

**THE LOUISIANA STATE
BOARD OF MEDICAL EXAMINERS**

**MINUTES
OF
MEETING**

**SEPTEMBER 28, 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, September 28, 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, MBA, M.D., President
Lester Wayne Johnson, M.D., Vice President
Terrie R. Thomas, M.D., Secretary-Treasurer
Rita Y. Horton, M.D.
Patrick K. O'Neill, M.D.
Kim S. Sport, JD
James A. Taylor, Jr., M.D.
Christy Lynn Valentine, MBA, 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 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
Heath Fontenot, Paralegal 2
Esparonzia Spooner, Compliance Investigator
Jacintha F. Duthu, 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
Lauryn Sudduth – detailed as General Counsel to the Agency

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.** Avion Turner, Accounting Supervisor, 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. **Minutes of July 27, 2020 and August 5, 2020 Meeting.** The Board reviewed the minutes of its meetings held July 27, 2020 and August 5, 2020. On the motion of Dr. Thomas, duly seconded by Dr. Horton and passed by unanimous voice vote, the Board voted to defer the minutes until Dr. Thomas can review and make edits.
5. **Additions to the Agenda; Financial Report; Compliance Counsel Report.** On the motion of Ms. Sport, and duly seconded by Dr. Horton, and passed by unanimous voice vote, The Board voted to move up the Financial report and to add the Compliance report to the agenda.
6. **General Administrative Matters; Financial Report.** The Board reviewed the Income Statement and Cash Balance Summary for the period ending July 31, 2020 for the Board and Clinical Laboratory Personnel accounts, along with multi-year detail through July 2020.

7. Follow-Up Action Items; Telemedicine; In-Person Assessment re CDS; Request for Clarification. The Board reviewed the draft response relative to authority to prescribe controlled substances via telemedicine specifically clarification regarding the application of La. Rev. Stat. 37:1271(B)(3) and Louisiana Administrative Code Title 46, pt. 45, §7513. Following review and discussion, it was moved by Ms. Sport and duly seconded by Dr. Horton, and by unanimous voice vote, The Board voted to accept this response, clarifying that to lawfully prescribe a control dangerous substance via telemedicine, a physician must have seen the patient in person at least once in the preceding twelve (12 months), unless the physician has been granted a specific exception from this requirement or unless the physician is “furnishing medical assistance in case of a declared emergency or disaster.”

8. Follow-Up Action Items; Retention of Medical Records; Departure from Group or Practice. The Board reviewed the electronic inquiry of Stewart T. Cayton, M.D., regarding the requirement to notify patients following a departure from a group or practice. Following review and discussion, it was moved by Dr. Weather and duly seconded by Dr. Horton, and by unanimous voice vote, the Board voted to advise Dr. Cayton of its 2008 statement of position, “Maintaining Medical Records When a Practice is Closed or has Moved,” located on our website.

9. Follow-Up Action Items; Who can Legally Issue PEC or CEC. The Board has deferred this item to the October agenda.

10. 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. After meeting the approval of the Physician Assistant Advisory Committee, it was moved by Ms. Sport, and duly seconded by Dr. O'Neill, and passed an unanimous voice vote, the Board agreed that the removal of percutaneous IABP is within the scope of a physician assistant in a hospital setting as long as (i) the activity is within the scope of the physician assistant's clinical practice guidelines; (ii) 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, (iii) the physician assistant is credentialed to provide the service and possesses the necessary education and training for it.

11. Follow-Up Action Items; Occupational Therapist; Oxygen Management. The Board reviewed the draft response to 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. Having consulted the Board's Occupational Therapy Advisory Committee, and based upon its own discussion, it is moved by Ms. Sport and duly seconded by Dr. Weather and passed by a unanimous vote, the Board accepted this response.

12. Follow-Up Action Items; Louisiana Legislative Auditor (LLA) Clarification; Audit Recommendation. On the motion of Dr. Valentine, and duly seconded by Dr. Horton, and passed by a unanimous voice vote, the Board approved creating a committee between Board members, and our attorneys, to develop an additional level of review of the Director of Investigations' (DOI) closed case and disciplinary action recommendations to the Board in accordance with the LLA 2018 performance audit recommendations.

