In accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et. seq., specifically, R.S.

49:952(2) and R.S. 49:953C(1), and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board has adopted the following rules to provide the procedures for requesting and consideration of the adoption, amendment, or repeal of a board rule. This Rule is hereby adopted on the day of promulgation.

**Title 46**

**PROFESSIONAL AND OCCUPATIONAL STANDARDS**

Part XLV. Medical Professions

Subpart 5. Rules of Procedure

Chapter 93. Miscellaneous Provisions

Subchapter A. Petitions for Rulemaking

§9301. Scope of Subchapter

A. This Subchapter prescribes the procedures by which interested persons may petition the Board of Medical Examiners to exercise its rulemaking authority to adopt, amend or repeal administrative rules.


HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:733 (June 2021).

§9303. Definitions as Used in This Subchapter

A. As used in this Subchapter, the following terms shall have the meanings specified.

**Interested Person**—a person who or which:

a. holds or has applied for any license, certificate, permit or registration issued by the board; or

b. is subject to the regulatory jurisdiction of the board; or

c. is or may be affected by the practice of individuals regulated by the board.

**Person**—an individual natural person, partnership, corporation, company, association, governmental subdivision or other public or private organization or entity.

**Rulemaking**—the process by which the board exercises its authority under the laws of the state of Louisiana, including the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Medical Practice Act, R.S. 37:1261 et seq., and the other acts administered by the board, to formulate, propose and adopt, amend or repeal and promulgate administrative rules and regulations.


HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:733 (June 2021).

§9305. Petitions for Rulemaking

A. General Form. A petition for rulemaking must be submitted to the board in writing, legibly printed or typed.

B. Title and Signature. The petition shall be plainly and prominently titled as such and manually signed by an individual petitioner, authorized officer or representative of the petitioner, or attorney representing the petitioner. The full name, title or office, if any, address and telephone number of a person signing a petition shall be printed or typed under the person's signature. Signees signing in a representative capacity must be clearly identified.

C. Required Contents. A petition for rulemaking shall:

1. clearly identify each petitioner by name and address of residence or principal place of business;
2. describe the legal status or nature of the petitioner to establish that the petitioner is an interested person, within the meaning of Section 9303 of this Subchapter;
3. if a petition for adoption of a new rule, set forth a concise statement of the substance, nature, purpose and intended effect of the proposed rule and citation to the statutory authority for the board's rulemaking authority in the manner and on the subject requested;
4. if a petition for amendment of an existing rule, specify, by citation to the Louisiana Administrative Code, the rule or rules which the petitioner requests that the board amend, together with a concise statement of the manner in which it is proposed that the rule or rules be amended, the purpose and intended effect of the requested amendment, and citation to the statutory authority for the board's exercise or rulemaking authority in the manner and on the subject requested;
5. if a petition for repeal of an existing rule, specify, by citation to the Louisiana Administrative Code, the rule or rules which the petitioner requests that the board repeal, together with a concise statement of the purpose and intended effect of such repeal;
6. set forth a concise statement of the facts, circumstances, and reasons which warrant exercise of the board's rulemaking authority in the manner requested.
7. set forth a statement or prayer expressing the action sought by the petition; and
8. contain any other information deemed necessary by the board, in its discretion, in order that it may properly consider the petition.
D. Submission and Filing. A petition for rulemaking shall be filed with the board by delivery, U.S. mail to the attention of the board's executive director at the offices of the board.
E. Nonconforming Petitions. The board may refuse to accept for filing, or may defer consideration of, any petition for rulemaking that does not conform to the requirements of this Section.
F. Public Record. A petition for rulemaking shall be deemed a public record.
HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:734 (June 2021).
§9307. Consideration
A. Consideration by the Board. A petition for rulemaking may be considered and acted on at any regular or special meeting of the board. Within the time prescribed by Section 9309 of this Subchapter, the board may request additional information from the petitioner or interested persons other than the petitioner as it may deem relevant to its consideration.
B. Presentations. Within the time prescribed by Section 9309 of this Subchapter, the board may, on its own initiative or at the request of the petitioner or any other interested person, permit petitioner and other interested persons to appear before the board to make an oral presentation of information, data, views, comments and arguments in support of or opposition to the requested rulemaking.
HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:734 (June 2021).
§9309. Disposition
A. Form of Determination. The board may grant or deny a petition for rulemaking, in whole or in part. The board's determination shall be stated in writing and transmitted by U.S. mail to the person signing the petition. If the board denies a petition for rulemaking, in whole or in part, its determination shall state the reasons. If the board grants a petition for rulemaking, in whole or in part, it shall initiate rulemaking proceedings in accordance with the Louisiana Administrative Procedure Act. However, nothing in this Subchapter shall be construed to require that the board, in granting a petition for the adoption or amendment of a rule, employ or use the specific form or language requested by the petitioner, provided that the rule or amendment proposed by the board gives effect to the substance and intent of the petition.
B. Time for Determination. The board will render its determination with respect to a petition for rulemaking:
1. within 90 days of the date on which a complete petition conforming to the requirements of §9305 of this Subchapter is filed with the board; or
2. within 60 days of the date on which, at the request of the petitioner, the board entertains an oral presentation by the petitioner, whichever is later.
HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:734 (June 2021).
§9311. Construction and Effect
A. Board Discretion in Rulemaking. The provisions of this Subchapter are intended to provide an orderly and reasonable means for interested persons to petition the board to exercise its rulemaking authority under law and to provide for board consideration of such petitions. Petitions for rulemaking are addressed to the board's discretion as to the necessity or appropriateness of the adoption, amendment or repeal of a rule in the discharge of its licensing and regulatory responsibilities under the law. Nothing in this Subchapter shall be deemed to create any right or entitlement in any person to require the board to exercise its rulemaking authority.
B. Nature and Effect of Determination. The board's disposition of a petition for rulemaking by a determination made under §9309 of this Subchapter does not constitute, and shall not be deemed to constitute, a decision or order within the meaning of Louisiana Administrative Procedure Act, R.S. 49:951(3) or a declaratory order or ruling within the meaning of R.S. 49:962 and the procedures prescribed by this Subchapter do not constitute an adjudication within the meaning of R.S. 49:951(1). A determination by the board
with respect to a petition for rulemaking is final and not subject to judicial review or other appeal.


HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:734 (June 2021).

Vincent A. Culotta, Jr., MD
Executive Director