

THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

MINUTES OF MEETING

December 11, 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, December 11, 2023, by order of the President, at the offices of the Board, 630 Camp Street, New Orleans, Louisiana.

Board Members present:

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

Board Staff present:

Vincent A. Culotta, Jr., M.D., Executive Director
Lawrence H. Cresswell, DO, JD, Director of Investigations
Michael C. Francis, M.D. Assistant Director of Investigations
Patricia Wilton, Esq., Executive Counsel
Lauryn Sudduth, Board 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 Ladmirault, 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 was called to Order; Dr. Thomas opened the meeting with the Pledge of Allegiance. The President also asked if there were any public comments. There were no public comments.

- (2.) Minutes of October 23, 2023;** The Board reviewed and discussed the minutes of its meetings held on October 23, 2023. On the motion of Dr. Horton, duly seconded by Ms. Sport, the Board voted unanimously* to approve the minutes of its October 23, 2023, meeting with edits.
- (3.) Follow-Up Action Items; Guardrails – Scope of Practice for Limited Radiography with Remote Supervision of Private Radiological Technologist;** The Board reviewed the proposed guidelines for the scope of practice for limited radiography with remote supervision of Private Radiological Technologist. Upon the motion of Dr. Clark, duly seconded by Dr. Weather, the Board voted unanimously to draft the certification letter for the Guardrails and Scope of Practice. Upon the motion of Dr. Clark, duly seconded by Dr. Weather, the Board voted unanimously* to move forward with the promulgation of the rules on this subject.
- (4.) Follow-Up Action Items; LSBME Outside Employment Policy;** The Board reviewed the Statewide policy regarding state employees and outside employment. Upon the motion of Ms. Sport, duly seconded by Dr. Ali, The Board voted unanimously* to approve the outside employment policy.
- (5.) Follow-Up; Fiscal Presentation;** The Board reviewed the Fiscally Responsible Planning for the LSBME.

Public Comment was received from:

Jeff Williams, Executive Vice President & CEO Louisiana State Medical Society
Cindy Bishop, Lobbyist, LSMS, OTHRO, LATA

Dr. Clark proposed that the board president and/or any other board leadership meet with the incoming administration to discuss the Board's fiscal position and possible plans to improve it. On motion of Dr. Weather, duly seconded by Dr. Ali, the Board voted unanimously* to authorize and request the board president reach out to the administration.

- (6.) Follow-Up; Ratification of Recusal Order;** The Board reviewed the recusal order in the matters of 13-I-649, 2021-1371 and 2023-347 for ratification. On the motion of Dr. Clark, duly seconded by Dr. Ali, the Board voted unanimously* to ratify the order.
- (7.) Rulings and Advisory Opinions; LSBME Overtime Policy;** The Board reviewed draft response for the Advisory opinion regarding dispensing. On the motion of Ms. Sport, duly seconded by Dr. Ali, the Board voted unanimously* to accept the draft response.
- (8.) Communication and Information; Licensing Kudos;** The Board read the communication from Sheik Mohaideen, M.Sc, Licensing and Credentialing Team Supervisor, The Radiology Group, LLC, regarding his gratitude for the exceptional service provided in expediting the process of physicians' licensing. No further action was needed or taken on this matter.
- (9.) General Administrative Matters; President's Report;** The President thanked the Board members and staff who worked so diligently on the fiscal plan, and everyone who has been a voice for all of the stakeholders.

At this time the President asked for a motion to add 3 agenda items to Executive Session for Attorney Advice. On the motion of Dr. Ali, duly seconded by Dr. O'Neill, the Board voted unanimously to add the items to the agenda.

(10.) General Administrative Matters; Vice President's Report; The Vice President report will be updated with the following:

- # 12 The vice President asked for a written policy for 2nd level review.
- #15 Change to Pending – not completed at this time.
- #16 Not completed – Would like to know what is reported to the NPDB
- #18 Change to pending – Where are the penalties documented.
- #23 Will be discussed in Executive Session
- #27 Completed
- #33 Change to pending – Asked Ms. Wilton to review.

The Vice President also asked that Ms. Wilton review open meeting laws.

On the motion of Dr. Clark, duly seconded by Ms. Sport, the Board voted unanimously* to accept the Vice President's report.

(11.) General Administrative Matters; Executive's Director's Report;

- The Medical Prescribing Psychologist advisory committee has met, and they are contemplating a rule or law change to clarify the need to hold two licenses until achieving advanced status.

