

THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

MINUTES OF MEETING

June 28, 2021

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, June 28, 2021, by order of the President, at the offices of the Board, 630 Camp Street, New Orleans, Louisiana. The Board members participated in person with the meeting live streamed on Youtube, in addition to the public session of the meeting being open to the in-person members of the public.

Board Members present:

Roderick V. Clark, MBA, M.D., 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, MBA, M.D.
ADD JOHNSON

Board Staff present:

Vincent A. Culotta, Jr., M.D., Executive Director
Lawrence H. Cresswell, DO, JD, Director of Investigations
Patricia Wilton, Esq., Executive Counsel
Mary Peyton, Esq., General Counsel
Thadra C. White, Esq., Compliance Counsel
Aloma James, Director of Licensure
Alan W. Phillips, IT Director
Tracy Mauro, IT Specialist
Susie Allen, DrPH, MBA, Director of Education and Research
Leslie Rye, Compliance Investigator
Carol Chauvin, Compliance Officer
Cathy Storm, Compliance Officer
Lawrence Robinson, Compliance Investigator

Paula Pigford, Compliance Officer
Ronald Cayette, Compliance Investigator
Theresa Lockhart, Compliance Investigator
Joseph Bonck, Compliance Investigator
Esparonzia Spooner, Compliance Investigator
Lillie Rodgers, Investigations Program Director
Jacintha F. Duthu, Executive Staff Officer

Independent counsel to the Board was present as follows: Judge Michael G. Bagneris (Ret)

[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. Lawrence Cresswell, DO, Director of Investigation, 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 not speaking over one another.

At this time the Board voted unanimously to add the following items to the public session agenda:

- Letter from the Louisiana State Medical Society – Personal Appearance by Maria Bowen, LSMS;
- Presentation on Physician Mental Health;

and, added the following to the executive session agenda:

- Correction to Agenda Item in the April 26, 2021 minutes
- Licensure and Certification Agenda Item 06.00.0-32; and,
- LLA Disciplinary Status Compliance Report January 2017-March 2021.

[4.] Minutes of May 24, 2021 The Board reviewed and discussed the minutes of its meeting held May 24, 2021. On the motion of Dr. Horton, duly seconded by Dr. Thomas and passed by unanimous voice vote, the Board approved the minutes of its May 24, 2021 meeting with technical corrections.

Added Agenda Item - Minutes of April 26, 2021 On the motion of Dr. Horton, duly seconded by Dr. Taylor, and passed by unanimous voice vote, Item (17) Licensure and Certification; Agenda Item 06.00.02, will be removed from the minutes of April 26, 2021 minutes.

[5.] Follow-Up Action Items; PACT Trial Letter Regarding Accessing the Patient Prescription Monitoring Program (PMP). The Board reviewed the draft response to Sherri Longo, M.D., Maternal Fetal Medicine, Department of Obstetrics and Gynecology, Ochsner Health in regard to the proposed study and ensuring compliance with the rules

and law on accessing the PMP for those patients under the collaborative practice of patient care. On the motion of Dr. Thomas, duly seconded by Dr. O'Neill, and passed by unanimous voice vote, the Board approved sending the drafted response to Dr. Longo.

[6.] Request for statement of position or Advisory Opinion regarding APRN Collaborative Practice Agreements. The Board reviewed the request of the Cardiovascular Institute of the South, regarding APRNs and collaborative practice agreements.

[7.] Follow-Up Action Items; Clinical Exercise Personnel Licensure. The Board reviewed the draft of a second letter to the attorney representing Tim Edwards and his company, in regard to whether his company may provide trained but unlicensed technicians to administer cardiopulmonary exercise stress testing to a patient when done under the direct supervision of the ordering physician who is present in the office while the test is being administered. On the motion of Dr. Thomas, duly seconded by Ms. Sport, and passed by unanimous voice vote, the Board approved sending the response to Mr. Edwards.

[8.] Added Agenda Item - Letter from the Louisiana State Medical Society with personal appearance by Maria Bowen, LSMS. Ms. Bowen spoke for several minutes regarding the viewpoint of the LSMS, as well as its practitioners, on collaborative practice agreements (CPA), how they function, and issues revealed in the last legislative session regarding CPAs.

[9.] General Administrative Matters; President Report. The President expressed his excitement about being back in New Orleans for an in-person meeting after being away for 16 months due to the Covid pandemic. He stated that as we work out the logistics of the first meeting back in many months that he looks forward to having the Board up and running as normal as possible. The President informed the Board that he feels the Board has performed well during the session in protecting the public. The President stated the Board's Resolution approved prior to the legislative session laid the foundation for discussion in regard to the collaborative practice and the practice of medicine in our state. The Board has fulfilled its mission mandated by the Medical Practice Act. He expressed the Board has an opportunity to improve and to make positive and constructive changes to the physician component of the collaborative agreement. The President stated he looks forward to working with the Louisiana State Board of Nursing, the Pharmacy Board and the legislature to make changes.

