the Board resumed in open session. On the motion of Dr. Valentine, duly seconded by Ms. Sport and passed by unanimous voice vote, the Board approved reinstatement of the license of Dr. Markowitz to a full, unrestricted status, off probation.

[34.] General Disciplinary Matters; Personal Appearance; Nabil Taysseer Keith, M.D. On the motion of Dr. Taylor, duly seconded by Dr. Thomas and passed by unanimous voice vote, the Board convened in executive session, for the personal appearance of Ira Nabil Taysseer Keith, 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. Keith appeared before the Board in connection with his request for reinstatement of his license to a full, unrestricted status, off probation. Following his dismissal, the Board resumed in open session. On the motion of Dr. Thomas, duly seconded by Ms. Sport and passed by unanimous voice vote, the Board approved reinstatement of the license of Dr. Keith to a full, unrestricted status, off probation.

[35.] Investigative Reports. On the motion of Dr. Taylor, 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-918
Docket No., 18-I-788

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

Docket No., 18-I-337

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

Investigation No., 18-I-158
Investigation No., 19-I-917

- d. Formal Investigations: The Board approved an extension of 180 days to commence a formal investigation in the following matters:

Investigation No., 19-812
Investigation No., 19-709
Investigation No., 19-230
Investigation No., 19-229
Investigation No., 19-784
Investigation No., 19-607
Investigation No., 19-498
Investigation No., 19-776
Investigation No., 19-847
Investigation No., 19-559

Investigation No., 19-715
Investigation No., 19-712
Investigation No., 19-644
Investigation No., 19-587
Investigation No., 19-771
Investigation No., 19-718
Investigation No., 19-509
Investigation No., 19-508
Investigation No., 19-795
Investigation No., 19-726

MINUTES OF MEETING
OCTOBER 14, 2019

Investigation No., 19-710	Investigation No., 19-741
Investigation No., 19-848	Investigation No., 19-740
Investigation No., 19-444	Investigation No., 19-697
Investigation No., 19-739	Investigation No., 19-756
Investigation No., 19-609	Investigation No., 19-806
Investigation No., 19-686	Investigation No., 19-757
Investigation No., 19-508	Investigation No., 19-915
Investigation No., 19-587	Investigation No., 19-10
Investigation No., 19-37	Investigation No., 19-833
Investigation No., 19-115	Investigation No., 19-814
Investigation No., 19-389	Investigation No., 19-832
Investigation No., 19-427	Investigation No., 19-868
Investigation No., 19-499	Investigation No., 19-769
Investigation No., 19-648	Investigation No., 19-790
Investigation No., 19-716	Investigation No., 19-845
Investigation No., 19-752	Investigation No., 19-809
Investigation No., 19-557	Investigation No., 19-842
Investigation No., 19-584	Investigation No., 19-758
Investigation No., 19-585	Investigation No., 19-840
Investigation No., 19-589	Investigation No., 19-748
Investigation No., 19-591	Investigation No., 19-766
Investigation No., 19-736	Investigation No., 19-843
Investigation No., 19-669	Investigation No., 19-869
Investigation No., 19-858	Investigation No., 19-837
Investigation No., 19-839	Investigation No., 19-616
Investigation No., 19-834	Investigation No., 19-698
Investigation No., 19-874	Investigation No., 19-703
Investigation No., 19-732	Investigation No., 19-721
Investigation No., 19-898	Investigation No., 19-772
Investigation No., 19-560	Investigation No., 19-723
Investigation No., 19-606	Investigation No., 19-735
Investigation No., 19-713	Investigation No., 19-179
Investigation No., 19-770	Investigation No., 19-865
Investigation No., 19-781	Investigation No., 19-870
Investigation No., 19-782	Investigation No., 19-860
Investigation No., 19-787	Investigation No., 19-810
Investigation No., 19-877	

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

File No., 18-I-033¹

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

¹ Drs. Horton and Johnson recused themselves from any and all participation in discussion and/or consideration of this matter

MINUTES OF MEETING
OCTOBER 14, 2019

Susan Carolyn Gunby, CLP, Docket No., 19-I-208
Colin Ralph Rader, PA, Docket No., 19-I-395
Jansen Michael Herrick, CLS, Docket No., 17-I-273
Michael B. Jones, M.D., Docket No., 15-I-225

g. Closed/Dismissed: The following matters were closed/dismissed with a Letter of Concern:

File No., 18-I-589²
File No., 18-I-588
File No., 19-I-271
File No., 18-I-380³
File No., 19-I-628

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

File No., 19-I-253

[36.] Licensure and Certification; International/Foreign Medical Graduate; Personal Appearance; Robert L. Marier, M.D., MHA, Chairman, Department of Hospital Medicine; Ochsner Health System. On the motion of Dr. O'Neill, duly seconded by Dr. Horton and passed by unanimous voice vote, the Board convened in executive session to consider a matter relating to the character, professional competence, or physical or mental health of an applicant, pursuant to La.Rev.Stat. 42:17A(1). Following his dismissal, the Board resumed in open session. On the motion of Dr. Weather, duly seconded by Dr. Howell and passed by majority voice vote, the Board voted to deny the request for a waiver of licensure requirements for the following:

Jafar Al-Said, M.D.

