

THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

MINUTES OF MEETING

May 22, 2023

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, May 22, 2023, by order of the President, at the offices of the Board, 630 Camp Street, New Orleans, Louisiana.

Board Members present:

Lester W. Johnson, M.D., President
Terrie R. Thomas, M.D., Vice President
Kim S. Sport, JD, Secretary-Treasurer
Roderick V. Clark, MBA, M.D.
Rita Y. Horton, M.D.
Patrick K. O'Neill, M.D.
James Taylor, M.D.
Cheryl Williams, M.D.
Leonard Weather, M.D., R.Ph

Juzar Ali, M.D. – Absent

Board Staff present:

Vincent A. Culotta, Jr., M.D., Executive Director
Lawrence H. Cresswell, DO, JD, Director of Investigations
Michael Francis, M.D. Assistant Director of Investigations
Patricia Wilton, Esq., Executive Counsel
Jon Carmer, Jr., Investigative Counsel
Aloma James, Director of Licensing
Alan W. Phillips, IT Director
LaKenya Collins, CPA, CFO
Susie Allen, DrPH, MBA, Director of Education and Research
Carol Chauvin, Compliance Officer
Maya Ladmiraault, Compliance Officer
Patricia Dufrene, Compliance Investigator
Lillie Rodgers, Investigations Program Director
Jacintha F. Duthu, Executive Staff Officer
Olivia PeLong, Executive Program Specialist

- (1.) General Administrative Matters; Public comments; Meeting Order;** Dr. Johnson opened the meeting with the Pledge of Allegiance. Dr. Culotta read the mission

statement of the LSBME.

- (2.) **Minutes of April 24, 2023;** The Board reviewed and discussed the minutes of its meetings held on April 24, 2023. On the motion of Dr. Thomas, duly seconded by Ms Sport, the Board voted unanimously to approve the minutes of its April 24, 2023 meeting, with corrections.
- (3.) **Follow-Up Action Items; USMLE Test Update;** The Board reviewed the information regarding the USMLE, COMPLEX, and FLEX 4-test limit, and no limit to the SPEX exam. The Board also was informed that the FSMB expects the LSBME to give an exemption to our rules automatically if the Board sponsors an additional testing, which is explicitly clear in two areas of their form. The Board tabled this agenda item for a follow-up at June's Board meeting.
- (4.) **Follow-Up Action Item; Direct Supervision of a Physician and Private Radiological Technologist;** The Board reviewed the proposed amendment to the current rules regarding direct supervision of Private Radiological Technologist. Upon the motion of Dr. Thomas, duly seconded by Ms. Sport, the Board voted unanimously for staff to begin promulgating the amendment to the rules as presented.
- (5.) **Communication and Information; Request for Wavier on Mailing List Rule;** The Board reviewed the request from Wendy James, Great Seminars, regarding a Board waiver to the mailing list in regard to releasing emailing addresses. Upon the motion of Dr. Thomas, duly seconded by Dr. O'Neill, the Board voted unanimously to deny the waiver request.
- (6.) **General Administrative Matters; President's Report;** The President informed everyone of the great things he heard about the FSMB meeting in Minneapolis. He informed everyone that Ms. Aloma James met with groups that are having some of the same issues as our Board, where licensees are wanting to pay less but have their applications processed quicker. The President asked Dr. Cresswell about the FSMB Bylaws Committee he sits on, and his experiences at the meeting. Dr. Cresswell informed the Board that he also hosted a forum for Investigators, Directors of Investigations, and Executive Directors from all over the country regarding best practices, sentencing, and investigation standards streamlined nationally.

The President expressed how important it is for staff to attend the FSMB even amid budget restrictions to ensure the agency stays up to date with best practices across the country. He asked staff to look into FSMB scholarships for next year to cut cost for some staff to attend, and to look into getting the typical 3 scholarships for staff and a fourth for a Board member.
- (7.) **General Administrative Matters; Secretary-Treasurer's Report;** The Secretary-Treasurer informed the Board regarding the LLA audit and HB 288. She also informed the Board that she plans to meet with Ms. Wilton for the second level review's first report at the June Board meeting.
- (8.) **General Administrative Matters; Executive's Director's Report;** The Executive Director informed the Board:

- Since our last board meeting, I met with FSMB regarding our Bridge program, and the FSMB will classify the BRP license as a special license in the database of the FSMB. There is only one person eligible for the Bridge to Residency Program (BRP) and that application is currently incomplete.
- I have met with Employer Coalition of La. Regarding health care workforce statistics. Recent data shows that the least healthy parish in Louisiana is Bienville parish and there are no active Physicians or PAs in the parish. They have asked us to have the best data we can have, and we are making it happen.
- Since our last meeting, the staff has met with LAPA to address their concerns regarding rules for PAs.