The President praised Dr. Culotta and staff for representing the Board at the legislature in a professional and very prepared fashion and thanked them for their long hours in keeping up with the rapid pace and changing tides. The President thanked the Board members, both in front and behind the scenes, and expressed that they made a difference in providing information to the legislature. The President happily announced that HB 398, the anti-trust bill was passed by the House and Senate and signed by the Governor and is now law. This bill will provide anti-trust protection for Boards and Commissions who wish to participate in the Attorney General having oversight. It will ensure a safe harbor not only by rulemaking but also disciplinary actions. The President thanked Representative Rhonda Gay Butler and attorney Ms. Patricia Wilton for their tremendous, hard work in getting HB 398 passed. The President asked the Board to vote and approve the upcoming Resolution thanking Rep. Butler for her hard work and dedication to the Boards and Commissions of Louisiana. The President explained that next month will be

his last month serving as President and that the Board Officers nomination process will start today. with the nominations announced at the July meeting and voting to occur at the end of the July meeting. After voting, the new Board Officers will be seated.

[10.] General Administrative Matters; Resolution Recusing the Board and Director of Investigations (DOI). On the motion of Dr. Valentine, duly seconded by Dr. Thomas, and passed by a unanimous voice vote, the Board voted to ratify the President's recusal of the Board and the DOI from handling, investigating, and/or participating in the adjudicatory process of investigative matters 2021-316 and 2021-373.

[11.] General Administrative Matters; Resolution Commending Representative Rhonda Butler on the passage of Act 399 of the 2021 Regular Legislative Session. On the motion of Dr. Valentine, duly seconded by Dr. Thomas and passed by unanimous voice vote the Board approved the Resolution commending Representative Butler.

[12.] General Administrative Matter; LSBME Board Nomination Sheets. The President instructed the Board members to complete a nomination sheet and turn it in at the end of the meeting.

[13.] General Administrative Matters; Executive Director's Report. The Executive Director informed the Board as follows:

- The agency had a successful legislative session despite the great division among the healthcare communities.

Ultimately, the legislature did not pass the bills seeking full practice authority for APRNs and PAs. The issue of full practice authority for allied practitioners brought out strong feelings on both sides of the issue, and highlighted the need for physicians to become more involved partners in the continued collaborative practice with APRNs and in their supervisory role and guidance of Physician Assistants. I congratulate the board for being accurate, civil and gracious in its interactions and testimony regarding information pertinent to these expansions of practice issues.

It was profoundly clear that these issues woke a slumbering giant. Doctors who never joined any organization became active in ways never before seen. There were thousands of emails and calls to the Senators on HB495. Physicians established social media groups, and these social media sites widely resounded physicians' voices.

Additionally, there were two competing bills regarding non-compete agreements and physicians. Neither was successful and there is a House Concurrent Resolution for the issue to be studied.

The same and more issues relative to the expansion of ancillary providers will return next session. The Board has wisely chosen to make reasoned statements and instruct without lecturing or lobbying. We should continue this methodology.

The legislature also revoked many of the provisions of ACT 655 of 2018. The revocation allows us to stop using the lengthy footer on all our emails and eliminates reporting to the legislature about complaints. However, on our website, we continue to supply information to the public and licensees on how to file a complaint about our processes.

The highlight of our legislative session was the passage of HB398, now ACT 399 of the 2021 session. The President and I appreciate Ms. Wilton's hard work in crafting this legislation. This law provides the true state action and oversight to board decisions that allow the valid claim of state action immunity to antitrust accusations. This Board and all other state boards and commissions also owe a debt of gratitude to Rep Rhonda Butler for her tireless work to pass this very significant legislation. Later on, in the meeting, I hope the Board unanimously approves the Resolution of gratitude for Rep. Butler's efforts in this matter.

Later in today's meeting, we will discuss some possible changes this Board can make next session to address the vocal concerns raised by the legislature about access to care and other issues.

I anticipate that there will be some significant statutory changes to our investigative procedures. Hopefully, we will participate in these activities, giving needed information. These changes seem to respond to a trend towards more public information and transparency about our actions. We saw this national and state-wide trend play out in the many committee hearings during the session.

I would like to request that the board appoint two or three members to function as a legislative voluntary visibility group active during the subsequent and future sessions. I know this will require a commitment, but Board members' visible presence is significant and very influential during any legislative session.

- All public disciplinary actions will once again be placed in the newsletter. In addition, I wish to advise the board we are reporting all Final Decisions of administrative hearings where the Board finds a violation of law to the AG.
- I am pleased to report the progress of the 2nd level review program you approved a few months ago. Ms. Wilton worked with Ms. Susie Allen to gather preliminary data to develop a workflow to perform the review and report the findings. The second level is still a work in progress, but now that the legislative session is over, work can resume. We will continue to provide regular updates on this project.
- The annual financial audit draft results look very favorable. I anticipate it will shortly be a final report with no problems. Kudos to Ms. Collins and her staff. I hope you like the new look of the financial information and more improvements are coming.

Our systems and office had no problems during the first tropical storm of the season. I hope to give similar updates throughout the storm season.

