

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

NEWSLETTER



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FROM THE DESK OF THE EXECUTIVE DIRECTOR



Greetings from the office of the LSBME, which has remained open throughout these trying times.

As our nation and our state has been grappling with this pandemic, the Board, like many of you, has continued to meet and conduct business via Zoom. During those meetings, although the times have been decidedly unusual, we have conducted business as usual: reviewed and answered questions from the public and from licensees, promulgated, reviewed and revised administrative rules, and continued with disciplinary matters.

Although the legislature has had a somewhat interrupted session this spring, I and other LSBME staff have maintained our presence there as usual to provide information to the legislature on how potential legislation will impact licensees and/or the regulation of health practitioners.

We worked with the Governor's office to expedite licensing in 12 new classes of temporary licenses to meet the staffing needs of the pandemic. (For more information on these temporary licenses, either to apply or to find out who has been granted a temporary permit, please go to <http://www.lsbme.la.gov/licensure/index>) We have published the alerts and orders and emergency rules pertaining to Covid-19 as they are proclaimed or announced. To keep our licensees informed as to the latest licensing and safety information, we now have a Covid-19 page on our website; we hope that you will consult it frequently, and communicate with us if you have any questions. <http://www.lsbme.la.gov/content/covid-19-crisis-information>

It is currently unknown how long this public health emergency will be in effect. At the present time, all temporary permits listed on the Board's website under its Covid-19 guidance are valid throughout the period of the Covid-19 emergency declaration, with the exception of the emergency temporary permits under 46 XLV.412. As of now, the 412 emergency temporary permits, which are the permits pertaining to formerly licensed Louisiana physicians and allied health care practitioners, will lapse on October 13, 2020.

Best regards, and stay well,

Vincent A. Culotta, Jr., MD

Questions? Comments?

Something you'd like to see in the newsletter? Email: education@lsbme.la.gov

Scam Alert

In recent months the board has had to warn our licensees of various scams, or attempts by someone to usurp the identity of the board for some kind of gain.

In one scam, our main number was "spoofed" and licensees were subjected to threatening phone calls that seemed to come from someone at the board. Through spoofing, the perpetrator of the scam mimes our telephone number. In this case an attempt was made to extract money as the person was threatened with an investigation.

Another scam that occurred recently was in response to a request for expert reviewers that went out in our January newsletter. In this case someone purporting to be from the board was attempting to get bank account/payment information from physicians as if we had arranged for them to be a reviewer.

More recently, scams related to Covid-19 abound, from applications for unemployment using stolen social security numbers, to fake contact tracing texts asking you to click on a link. Contact tracing is extremely important, but do not click on a link in a text message purporting to be from a health department, and NEVER give out social security or financial information when requested to do so by text or phone. The federal trade commission has good advice on these contact tracing-related schemes:

<https://www.consumer.ftc.gov/blog/2020/05/covid-19-contact-tracing-text-message-scams>

If you are approached by a scammer via text, email or phone, what can you do about it? **Several things.**

First, if this is something involving the LSBME, verify that a call actually came from the board by calling us back from your number, as opposed to just responding to a call. Call the main number (504) 568-6820 and ask for the person you were dealing with in an email or call. If someone does try to scam you in a matter that pertains to the board, please let us know it occurred, so we can warn other licensees.

Second, Please report scams to local police and the Federal Trade Commission (FTC) online ([FTC.gov/complaint](https://www.ftc.gov/complaint)) or by calling 877-FTC-HELP (877-382-4357)

<https://www.wafb.com/2019/06/27/new-scam-alert-phone-scheme-involves-spoofing-official-numbers/>

How to contact the FBI: <https://www.fbi.gov/contact-us>

CDSCME reminder for physicians and other prescribers

If you are renewing your license for the first time, and have a CDS permit from the Board of Pharmacy, you must take a minimum of 3 hours of board approved CME which must include the following topics: Best practices for Prescribing CDS, Anti-diversion Training, Appropriate Treatment for Addiction, and for physicians, Treatment of Chronic Pain. For the most recent list of **pre-approved** courses, go to: <http://www.lsbme.la.gov/content/board-approved-cme-courses-cds-requirements>. This is a one-time requirement; if you have completed a board approved CDSCME activity in the past, you do not need to do so again.

If you do NOT prescribe CDS you may fill out an exemption request form, which can be accessed [here](#). However, if you prescribed, administered or dispensed CDS since you filled out the exemption, you are required to meet the training requirement before your next renewal after having done so.

Active Licensees by Category, 2019	Total (new licensees)
Acupuncture Detoxification Specialist	23 (1)
Licensed Acupuncturists	59 (12)
Physician Acupuncturists	23 (4)
Athletic Trainers	587 (93)
Clinical Exercise Physiologists	54 (1)
Clinical Laboratory Personnel	5582 (592)
Medical Psychologists	108 (7)
Licensed Midwives	21 (3)
Occupational Therapy/Assistants	3,006 (152)
Perfusionists	89 (3)
Physicians (MD/DO)	17,600 (1,234)
Physician Assistants	1,332 (146)
Doctors of Podiatry	190 (7)
Polysomnography/Technicians & Technologists	188 (16)
Private Radiological Technologists	67(0)
Licensed Respiratory Therapists	3,506 (196)
Total	32,544 (2,350)

Note: Does not include temporary, emergency or trainee permits, permits for visiting physicians, therapeutic marijuana registration or telemedicine. For more info go to <http://www.lsbme.la.gov/content/statistical-license-data>.

