

**THE LOUISIANA STATE
BOARD OF MEDICAL EXAMINERS**

**MINUTES
OF
MEETING**

**JULY 27, 2020
NEW ORLEANS, LOUISIANA**

A meeting of the Louisiana State Board of Medical Examiners, pursuant to lawful notice, was convened and called to order at 8:30 a.m., Monday, July 27, 2020, 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, 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.
Christy Lynn Valentine, 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
Denise Businelle, Deputy Executive Director
Lawrence H. Cresswell, DO, JD, Director of Investigations
Aloma James, Director of Licensure
Alan W. Phillips, IT Director
Mary K. Peyton, Esq., General Counsel
Thadra C. White, Esq., Compliance Counsel
Leslie Rye, Compliance Investigator
Carol Chauvin, Compliance Officer
Cathy Storm, Compliance Officer

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Lawrence Robinson, Compliance Investigator
Paula Pigford, Compliance Officer
Joseph Bonck, Compliance Investigator
Susan Allen, Director of Research & Education
Heath Fontenot, Paralegal 2
Esparonzia Spooner, Compliance Investigator
Kieshan Williams, Administrative Program specialist
Jacintha Duthu, Administrative Program Specialist
Rita L. Arceneaux, Executive Staff Officer

Legal counsel to the Board was present as follows:

Judge Michael G. Bagneris (Ret)

Legal Counsel – Attorney General's Office

Patricia Wilton – detailed as General Counsel to the Agency
Laurny Sudduth – detailed as General Counsel to the Agency

Contractor

Mike Defalco, LLA
Danny Allday, CPA

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. **Mission Statement.** Kieshan Williams, Administrative Program Specialist, read the mission statement of the Board.
3. **General Administrative Matters; Public comments; Meeting Order;** Dr. Clark advised the public that any comments can be emailed to 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 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. Further, Dr. Clark verified the identity of all tele and video conference participants and he ensured the meeting was clear and audible to the public and those on the tele and videoconference
4. **Public Comment; Louisiana State Medical Society; Covid-19 Physician Survey.** The Board received a public comment from Jeff Williams, Executive Vice President and CEO, Louisiana State Medical Society, regarding a Covid-19 Physician Survey relating to how Covid-19 is impacting physicians and their ability to treat their patients during this pandemic. The public comment, read out loud during the meeting, asked the Board to please add the Covid-19 Physician survey to the agenda for consideration. On the motion of Dr. O'Neill, duly seconded by

Dr. Thomas and passed by unanimous roll call vote, the Board approved adding the request to the public agenda.

5. General Administrative Matters; LSBME Appreciation; Rita's Retirement. Dr. Clark and the Board announced their congratulations and gratitude to Rita Arceneaux, Executive Staff Office, Louisiana State Board of Medical Examiners, on her retirement after thirty plus years of dedicated service.

6. Minutes of June 29, 2020 Meeting. The Board reviewed the minutes of its meeting held June 29, 2020. On the motion of Dr. Weather, duly seconded by Dr. Taylor and passed by unanimous roll call vote, the Board approved the minutes of the meetings with any necessary corrections.

7. Follow-Up Action Items; Physician Assistants; Interpretation of x-rays. The Board reviewed the draft response regarding physician assistants and whether the interpretation of x-rays is a service that may be delegated by a physician to a physician assistant. Following review and discussion, it was moved by Ms. Sport and duly seconded by Dr. Yu, and passed by unanimous voice vote to approve the response reporting that a Supervising Physician may in his/her opinion, delegate reading x-rays to an appropriately trained and educated physician assistant, who could then act or treat based on the reading; provided, however, that all x-rays are formally read by a physician.

8. Follow-Up Action Items; Physician Assistants; Removal of Percutaneous IABP. The Board reviewed the draft response regarding whether the removal of a percutaneous intraaortic balloon pump (IABP) is within the scope of practice of a physician assistant. Following review and discussion, it was moved by Dr. Valentine and duly seconded by Dr. Taylor, and by unanimous voice vote, The Board voted to provisionally accept this response pending the opinion and approval of the Physician Assistant Advisory Committee, to assure the PA Advisory Committee agrees that removal of percutaneous IABP is within the scope of a physician assistant in a hospital setting as long as the activity is within the scope of the physician assistant's clinical practice guidelines; the physician assistant has received thorough training by his or her supervising physician to assure technical competence and a thorough understanding of the possible complications; and, the physician assistant is credentialed to provide the service and possesses the necessary education and training for it.