- The slow but inexorable process of digitalization of records is continuing methodically.
- We are, at the request of Dr Cresswell, reviewing data, history, laws, and rules to determine if there is a limit to the number of times a licensee can bring an unchanged matter to the board for review.
- After meeting with all final candidate law firms, I have determined that it would work well to have contracts with both, Jones Walker and Sher Garner. Such contracts will be for a more limited amount than previous outside counsel. While both have wide range of litigation experience, each also has expertise that the other lacks. Jones has a great deal of experience

in health care law. Where they may have conflicts, Sher Garner may step in. Sher Garner has unique knowledge in governmental regulatory law. With both, we will have a full complement of knowledge and experience in the rare event that we need to send agency work to outside counsel.

[14.] General Administrative Matters; For Information Only; Sweeny-Weinberg Bill; Professional Licensing Report. The Board reviewed two news articles regarding boards in other states and disciplinary actions. No further action was needed or taken on these items.

[15.] General Administrative Matters; Financial Reports. The Board reviewed the Income Statement and Cash Balance Summary for the period ending April 2021. On the motion of Dr. Johnson, duly seconded by Dr. Taylor, and passed by unanimous roll call voice vote, the board accepted the Financial Report.

[16.] General Administrative Matters; Added Agenda Item; LSBME Virtual Support group for Physicians Anonymous and Confidential. LSBME Executive Counsel, Patricia Wilton, presented an update on the Virtual Support Group for Physicians. Based on her report, the Board discussed the parameters of their vision regarding the support group. No action was taken with regard to this item. Ms. Wilton indicated she would continue working on it and update the Board as needed.

[17.] Rules and Regulations. Rules/Amendments.

02.01.00 RULES UNDER DEVELOPMENT

02.01.01 Physicians; Assessment of Costs— At the Board's June 29, 2020 meeting, it approved promulgation of a proposed rule (**listed on the regulatory progress page of our website as 2020-5**) regarding assessment of fees and costs with the insertion of a new section, LAC 46:XLV.9935. The First Report to the OLRC was considered and approved at the OLRC's July 23, 2020 meeting. Thereafter, the Notice of Intent, proposed rule changes, and FEIS were published in the October 2020 Louisiana Register, with a request for any public comment and notice of public hearing. Simultaneously, it was also sent to the appropriate Louisiana legislative committees. A public hearing on the proposed rule changes was held on November 24, 2020. No public comments were made and there were no appearances at the hearing. The next step is to submit the rule again to the appropriate legislative committees, and the OLRC. We are in the process of drafting this second report and the lapse of its required 100 days from first publication until promulgation. **On March 25, 2021, OLRC approved this Rule on final review and has issued its Resolution indicating same. We submitted our 2nd report to the legislative committees, waited the applicable time delay and forwarded the final rule for publishing in June's 2021 Louisiana Register.**

02.01.02 Petitions for Rulemaking- A rule regarding the form for petitions to adopt, amend and/or repeal a Board rule, and the procedure for submission, consideration, and/or disposition of those petitions, was first considered by the Board at its February 2020 meeting as proposed LAC 46:XLV.Chapter 93 and the Board confirmed approval of the draft rule at its June 29, 2020 meeting (**listed on the regulatory progress page of our website as 2020-7**). Thereafter, the First Report to the OLRC was considered and approved at the OLRC's

September 2020 meeting. Thereafter, the Notice of Intent, proposed rule changes, and FEIS were published in the October 2020 Louisiana Register, with a request for any public comment and notice of public hearing. Simultaneously, it was also sent to the appropriate Louisiana legislative committees. A public hearing on the proposed rule changes was held on November 24, 2020. No public comments were made and there were no appearances at the hearing. The next step is to submit the rule again to the appropriate legislative committees, and the OLRC. We are in the process of drafting this second report and the lapse of the required 100 days from first publication until promulgation. **On March 25, 2021, OLRC approved this Rule on final review and has issued its Resolution indicating same. We submitted our 2nd report to the legislative committees, waited the applicable time delay and forwarded the final rule for publishing in June's 2021 Louisiana Register.**

02.01.03 Physician Licensure (IMGs). The Board was 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.

The new rule draft (adding language to LAC 46:XLV.323 and repealing subsections 361.G and 363.B), includes a revision of the criteria for approving foreign medical schools to include those which are accredited by some combination of accreditation entities including (a) the World Health Organization, (b) 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.), (c) 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 (d) 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. 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 approve the draft rule changes **(listed on the regulatory progress page of our website as 2020-2)**. Thereafter, the First Report to the OLRC was considered and approved at the OLRC's July 23, 2020 meeting. Thereafter, the Notice of Intent, proposed rule changes, and FEIS were published in the October 2020 Louisiana Register, with a request for any public comment and notice of public hearing. Simultaneously, it was also sent to the appropriate Louisiana legislative committees. A public hearing on the proposed rule changes was held on November 24, 2020. No public comments were made and there were no appearances at the hearing. We are in the process of drafting this second report and the lapse of the required 100 days from first publication until promulgation. **On March 25, 2021, OLRC approved this Rule on final review and has**

issued its Resolution indicating same. We submitted our 2nd report to the legislative committees, waited the applicable time delay and forwarded the final rule for publishing in June's 2021 Louisiana Register.

