

# THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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## MINUTES OF SPECIAL CALL MEETING

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MARCH 16, 2021  
NEW ORLEANS, LOUISIANA

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A Special meeting of the Louisiana State Board of Medical Examiners, pursuant to lawful notice, was convened and called to order at 3:00 p.m., Tuesday, March 16, 2021, by order of the President, at the offices of the Board, 630 Camp Street, New Orleans, Louisiana. The Board members participated via live streaming video and teleconferencing.

Board Members present as follows:

Roderick V. Clark, MBA, M.D., President  
Lester Wayne Johnson, M.D., Vice President  
Terrie R. Thomas, M.D., Secretary-Treasurer  
Rita Y. Horton, M.D.  
Patrick K. O'Neill, M.D.  
Kim S. Sport, JD  
James A. Taylor, Jr., M.D.  
Leonard Weather, Jr., M.D.  
Lolie C. Yu, M.D.

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

Vincent A. Culotta, Jr., M.D., Executive Director  
Patricia Wilton, Esq., Executive Counsel  
Mary Peyton, Esq., General Counsel  
Jacintha F. Duthu, Executive Staff Officer

- 1. Welcome.** Dr. Clark welcomed everyone to the meeting and asked for a moment of silence for the COVID-19 victims and all healthcare workers.
- 2. Public comments; Meeting Order;** Dr. Clark advised the public that any comments can be emailed to [publiccomment@lsbme.la.gov](mailto:publiccomment@lsbme.la.gov). Dr. Clark reminded the members and staff to please respect the order of the meeting by using the hand raised function to be recognized. Dr. Clark verified that the identity of all tele and video conference participants has been verified, and the meeting was clear and audible to the public and those on the tele and videoconference, Jacintha ensured this has been done. Further, Dr. Clark emphasized that any additions that need to be made to the executive or public agenda, be made before the completion of the public session, as we will no longer be able to make additions to the agenda after the close of the public session.
- 3. Mission Statement.** Vincent Culotta, Jr., M.D., Executive Director, read the mission statement of the Board.

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**4. President's Message.**

The President informed the Board that this meeting is being called to discuss whether we should adopt a resolution to educate and provide information to the public in regards to the scope of practice of LSBME licensees.

On the motion of Ms. Sport, duly seconded by Dr. O'Neill, and passed by unanimous voice vote, the Board moved to Executive Session.

**EXECUTIVE SESSION**

**[1.] Report of Counsel and Advice with regard to a matter impacting scope of practice.** The Board convened in executive session to receive advice and counsel pursuant to La. R.S. 42:17A (10), La. C.E. art. 508, and/or La. R.S. 44:4.1(C). No further action was needed or taken on this matter.

After receiving advice of counsel, a motion by Dr. O'Neill, duly seconded by Dr. Thomas, and passed by unanimous voice vote, The Board approved going back into Public Session.

**PUBLIC SESSION –**

**1. PROPOSED RESOLUTION –** Public education/information regarding licensees' scope of practice to ensure patient safety and improve health outcomes. On the motion of Ms. Sport, duly seconded by Dr. O'Neill, and passed by a roll call vote of 8 YEAS and 1 Abstention, the Board approved the following resolution:



**LOUISIANA STATE BOARD OF MEDICAL EXAMINERS**

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March 16, 2021

**RESOLUTION TO PRESERVE APPROPRIATE SCOPE OF PRACTICE LIMITATIONS TO ENSURE PATIENT SAFETY AND IMPROVE HEALTH OUTCOMES**

Whereas "the practice of medicine," whether allopathic or osteopathic, means the holding out of one's self to the public as being engaged in the business of, or the actual engagement in, the diagnosing, treating, curing, or relieving of any bodily or mental disease, condition, infirmity, deformity, defect, ailment, or injury in any human being, other than himself, whether by the use of any drug, instrument or force, whether physical or psychic, or of what other nature, or any other agency or means, or the examining, either gratuitously or for compensation, of any person or material from any person for such purpose whether such drug, instrument, force, or other agency or means is applied to or used by the patient or by another person, or the attending of a woman in childbirth without the aid of a licensed physician or midwife (La. R.S. 37:1262);