7. Rulings and Advisory Opinions; Physician Compounding; Request for Clarification on Regulations. The Board reviewed the electronic correspondence relative to physician compounding or sterile products specifically requesting to know if "mixing antibiotic, Infusion Therapies, Chemotherapy," that is patient specific and compounded for immediate use under the oversight of a licensed physician can be done in the absence of a pharmacist or pharmacy license. Following review and discussion, on the motion of Dr. O'Neill, duly seconded by Dr. Weather, and by unanimous voice vote, the Board decided to affirm its advisory opinion with updates, advising the public that compounding is regulated by both the federal and state law therefore, under federal regulation, the compounding of: sterile preparations must comply with Title 21 of the Code of Federal Regulations (CFR), section 503A of the U.S. Food, Drug and Cosmetic Act (FDCA), as amended, and the United States Pharmacopeia (USP) chapter 797; non-sterile preparations should comply with the provisions of section 503A of the FDCA and USP chapter 795; positron

emission tomography (PET) drugs should comply with the provisions of section 212 of title 21 of the CFR; and compounding copies of commercially available products should comply with section 503A of the FDCA as amplified by recent federal guidance.

8. Rulings and Advisory Opinions; Parenteral Ketamine; Non-Physician; Pre-Hospital.

The Board reviewed an electronic question of Dino Saracino, M.D., Surgeon, New Orleans, Veterans Hospital, in regards to EMS and Fire Department EMTs around the country being authorized to administer parenteral ketamine in prehospital setting without a physician being in attendance. Following review and discussion, The Board asked for more information and research on administering anesthesia outside of a hospital setting in order to make an appropriate decision.

9. Rulings and Advisory Opinions; Occupational Therapist; Oxygen Management. The Board review a question from Robin Lindley, LOTR, Area Manager, TherapyMgmt.com regarding whether it is within the scope of practice of an Occupational Therapist to manage oxygen, i.e., move a patient from a concentrator to a portable tank and vice versa. It is the request of the Executive Director, and granted by the Board President to have more research on this topic and a consultation with the OT Advisory Committee, and to return with such information to the Board in the near future.

10. Rulings and Advisory Opinions; Retention of Medical Records. The Board has deferred this item to the August agenda.

11. Rulings and Advisory Opinions; Medical Assistants; Scope of Practice. The Board has deferred this item to the August agenda.

12. Rulings and Advisory Opinions; Telemedicine; In-Person Assessment re CDS. The Board has deferred this item to the August agenda.

13. General Administrative Matters; President Report; Resolution - President's Board Authority; Executive Director Job Description. The President announced two action items that are on his report on which a vote should be taken: (a) the Resolution giving the Board President authority to act on behalf of the Board when a quorum is not in session, and (b) the Resolution creating a job description for the Executive Director. On the motion of Ms. Sport and duly seconded by Dr. Horton, and passed by unanimous voice vote, the Board approved the resolution granting Presidential Authority. In regards to the Executive Director's job description, on the motion of Dr. Yu, which was duly seconded by Dr. Taylor, and passed by unanimous voice vote, the amendment to Section A numbers 2, and 3, to replace "Ten years" with language reflecting "extensive experience, with at least 6 years, 10 years preferred"; and with number 3 defining "multiple departments." Next, following review and discussion, on a motion by Dr. Valentine and duly seconded by Dr. Weather and passed by unanimous voice vote, the Board approved the entire Executive Director Job description, with the exception of Section B numbers 6, 7, 8, 9, 10, 14, 15, and 25, which are to be heard and discussed at a Special Call meeting; with Section B 3, being revised to reflect "...who shall be compensated in an amount to be determined by the Board..."; and with Section A, number 11 being revised to state "shall not concurrently be a Board member." The Board's Special Call meeting date was to be determined following the meeting.

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14. 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. The Executive Director informed the Board of his progress on his knee replacement, and indicated he has been released from the doctor to return to the office on a half-day basis. The Board was commended on their hard work for the July 11, 2020 education day. The Board was informed of the updates of the OLRC meeting. The Board was also updated that the request to DOA for the payment of Adams and Reese has been submitted, and facility upgrades are on track. The Board further noted that we now have over 1800 temporary permits for the Covid-19 emergency and the bulk are in the area of telemedicine. Committee did not change that authority.