New and Departing Board Members

Effective June 29, the board has a new physician member as the representative selected by LSU New Orleans.

Dr. Lolie C. Yu is a tenured Professor of Pediatrics, Division of Hematology-Oncology/HSCT, at LSUHSC New Orleans.

Dr. Yu did her Pediatric residency at University Medical Center, Lafayette, and her Pediatric Hematology-Oncology fellowship at LSUHSC, New Orleans, then completed a Bone Marrow Transplant (BMT) fellowship at the renowned FHCRC in Seattle, WA. She maintains board certification in Pediatrics and Pediatric Hematology-Oncology.

Her area of interest is in blood and marrow transplantation. Dr. Yu developed the Pediatric BMT program at LSU and Children's hospital in 1990; it is the only FACT-accredited and COG accredited Pediatric BMT program in the state of Louisiana. She performed the first BMT in sickle cell disease in LA and the first cord blood transplant in 1996. She performed the first human placenta-derived stem cell transplant in combination with cord blood transplant in the country in 2008.

Dr. Yu was a member of the Medicaid Pharmaceutical and therapeutics committee from 2010-2013 and served as a Vice-chair from 2012-2013. She currently serves as the Division Chief and Director of the Pediatric Hematology-Oncology/HSCT program at LSUHSC and Children's Hospital New Orleans.

Dr. Yu replaces Dr. J. Kerry Howell; the board thanks Dr. Howell for his service to the citizens of Louisiana.

Do you know...?

How the board performs its rulemaking duties?

When and why does the board engage in rulemaking? In many cases, the legislature passes an Act directing the board to create an administrative rule on a particular matter. The Act gives direction that may be quite specific or may be in the form of broader mandates; the resulting rule is usually much more detailed and specific. In other instances the board may engage in rulemaking in response to a request made by community or professional groups, or by internal issues requiring further procedural explication.

A board attorney writes a draft of the new rule, which is reviewed by the board and interested stakeholders. These stakeholders may consist of constituent groups such as an advisory committee of the board, professional groups of licensees and others who may be affected, and members of the public. Some of these stakeholders may assist in the drafting of the rule; others may write to the board to express their concerns about parts of the rule or may come to a board meeting to express their ideas in person. Public hearings during or adjacent to the board's monthly meetings are a common arena in which ideas and positions are expressed as a part of the rulemaking process. Written materials usually accompany appearances from the public that are read into the records of the meeting. Written materials may also be presented separately.

The general administrative rulemaking process, in terms of timing, is as follows

A draft of the rule is submitted for approval to the Occupational Licensing Review Commission (OLRC). The OLRC is the legislative oversight body that is responsible for supervising occupational licensing boards controlled by active market participants (like doctors) to ensure compliance with state policy in the adoption of its regulations.

The draft of the rule is also submitted to the legislative fiscal office with an economic impact statement.

After the OLRC gives approval and the fiscal statement is approved, the rule is "noticed" or submitted as a Notice of Intent that is published in the Louisiana register. The register is printed on or around the 20th of every month.

Within 20 days of publication in the register, a public hearing must be requested that then takes place 35-40 days after the notice of intent is published.

After a possible hearing date and responses to public comments are made, a summary report is submitted to the OLRC again. The commission can conduct a hearing about the rule between 5-30 days from the submittal of the summary report if this becomes necessary.

If oversight review is favorable the Agency submits a summary report to the House and Senate Oversight Committees who may call a hearing. If oversight is unfavorable the committee sends a negative report to the governor, no later than 4 days after making its determination. The governor approves or disapproves the oversight committee's review within 10 days of receiving it.

After a positive oversight review or the governor's disapproval of a negative review, the agency can officially adopt the approved proposal to be printed as a rule.

The final rule is published in the Louisiana Register no earlier than 90 days and no later than one year after it was noticed in the register. To see copies of the register, go to:

<https://www.doa.la.gov/Pages/osr/reg/register.aspx>



To all licensees: Enforcement of the yearly CME/CEU requirement, with the exception of CDS related CME, is suspended for the year 2020.

RULEMAKING SINCE LAST NEWSLETTER

The following rules were adopted or noticed since the publication of the January Newsletter

Therapeutic Marijuana - (Adopted March 2020, but see ACT 286 of the 2020 Regular Session, described on the following page, which directs rule-making authority to the Board of Pharmacy only) Enacted amendments needed to conform the board's rules to Act 284 of the 2019 regular session of the Louisiana legislature. Changes remove the: i) provision requiring annual reporting by the board to the legislature as to its views on any additional diseases or conditions that should be added to the list of debilitating conditions; ii) definition of step therapy or fail first protocols and the requirement and exceptions for their use, and iii) physician domiciliary requirement for recommending marijuana. Proposed amendment also modifies the definition of marijuana to permit a metered-dose inhaler formulation. These rules are in effect until August 01, 2020, and then cease to exist as per Act 286 of the legislature.