Whereas the Louisiana Legislature (Legislature) has recognized that the practice of medicine, surgery, and midwifery is a privilege granted by legislative authority and is not a natural right of individuals, and has deemed it necessary as a matter of policy in the interests of public health, safety, and welfare to provide laws and provisions covering the granting of that privilege and its subsequent use, control, and regulation to the end that the public shall be properly protected against unprofessional, improper, unauthorized, and unqualified practice of medicine and from unprofessional conduct of persons licensed to practice medicine, surgery, and midwifery (La. R.S. 37:1261);

Whereas the mission of the Louisiana State Board of Medical Examiners (LSBME or Board) is to protect and improve the health, safety, and welfare of the citizens of Louisiana through licensing, regulation, research, and discipline of physicians and allied health professionals in a manner that protects the rights and privileges of the licensees;

Whereas "physician" means a natural person who is the holder of an allopathic (M.D.) degree or an osteopathic (D.O.) degree from a medical college in good standing with the LSBME who holds a license, permit, certification, or registration issued by the Board to engage in the practice of medicine in the state of Louisiana (La. R.S. 37:1262);

Whereas among the duties statutorily entrusted to the LSBME, the Legislature has mandated that the LSBME examine all applicants for the practice of medicine, nurse licenses or permits to those possessing the necessary qualifications therefor, and take appropriate administrative actions to regulate the practice of medicine in the state of Louisiana (La. R.S. 37:1270), for the specific

purpose of safeguarding the public from the threat to health and safety posed by the unlicensed, unqualified, and/or improper practice of medicine;

Whereas the Legislature has further mandated that the LSBME enforce the laws relative to the practice of medicine and secure evidence of violations thereof (La. R.S. 37:1270);

Whereas "advanced practice registered nursing" (APRN) means nursing by a certified registered nurse anesthetist, certified nurse midwife, clinical nurse specialist, or nurse practitioner which is based on knowledge and skills acquired in a basic nursing education program, licensure as a registered nurse, and a minimum of a master's degree in nursing with a concentration in the respective advanced practice nursing specialty which includes both didactic and clinical components, advanced knowledge in nursing theory, physical and psychosocial assessment, nursing interventions, and management of health care (La. R.S. 37:913);

Whereas statutory law and administrative rules require collaborative practice agreements (CPAs) between an APRN and a licensed physician or dentist to govern the scope and parameters of practice by an APRN who engages in "medical diagnosis and prescription" and "medical diagnosis and management" (La. R.S. 37:913(B) and (9); LAC 46:XLVII-4513);

Whereas the safety and welfare of the citizens of Louisiana was the primary consideration for the LSBME and the Louisiana State Board of Nursing (LSBN) to enter into a Joint Statement of Position for Collaborative and Collaborative Practice recognizing statutory authority for APRNs to diagnose and manage patients, including prescriptive authority, within the parameters of a CPA mutually agreed upon by an APRN and one or more licensed physicians or dentists;

Whereas the LSBN created a CPA which acknowledges that advanced practice nursing includes certain acts of medical diagnosis, and per LAC 46:XLVII 4513(B), these acts must be undertaken in accordance with a CPA with a collaborating physician or dentist;

Whereas on March 11, 2020, Governor John Bel Edwards declared a statewide public health emergency as a result of the imminent threat posed to Louisiana citizens by COVID 19, creating emergency conditions threatening the lives and health of Louisiana citizens (Proc. #25 JBE 2020);

Whereas state agencies are given the authority through La. R.S. 49:953(B) to adopt temporary rules to create emergency provisions to prevent an imminent peril to the public health, safety, or welfare;