02.01.04 Physician Licensure (CME). The Board decided to amend its continuing medical education (CME) rules for all categories of licensees 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 licensees (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 licensee 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 was prepared (adding language at LAC 46:XLV.433-449), and following consideration and discussion during its April 2020 meeting, the Board approved the draft in its June 29, 2020 meeting **(listed on the regulatory progress page of our website as 2020-4)**. Thereafter, the First Report to the OLRC was considered and approved at the OLRC's July 23, 2020 meeting. Thereafter, the Notice of Intent, proposed rule changes, and FEIS were published in the October 2020 Louisiana Register, with a request for any public comment and notice of public hearing. Simultaneously, it was also sent to the appropriate Louisiana legislative committees. A public hearing on the proposed rule changes was held on November 24, 2020. No public comments were made and there were no appearances at the hearing. We are in the process of drafting this second report and the lapse of the required 100 days from first publication until promulgation. **On March 25, 2021, OLRC approved this Rule on final review and has issued its Resolution indicating same. We submitted our 2nd report to the legislative committees, waited the applicable time delay and forwarded the final rule for publishing in June's 2021 Louisiana Register.**

02.01.05 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 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 suggested 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. Based on these suggestions, the Board considered a draft of the proposed rule changes at its February 2020 meeting, and the proposed rule changes (adding language to and removing language from LAC 46:XLV.1307) were approved at the June 29, 2020 meeting **(listed on the regulatory progress page of our website as 2020-3)**. Thereafter, the First Report to the OLRC was considered and approved at the OLRC's July 23, 2020 meeting. Thereafter, the Notice of Intent, proposed rule changes, and FEIS were published in the October 2020 Louisiana Register, with a request for any public comment and notice of public hearing. Simultaneously, it was also sent to the appropriate Louisiana legislative committees. A public hearing on the proposed rule changes was held on November 24, 2020. No public comments were made and there were no appearances at the hearing. We are in the process of drafting this second report and the lapse of the required 100 days from first publication until promulgation. **On March 25, 2021, OLRC approved this Rule on final review and has issued its Resolution indicating same. We submitted our 2nd**

report to the legislative committees, waited the applicable time delay and forwarded the final rule for publishing in June's 2021 Louisiana Register.

02.01.06 Complaints and Investigations (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. A draft rule was compiled and discussed at the Board's

February 2020 meeting and approved for promulgation (adding LAC 46:XLV.9714 and 9716) at its June 29, 2020 meeting **(listed on the regulatory progress page of our website as 2020- 1)**. Thereafter, the First Report to the OLRC was considered and approved at the OLRC's July 23, 2020 meeting. Thereafter, the Notice of Intent, proposed rule changes, and FEIS were published in the October 2020 Louisiana Register, with a request for any public comment and notice of public hearing. Simultaneously, it was also sent to the appropriate Louisiana legislative committees. A public hearing on the proposed rule changes was held on November 24, 2020. No public comments were made and there were no appearances at the hearing. We are in the process of drafting this second report and the lapse of the required 100 days from first publication until promulgation. **On March 25, 2021, OLRC approved this Rule on final review and has issued its Resolution indicating same. We submitted our 2nd report to the legislative committees, waited the applicable time delay and forwarded the final rule for publishing in June's 2021 Louisiana Register.**

02.01.07 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 (LAC 46:XLV.402D and 412H) and adopting a new subsection (LAC 46:XLV.412L) to provide for emergency temporary permits for formerly licensed Louisiana physicians and allied health care practitioners during the declared public health emergency. Since the temporary emergency rule will lapse, the Board, at its June 29, 2020 meeting, voted to promulgate these rule changes permanently **(listed on the regulatory progress page of our website as 2020-6)**. Thereafter, the First Report to the OLRC was considered and approved at the OLRC's July 23, 2020 meeting. Thereafter, the Notice of Intent, proposed rule changes, and FEIS were published in the October 2020 Louisiana Register, with a request for any public comment and notice of public hearing. Simultaneously, it was also sent to the appropriate Louisiana legislative committees. A public hearing on the proposed rule changes was held on November 24, 2020. No public comments were made and there were no appearances at the hearing. We are in the process of drafting this second report and the lapse of the required 100 days from first publication until promulgation. **On March 25, 2021, OLRC approved this Rule on final review and has issued its Resolution indicating same. We submitted our 2nd report to the legislative committees, waited the applicable time delay and forwarded the final rule for publishing in June's 2021 Louisiana Register.**

02.01.08 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. The request also suggested an amended definition for major teaching hospital to include 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 (adding language to LAC 46:XLV.315, 415 and 417) was presented for initial review and discussion at the Board's