The Occupational therapy advisory committee (OTAC) continues to meet and should have a final set of rules for your review in 2 months or less.

The PA Advisory committee met and with their approval we are beginning the verification of the CDS CME. Ms. Wilton is working on the proposed rules, and we should be able to present them for a public session discussion in February.

The Acupuncture advisory committee met, and they are considering some rule changes, but they are in the very preliminary stages of this process. They are also seeking to replace a member that wants to retire from the committee.

The staff is collaborating with the polysomnographic physician leadership to clarify policies and rules interpretation. The full advisory committee must meet to approve these and then present the changes to the board.

- I am meeting monthly with the licensing leadership. The agency has experienced a marked shortening of the time for CBC and numbers of open licenses are shrinking. We also reviewed our military licensing in the light of recent amendments to the federal law and a federal decision out of Texas. It is the opinion of Ms. Sudduth that we comply with the current state and federal requirements in our management of the granting of licenses for military spouses and dependents.
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- I met with Dr Cvitanovich and DiBenedetto re PRT limits remote supervision. This was addressed as a separate agenda item.
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- The Pro-tem board had a meeting and are planning a hearing. Do you, the board, want to allow the Pro-tem board to have hearings by virtual means if all parties agree? This would allow easier scheduling and reduce costs. Report details are under a separate agenda item.
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- Ms. Allen and I presented demographic data to the perinatal commission at their request. We as an agency continue to hone our required fields on renewal applications to get more useful data for other state agencies that request this data.
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- Contracts for conflict counsel are in the hands of the two selected attorneys and recent changes to the state approved rates have the potential to adversely affect our budget.
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- I met with Dr. Robert Hart (Ochsner Medical Director) and addressed his concerns and our concerns about procedure for and release of records and interpretation of gender affirming care and the new La law.
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- During the last month I have worked from home more than usual as my wife had major surgery and my daughter has surgery also. I will be having a cardiac procedure on January 5 in Austin Texas. I will travel the 3rd, see the doctor on the 4th and if all is ok and the doctor allows, I will return on the 8th or the 9th of January.

On the motion of Dr. Clark, duly seconded by Ms. Sport, the Board voted unanimously* to accept the Executive Director's report.

(12.) General Administrative Matters; Director of Investigations' Report; The DOI reported the following:

2023 – thru 11/30/23

Cases concluded with and without action. # of cases – 723

Average days to close – 214

Cases concluded without action

of cases – 683

Average days to close – 193

Cases concluded with action

of cases – 100

Average days to close – 307

On the motion of Dr. Clark, duly seconded by Ms. Sport, the Board voted unanimously* to accept the Director of Investigations' report.

(13.) Financial Report. The Board reviewed the Balance sheet and LSBME's profit and loss as of September 2023. The Board was also presented the 2024 Budget. On the motion of Dr. Clark, duly seconded by Dr. Horton, the Board voted unanimously* to accept the financial report and the 2024 Budget.

(14.) Future Board Meeting Dates. The Board reviewed the future meeting dates for 2024. No further action was needed or taken on this matter.

(15.) Rules and Regulations. Rules/Amendments. The Board reviewed the December 2023 Regulatory report. On the motion of Dr. Horton, duly seconded by Dr. Clark, the Board

voted unanimously^{*i} to accept the Regulatory Report.

[16.] Minutes of Executive Sessions. Upon the motion of Dr. Horton, duly seconded by Ms. Sport, the Board voted unanimously to convene in executive session pursuant to La. R.S. 42:17A to receive and review the executive minutes of the Board's October 23, 2023, meeting. Following review, the Board returned to public session. Upon the motion of Dr. Horton, duly seconded by Dr. Ali, the Board voted unanimously to approve the October 23, 2023, executive session minutes.

[17.] Report on Pending Litigation. Upon the motion of Dr. Horton, 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 return to public session and the motion of Ms. Sport, duly seconded by Dr. O'Neill, 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

[18.] General Administrative Matters; Pro Tem. 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 and reviewed the Pro Tem Board case updates. No further action was needed or taken on this matter.

[19.] General Administrative Matters; Attorney. 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. No further action was needed or taken on this matter.

[20.] 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. Upon the motion of Dr. Horton, duly seconded by Dr. Taylor, the Board voted 8 YEAS 2 NAYS to deny the licensee's request for a refund on the late renewal fee.