15. General Administrative Matters; Director of Investigations Report. The Board reviewed the report of its Director of Investigations, and was informed the investigations staff has transitioned back into the office full time, and additionally the need for the renewal of the Assistant Director of Investigation, Dr. Denny's contract.

16. General Administrative Matters; Professional Legal Service Contract; Couhig. The Board reviewed the proposed professional legal service contract with Couhig. Following review and discussion, on the motion of Ms. Sport, duly seconded by Dr. Horton, and passed by unanimous voice vote, the Board authorized the Executive Director to enter into a contract with Couhig and struck the following resolution:

WHEREAS, Couhig Partners, LLC, through its attorney, Ralph Wall, Esq., will participate, when and to the extent that the Board determines the necessity therefore, in the institution, investigation, development, conduct and presentation of formal and informal administrative proceedings before the Board, arising under the Louisiana Medical Practice Act ("the Act") and other laws, rules or regulations regarding the licensure or certification of physicians and/or allied health care providers ("Other Governing Laws/Rules"); and,

WHEREAS, Couhig Partners, LLC, through its attorney, Ralph Wall, Esq., will represent the Board as legal counsel, as and when the Board requests such representation, in any judicial or administrative proceedings to which the Board is a party; and,

WHEREAS, Couhig Partners, LLC, will represent the members, officers and employees of the Board, as and when the Board request such representation, in any judicial or administrative proceeding in which such members, officers or employees of the Board are parties in their capacities as members, officers or employees of the Board; and,

WHEREAS, Couhig Partners, LLC, will provide such other legal or other professional services and assistance as the Board may from time to time deem necessary or appropriate in the discharge of its responsibilities under the Act and Other Governing Laws/Rules. Such services, however, shall not include any professional legal services with respect to the defense or other representation of the Board, its members, officers, employees or agents in any suit, action or claim in tort or for worker's compensation benefits;

WHEREAS, this resolution shall take effect immediately.

THEREFORE BE IT RESOLVED that the Louisiana State Board of Medical Examiners, pursuant to La. R.S. 42:262, does hereby retain and employ, Couhig Partners, LLC as special counsel; and

BE IT FURTHER RESOLVED, that this Resolution and proposed contract described herein be submitted to the Attorney General for the State of Louisiana for approval.

The Resolution having been submitted to a vote, the vote thereon was as follows: YEAS: 10; NAYS: 0; ABSENT: 0; NOT VOTING: 0.

Whereupon, the Resolution was declared adopted by the Louisiana State Board of Medical Examiners on the 27th day of July, 2020.

I, Roderick V. Clark, M.D., MBA, President of The Louisiana State Board of Medical Examiners, hereby certify the above and foregoing to be a true and exact copy of a resolution adopted by the said Board at its meeting held July 27, 2020 at which a quorum was present, and the same has not been revoked, rescinded or altered in any manner, and is in full force and effect.

17. General Administrative Matters; Financial Reports. The Board reviewed the Income Statement and Cash Balance Summary for the period ending May 31, 2020 for the Board and Clinical Laboratory Personnel accounts, along with multi-year detail through May 2020. The 2019 LSBME Financial audit findings were presented by Louisiana Legislator Auditor, Mike Defalco. On the motion of Ms. Sport, duly seconded by Dr. Horton, and passed by majority roll call vote, the Board approved the financial report.