February 17, 2020 meeting **(listed on the regulatory progress page of our website as 2020- 8)** and approved at the June 29, 2020 Board meeting. The First Report to the OLRC was considered and approved at the OLRC's July 23, 2020 meeting. Thereafter, the Notice of Intent, proposed rule changes, and FEIS were published in the October 2020 Louisiana Register, with a request for any public comment and notice of public hearing. Simultaneously, it was also sent to the appropriate Louisiana legislative committees. A public hearing on the proposed rule changes was held on November 24, 2020. No public comments were made and there were no appearances at the hearing. We are in the process of drafting this second report and the lapse of the required 100 days from first publication until promulgation. **On March 25, 2021, OLRC approved this Rule on final review and has issued its Resolution indicating same. We submitted our 2nd report to the legislative committees, waited the applicable time delay and forwarded the final rule for publishing in June's 2021 Louisiana Register.**

02.01.09 Physicians' Licensure (IMLC) — The Board approved an amended draft of proposed new rules to accommodate the passage of the Interstate Medical Licensure Compact Law, La. R.S. 37:1310.1. The IMLC law, to the extent it conflicts with other Louisiana laws and/or rules, supercedes those laws and rules. The IMLC law does not provide for our license application "Oath questions", determination of citizenship and/or an annual CME requirement. In order to conform the requirements of those holding IMLC licenses, with usual licensees, a working draft of proposed rules was submitted to the Board and approved in April 2021.

The working draft provides for severability; provides that upon first failure to produce the information/documentation within 90 days of notice, the IMLCC licensee will receive a non-disciplinary communication from the Director of Investigations outlining that he/she must comply with the required CME, and must report completion to us prior to renewal, in addition to their next year's CME. If the IMLCC licensee repeats the failure, then this is grounds for the Board to proceed with investigation of the violation or potential violation, and possible discipline under La. R.S. 37:1285. Likewise, the failure to produce official proof of citizenship and/or authorization to live and work in the United States, along with responses to the Oath questions, may also provide grounds for the Board to proceed with investigation of the violation or potential violation, and possible discipline under La. R.S. 37:1285. The Oath topics reflect the Board may ask about lawsuits, and/or settlements of medical malpractice, fraud and/or intentional torts. **The next OLRC meeting is planned to be in July 2021. Prior to that time, this proposed rule will be posted to the website, and the rule has been submitted to the OLRC for its next agenda and review of same.**

02.02.10 Physicians' Practice (Marijuana) – In its April 2021 meeting, the Board approved the draft of the proposed repeal of LAC 46:XLV.Chapter 77, in its entirety. The Chapter currently contains rules governing physicians who recommend therapeutic marijuana, legal warnings with regard to recommending marijuana, definitions and prohibitions with regard to the conditions for which it may be recommended, registration of physicians, form for recommendation, requirements for treatment and keeping of records, and discipline pertaining to such rules. The repeal is being done to conform to Act 286 of the 2020 Regular Session of the Louisiana Legislature. **The next OLRC meeting is planned to be in July 2021. Prior to that time, this proposed rule will be posted to the website, and the rule has been submitted to the OLRC for its next agenda and review of same.**

02.02.00 PROPOSED RULE DRAFTS FOR BOARD APPROVAL 06/28/2021

None presently.

02.03.00 PROPOSED RULE TOPICS APPROVED BY THE BOARD 6/28/2021

- Pro Tem DOI - qualifications for and establishment of same to match DOI's under La. R.S. 37:1270(9).
- Recusal of DOI and/or Asst DOI for bias and/or interest, adding to LAC 46:XLV.9920.
- Rules for CLP's – CLP committee has made several suggested changes, which will be put on the agenda once reviewed and revised, if needed, for due process and equal protection.
- Rules for OT's – OT Committee members have suggested changes to the rules regarding qualifying CME courses for renewal of licensure, which will be put on the agenda once reviewed and revised, if needed, for due process and equal protection.
- Amending Rules for anesthesia, including regulation of nitrous oxide, and office-based surgery.
- Rules for Acupuncture requiring a certain number of CME and a "jurisprudence" course
- Rules for RT's – RT Committee has made requested some changes, which will be put on the agenda once reviewed and revised, if needed, for due process and equal protection.
- USMLE - Conform our rules to match USMLE requirements for the number of times an applicant can take each section of the exam without passing.

02.04.00 PROPOSED RULE TOPICS FOR BOARD APPROVAL – 6/28/2021

Physicians (LAC 46:XLV.6901 et seq.), Podiatrists (LAC 46:XLV.1307), and Physician Assistants' (LAC 46:XLV.4505B), and Medical PsychologistsPractices (prescribing controlled substances for pain) – Based on a federal safety study, the NTSB has recommended to all states that "all state guidelines regarding prescribing controlled substances for pain [include] a recommendation that health care providers discuss with patients the effect their medical condition and medication use may have on their ability to safely operate a vehicle in anymode of transportation." We propose to draft rules with regard to the above listed providers to comply with this recommendation so that the State of Louisiana and the Board of Medical Examiners is in complete compliance with the federal recommendation. By unanimous voice vote, the Board approved General Counsel to begin the process of drafting a rule to comply with the NTSB requirement and for the proposed draft to be presented at a future meeting of the Board.