Whereas on March 19, 2020, the Louisiana State Board of Nursing (LSBN) passed two (2) emergency rules in response to the COVID-19 pandemic, one of which allows APRNs practicing with a previously-approved collaborating physician to extend their practice to new sites without reporting to the LSBN;

Whereas on March 31, 2020, Governor Edwards issued an executive order containing additional measures for COVID 19, including the temporary suspension of LSBME and LSBN collaborative practice agreement requirements for APRNs (Proc. #38 JBE 2020);

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Whereas "allied health care practitioner" means an individual who holds any form of health care practitioner licensure that the Board is authorized to issue, other than as a physician, including a physician assistant pursuant to La. R.S. 37:1360.21 *et seq.*, and a midwife pursuant to La. R.S. 37:3240 *et seq.* (La. R.S. 37:1281);

Whereas physician assistants are health care professionals qualified by academic and clinical education in a physician assistant curriculum and licensed by the LSBME to provide health care services at the direction and under the supervision of a physician or a group of physicians approved by the Board as (a) supervising physician(s) (La. R.S. 37:1360.21);

Whereas a supervising physician of a physician assistant shall have been in the active practice of medicine for not less than three years following the date on which the physician was awarded a doctor of medicine or doctor of osteopathy degree and not currently be engaged in a medical residency or other post graduate training program (LAC 46 XLV 1508);

Whereas the Legislature modernized the laws governing physician assistant practice to encourage and permit the utilization of physician assistants by physicians and to permit the more effective utilization of the skills of physicians, particularly in the primary care setting, by enabling them to delegate medical services to qualified physician assistants when such delegation is consistent with the patient's health and welfare (La. R.S. 37:1360.21);

Whereas a physician assistant is considered to be and is deemed the agent of his supervising physician in the performance of all practice-related activities, including but not limited to assisting in surgery and the ordering and interpretation of diagnostic and other medical services and shall not practice without supervision except in life-threatening emergencies and in emergency situations such as man-made and natural disaster relief efforts (La. R.S. 37:1360.31);

Whereas the legal responsibility for the physician assistant's patient care activities, including care and treatment that is provided in health care facilities, shall remain that of the supervising physician, group practice of physicians, or a professional medical corporation or a hospital or other health care organization or entity (La. R.S. 37:1360.32);

Whereas on April 30, 2020, Governor Edwards issued an executive order renewing the March 11, 2020 declaration of public health emergency and included, *inter alia*, a provision temporarily suspending the requirement for supervision of physician assistants mandated in La. R.S. 37:1360.28, requiring, however, that a physician assistant must practice only within a specified scope of practice subject to education, knowledge, skills and ability (Proc. #52 JBE 2020);

Whereas the Legislature has mandated that the LSBME establish and publish minimum curriculum and experience requirements for persons seeking midwife licensure, establish and publish minimum standards of midwifery practice in accordance with those developed and accepted by the profession; and investigate consumer complaints or complaints from health care providers (La. R.S. 37:3243);

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of a disease, elimination or reduction of patient's symptoms, or arresting or slowing of a disease process (La. R.S. 22:1852);

Whereas "pharmacy" or "pharmacies" means any appropriately licensed place within this state where prescription drugs are dispensed and pharmacist services are provided and any place outside of this state where prescription drugs are dispensed and pharmacist services are provided to residents of this state (La. R.S. 22:1852);

Whereas "pharmacy collaborative drug therapy management" (CDTM) means that practice whereby a pharmacist or pharmacists have, on a voluntary basis, agreed to manage the disease-specific drug therapy of a patient under written protocol, working in conjunction with a physician licensed to practice medicine by the LSBME, but does not include the substitution by the pharmacist of a product that is not an equivalent drug product to the product originally prescribed by the physician or practitioner without the explicit consent of the physician or practitioner (La. R.S. 37:1164);