13. Follow-Up Action Items; Advisory Opinion; Mid-levels and CDS. On the motion of Dr. Valentine, duly seconded by Dr. Thomas, and passed by unanimous voice vote, the Board approved the advisory opinion to be placed on the web.

14. Follow-Up Action Items; Request regarding Personal Protective Equipment (PPE) for maternity care providers. The Board reviewed the request of Jacqueline Macaluso, regarding proper PPE for all maternity providers. On the motion of Dr. Valentine, duly seconded by Dr. Weather, and passed by unanimous voice, the Board agreed to follow Dr. Culotta's recommendation to respond to Ms. Macaluso, informing her that the Board addressed these concerns at our March 2020 meeting and made information on Covid-19 available to the public on its website.

15. General Administrative Matters; President Report; Special Thanks to the Attorney General and Senator Jackson; Presidential Meeting with LSBME Supervisors; Administrative Organizational Chart; Administrative Hearings; Physician's Health. The President thanked the Attorney General, and Senator Jackson for their time and contribution to the Board; and, thanked the Board members on all their hard work getting the Presidential Authority Resolution and Executive Director's job description completed. The President informed the Board of his meeting with agency supervisors to create metrics and dashboards within each department to determine the expectations and goals of each department. The President further explained that the Compliance Counsel job description will be available at the October meeting along with the final administrative organizational chart. The President also informed the Board that he met with Judges Bagneris and Everett and with Drs. Culotta and Cresswell to address administrative hearings and scheduling administrative hearings during the pandemic. No further action was needed or taken.

16. General Administrative Matters; Executive Director's Report. The Board reviewed the report by Executive Director, Dr. Culotta, on his activities since the last meeting of the Board. The Executive Director informed the Board of the meetings held by the Physician Assistant Advisory Committee and the Occupational Therapy Advisory Committee, including each Committee's response to their respective scope of practice inquiries. The Board was informed that our computer systems are ready for hurricane season. To facilitate Board members' work, each Board member will be getting a Board owned computer that will provide each with the necessary security for their Board needs. The Board was also updated on the status of the Board office building construction. Next, the Executive Director described the results of the LSMS survey, and indicated the LSBME, LSMS and other Medical Societies plan to develop a study group to implement an assistance program for physician burnout. The Executive Director furthered proposed an increase in Per Diem for each Board member from one day of pay to three days of pay, to compensate them for the time it takes to get through the lengthy agendas. On the motion of Dr. Clark, and by unanimous voice vote, this item was deferred to next month's meeting. Finally, the Executive Director discussed a plan for re-instituting the minimum required CMEs in January 2021 that had been suspended due to COVID. On the motion of Dr. Valentine, duly seconded by Dr. Yu, and passed by a unanimous voice vote, the Board agreed to the Executive Director's recommendation that upon renewal starting in January 2021, licensees will be responsible for completing 2 hours of continuing medical education credits per month which will accumulate each month until it equals the statutory/regulatory required annual total, with licensees being notified of

the step-wide/graduated plan prior to 2021. The Board was also informed that the LSBME has issued 1889 temporary permits as of September 20, 2020.

17. Public Comment; Louisiana State Medical Society; Hearing Issues; Physician's Burnout Assistance Planning. The Board received a public comment from Jeff Williams, Executive Vice President and CEO, Louisiana State Medical Society, informing us that he could not hear Dr. Culotta. Dr. Culotta's microphone was adjusted to be sure he could be heard. Mr. Williams also explained that the LSMS is still weighing in on the various options available to them, and others, to create the necessary study groups to address physician burnout and will work closely with all stake holders.

18. General Administrative Matters; Cultural Competency Request. The Board reviewed the request of April Hawthorne to consider the cultural competency aspect of adding a Race/Ethnicity drop down box to the LSBME website under the "Find a Practitioner" tab. On the motion of Dr. Valentine, duly seconded by Dr. Yu, and passed by a unanimous voice vote, the Board has denied this request at this time.

19. General Administrative Matters; Tele-Psychiatry; E-Prescribing in schools. The Board reviewed the request proposed by Alex Bachert, MPH, Clinical Partnerships Manager, Genoa Tele-psychiatry, to allow school based health centers to offer telemedicine services to the students in all the schools in the state and have the ability to prescribe medication for the students. Following review and discussion, on the motion Ms. Sport, duly seconded by Dr. Weather, and passed by unanimous voice vote, the Board denied this request.