02.05.00 Legislation Topics for Board Approval – On the motion of Dr. Taylor, duly seconded by Dr. Johnson, and passed by unanimous voice vote, the Board approved the associate physician/rural physician as a future legislative topic.

[18.] IMLC Post Renewal Packet; IMLC Post Initial Licensure Packet. On the motion of Dr. Valentine, duly seconded by Dr. Horton, and passed by unanimous voice vote, the Board accepted the IMLC post initial licensure and post renewal licensure packets for IMLC licensed physicians.

[19.] Minutes of Executive Sessions. On the motion of Dr. Valentine, duly seconded by Dr. Taylor, and passed by unanimous voice vote, the Board convened in executive session pursuant to La. R.S. 42:17A to receive and review the minutes of the executive session of its May 24, 2021 meeting. Following review and discussion, the Board resumed in open session as follows: On the motion of Dr. Thomas, duly seconded by Ms. Sport, and passed by a unanimous vote, the May 24, 2021 Executive Session minutes were approved.

[20.] Report on Pending Litigation. On the motion of Dr. Valentine, duly seconded by Dr. Taylor 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 is a party, and the status of proceedings for judicial review of prior Board decisions, pursuant to La. Rev. Stat. § 42:17A(2 & 10), La. C.E. art. 508, and/or La. R.S. 44:4.1C. On the motion of Dr. Thomas, duly seconded by Ms. Sport, and passed by unanimous voice vote, the Board accepted the litigation report regarding the following matters:

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)

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, No. 2:20cv2022 (U.S.Dist.Ct.E.D.La.)

Ford v. LSBME and Dr. Valentine, in her official capacity only, Eastern District of Louisiana, Case No. 18-4149

[21.] General Administrative Matters; Administrative Hearing Decision. The Board convened in executive session to receive advice of counsel pursuant to La. R.S. 42:17A (4 & 10), La. C.E. art. 508, and/or La. R.S. 44:4.1C. Following review and discussion, the Board resumed in open session as follows: on the motion of Dr. Horton, duly seconded by Dr. Taylor, and passed by unanimous voice vote, the Board moved to complete its review of the written decision in

Administrative Complaint No. 20-A-001

[22.] General Administrative Matters; Attorney-Client Privileged Communication. The Board convened in executive session to receive advice of counsel pursuant to La. R.S. 42:17A (4 & 10), La. C.E. art. 508, and/or La. R.S. 44:4.1C, regarding the Board's rules on physician collaboration with APRNs.

[23.] General Administrative Matters; Licensee request. The Board convened in executive session relating to investigations, the character and professional conduct of a licensee and allegations of misconduct, and pursuant to La. R.S. 42:17(A)(1), (4) & (10); La. C.E. art. 508, and/or La. R.S. 44:4.1C. to review waiver requests.

Following review and discussion, the Board resumed in open session as follows:

On the motion of Ms. Sport, duly seconded by Dr. O'Neill, and passed by 9 YEAS and 1 Abstention, the Board denied the respective requests under Agenda Item 04.00.03.

- [24.] General Administrative Matters; Licensee request.** The Board convened in executive session relating to investigations, the character and professional conduct of a licensee and allegations of misconduct, and pursuant to La. R.S. 42:17(A)(1), (4) & (10); La. C.E. art. 508, and/or La. R.S. 44:4.1C. to review waiver requests. Following review and discussion, the Board resumed in open session as follows:

On the motion of Ms. Sport, duly seconded by Dr. O'Neill, and passed by 9 YEAS and 1 Abstention, the Board denied the respective requests under Agenda Item 04.00.04.

- [25.] General Administrative Matters; Added Agenda Item No. 06.00.03; Licensee request revision.** The Board reviewed and discussed the request of licensee regarding matter 15-I-251, for a licensing waiver/exemption. Following review and discussion, the Board resumed in open session as follows: on the motion of Dr. O'Neill, duly seconded by Dr. Thomas, and passed by unanimous voice vote, the Board denied the request.

- [26.] Licensure and Certification; For information only.** The Board convened in executive session relating to investigations, the character and professional conduct of a licensee, and pursuant to La. R.S. 42:17(A)(1), (4) & (10); La. C.E. art. 508, and/or La. R.S. 44:4.1C. to review the following agenda item regarding Continuing Medical Education (CME) audit results. No further action was needed or taken on this item.

- [27.] Licensure and Certification; For information only.** The Board convened in executive session relating to investigations, the character and professional conduct of a licensee, and pursuant to La. R.S. 42:17(A)(1), (4) & (10); La. C.E. art. 508, and/or La. R.S. 44:4.1C. to review the following agenda item regarding CE Broker June 2021. No further action was needed or taken on this item.