18. Rules and Regulations.

a. Rules/Amendments Combine Report: **Physician Licensure (Waiver of Qualifications):** The Board was asked to extend the waiver of licensure qualifications (currently limited by §§315 and 327) to applicants appointed by a medical school to a full-time position at a rank of assistant professor or above) to applicants who will be full-time employees of a major teaching hospital as defined by the rules. Among proposed amendments to various other sections of the rules (e.g., §§311, 323, 361 and 363), the request also includes a suggested definition for major teaching hospital as one which is a sponsor of at least four approved residency programs two of which are in certain specialties. A working draft of the proposed amendments was presented for initial review and discussion. At its February 17, 2020 meeting, the Board voted to provide Notice of Intent to amend its rules to extend a waiver of licensure qualifications. As the Notice of Intent did not appear in the Louisiana Register, Ms. Peyton and Ms. Brindley are working together to publish it in the August 2020 Louisiana Register. **Physicians Compounding Medication:** 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 Board member review and consideration in due course. As discussed at the February 2020 Board meeting, attached is a copy of a Board Advisory Opinion on Physician Compounding, which is posted on the Board's webpage. **The Board at its June 29, 2020 meeting, reviewed the advisory opinion and determined it only needed to be updated with regard to Federal laws and rules. The Board decided to not move forward with a rule-making effort at this time. The Board asked for the Advisory Opinion draft to be updated and it has been placed in the agenda under advisory opinions for the Board's consideration.** **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 provided for initial review and discussion at its April 2015 meeting. Following further discussion at its May 2015 meeting, the Board elected to provide notice of intent to adopt the amendments. An additional wording change was discussed at the September 2015 meeting and pre-notice input was received from interested parties at that time. Following discussion, the Board elected to defer this effort to allow further consideration and input by other stakeholders. The additional information requested from interested stakeholders by the Board on certification training and accreditation has not been received. In line with the Board's direction at its March 2016 meeting, a letter was sent to interested stakeholders requesting that they submit any additional information they may want to be considered in time for the

Board's May 2016 agenda. Depending on the bulk of materials received, they will be included under another section of the agenda or in a separate handout to be distributed at the meeting. During its May 2016 meeting, the Board received the input of the interested parties present who wished to speak on the agenda item. It also gave initial consideration to the voluminous materials submitted by various organizations and individuals. Following discussion, the Board elected to defer action on the rule-making effort pending further review of the information submitted and the receipt of additional information. To that end, it elected to designate a special committee, comprised 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. Per the Board's directions, attached are two (2) drafts amending the draft that was previously on the 2015 agenda: draft one, (Exh. 2A), limits board approval to certifying organizations that require passage of a psychometric exam and complete ACGME training in the specialty/subspecialty; draft two, (Exh. 2B), limits board approval to certifying organizations that require passage of a psychometric exam plus completion of ACGME/AOA training of comprehensive scope that is substantially equivalent to training required for ABMS/AOA certification in the specialty or subspecialty or, for training other than ACGME, training of comprehensive scope that is substantially equivalent to that of an ACGME accredited program in the specialty or subspecialty. During its March 2017 meeting, the Board considered and discussed two drafts of a proposed rule and received the input of the interested parties present who wished to speak on the agenda item. Following further discussion and consideration at its April 2017 meeting, the Board approved Exh. 2A and elected to provide Notice of Intent to adopt the amendments in the Register. During its March 2018 meeting, the Board determined to defer moving forward to the next step of the rulemaking process until it has 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). See June 2018 Legislative Report. This project has been deferred pending further instructions from the Board. Unless there is continuing interest in proceeding with this rule making effort, the Board may wish to consider removing it from the Regulatory Report. Upon direction of the Board, this rulemaking effort is being returned to this report for further discussion and consideration by the Board. The Board again discussed this rule-making effort at the June 29, 2020 meeting and awaits further research into this matter and any anti-trust arguments. **At the July 27, 2020 meeting, the President expressed that he wanted to remove this aged item from the agenda as it is stale and will need to be brought back in front of the Board if any additional rule-making efforts are needed.** **Physicians; Assessment of Costs:** During its June 2019 meeting, the Board elected to provide Notice of Intent to adopt amendments on complaints and investigations and to give further consideration to a rule on assessment of costs. A proposed rule was drafted and at the June 29, 2020 meeting, the Board reviewed the draft rules regarding assessment of costs and fees. The Board voted to proceed with filing the First Report to the OLRC for its approval, with the goal to thereafter provide Notice of Intent in the Louisiana Register. The OLRC meeting set for July 23, 2020 has this matter on its agenda. **Petitions for Rulemaking:** A rule for the form for petitions for adoption, amendment, or repeal of a rule, and the procedure for their

submission, consideration, and disposition forms part of this Report. A draft rule to address such petitions was provided for initial Board member review and discussion during its June 2019 meeting. The draft remains under consideration. Following further consideration and discussion during its February 2020 meeting, the Board determined to provide Notice of Intent to adopt the proposed rules in the Louisiana Register. The proposed rules were transmitted to the Louisiana Occupational Review Commission (LORC) and are anticipated to be considered at the Commission's next meeting **on July 23, 2020 or thereafter.**