20. General Administrative Matters; LSMS request relative for Hurricane Laura. The Board reviewed the request of Jeff Williams, Executive Vice President and CEO, Louisiana State Medical Society, to defer any requirement to check the prescription monitoring program (PMP) in areas affected by Hurricane Laura. On the motion of Dr. Valentine, duly seconded by Ms. Sport, and passed by a unanimous voice vote, The Board agreed to waive enforcement of the LSBME's requirement of PMP checks for those areas declared disasters by the State of Louisiana and/or the federal government due to Hurricane Laura, with the requirement of sending a letter to the Board of Pharmacy, and a follow-up of this decision three months from sending the letter.

21. Rules and Regulations.

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 met July 23, 2020 on this matter and approved same. We are in the process of finalizing the FEIS.**

Physicians; 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, limits board approval to certifying organizations that require passage of a psychometric exam and complete ACGME training in the specialty/subspecialty; draft two, 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. Alternatively, the Board may choose to remove this matter from their

rule-making efforts. **On the motion of Dr. Horton, and duly seconded by Ms. Sport, and a unanimous voice vote, The Board agreed to remove this stale item from the 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. **The OLRC recently met and approved this rule-making effort. We will proceed with drafting the FEIS and thereafter publishing a Notice of Intent in the Louisiana Register. 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. 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. **The OLRC met July 23, 2020 on this matter and approved same. We are in the process of finalizing the FEIS. 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. **The OLRC met July 23, 2020 on this matter and approved same. We are in the process of finalizing the FEIS. 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. **The OLRC met July 23, 2020 on this matter and approved same. We are in the process of finalizing the FEIS. 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. 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. **The OLRC met July 23, 2020 on this matter and approved same. We are in the process of finalizing the FEIS. 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. **The OLRC met July 23, 2020 on this matter and approved same. We are in the process of finalizing the FEIS. 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. **The public hearing on this matter was to be set for the October meeting date, with Dr. Culotta in attendance to take the public comments and any materials associated with same. Due to an inadvertent publishing error, it will be published in the October Register and the meeting will be held in November. The Board will be provided a copy of the transcript of the public comments and any materials for its review, along with a draft of suggested responses at its December meeting. The Board will determine its responses to the public comments. Thereafter, the entire rule with any revisions, comments, responses to the comments, and other approvals from OLRC and Fiscal Office, will be submitted a second time for OLRC's second review.**

22. General Administrative Matter; Future Rule Making; Pro Temp DOI. On the motion of Dr. O'Neill, duly seconded by Ms. Sport, and passed by a unanimous voice vote, The Board moved to allow the rule making effort for the following:

Section 9920 recusal:

B. The Director of Investigations, who because of bias or interest, is unable to assure a fair disciplinary process shall be recused from that particular disciplinary matter. The reason for the recusal shall be made part of the disciplinary record. The Board shall direct the compliance counsel to appoint a Pro tem DOI and authorize the Executive Director to contract for the services of the Pro tem DOI, with the approval of the Board. All statutory and regulatory requirements for the position of DOI will be required of the Pro tem DOI.

Section 9703 A:

Additional definition

Pro Tem Director of Investigations (DOI) –is a physician qualified under La. R.S. 37:1270 and any other applicable statute or rule who is appointed by the Board to serve in the place of the Director of Investigations, pursuant to Section 9920, for any investigation and/or disciplinary process from which the Director of Investigations has been recused.

23. General Administrative Matter; Future Rule Making; Electronic PDF Documents. On the motion of Dr. O'Neill, duly seconded by Ms. Sport, and passed by a unanimous voice vote, The Board moved to begin the rule-making process allowing LSBME to accept electronic documents as valid documents.

[24.] Minutes of Executive Sessions. On the motion of Dr. Valentine, duly seconded by Dr. Thomas and passed by unanimous voice vote, the Board convened in executive session to review the minutes of its executive session conducted during the meeting of July 27, 2020. Following review and discussion, the Board resumed in open session. On the motion of Dr. Thomas, duly seconded by Dr. Horton and passed by unanimous voice vote, the Board voted to defer the minutes until Dr. Thomas can review and make edits.