[21.] 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. 05.00.02. Upon the motion of Dr. Horton, duly seconded by Dr. Weather, the Board voted 9 YEAS 1 NAY to approve re-granting an unrestricted license in place of the retired/reduced fee license without the condition of the SPEX exam.

[22.] 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. 05.00.03. Upon the motion of Dr. Horton, duly seconded by Dr. Weather, the Board voted unanimously to approve granting an OTA

license in Louisiana.

[23.] Personal Appearances/Docket Calendar. On the motion of Dr. Horton, duly seconded by Dr. Taylor, 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.

[24.] Investigative Reports. On the motion of Dr. Horton, duly seconded by Dr. Taylor, 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: The Board reviewed the following matter, and on the motion of Dr. Horton, duly seconded by Dr. Ali, the Board voted unanimously to dismiss the Administrative Complaint in the following matter:

Docket No. 2022-A-005

On the motion of Dr. Ali, duly seconded by Ms. Sport, the Board voted unanimously to dismiss the Administrative Complaint in the following matter:

Docket No. 2022-A-003

- b. Interim Action: On the motion of Dr. Horton, duly seconded by Dr. Ali, the Board voted unanimously to ratify the interim action in the following matter:

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Case No. 2023-I-593

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

Agenda Item No.	07.04.01
Agenda Item No.	07.04.02 ¹
Agenda Item No.	07.04.03 ²

On the motion of Dr. Horton, duly seconded by Dr. Williams, the Board voted unanimously to approve initiating preliminary review in the following matter:

¹ Dr. Thomas is recused from any and all participation in this matter.

² Dr. Thomas is recused from any and all participation in this matter.

Agenda Item No.	07.04.07
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- d. Extend Time for Formal Investigation: On the motion of Dr. Horton, duly seconded by Dr. Taylor, the Board voted unanimously to extend formal investigation in the following matter:

Case No. 2021-I-1074 ³

- e. Extend Time for Preliminary Review: On the motion of Dr. Horton, duly seconded by Dr. Ali, 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.	2023-169
Investigation No.	2023-290
Investigation No.	2023-621
Investigation No.	2021-1413
Investigation No.	2023-344
Investigation No.	2022-31
Investigation No.	2022-272
Investigation No.	2023-255
Investigation No.	2023-291
Investigation No.	2023-526
Investigation No.	2023-634
Investigation No.	2023-638
Investigation No.	2023-670
Investigation No.	2023-675
Investigation No.	2023-676
Investigation No.	2023-679
Investigation No.	2023-694
Investigation No.	2023-685
Investigation No.	2023-711
Investigation No.	2023-39
Investigation No.	2023-259
Investigation No.	2023-435
Investigation No.	2023-510

³ Dr. Ali is recused from any and all participation in this matter.

Investigation No.	2023-511
Investigation No.	2023-516
Investigation No.	2023-524
Investigation No.	2023-544
Investigation No.	2023-551
Investigation No.	2023-552
Investigation No.	2023-599
Investigation No.	2023-618
Investigation No.	2023-629
Investigation No.	2023-643
Investigation No.	2023-666
Investigation No.	2023-678
Investigation No.	2023-714
Investigation No.	2023-7
Investigation No.	2023-214
Investigation No.	2023-215
Investigation No.	2023-232
Investigation No.	2023-276
Investigation No.	2023-438
Investigation No.	2023-461
Investigation No.	2023-478
Investigation No.	2023-514
Investigation No.	2023-515
Investigation No.	2023-656
Investigation No.	2023-681
Investigation No.	2023-683
Investigation No.	2023-684
Investigation No.	2023-696
Investigation No.	2023-716
Investigation No.	2023-718
Investigation No.	2018-809
Investigation No.	2018-764
Investigation No.	2018-928
Investigation No.	2019-295
Investigation No.	2019-451
Investigation No.	2019-548
Investigation No.	2020-112
Investigation No.	2019-1091
Investigation No.	2020-603
Investigation No.	2020-859