The Athletic Trainers Advisory Committee (ATAC) has met and given final approval to a set of rules that they would like to have enacted.

The Occupational Therapy Advisory Committee (OTAC) has met twice, and they continue to work on an overhaul of their rules.

- We are working with the CE broker to fix a glitch in the CME/CE reporting for the medical psychologists and the MPAC will resolve this at their next meeting.
- The Louisiana Applicant Processing System (LAPS), the new statewide fingerprinting and CBC system, is evolving rapidly, and we are working to expedite functionality as soon as we are active by the system. New key points of the system are that the LSBME will no longer have to collect cards or money and we do not have to send anything to the LSP (Louisiana State Police). The LSP contractor will have multiple sites throughout the state for the applicants to present themselves with a form that has the LSBME code printed on the form and pay the processing contractor. The contractor will forward the electronic fingerprints to the FBI and results should be available for the LSBME to review in approximately 7 days.
- I have had eight calls and/or emails with the LDH, and they have assigned a deputy finance director to assist us in the evaluation of fees, costs, and reserve concerns as directed by the board. Ms. LaKenya and I have reviewed the response to their first request and replied accordingly. We are awaiting their initial review and will work closely with LDH and our staff and assigned board members in this matter.
- The recent OTS statewide internet outages have not affected the LSBME. We are independent of the OTS and its statewide network. Kudos to our IT director and staff for their guidance in keeping us separate. There has been an increasing number of cyber-attacks nationwide which is related to the growth and expansion of AI. This requires more frequent necessary upgrades to our cyber-security systems.
- I have had over 12 hours of meetings with Dr Chaney and will continue to collaborate with him to create a more efficient and functional agency.
- I attended the LSUS Medical School graduation this past Saturday.

(9.) General Administrative Matters; Financial Report. The Board reviewed the Combined Balance Sheet and Profit and Loss Four Year Comparison for March 2023. Upon the motion of Dr. Williams, duly seconded by Dr. Horton, the Board voted unanimously¹ to approve the financial report.

(10.) Future Board Meeting Dates. The Board reviewed the future meeting dates for 2023.

¹ Dr. Johnson and Ms. Sport were out of the meeting and not included in this unanimous vote.

No further action was needed or taken.

- (11.) Rules and Regulations. Rules/Amendments.** Upon the motion of Dr. O'Neill, duly seconded by Dr. Thomas, the Board voted unanimously to approve the proposed Athletic Trainers proposed Rule changes.

On the motion of Dr. Taylor, duly seconded by Dr. Thomas, the Board voted unanimously to move the Rule Considerations to Executive Session for Attorney Advice.

- [12.] Minutes of Executive Sessions.** Upon the motion of Dr. Thomas, duly seconded by Dr. O'Neill, the Board voted unanimously to convene in executive session pursuant to La. R.S. 42:17A to receive and review the minutes of the Board's April 24, 2023, executive session. Following review, the Board returned to public session. Upon the motion of Dr. O'Neill, duly seconded by Dr. Williams, the Board voted unanimously to approve the April 24, 2023, executive session minutes.

- [13.] Executive Agenda Item moved from Public Session; Telemedicine Rules; Attorney Advice.** The Board convened in executive session to receive Attorney Advice regarding Telemedicine and the current rule that prohibits any licensee from practicing telemedicine on probation or with any kind of restrictions. No further action was needed or taken on this matter.

- [14.] Report on Pending Litigation.** Upon the motion of Dr. Clark, duly seconded by Ms. Sport, the Board voted unanimously to convene in executive session pursuant to La. R.S. 42:17A(2, 4 and 10), La. C.E. art. 508, and/or La. R.S. 44:4.1C, to receive and review the report of legal counsel on pending litigation to which the Board is a party, the unauthorized practice of medicine cases assigned for injunction, and the status of proceedings for judicial review of prior Board decisions. Upon the motion of Ms. Sport, duly seconded by Dr. Thomas, the Board voted unanimously to accept the litigation report.

