

NOTICE OF INTENT

Department of Health Board of Medical Examiners

Rules of Procedure; Adjudication
(LAC 46:XLV.9920)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 *et seq.*, 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 proposes to amend its rules governing recusal in administrative hearings and/or proceedings to clarify that in addition to the board, the Director of Investigations (DOI) and/or the Independent Counsel may also be recused, and to provide for a pro tem DOI, when needed, and the qualifications of the pro tem DOI. The proposed amendments are set forth below.

Title 46

PROFESSIONAL AND OCCUPATIONAL

Part XLV. Medical Professions

Subpart 5. Rules of Procedure

Chapter 99. Adjudication

§9920. Recusal

A. Any board member, director of investigations, and/or independent counsel who, because of bias or interest, is unable to assure a fair and impartial hearing and/or administrative proceeding shall be recused from that particular proceeding. The reasons for the recusal shall be made part of the record. Should the majority of the board members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding. Should the Director of Investigations be recused from a particular hearing and/or administrative proceeding, the board will contract for or specify a pro tem Director of Investigations who meets the criteria outlined in R.S. 37:1270(A)(9) to the satisfaction of the board, for that particular proceeding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2630 (December 2015), amended LR 48:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below one hundred percent of the federal poverty line has been considered. It is not anticipated that the proposed

amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with developmental disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Small Business Analysis

It is not anticipated that the proposed amendments will have any adverse impact on small businesses as defined in the Regulatory Flexibility Act, R.S. 49:974.5.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendments to Jacintha Duthu, LSBME, 630 Camp Street, New Orleans, LA 70130. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., September 19, 2022.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the Board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on September 27, 2022 at 3 p.m., at the office of the LSBME, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call in advance to confirm.

Vincent A. Culotta, Jr., M.D.,
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Rules of Procedure; Adjudication

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed changes will result in a one-time publication expense estimated at \$789.00 in FY 22 for the Louisiana State Board of Medical Examiners (LSBME). Otherwise, there is no anticipated impact on the LSBME or any state or local governmental unit, inclusive of adjustments in workload and paperwork requirements.

The proposed Rule would amend the LSBME's rules governing recusal in administrative hearings and/or proceedings to clarify that in addition to the board, the Director of Investigations (DOI) and/or the Independent Counsel may also be recused, and to provide for a pro tem DOI, when needed, and the qualifications of the pro tem DOI.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of the LSBME or other state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

It is not anticipated that the proposed amendment will have any economic benefit to directly affected persons, small businesses, or non-governmental groups and/or have any material effect on costs, paperwork or workload of physicians or other health care providers licensed by the LSBME, nor on receipts and/or income of licensees, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed changes will have any impact on competition or employment.

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Interim Legislative Fiscal Officer
Legislative Fiscal Office