[37.] Professional Liability 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 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.

[38.] Investigative Reports. On the motion of Dr. Taylor, duly seconded by Dr. Howell, and passed by unanimous voice vote, the Board convened in executive session, to consider the remaining 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. Howells, duly seconded by Dr. Thomas and passed by unanimous voice vote, the Board made the following decisions:

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

³ Ms. Sport was opposed to this motion.

a. Closed/Dismissed: To approve closing/dismissing the following matters:

File No., 19-I-650
File No., 19-I-429
File No., 19-I-304
File No., 17-I-009
File No., 19-I-140
File No., 19-I-393
File No., 19-I-747
File No., 19-I-694
File No., 19-I-471
File No., 19-I-495
File No., 19-I-627
File No., 19-I-651
File No., 19-I-532
File No., 19-I-817
File No., 19-I-818
File No., 19-I-819
File No., 19-I-205
File No., 19-I-483
File No., 19-I-484
File No., 19-I-696

b. Closed Complaints Cases: The Board reviewed the Closed Complaint Cases Report for the month of September 2019.

[39.] General Disciplinary Matters. On the motion of Dr. Johnson, duly seconded by Dr. Thomas, 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. Keir, Carissa Nicole, MDW – To approve the request of Carissa Nicole Keir, MDW for reinstatement of her license to a full, unrestricted status off probation in accordance with her Consent Order dated October 16, 2017.

b. Kim, Daniel Kihong, M.D. – To approve the request of Daniel Kihong Kim, M.D., for reinstatement of his license to a full, unrestricted status, off probation.

c. Office-Based Surgery – To approve the request of staff to conduct non-investigational site visits to determine office-based surgery compliance for a list of randomly selected physicians.

d. Macaluso, Jacqueline, MDW – To provide Jacqueline Macaluso, MDW, clarification regarding direct monitoring as required by the terms of her Decision and Order dated April 13, 2015.

e. Madrigal, Vinicio E. M.D. – To approve the request of Vinicio E. Madrigal, M.D., for a waiver of the administrative hearing costs associated with his administrative hearing before the Board.

[40.] Licensure and Certification; International/Foreign Medical Graduate. On the motion of Dr. Johnson, duly seconded by Dr. Weather, and passed by unanimous voice vote, the Board convened in executive session to consider a matter relating to the character and professional conduct and allegations of misconduct of a licensee, La.Rev.Stat.§ 42:17A(1) and (4). Following the discussion, the Board resumed in open session. On the motion of Dr. Howell, duly seconded by Dr. Valentine and passed by unanimous voice vote, the Board approved a waiver of the licensure requirements for the following in accordance with §315 of the Board's rules:

Madi, Rabii

[41.] Licensure and Certification; Other Licensure Matters; CME Audit. On the motion of Ms. Sport, duly seconded by Dr. Thomas, and passed by unanimous voice vote, the Board convened in executive session, to consider a matter relating to the character and professional conduct and allegations of misconduct of a licensee, La.Rev.Stat.§ 42:17A(1) and (4). Following the 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 request of the following upon receipt of an affidavit from the medical school attesting to her compliance:

El-Abassi, Rima Nabil

[42.] General Administrative Matters; Personnel; Interview of Compliance Attorneys. On the motion of Dr. O'Neill, duly seconded by Dr. Horton, and passed by unanimous voice vote, the Board convened in executive session to consider a matter relating to personnel, pursuant to La.Rev.Stat. 42:17A(3). Following the interviews, the Board resumed in open session. By ballot of the Board, the members cast their vote for the first, second and third choice for hiring of the Compliance Attorney.

43. Next Meeting of the Board. The President reminded the members that the next meeting of the Board was scheduled for December 9, 10, 2019.

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 the Board conducted therein, held on October 14, 2019 and approved by the Board on the 9th day of December, 2019.

Witness my hand and seal of the Louisiana State Board of Medical Examiners this 9th day of December 2019.

Terrie Roselyn Thomas, M.D.
Secretary-Treasurer

MINUTES OF MEETING
OCTOBER 14, 2019

Attest:

Roderick Vince Clark, M.D., MBA
President