Physician Licensure (IMGs): The Board has been asked to conform the requirements for postgraduate training (PGY) for international medical graduates (IMGs) with those applicable to US graduates, provided the applicant graduated from an approved medical school. Currently, IMGs are required to complete three years of PGY training in an accredited medical residency training program prior to licensure eligibility. U.S. medical school graduates are required to complete 2 years of PGY accredited training or one (1) year with a commitment from the program for PGY-2 training with demonstration of completion of PGY-2 training as a condition to licensure renewal. Among other items, the request includes revising the criteria for approving foreign medical schools (e.g., treating them on par with U.S. schools), which are accredited by some combination of the World Health Organization, the Accreditation Commission on Colleges of Medicine (ACCM), the National Committee on Foreign Medical Education and Accreditation (NCFMEA), and the Education Commission on Foreign Medical Graduates (ECFMG). The request is included on the agenda for Board member review. If the Board approves commencing this rulemaking effort a draft will be prepared in due course for Board member consideration and discussion. Given the Board's direction to proceed with a rulemaking effort at its January 2020 meeting, a working draft of the proposed amendments is attached for initial Board member review and discussion. The draft utilizes a combination of accreditation entities recognized by the World Health Organization, the Education Commission on Foreign Medical Graduates (ECFMG) which, commencing in 2023, will require medical school accreditation as a requirement for ECFMG certification (e.g., for an IMG to enter and participate in post-graduate training in the U.S.), the World Federation of Medical Accreditation (WFMA), which is currently identified by the ECFMG to recognize organizations that accredit medical schools in different countries and the National Committee on Foreign Medical Education and Accreditation, of the U.S. Department of Education (NCFMEA), which evaluates international medical school accreditation standards and practices to determine their comparability to U.S. standards and practices for purposes of determining the ability of international medical schools to participate in U.S. federal education loan programs (Exh. 4). Following initial consideration and discussion of the draft amendments at its February 2020 meeting, the Board elected to solicit input from the medical schools and other interested stakeholders prior to proceeding. At its April 2020 meeting, the Board considered correspondence received from the Dean of LSUMC-NO and deferred further action pending consideration of further comments. **At the June 29, 2020 meeting, the Board voted to proceed with filing the First Report to the OLRC for its approval, with the goal to thereafter provide Notice of Intent in the Louisiana Register.**

Physician Licensure (CME): The Board has determined to amend its continuing medical education (CME) rules for all categories of licensees (starting first with physicians) to utilize an electronic reporting service for tracking and reporting CME hours. Rather than capturing CME by a sampling of licensees (3%) by subsequent audit, all physicians (100%) will have their CME tracked and reported to the Board electronically by

way of an electronic reporting service (e.g. CE broker). Notices will be sent at periodic intervals of the number of CME hours completed/required. A physician who does not satisfy the annual CME requirement will be ineligible for licensure renewal. Given the Board's direction to proceed with a rulemaking effort at its January 2020 meeting, a working draft is anticipated on the next report. As reported during the February 2020 meeting, a working draft of amendments to the Board's CME rules to align them with the Board's stated goals was being prepared. To that end, attached for initial Board member review and consideration are draft amendments to the existing rules that would be applicable to all physicians and allied health care providers regulated by the Board. Following consideration and discussion during its April 2020 meeting, the Board determined to provide Notice of Intent to adopt the proposed amendments in the Louisiana Register. **It was anticipated that the amendments will be transmitted to/considered by the Louisiana Occupational Review Commission (LORC) and, in due course, the Register, however that did not occur due to COVID and the search for new outside general counsel.** During its June 29, 2020 meeting, the Board reaffirmed its approval to proceed with filing the First Report to the OLRC for its approval, with the goal to thereafter provide Notice of Intent in the Louisiana Register.