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

Donovan v. LSBME, CDC Parish of Orleans, State of Louisiana, No. 2022-2964 Div. A-16

Fiaz Afzal, et al v. New Jersey BME, et al, No. 22-1609, U.S. Court of Appeals, 3d Circuit

- [15.] General Administrative Matters License Applicant's request.** The Board convened in executive session pursuant to La. R.S. 42:17A(1), and to receive advice of counsel under La. R.S. 42:17A (10), La. C.E. art. 508, La. R.S. 44:4(7) and/or La. R.S. 44:4.1C. The Board reviewed and discussed Agenda No. 05.00.01. After returning to public session, on motion of Dr. O'Neill, duly seconded by Dr. Thomas, the Board voted as follows to deny the licensee's request to waive examination requirements:

NAY	YEA	ABSENT
Dr. Williams	Dr. Taylor	Dr. Ali
Dr. Weather	Dr. Thomas	
Dr. Johnson	Dr. O'Neill	

Ms. Sport		
Dr. Clark		

The Board decided to table this matter after the motion to deny failed.

[16.] General Administrative Matters; Licensee's request. The Board convened in executive session pursuant to La. R.S. 42:17A(1), and to receive advice of counsel under La. R.S. 42:17A(10), La. C.E. art. 508, La. R.S. 44:4(7) and/or La. R.S. 44:4.1C with regard to the Agenda No. 05.00.02. After returning to public session, on the motion of Dr. Horton, duly seconded by Dr. Thomas, the Board voted unanimously to deny the licensee's request to approve Midwifery CEUs.

[17.] General Administrative Matters; License Applicant's request. The Board convened in executive session to receive advice of counsel under La. R.S. 42:17A (10), La. C.E. art. 508, La. R.S. 44:4(7) and/or La. R.S. 44:4.1C with regard to Agenda No. 05.00.03. After returning to public session, upon motion of Dr. Taylor, duly seconded by Dr. O'Neill, the board voted unanimously to approve the licensee's request for restricted license.

[18.] General Administrative Matters; License Applicant's request. The Board convened in executive session to receive advice of counsel under La. R.S. 42:17A (10), La. C.E. art. 508, La. R.S. 44:4(7) and/or La. R.S. 44:4.1C with regard to Agenda No. 05.00.04. After returning to public session, on the motion of Dr. Horton, duly seconded by Ms. Sport, the Board voted unanimously to approve the licensee's request for waiver of education requirements.

[19.] General Administrative Matters; License Applicant's request. The Board convened in executive session to receive advice of counsel under La. R.S. 42:17A (10), La. C.E. art. 508, La. R.S. 44:4(7) and/or La. R.S. 44:4.1C with regard to Agenda No. 05.00.05. After returning to public session, the Board tabled this item and will make a decision after finding out the perceived need of the state.

[20.] General Administrative Matters; License Applicant's request. The Board convened in executive session to receive advice of counsel under La. R.S. 42:17A (10), La. C.E. art. 508, La. R.S. 44:4(7) and/or La. R.S. 44:4.1C with regard to Agenda No. 05.00.06. After returning to public session, on the motion of Dr. Taylor, duly seconded by Dr. Thomas, the Board voted 8 YEAS 1 NAY to approve the licensee's request to waive the fee to reopen application.

[21.] Personal Appearances/Docket Calendar. On the motion of Dr. Thomas, 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.

[22.] Investigative Reports. 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 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. Administrative Complaint: On the motion of Dr. Thomas, duly seconded by Dr. Clark, the Board voted unanimously to approve filing the Administrative Complaint in the following matter:

Docket No. 2020-I-083

- b. Commence Formal Investigation: On the motion of Dr. Thomas, duly seconded by Ms. Sport, the Board voted unanimously to approve commencing formal investigation in the following matters:

Case No.	22-I-033
Case No.	23-I-288
Case No.	22-I-823
Case No.	22-I-460
Case No.	23-I-181
Case No.	23-I-226
Case No.	22-I-663
Case No.	22-I-752
Case No.	22-I-754
Case No.	22-I-755
Case No.	22-I-760
Case No.	22-I-761
Case No.	22-I-762
Case No.	22-I-763
Case No.	22-I-764
Case No.	22-I-765
Case No.	22-I-771
Case No.	22-I-772
Case No.	22-I-773 ²
Case No.	22-I-777
Case No.	22-I-780
Case No.	22-I-782
Case No.	22-I-796

- c. Initiate Preliminary Review: On the motion of Dr. Thomas, duly seconded by Ms. Sport, the Board voted unanimously to approve initiating preliminary review in the following matters:

² Drs. Horton and Johnson are recused from any and all participation in this matter.