- [28.] Compliance Counsel; For information only.** The Board convened in executive session to receive advice of counsel pursuant to La. R.S. 42:17A (4 & 10), La. C.E. art. 508, and/or La. R.S. 44:4.1C. No further action was needed or taken on this matter.

- [29.] Personal Appearances/Docket Calendar; For information only.** On the motion of Dr. O'Neill, duly seconded by Ms. Sport, 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, pursuant to La. R.S. 42:17(A)(1), (4) & (10). La. C.E. art. 508, and/or La. R.S. 44:4.1C. No further action was required or taken on this matter.

- [30.] Investigative Reports.** On the motion of Dr. O'Neill, duly seconded by Dr. Taylor, and passed by unanimous voice vote, the Board convened in executive session, to consider the investigative reports as matters relating to the character and professional conduct of a licensee, and allegations of misconduct, pursuant to La. Rev. Stat. §42:17A(1) and (4).

Following review and discussion, the Board resumed in open session as follows:

- a. Information Only; Interim Action(s): On the motion of Dr. Taylor, duly seconded by Dr. O'Neill, and passed by unanimous voice vote, the Board approved the Interim Action Summary Suspension in the following matter:

Docket No. 21-I-254

- b. Commence Formal Investigation: On the motion of Ms. Sport, duly seconded by Dr. O'Neill, and passed by unanimous voice vote, the Board approved commencing formal investigation in the following matter: Case No. 2021-361

On the motion of Ms. Sport, duly seconded by Dr. O'Neill, and passed by unanimous voice vote, the Board approved moving the following agenda item to the Pro Tem Board and Pro Tem DOI: Agenda Item 07.04.02¹

- c. Extend Time for Preliminary Review: On the motion of Dr. Thomas, duly seconded by Dr. O'Neill and passed by unanimous voice vote, a 90-day extension to continue preliminary review/investigation was approved in the following matters:

Investigation No.	2018-723
Investigation No.	2018-834
Investigation No.	2018-809
Investigation No.	2018-764
Investigation No.	2019-317
Investigation No.	2019-295
Investigation No.	2019-342
Investigation No.	2019-451
Investigation No.	2019-616
Investigation No.	2019-548
Investigation No.	2019-703
Investigation No.	2019-721
Investigation No.	2019-853
Investigation No.	2020-112
Investigation No.	2019-631
Investigation No.	2020-213
Investigation No.	2020-246
Investigation No.	2020-454
Investigation No.	2020-603
Investigation No.	2020-827
Investigation No.	2020-846

Investigation No.	2020-848
Investigation No.	2020-859
Investigation No.	2021-144
Investigation No.	2021-177
Investigation No.	2021-192
Investigation No.	2020-449
Investigation No.	2021-358
Investigation No.	2021-385
Investigation No.	2021-432
Investigation No.	2021-413
Investigation No.	2021-305
Investigation No.	2021-298
Investigation No.	2021-344
Investigation No.	2020-903
Investigation No.	2021-110
Investigation No.	2020-847
Investigation No.	2021-114
Investigation No.	2020-406
Investigation No.	2020-302
Investigation No.	2020-869
Investigation No.	2020-913

¹ Drs. Taylor and Thomas, and Ms. Sport are recused from any and all participation in this matter.

Investigation No.	2020-1063
Investigation No.	2020-1100
Investigation No.	2021-176
Investigation No.	2021-189
Investigation No.	2020-118
Investigation No.	2019-574
Investigation No.	2020-982
Investigation No.	2019-993
Investigation No.	2020-215
Investigation No.	2020-245
Investigation No.	2020-259
Investigation No.	2020-268
Investigation No.	2020-269
Investigation No.	2020-270
Investigation No.	2020-271
Investigation No.	2020-318
Investigation No.	2020-335
Investigation No.	2020-337
Investigation No.	2020-411
Investigation No.	2020-416
Investigation No.	2020-417
Investigation No.	2020-502
Investigation No.	2020-504
Investigation No.	2020-544
Investigation No.	2020-645
Investigation No.	2020-670
Investigation No.	2020-681
Investigation No.	2020-683
Investigation No.	2020-694
Investigation No.	2020-700
Investigation No.	2020-715
Investigation No.	2020-737
Investigation No.	2020-766
Investigation No.	2020-784
Investigation No.	2020-812
Investigation No.	2020-860
Investigation No.	2021-9
Investigation No.	2021-122
Investigation No.	2021-137

Investigation No.	2021-149
Investigation No.	2021-191
Investigation No.	2021-256
Investigation No.	2021-270
Investigation No.	2021-312
Investigation No.	2021-314
Investigation No.	2021-331
Investigation No.	2021-438
Investigation No.	2021-439
Investigation No.	2021-440
Investigation No.	2021-447
Investigation No.	2021-457
Investigation No.	2021-317
Investigation No.	2021-324
Investigation No.	2021-45
Investigation No.	2019-254
Investigation No.	2019-648
Investigation No.	2019-774
Investigation No.	2019-968
Investigation No.	2019-814
Investigation No.	2019-832
Investigation No.	2019-868
Investigation No.	2019-1035
Investigation No.	2019-1042
Investigation No.	2020-54
Investigation No.	2020-485
Investigation No.	2020-606
Investigation No.	2020-706
Investigation No.	2020-798
Investigation No.	2021-12
Investigation No.	2021-89
Investigation No.	2021-350
Investigation No.	2021-354
Investigation No.	2021-355
Investigation No.	2021-400
Investigation No.	2021-414
Investigation No.	2021-425
Investigation No.	2021-427
Investigation No.	2018-768