[25.] Report on Pending Litigation. On the motion of Dr. Horton, duly seconded by Dr. Valentine 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, pursuant to La. Rev. Stat. § 42:17A(2) & (10). The Board resumed in open session and, on the motion of Dr. Horton duly seconded by Dr. O'Neill, ratified all interim decisions regarding Case No. 18-4149:

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., (Civ. Dist. Ct. Orl. Par.).

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.

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

[26.] Act 2018-655 Complaints Report. The Board convened in executive session to receive the 655 Complaint Report regarding the Board's processes 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. R.S. 42:17A(1, 4 & 10), and La. R.S. 37:23.2. No further action was required or taken on this matter.

[27.] General Administrative Matters; Stipulation of Remote Hearing Via Video Conference with remote witnesses. The Board convened in executive session to receive advice and counsel pursuant to La. R.S. 42:17A(4 & 10). No further action was needed or taken on this matter.

[28.] General Administrative Matters; Request to Initiate Office Based Surgery Investigation. The Board convened in executive session to receive the request of Carol Chauvin, RN Compliance Officer, LSBME, regarding site visits and records reviews relating to the character and professional conduct of a licensee pursuant to La. R.S. 42:17A(1, 4 & 10) On the motion of Ms. Sport and duly seconded by Dr. Thomas, and passed unanimous voice vote, the Board approved this request.

[29.] 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.

[30.] Miscellaneous; Waivers. On the motion of Dr. Weather, duly seconded by Ms. Sport, and passed by 9 Yeas and 1 Nay, the Board approved the following waivers of the Board's examination requirements:

05.00.01

05.00.02

05.00.03

On the motion of Dr. O'Neill, duly seconded by Dr. Taylor, and passed by unanimous voice vote, the Board denied the waiver request of 05.00.04, for the LSBME to sponsor her to retake the USMLE Step 2 after failing six times.

[30.] 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 matters 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 accepted the Administrative Complaint filing in the following matter:

Investigation No. 17-I-153.

- 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. 2020-701.

- c. Extend Preliminary Investigations: On the motion of Dr. Horton, duly seconded by Ms. Sport 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., (2020-447)	Investigation No., (2020-556)
Investigation No., (2020-620)	Investigation No., (2020-056)
Investigation No., (2020-621)	Investigation No., (2020-422)
Investigation No., (2020-622)	Investigation No., (2020-560)
Investigation No., (2020-599)	Investigation No., (2020-271)
Investigation No., (2020-352)	Investigation No., (2020-269)
Investigation No., (2020-784)	Investigation No., (2020-268)
Investigation No., (2020-411)	Investigation No., (2019-270)
Investigation No., (2020-416)	Investigation No., (2020-563)
Investigation No., (2020-417)	Investigation No., (2020-564)
Investigation No., (2020-421)	Investigation No., (2020-308)
Investigation No., (2020-472)	Investigation No., (2020-558)
Investigation No., (2020-502)	Investigation No., (2020-273)
Investigation No., (2020-503)	Investigation No., (2020-390)
Investigation No., (2020-504)	Investigation No., (2020-559)
Investigation No., (2020-394)	Investigation No., (2020-626)
Investigation No., (2020-432)	Investigation No., (2020-623)
Investigation No., (2020-433)	Investigation No., (2020-615)
Investigation No., (2020-466)	Investigation No., (2020-406)
Investigation No., (2020-473)	Investigation No., (2020-407)