Complaints and Investigations; Adjudication and Practice-Site Visits; Practice Performance Reviews – (Adopted March 2020) Enacted amendments and additions to conform the board's rules to Act 599 of the 2018 Louisiana legislature. Changes include: the application of the rules to include allied health care practitioners, provisions for complaint origination, complainant confidentiality and exceptions to that; routine regulatory functions; the instances in which the board shall initiate a preliminary review to determine if cause exists for formal investigation; the duration of the preliminary review and extensions. Other changes include: notification of licensee if the board intends to use records from a prior investigation; general definitions for adjudication; release of potentially exculpatory evidence; documents made available to licensee in discovery process.

Emergency Rules (Adopted April 2020)

Restricted Temporary Permits and Emergency Temporary Permits (LAC 46:XLV.402 and 412). The board exercised the emergency provisions of the Administrative Procedure Act to provide for emergency temporary permits for qualifying formerly licensed Louisiana physicians and allied health care practitioners under LAC 46:XLV.412 during the COVID-19 emergency. These rules will lapse on October 13, 2020.

For information on new and updated rules published in the 2020 *Louisiana Register*, see <https://www.doa.la.gov/Pages/osr/reg/regs2020.aspx> ■

DISCIPLINARY ACTIONS. Information on disciplinary actions may be found on the board's website at <http://www.lsbme.la.gov>, and click on the "Disciplinary Actions" button. A summary of Board Orders, Consent Decrees and Reprimands for the past 10 years and related documents may be found by selecting Verifications in the upper left hand corner of the home page, then Disciplinary Actions.

LEGISLATIVE UPDATE

The information below contains brief summaries of the legislation passed in the 2020 regular session of the Louisiana Legislature that is pertinent to licensees of the LSBME, or to the processes and procedures of the agency. The first extraordinary session is still convened as of the writing of this newsletter, and may result in the passage of other bills that affect the board or its licensees.

Physician Assistants

HB 702 sponsored by Representative Bagley and sent to the governor for approval as **Act 295** – Amends R.S. 37:961(4) to add physician assistants as a group of healthcare practitioners permitted to convey orders to licensed practical nurses pertaining to patient care. Effective 08/01/2020.

Marijuana for Therapeutic Use

HB 819 sponsored by Representatives Bagley, Adams et. al. and sent to the governor for approval as **Act 286** – Repeals the authority and requirements of the LSBME to issue rules and regulations regarding the recommendation of therapeutic marijuana by physicians. Requires that dispensing of therapeutic cannabis be reported in the PMP. Adds the following conditions to the list of debilitating conditions for which therapeutic marijuana may be recommended and dispensed: Alzheimer's disease, amyotrophic lateral sclerosis, Huntington's disease, Lewy body dementia, motor neuron disease, Parkinson's disease, spinal muscular atrophy, traumatic brain injury, a concussion diagnosed by a physician, chronic pain associated with fibromyalgia, chronic pain associated with sickle cell disease, any condition for which a patient is receiving hospice or palliative care, and any condition not otherwise specified that a physician considers debilitating to an individual patient and is qualified through his medical education and training to treat. Any physician with a bona-fide patient relationship may render an opinion for therapeutic marijuana to the patient in whatever manner required by the Board of Pharmacy. Effective 08/01/2020.

HB418 sponsored by Representative Lacombe and sent to the governor for approval as **Act 147** – provides immunity from prosecution to facilities who have patients using medical marijuana, and to physicians for recommending or providing information on medical marijuana to patients with whom they have a bona fide physician-patient relationship. Effective 08/01/2020.

Licensure

HB 613 sponsored by Representative Owen, Reese et.al. and sent to the governor for approval as **Act 200** – amends R.S. 37:3651 relative to occupational licenses for military families posted to Louisiana. Authorizes licensing boards to expedite the granting of certifications, licenses or permits pending to military personnel or military spouses or dependents and civilian Department of Defense employees who are posted to Louisiana, if certain conditions pertaining to prior experience and education are met and if they do not have any disqualifying considerations, and subsequently apply for a full license. Applicants may also have to complete a jurisprudence course as to the rules and regulations in Louisiana if required. Effective 01/01/2021.

Covid-19 related legislation

SB 466 sponsored by Senator Hewitt and sent to the governor for approval as **Act 302** permits public bodies including the legislature and its committees and organizations such as the LSBME to conduct certain meetings electronically during certain state emergencies or disasters. Effective 06/12/2020.

Concurrent legislation pertaining to LSBME or its Licensees

HCR 91 sponsored by Representative Landry urges various healthcare organizations to research and report to the legislature on the quality of care and adequacy of health services provided to inmates in facilities operated by the Department of Public Safety and Corrections. Passed 06/04/2020.

HCR 33 sponsored by Representatives Hilferty, Davis et. al. urges the Louisiana Department of Health to make curricula and standards pertaining to education in implicit bias available to health practitioner education programs and occupational licensing organizations. (Passed in First Extraordinary session).