Agenda Item No.	07.04.24
Agenda Item No.	07.04.25

d. Extend Time for Preliminary Review: On the motion of Dr. Thomas, duly seconded by Dr. Clark, and passed by unanimous voice vote, the Board approved granting a 90-day extension to continue preliminary review/investigation in the following matters and to authorize the DOI to request Executive Counsel to proceed with measures to enforce compliance with Board Subpoenas where no response had been received within 90 days of issuance:

Investigation No.	2022-175
Investigation No.	2022-177
Investigation No.	2022-184
Investigation No.	2022-937
Investigation No.	2022-963
Investigation No.	2023-153
Investigation No.	2023-158
Investigation No.	2023-160
Investigation No.	2023-170
Investigation No.	2023-182
Investigation No.	2023-196
Investigation No.	2023-197
Investigation No.	2023-200
Investigation No.	2023-220
Investigation No.	2023-224
Investigation No.	2023-230
Investigation No.	2018-902
Investigation No.	2019-527
Investigation No.	2019-541
Investigation No.	2020-657
Investigation No.	2020-705
Investigation No.	2020-740
Investigation No.	2020-753
Investigation No.	2020-997
Investigation No.	2020-899
Investigation No.	2020-1041
Investigation No.	2021-326
Investigation No.	2021-156
Investigation No.	2021-704

Investigation No.	2021-696
Investigation No.	2021-938
Investigation No.	2021-941
Investigation No.	2021-923
Investigation No.	2021-888
Investigation No.	2021-961
Investigation No.	2021-498
Investigation No.	2021-499
Investigation No.	2021-500
Investigation No.	2021-501
Investigation No.	2021-703
Investigation No.	2021-1416
Investigation No.	2022-187
Investigation No.	2022-211
Investigation No.	2022-418
Investigation No.	2022-563
Investigation No.	2022-560
Investigation No.	2022-589
Investigation No.	2022-553
Investigation No.	2022-605
Investigation No.	2022-640
Investigation No.	2022-915
Investigation No.	2022-967
Investigation No.	2022-982
Investigation No.	2022-653
Investigation No.	2022-788
Investigation No.	2022-806
Investigation No.	2022-913
Investigation No.	2022-947
Investigation No.	2023-183
Investigation No.	2023-59
Investigation No.	2022-903
Investigation No.	2022-960
Investigation No.	2022-941
Investigation No.	2023-161
Investigation No.	2023-164
Investigation No.	2023-168
Investigation No.	2023-195
Investigation No.	2023-186
Investigation No.	2023-185

Investigation No.	2023-211
Investigation No.	2023-212
Investigation No.	2023-214
Investigation No.	2023-215
Investigation No.	2022-273
Investigation No.	2022-191
Investigation No.	2022-176
Investigation No.	2022-458
Investigation No.	2020-715
Investigation No.	2021-312
Investigation No.	2021-331
Investigation No.	2021-439
Investigation No.	2021-440
Investigation No.	2021-447
Investigation No.	2021-1019
Investigation No.	2021-1022
Investigation No.	2021-1422
Investigation No.	2022-30
Investigation No.	2022-32
Investigation No.	2021-1381
Investigation No.	2022-108
Investigation No.	2022-145
Investigation No.	2022-163
Investigation No.	2022-406
Investigation No.	2022-424
Investigation No.	2022-567
Investigation No.	2022-579
Investigation No.	2022-606
Investigation No.	2022-643
Investigation No.	2022-646
Investigation No.	2022-673
Investigation No.	2022-721
Investigation No.	2022-907
Investigation No.	2022-922
Investigation No.	2022-925
Investigation No.	2023-167
Investigation No.	2023-189
Investigation No.	2023-190
Investigation No.	2020-824
Investigation No.	2019-254