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Investigation No., (2020-546)	Investigation No., (2020-463)
Investigation No., (2020-341)	Investigation No., (2020-524)
Investigation No., (2020-331)	Investigation No., (2020-554)
Investigation No., (2020-362)	Investigation No., (2019-833)
Investigation No., (2020-720)	Investigation No., (2019-703)
Investigation No., (2020-665)	Investigation No., (2019-721)
Investigation No., (2020-677)	Investigation No., (2019-722)
Investigation No., (2020-628)	Investigation No., (2019-723)
Investigation No., (2020-638)	Investigation No., (2019-735)
Investigation No., (2020-678)	Investigation No., (2019-541)
Investigation No., (2020-695)	Investigation No., (2019-824)
Investigation No., (2020-303)	Investigation No., (2019-853)
Investigation No., (2020-707)	Investigation No., (2019-902)
Investigation No., (2020-661)	Investigation No., (2019-903)
Investigation No., (2019-254)	Investigation No., (2019-973)
Investigation No., (2019-389)	Investigation No., (2019-1033)
Investigation No., (2019-427)	Investigation No., (2019-1034)
Investigation No., (2019-774)	Investigation No., (2019-1060)
Investigation No., (2019-842)	Investigation No., (2019-1052)
Investigation No., (2019-849)	Investigation No., (2019-1082)
Investigation No., (2019-857)	Investigation No., (2019-1090)
Investigation No., (2019-968)	Investigation No., (2019-1091)
Investigation No., (2019-814)	Investigation No., (2019-1113)
Investigation No., (2019-832)	Investigation No., (2020-41)
Investigation No., (2019-868)	Investigation No., (2020-19)
Investigation No., (2019-833)	Investigation No., (2020-31)
Investigation No., (2019-1035)	Investigation No., (2020-112)
Investigation No., (2019-1042)	Investigation No., (2020-115)
Investigation No., (2019-1083)	Investigation No., (2020-125)
Investigation No., (2019-1114)	Investigation No., (2020-141)
Investigation No., (2020-14)	Investigation No., (2020-631)
Investigation No., (2020-54)	Investigation No., (2020-489)
Investigation No., (2020-90)	Investigation No., (2020-213)
Investigation No., (2020-99)	Investigation No., (2020-246)
Investigation No., (2020-303)	Investigation No., (2020-312)
Investigation No., (2020-394)	Investigation No., (2019-381)
Investigation No., (2020-433)	Investigation No., (2020-387)
Investigation No., (2020-466)	Investigation No., (2020-430)
Investigation No., (2020-505)	Investigation No., (2020-454)
Investigation No., (2020-557)	Investigation No., (2020-478)
Investigation No., (2020-590)	Investigation No., (2020-506)
Investigation No., (2020-606)	Investigation No., (2020-511)
Investigation No., (2018-768)	Investigation No., (2020-512)
Investigation No., (2019-1088)	Investigation No., (2020-513)
Investigation No., (2018-655)	Investigation No., (2020-550)
Investigation No., (2018-332)	Investigation No., (2020-562)
Investigation No., (2018-672)	Investigation No., (2020-592)

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Investigation No., (2020-322)	Investigation No., (2020-603)
Investigation No., (2020-371)	Investigation No., (2020-8361)
Investigation No., (2018-723)	Investigation No., (2020-308)
Investigation No., (2018-834)	Investigation No., (2020-309)
Investigation No., (2018-809)	Investigation No., (2020-544)
Investigation No., (2018-764)	Investigation No., (2020-335)
Investigation No., (2018-902)	Investigation No., (2020-993)
Investigation No., (2019-356)	Investigation No., (2020-995)
Investigation No., (2019-398)	Investigation No., (2020-101)
Investigation No., (2019-317)	Investigation No., (2020-143)
Investigation No., (2019-295)	Investigation No., (2020-245)
Investigation No., (2019-441)	Investigation No., (2020-279)
Investigation No., (2019-390)	Investigation No., (2020-327)
Investigation No., (2019-342)	Investigation No., (2020-334)
Investigation No., (2019-451)	Investigation No., (2020-369)
Investigation No., (2019-496)	Investigation No., (2020-663)
Investigation No., (2019-527)	Investigation No., (2020-308)
Investigation No., (2019-586)	Investigation No., (2020-309)
Investigation No., (2019-298)	Investigation No., (2020-215)
Investigation No., (2019-616)	Investigation No., (2020-504)
Investigation No., (2019-548)	Investigation No., (2020-337)
Investigation No., (2019-698)	

d. Commence Formal Investigations: On the motion of Dr. O'Neill, duly seconded by Ms. Sport, and passed by unanimous roll call voice vote, the following matters were approved to commence formal investigation:

Case No. 2020-I-193
Case No. 2020-I-547

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

Davis Lee Spence, M.D., (Docket No., 18-I-275 and 19-A-022)
John Scott McCabe M.D., (Docket No., 19-I-223)
Thuy Ngoc Mai, OTA, (Docket No., 19-I-356)
Bobbie Jo Johnston, CLP, (Docket No., 17-I-738)
Clista Marie Grigsby, CLP, (Docket No., 18-I-337 and 20-A-002)
Ronald Emil Beres, LRT, (Docket No. 19-I-231 and 20-A-023)
Kayla Simone Terrell, CLP, (Docket No. 18-I-489)