Podiatry (History & Physicals): Noting that a uniform podiatry 3 year postgraduate training program was implemented throughout all podiatry schools in 2013, the Board's Podiatry Advisory Committee has suggested a change in the current rules (1307G) to provide that licensed advanced practice podiatrists with 2 or more years of postgraduate training, may independently perform a complete history and physical (H&P) on patients for the purpose of preoperative evaluation before a podiatric procedure. The Committee also suggests that all licensed advanced practice podiatrists may independently perform a complete H&P for IRB approved podiatry research. The Committee appends its suggestions with the notes that (i) the H&P is done for evaluation and diagnosis only and (ii) there is no financial gain by the performance of H&P. The request is included on the agenda for Board member review. If the Board approves commencing this rulemaking effort a draft will be prepared in due course for Board member consideration and discussion. Given the Board's direction to proceed with a rulemaking effort at its January 2020 meeting, working draft has been compiled to address the Committee's request and is attached for Board member review and discussion. Following consideration and discussion during its February 2020 meeting, the Board determined to provide Notice of Intent to adopt the proposed rule amendments in the Louisiana Register. **It was anticipated that the amendments will be transmitted to/considered by the Louisiana Occupational Review Commission (LORC) and, in due course, the Register, however that did not occur due to COVID and the search for new outside general counsel.** During its June 29, 2020 meeting, the Board reaffirmed its approval to proceed with filing the First Report to the OLRC for its approval, with the goal to thereafter provide Notice of Intent in the Louisiana Register.

Complaints and Investigation (C&I): In conformity with recommendations of the LLA, the Board directed the development of: (i) criteria for determining whether to issue public or nonpublic actions; and (ii) guidance to provide a frame work to guide future disciplinary dispositions. Draft rules have been compiled to address such criteria and guidance and is attached for Board member review and discussion. Following initial review and discussion at its February 2020 meeting, the Board elected to give further consideration to the proposed rules prior to proceeding. **During its June 29, 2020 meeting, the Board gave its approval to proceed with filing the First Report to the**

OLRC for its approval, with the goal to thereafter provide Notice of Intent in the Louisiana Register. Emergency Temporary Permit: Pursuant to Emergency Declaration, adopted at an emergency meeting held on March 30, 2020, the Board exercised the emergency provision of the APA and amended its existing rules (.402D and 412H) and adopted a new subsection (412L) to provide for emergency temporary permits for formerly licensed Louisiana physicians and allied health care practitioners during the declared public health emergency. While the temporary emergency rule lapses in October, the Board, at its June 29, 2020 meeting, voted to proceed with filing the First Report to the OLRC, with the goal to provide Notice of Intent in the Louisiana Register so as to make these rules permanent. Following review, on the motion of Dr. Horton, and duly seconded by Dr. Valentine, and passed by unanimous voice vote, the regulatory report is accepted.

19. General Administrative Matters; Public Comment; LSMS, Covid-19 Physician Survey. The Board discussed the LSMS Covid-19 Physician Survey relating to how Covid-19 is impacting physicians and their ability to treat their patients during this pandemic. On the motion of Dr. Horton, and duly seconded by Dr. Yu, and passed by a unanimous voice vote, the Board accepted the survey as is, allowing for final modifications to be decided by Dr. Clark, and Susie Allen, PhD.

20. Public Comments. Periodically throughout the public session, the President asked if anyone from the public had questions and/or any further comments. A public comment was received and read into the record, from Dr. Alpesh Patel, regarding comprehensive pain management and encouraging the Board to keep its 2012 Guidance document. Following the vote on the LSMS survey, there was an additional call for public comments. Hearing no other public comments, the public session concluded.

[21.] Minutes of Executive Sessions. On the motion of Dr. Weather, 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 June 29, 2020. Following review and discussion, the Board resumed in open session. On the motion of Dr. Weather, duly seconded by Dr. Taylor and passed by unanimous roll call vote, the Board approved the minutes of the executive sessions conducted during its meetings of June 29, 2020 with any necessary corrections.

[22.] Report on Pending Litigation. On the motion of Ms. Sport, duly seconded by Dr. Yu and passed by unanimous voice vote, 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). The Board resumed in open session and accepted the reports on the following cases:

Vincent Joseph Bruno v. Cecilia Mouton and the LSBME, No. 12-5503 (Civ.Dist.Ct.Orl.Par.Div."L").
Guardian Medical Group, LLC and Cellution Wellness Center, Inc., v. Cecilia Mouton, M.D., and the LSBME, No. 12-7202 (Civ.Dist.Ct.Orl.Par.Div."L").
Richard Arjun Kaul, M.D., and Arnold Erwin Feldman, M.D. v. Louisiana State Board of Medical Examiners, et.al., No.19-3050 (U.S.Dist.Ct.Dist. of Columbia).

David Dawes, M.D. v. Lawrence Cresswell, III, D.O., JD, and the Louisiana State Board of Medical Examiners, No.20-1253 (Civ.Dist.Ct.Orl.Par.).