Whereas LSBME Administrative Rules define CDTM or Drug Therapy Management (DTM) as that practice in which a pharmacist voluntarily agrees with a physician to manage the disease specific drug therapy of one or more patients of such physician, within a predetermined range of medication selected by the physician and set forth in a patient specific written order set, and specifies that DTM shall be limited to: a. monitoring and modifying a disease specific drug therapy; b. collecting and reviewing patient history; c. obtaining and reviewing vital signs, including pulse, temperature, blood pressure and respiration; d. ordering, evaluating, and applying the results of laboratory tests directly related to the disease specific drug therapy being managed under an order set, provided such tests do not require the pharmacist to interpret such testing or formulate a diagnosis; and e. providing disease or condition specific patient education and counseling (LAC 46 XLV 7403);

Whereas the LSBME and the Louisiana Board of Pharmacy (LBP) have each created a two-page application for physicians and pharmacists requesting to register for CDTM;

Whereas physicians complete more than 10,000 hours of clinical education during their four years of medical school and three-to-seven years of residency training to provide complex differential diagnoses, develop treatment plans to address multiple organ systems and order and interpret tests within the context of a patient's overall health condition;

Whereas the LSBME promulgated rules, effective January 1, 2019, to improve the practice of medicine by strengthening the requirements and qualifications for the licensing of physicians to ensure the highest level of patient safety and quality of care by requiring a graduate of an American or Canadian medical school to have completed at least two years, or alternatively have completed one year and have a current commitment in a form and manner specified by the board for a second

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Whereas the scope of practice of a licensed midwife established by the Legislature is the provision of care to low risk patients determined by physician evaluation and examination to be essentially normal for pregnancy and childbirth and includes prenatal supervision and counseling; preparation for childbirth; and supervision and care during labor and delivery and care of the mother and the newborn in the immediate postpartum period if progress meets criteria generally accepted as normal as defined by the LSBME (La. R.S. 37:3244, LAC 46 XLV 5315);

Whereas "low risk patient" means an individual who is at low or normal risk of developing complications during pregnancy and childbirth as evidenced by the absence of any preexisting maternal disease or disease arising during pregnancy or such other conditions as the LSBME may identify in rules (La. R.S. 37:3241(12));

Whereas a licensed midwife practitioner must require that the client have a physician evaluation and examination and be found to be essentially normal or at low risk of developing complications during pregnancy and childbirth before her care can be assumed. The initial physician evaluation and examination shall include the physical assessment procedures which meet current standards of care set forth by the American Congress of Obstetricians and Gynecologists (ACOG) (LAC 46 XLV 5317);

Whereas the determination of a low risk pregnant person must be performed by a physician currently practicing obstetrics and is licensed to practice medicine or osteopathy in Louisiana (La. R.S. 37:3241(14));

Whereas "certified nurse midwife" (CNM) is an advanced practice registered nurse educated in the disciplines of nursing and midwifery and certified according to a nationally recognized certifying body, such as the American College of Nurse-Midwives Certification Council, as approved by the LSBN, and who is authorized to manage the nurse midwifery care of newborns and women in the antepartum, intrapartum, postpartum and/or gynecological periods pursuant to LAC 46 XLVII 4503(B)(1) *et seq.*;

Whereas APRN midwives are not licensed by the LSBME, but rather by the LSBN, and are required to have CPAs with a physician to practice midwifery;

Whereas home births are associated with a more than twofold increased risk of perinatal death (1–2 in 1,000), a threefold increased risk of neonatal seizures or serious neurologic dysfunction (0.4–0.6 in 1,000) and a 23–27% risk of requiring transfer of a laboring first-birth patient for lack of progress in labor, non-reassuring fetal status, need for pain relief, hypertension, bleeding, and fetal malposition (ACOG);

Whereas "pharmacist" means an individual currently licensed as a pharmacist by the Louisiana Board of Pharmacy to engage in the practice of pharmacy in this state (La. R.S. 22:1852);

Whereas "pharmacist services" means the filling and dispensing of prescription drugs or providing products and supplies, drug therapy, and other patient care services provided by a licensed pharmacist with the intent of achieving outcomes related to the cure, prevention, or management