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

Investigation No., 20-081	Investigation No., 20-550
Investigation No., 20-313	Investigation No., 20-513

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Investigation No., 20-332
Investigation No., 20-448
Investigation No., 19-915
Investigation No., 20-566
Investigation No., 20-289
Investigation No., 20-538
Investigation No., 20-552
Investigation No., 20-430
Investigation No., 20-506
Investigation No., 19-735
Investigation No., 20-592
Investigation No., 20-551
Investigation No., 20-607
Investigation No., 20-88

Investigation No., 20-512
Investigation No., 20-511
Investigation No., 20-477
Investigation No., 20-662
Investigation No., 20-661
Investigation No., 18-391
Investigation No., 20-546
Investigation No., 19-I-970
Investigation No., 19-1010
Investigation No., 19-1009
Investigation No., 20-472
Investigation No., 20-555
Investigation No., 20-545

Investigation No., 19-915, on the motion of Dr. Weather, duly seconded by Dr. Taylor and passed by 8 Yeas and 2 Nays, the request to close this matter was approved.

Investigation No., 20-334, on the motion of Dr. Horton, duly seconded by Dr. O'Neill, and passed by 9 Yeas and 1 Nay, the request to close this matter was denied.

Investigation No., 18-I-276 and Investigation No. 19-687, on the motion of Dr. Valentine, duly seconded by Dr. Horton, and passed by 9 Yeas and 1 Nay, the request to close this matter was approved.

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

On the motion of Dr. O'Neill, duly second by Dr. Weather, and passed by 9 Yeas and 1 Nay, the following matters recommended for closure/dismissal with a letter of concern were approved:

Investigation No., 2017-I-910
Investigation No., 2020-I-058
Investigation No., 2020-I-312
Investigation No., 2019-164

Investigation No., 2019-I-552, on the motion of Dr. Taylor, duly seconded by Dr. Valentine and passed by 6 Yeas and 4 Nays; the request to close with a letter of concern was denied.

h. Closed Complaint Cases. On the motion of Dr. Valentine, duly seconded by Dr. Horton and passed by unanimous roll call voice vote, the Board approved the Closed Case Reports presented for the month of July and August 2020.

[32.] 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 motions below made the following decisions:

- a. 2020-I-217 – on the motion of Dr. Horton, duly seconded by Dr. Valentine, and passed by a unanimous voice vote, the application for a Respiratory Therapy License was denied.
- b. 17-I-1003 and 00-I-077– on the motion of Dr. O'Neill, duly seconded by Dr. Horton, and passed by unanimous roll call voice vote, the requests to close these probation files were approved.
- c. 20-I-076 – on the motion of Dr. Valentine, duly seconded by Ms. Sport, and passed by 9 Yeas and 1 Nay, the request to amend the current order to include prescribing privileges for surgical patients upon discharge, was approved.
- d. 15-A-001 – on the motion of Dr. Taylor, duly seconded by Dr. O'Neill, and passed by unanimous voice vote, the request for an early release of probation was denied.
- e. 2016-I-254 – on the motion of Dr. Valentine, duly seconded by Dr. O'Neill and passed by 9 Yeas and 1 Nay, the request to end probation and have the probationary fee waiver was approved.
- f. 19-I-38 – passed by unanimous voice vote, the request to amend the monitoring contract to allow in-house monitoring was approved.
- g. 14-A-004 – on the motion of Dr. O'Neill, duly seconded by Dr. Horton, and passed by unanimous voice vote, the request to waive the administrative fine and cost of proceeding was denied.

33. Next Meeting of the Board. The President reminded the members that the next meeting of the Board was scheduled for December 14 and 15, 2020. The President suggested moving the November and December meeting, and indicated it would be discussed at the October meeting.

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 September 28, 2020 and approved by the Board on the 26th day of October 2020.

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Witness my hand and seal of the Louisiana State Board of Medical Examiners this 26th day of October 2020.

Terrie Roselyn Thomas, M.D.
Secretary-Treasurer

Attest:

Roderick Vince Clark, M.D., MBA
President