Yori Fairley v. Vincent Culotta, M.D., No. 20-01097 (U.S.Dist.Ct. of Eastern District of Louisiana).

Louisiana State Board of Medical Examiners and Cecilia A. Mouton, M.D. v. Monica A. Borg, No. 09-1844 (Civ.Dist.Ct.Orl.Par.Div."J-13").

Arnold E. Feldman, M.D. v. Cecilia Mouton, M.D. and the Louisiana State Board of Medical Examiners., No. 16-3627 (Civ.Dist.Ct.Orl.Par.Div."G").

Aggrieved Practitioner v. Breaches of Obligations Agency and PACE., No. 2011-12827 (Civ.Dist.Ct.Orl.Par.Div."E-7").

Gregory Duhon, M.D. v. Board of Supervisors For Louisiana State University and Agricultural and Mechanical College; Thomas C. Galligan Jr.; Neeraj Jain, M.D>; Healthcare Professionals Foundation of Louisiana; Professional Renewal Center; Louisiana State Board of Medical Examiners USDC Eastern District of Louisiana, Case No. 2:20cv2022

Gregory Duhon, M.D., v. LSBME, EEOC Claim No. 461-2020-01593

[23.] Personal Appearances/Docket Calendar. On the motion of Dr. Thomas, duly seconded by Dr. Weather, 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 investigations, 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, but the Board requested that Dr. Culotta, Dr. Cresswell, Judge Bagneris, Ms. White and Ms. Peyton review and discuss options for holding administrative hearings via hearing panels or otherwise, to be presented to the Board.

[24.] Investigative Reports. On the motion of Dr. Thomas, duly seconded by Dr. Valentine, 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.

- a. Administrative Complaints: On the motion of Dr. Weather, duly seconded by Dr. O'Neill and passed by unanimous roll call voice vote, the Board approved to dismiss Count Two of the Administrative Complaint, retaining all other aspects of the Administrative Complaint, in the following matter:

Investigation No: 19-A-009

- b. Initiate Preliminary Review: On the motion of Dr. Weather, duly seconded by Dr. Horton, and passed by a vote of 9 Yeas with 1 Nay, the Board approved commencing preliminary review in the following matters:

Investigation No., 2020-552

Investigation No., 2020-551

- c. Preliminary Investigations: On the motion of Ms. Sport, duly seconded by Dr. Taylor

and passed by unanimous roll call voice vote, the following matters were presented for approval of a 90-day extension to continue preliminary investigation:

Investigation No., (2020-476)	Investigation No., (2020-422)
Investigation No., (2020-480)	Investigation No., (2020-560)
Investigation No., (2020-514)	Investigation No., (2020-271)
Investigation No., (2020-507)	Investigation No., (2020-269)
Investigation No., (2020-551)	Investigation No., (2020-268)
Investigation No., (2020-522)	Investigation No., (2020-270)
Investigation No., (2020-55)	Investigation No., (2020-563)
Investigation No., (2020-546)	Investigation No., (2020-564)
Investigation No., (2020-547)	Investigation No., (2020-308)
Investigation No., (2020-538)	Investigation No., (2020-558)
Investigation No., (2020-430)	Investigation No., (2019-273)
Investigation No., (2020-454)	Investigation No., (2020-390)
Investigation No., (2020-478)	Investigation No., (2020-559)
Investigation No., (2020-506)	Investigation No., (2020-336)
Investigation No., (2020-511)	Investigation No., (2020-364)
Investigation No., (2020-512)	Investigation No., (2020-363)
Investigation No., (2020-355)	Investigation No., (2020-389)
Investigation No., (2020-370)	Investigation No., (2020-545)
Investigation No., (2020-263)	Investigation No., (2020-331)
Investigation No., (2020-245)	Investigation No., (2020-362)
Investigation No., (2020-556)	

d. Consent Orders: On the motion of Dr. Weather, duly seconded by Ms. Sport and passed by unanimous roll call voice vote, the following Consent Orders were accepted:

John Allen, M.D., (Docket No., 19-I-444)
 Robert L. Gervy M.D., (Docket No., 19-I-226)
 Samuel E. Greenberg, M.D., (Docket No., 19-I-886)
 Alireza Minagar, M.D., (Docket No., 18-I-003 and Docket No. 19-A-013)¹
 Catherine E. Lee, CLP-PHL, (Docket No., 19-I-782)
 Muhammad Arshad, M.D., (Docket No. 19-I-573)²
 Jose Edgardo Merced, M.D., (Docket No. 17-I-940)³

e. Closed/Dismissed: On the motion of Ms. Sport, duly seconded by Dr. Johnson and passed by unanimous roll call voice vote, the following matters were approved for closure/dismissal:

Investigation No., 20-400	Investigation No., 19-1105 ⁴
Investigation No., 20-015 ⁵	Investigation No., 20-164 ⁶
Investigation No., 20-283	Investigation No., 20-358
Investigation No., 20-205	Investigation No., 20-183
Investigation No., 20-208	Investigation No., 20-182

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Investigation No., 19-744
Investigation No., 20-108⁷
Investigation No., 19-965⁸
Investigation No., 19-1064⁹
Investigation No., 20-79¹⁰
Investigation No., 19-176
Investigation No., 18-I-513

Investigation No., 18-I-909
Investigation No., 19-1099
Investigation No., 19-1106
Investigation No., 19-1108
Investigation No., 20-393
Investigation No., 19-1107

f. Closed/Dismissed: The following matters recommended for closure/dismissal with a Letter of Concern were handled as follows:

Investigation No., 2020-383, on the motion of Dr. Horton, duly seconded by Dr. Weather and passed by 6 Yeas and 4 Nays;

Investigation No., 2019-I-161 & 2019-I-507 on the motion of Ms. Sport, duly seconded by Dr. Horton and passed by unanimous roll call vote.

i. Closed Complaint Cases. On the motion of Ms. Sport, duly seconded by Dr. Johnson and passed by unanimous roll call voice vote, the Board approved the Closed Case Reports presented for the month of June 2020.

[25.] General Disciplinary Matters. On the motion of Dr. Valentine, duly seconded by Dr. Horton, the Board convened in executive session to consider the request relating to the execution or modification of a Decision and/or Consent Order as a matter relating to investigations and 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. Horton, duly seconded by Dr. O'Neill and passed by unanimous roll call voice vote made the following decisions:

- a. 2019-I-339 – To deny the request for reinstatement of a suspended license.
- b. 2016-837– To approve the request to close the probation file.
- c. 2017-I-319 – To approve the request to end probation early.

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- 1. Drs. Horton and Johnson recused themselves from any and all participation in discussion and/or consideration of this matter.
 - 2. Dr. O'Neill recused himself from any and all participation in discussion and/or consideration of this matter.
 - 3. Dr. Clark recused himself from any and all participation in discussion and/or consideration of this matter.
 - 4. Dr. O'Neill recused himself from any and all participation in discussion and/or consideration of this matter.
 - 5. Dr. O'Neill recused himself from any and all participation in discussion and/or consideration of this matter.
 - 6. Dr. O'Neill recused himself from any and all participation in discussion and/or consideration of this matter.
 - 7. Dr. Taylor recused himself from any and all participation in discussion and/or consideration of this matter.
 - 8. Dr. Taylor recused himself from any and all participation in discussion and/or consideration of this matter.
 - 9. Dr. Taylor recused himself from any and all participation in discussion and/or consideration of this matter.
 - 10. Dr. O'Neill recused himself from any and all participation in discussion and/or consideration of this matter.

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[26.] Act 2018-655 Complaints Report. The Board convened in executive session to receive the 655 Complaint Report as a matter relating to the Board's action and procedures in matters relating to investigations, the character and professional conduct of a licensee and the handling of those complaints and/or allegations of misconduct, pursuant to La.Rev.Stat. 42:17A(1, 4 & 10, pursuant to La. R.S. 37:23.2). No further action was required or taken on this matter.

[27.] Licensure and Certification; Reconsideration of License Application. The Executive Director deferred this item and will present to the Board with more information at its August meeting.

28. Next Meeting of the Board. The President reminded the members that the next meeting of the Board was scheduled for August 24, 25, 2020.

I HEREBY CERTIFY that the foregoing is a full, true and correct account of the proceedings of the meeting of the Louisiana State Board of Medical Examiners, save for executive session of the Board conducted therein, held on July 27, 2020 and approved by the Board on the 24th day of August 2020.

Witness my hand and seal of the Louisiana State Board of Medical Examiners this 24th day of August 2020.

Terrie Roselyn Thomas, M.D.
Secretary-Treasurer

Attest:

Roderick Vince Clark, M.D., MBA
President