Investigation No.	2019-1088
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- d. Closed/Dismissed: The Board was asked to consider the following matters for closure/dismissal with a Letter of Concern:

On the motion of Dr. Horton, duly seconded by Dr. Thomas, and 5 YEAS and 2 NAYS, the Board approved the letter of concern for File No. 2019-I-389.

On the motion of Dr. O'Neill, duly seconded by Dr. Thomas, and passed by unanimous voice vote, the Board approved the letter of concern for File No. 2020-674, and File No. 2020-685.

- e. Closed/Dismissed: On the motion of Dr. Taylor, duly seconded by Dr. Horton, and passed by unanimous voice vote, the Board approved closing the following matters with no action:

File No. 2021-348
File No. 2020-779
File No. 2020-696
File No. 2020-877
File No. 2020-672
File No. 2021-253
File No. 2020-820 ²
File No. 2020-39
File No. 2021-404
File No. 2021-462
File No. 2020-1022
File No. 2019-849
File No. 2021-442
File No. 2021-370
File No. 2021-489
File No. 2020-502 ³
File No. 2020-891
File No. 2020-893
File No. 2021-456
File No. 2021-375 ⁴

File No. 2019-967 ⁵
File No. 2021-424
File No. 2021-186
File No. 2020-884
File No. 2021-225
File No. 2021-363
File No. 2021-491
File No. 2021-547
File No. 2021-277 ⁶
File No. 2021-290
File No. 2021-200 ⁷
File No. 2021-496
File No. 2021-445 ⁸
File No. 2021-468
File No. 2021-300 ⁹
File No. 2018-I-655
File No. 2020-271 ¹⁰
File No. 2020-268
File No. 2020-270
File No. 2020-269 ¹¹

² Dr. Thomas is recused from any and all participation in this matter.

³ Dr. Thomas is recused from any and all participation in this matter.

⁴ Dr. O'Neill is recused from any and all participation in this matter.

⁵ Drs. Thomas, Johnson, and Horton are recused from any and all participation in this matter.

⁶ Drs. Horton and Johnson are recused from any and all participation in this matter.

⁷ Dr. Thomas is recused from any and all participation in this matter.

⁸ Drs. Horton and Johnson are recused from any and all participation in this matter.

⁹ Dr. Thomas is recused from any and all participation in this matter.

¹⁰ Drs. Horton and Johnson are recused from any and all participation in this matter.

¹¹ Drs. Horton and Johnson are recused from any and all participation in this matter.

Excerpted from Agenda Items 07.07, and on the motion of Dr. Taylor, duly seconded by Dr. Horton, and passed by unanimous voice vote, the Board approved pursuing an injunction in court as to the unauthorized practice of medicine with regard to File No. 2019-I-33¹².

f. Professional Liability Report. On the motion of Ms. Sport, duly seconded by Dr. O'Neill and passed by unanimous voice vote, the Board convened in executive session to consider the report on professional liability cases reviewed since the last meeting of the Board as matters relating to the character and professional conduct of a licensee and allegations of misconduct, La. Rev. Stat. § 42:17A(1) and (4). On motion by Dr. O'Neill and duly seconded by Ms. Sport, the Board accepted the report by unanimous voice vote.

g. Closed Complaint Cases. On the motion of Dr. O'Neill, duly seconded by Ms. Sport and passed by unanimous roll call voice vote, with one absentee, the Board approved closing those investigations listed on the Closed Case Report presented for the month of May 2021.

[31.] Probationary Matters; Request from Probationers. The following matters are requests from licensees to end or modify the conditions of their probation:

With regard to Case No. 19-I-573¹³, on the motion Ms. Sport, duly seconded by Dr. O'Neill and passed by unanimous voice vote, the Board approved the request of this licensee seeking reinstatement of license, and approval for a practice monitor and two (2) practice sites.

[32.] Advice of Counsel; For information only. The Board convened in executive session to receive advice of counsel pursuant to La. R.S. 42:17A (4 & 10), La. C.E. art. 508, and/or La. R.S. 44:4.1C. No further action was needed or taken on this matter.

Next Meeting of the Board. The President reminded the members that the next meeting of the Board was scheduled for July 26, 27, 2021.

¹² Drs. Horton and Johnson are recused from any and all participation in this matter.

¹³ Dr. O'Neill is recused from any and all participation in this matter.

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 June 28, 2021 and approved by the Board on the 26th day of July, 2021. Witness my hand and seal of the Louisiana State Board of Medical Examiners this 26th day of July 2021.

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

Roderick V. Clark, M.D., MBA
President