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year, of postgraduate clinical training in the United States or in Canada in a medical residency or equivalent accredited program;

Whereas APRNs must complete only two to three years of graduate level nursing education and 500-720 hours of clinical training;

Whereas a physician assistant can become licensed to practice only under the supervision of a physician in Louisiana following completion of a 29-month physician assistant program which includes 2,000 hours of clinical care;

Whereas pharmacists attend four years of pharmacy school which includes 1,700 hours of practice experience, which does not prepare pharmacists to clinically assess patients or perform differential diagnoses to discern the root cause of a symptom;

Whereas APRNs, physician assistants and pharmacists are integral members of the care team, but the skills and acumen obtained by physicians throughout their extensive education and training make them uniquely qualified to oversee and supervise patients' care;

Whereas the LSBME has received no complaints from APRNs, physician assistants and/or pharmacists, or any licensees or any member of the public, regarding present law or rulemaking;

Whereas the LSBME has received no suggestion from the public reflecting a necessity or desire for the provision of unsupervised medical care;

Whereas the LSBME has not been approached by any APRNs, physician assistants and/or pharmacists, or their representatives, to discuss possible changes to present law or rulemaking;

Whereas the LSBME has not been informed by any APRNs, physician assistants and/or pharmacists, or their boards, that existing collaborative and/or supervisory agreements requiring physician oversight have imposed a regulatory or economic burden to their respective practices;

Whereas the LSBME has become aware of efforts to limit or eliminate the need for APRNs, physician assistants and/or pharmacists to have collaborative and supervisory agreements with physicians as is currently mandated by law; and furthermore, while expressly taking no position on any possible legislation, and solely in an effort to provide full and complete information on the issues, we adopt this Resolution;

Now, therefore, be it:

*Resolved*, that Legislature has delegated and entrusted to the LSBME the duty to protect and improve the health, safety, and welfare of the citizens of Louisiana through licensing, regulation, research, and discipline of physicians and allied health professionals, and in furtherance of that duty the Board declares as follows:

1. physician expertise is widely recognized as integral to quality medical care in the United States, in recognition thereof, the Legislature has statutorily mandated physician

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supervision and collaboration for APRNs, physician assistants and pharmacists, to ensure patient safety and quality of care, since the ultimate responsibility for each individual patient's care rests with the physician;

2. limitation or elimination of the requirement for APRNs, physician assistants and/or pharmacists to have collaborative and/or supervisory agreements with licensed physicians will remove a critical component of patient care provided by primary care physicians, threatening the standard of care and ultimately, the health and safety of the patient;
3. APRNs, physician assistants and pharmacists are not trained to treat patients with complicated medical conditions which often require equally complex treatments, without any physician input;
4. some of the potential threats to the standard of medical care, and consequently the health and safety of patients, of permitting APRNs, physician assistants and pharmacists to treat patients without physician input include the provision of treatment without review of a patient's full medical records and provision of treatment in settings that are not equipped for or conducive to performing full medical examinations on patients, or protecting patients' privacy or sexual boundaries; and
5. the extraordinary measures implemented temporarily by gubernatorial executive order to respond to the COVID 19 pandemic do not justify permanent elimination or revision of the laws governing supervisory and collaborative agreement, as these laws play a vital role in the protection of public health and safety.

Approved and adopted by the Board on March 16, 2021.

Roderick V. Clark, MD, MBA  
President

\*The Resolution can be viewed in its entirety at: <https://www.lsbme.la.gov/content/resolution-preserve-appropriate-scope-practice-limitations>

**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 March 16, 2021 and approved by the Board on the 29<sup>th</sup> day of March, 2021.

Witness my hand and seal of the Louisiana State Board of Medical Examiners this 29<sup>th</sup> day of March 2021.

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Terrie R. Thomas, M.D.  
Secretary-Treasurer

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Roderick Vince Clark, M.D., MBA  
President