Investigation No.	2021-12
Investigation No.	2021-400
Investigation No.	2021-647
Investigation No.	2021-1271
Investigation No.	2022-213
Investigation No.	2022-216
Investigation No.	2022-335
Investigation No.	2022-747
Investigation No.	2022-531
Investigation No.	2022-590
Investigation No.	2022-598
Investigation No.	2022-705
Investigation No.	2022-800
Investigation No.	2022-910
Investigation No.	2022-938
Investigation No.	2023-21
Investigation No.	2023-199
Investigation No.	2023-225

e. Consent Orders: On the motion of Dr. Taylor, duly seconded by Dr. Horton, the Board voted unanimously to reject the Proposed Consent Order for 22-I-043³.

f. Close with a Letter of Concern: On the motion of Ms. Sport, duly seconded by Dr. Thomas, the Board voted unanimously to close the following matters with a letter of concern:

Investigation No.	23-I-115
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Investigation No.	22-I-469 ⁴
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g. Close with an Enhanced Letter of Concern: On the motion of Ms. Sport, duly seconded by Dr. Thomas, the Board voted unanimously to close the following matter with an enhanced letter of concern:

Investigation No.	22-I-867
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³ Dr. O'Neill is recused from any and all participation in this matter.

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

h. Close with No Action: On motion of Dr. Thomas, duly seconded by Ms. Sport, the Board voted unanimously to close the following matters with no action:

File No.	2023-210
File No.	2021-413
File No.	2021-703
File No.	2021-426
File No.	2022-I-646
File No.	2023-167
File No.	2023-160
File No.	2023-170
File No.	2023-197
File No.	2023-84
File No.	2022-801
File No.	2023-239
File No.	2022-718
File No.	2022-929
File No.	2023-248
File No.	2023-233
File No.	2022-I-973
File No.	2021-110
File No.	2021-951
File No.	2020-903
File No.	2019-527
File No.	2019-721
File No.	2019-902
File No.	2019-903
File No.	2019-703
File No.	2023-161
File No.	2023-I-76
File No.	2022-330
File No.	2022-I-781
File No.	2022-I-784
File No.	2022-I-751
File No.	2022-I-775
File No.	2022-I-778
File No.	2022-I-756
File No.	2022-I-758
File No.	2022-I-783
File No.	2022-I-757
File No.	2022-I-792
File No.	2022-I-769

File No.	2022-I-774
File No.	2022-I-785
File No.	2022-I-776
File No.	2022-I-769
File No.	2022-I-766
File No.	2022-I-967
File No.	2022-812
File No.	2020-705
File No.	2020-899
File No.	2023-158

- i. Professional liability Report. The Board voted unanimously to convene 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). Upon returning to public session, on the motion of Ms. Sport, duly seconded by Dr. Williams, the Board voted unanimously to accept the May report.
- j. Recusal Material. On the motion of Dr. Clark, duly seconded by Ms. Sport, the Board voted unanimously to recuse the Board and send Case No. 2013-I-649 to the Pro Tem Board.
- k. Closed Case Report (s). The Board voted unanimously to convene in executive session to review allegations of misconduct pursuant to La. Rev. Stat. § 42:17A(4), as part of the closed case report. The Board returned to public session and upon motion of Ms. Sport, duly seconded by Dr. O'Neill, the Board voted unanimously to approve the April 2023 closed case summary report with the exception of Case No. 2022-896.

[23.] Probationary Matter; Request from Probationers. The Board voted unanimously to convene in executive session to review the following requests from licensees to end or modify the conditions of their allegations of misconduct probation and/or to be permitted to reinstate licensure, pursuant to La. Rev. Stat. § 42:17A(1), (4) & (10), La. C.E. art. 508, and/or La. R.S. 44:4.1C. After returning to public session, the Board took the following action:

With regard to Agenda No. 09.02.01, upon the motion of Dr. O'Neill duly seconded by Dr. Williams, the Board voted unanimously to approve the licensee's request for early termination of probation.

Next Meeting of the Board. The President reminded the members that the next meeting of the Board is scheduled for June 26-27, 2023.

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, conducted therein, held on May 22, 2023, and approved by the Board on the 26th day of June 2023.

Kim Sport, Esq.
Secretary-Treasurer

Lester W. Johnson, M.D.
President