Investigation No.	2021-144
Investigation No.	2021-192
Investigation No.	2020-449
Investigation No.	2021-385
Investigation No.	2021-1174
Investigation No.	2021-1131
Investigation No.	2021-1212
Investigation No.	2022-35
Investigation No.	2022-36
Investigation No.	2023-37
Investigation No.	2022-53
Investigation No.	2022-62
Investigation No.	2022-71
Investigation No.	2022-180
Investigation No.	2022-289
Investigation No.	2022-468
Investigation No.	2022-666
Investigation No.	2022-669
Investigation No.	2022-701
Investigation No.	2023-20
Investigation No.	2023-50
Investigation No.	2023-53
Investigation No.	2023-487
Investigation No.	2023-614
Investigation No.	2023-633
Investigation No.	2023-655
Investigation No.	2023-110
Investigation No.	2023-204
Investigation No.	2023-252
Investigation No.	2023-452
Investigation No.	2023-671
Investigation No.	2021-1274
Investigation No.	2021-1381
Investigation No.	2022-213
Investigation No.	2022-216
Investigation No.	2022-293
Investigation No.	2022-305
Investigation No.	2022-335
Investigation No.	2021-747

- f. Commence Formal Investigation: On the motion Ms. Sport, duly seconded by Dr. Taylor, the Board voted unanimously to commence the formal investigations in the following matter:

Case No.	2022-I-177 ⁴
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- g. Consent Orders: On the motion of Ms. Sport, duly seconded by Dr. Clark, the Board voted unanimously to accept the proposed Consent Order in the following matter:

Investigation No.	2023-I-484
Investigation No.	2023-I-018

On the motion of Ms. Sport, duly seconded by Dr. Clark, the Board voted unanimously to approve the Voluntary Surrender in the following matter(s):

Investigation No.	2020-I-711 & 2021-I-1413
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On the motion of Ms. Sport, duly seconded by Dr. Clark, the Board voted unanimously to approve the proposed Consent Order in the following matter(s):

Investigation No.	2020-I-112
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On the motion of Ms. Sport, duly seconded by Dr. Clark, the Board voted unanimously to approve the Order for Reinstatement in the following matter(s):

Investigation Nos.	2019-A-020 and 2018-I-918 ⁵
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On the motion of Ms. Sport, duly seconded by Dr. Ali, the Board voted unanimously to deny the Consent Order in the following matter:

Investigation No.	2020-I-1100
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On the motion of Ms. Sport, duly seconded by Dr. Clark, the Board voted unanimously to approve the Order for Reinstatement in the following matter(s):

Investigation No.	2023-I-393
Investigation No.	2022-I-554
Investigation No.	2022-I-795
Investigation No.	2023-I-462

On the motion of Dr. Ali, duly seconded by Dr. Horton, the Board voted unanimously to

⁴ Dr. Horton is recused from any and all participation in this matter.

⁵ Dr. Horton is recused from any and all participation in this matter.

approve the proposed Consent Order in the following matter:

Investigation No.	2022-236
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On the motion of Ms. Sport, duly seconded by Dr. Horton, the Board voted 9 YEAS 1 NAY to deny the proposed Consent Order in the following matter:

Investigation Nos.	2020-I-141 c/w 2023-I-372
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h. Close with a Letter of Concern: On the motion of Dr. Williams, duly seconded by Dr. O'Neill, the Board voted unanimously to close the following matters with a letter of concern:

Investigation No.	2023-332
Investigation No.	2023-I-335
Investigation No.	2023-455
Investigation No.	2023-175
Investigation No.	2023-I-59

On the motion of Dr. Williams, duly seconded by Dr. O'Neill, the Board voted 9 YEAS 1 ABSTENTION to approve closing the following matter with a letter of concern:

Investigation No.	23-I-007 ⁶
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On the motion of Dr. Taylor, duly seconded by Dr. Ali, the Board voted unanimously to deny closing the following matter with a letter of concern:

Investigation No.	23-I-079 ⁷
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i. Close with No Action: On the motion of Dr. Ali, duly seconded by Dr. Taylor, the Board voted unanimously to close the following matters with no action:

File No.	2023-621
File No.	23-1-518
File No.	2023-169
File No.	2023-644

⁶ Dr. Weather is recused from any and all participation in this matter.

⁷ Dr. Cresswell is recused from any and all participation in this matter.

File No.	2023-561
File No.	2023-685
File No.	2023-672 ⁸
File No.	2022-451
File No.	2023-640
File No.	23-1-39
File No.	2023-680
File No.	2019-451
File No.	2023-255
File No.	2023-556
File No.	2023-634
File No.	2023-638
File No.	2023-753
File No.	2023-766
File No.	2022-531
File No.	2023-723
File No.	2023-722
File No.	2023-729
File No.	2023-731
File No.	2023-732
File No.	2023-675
File No.	2023-735
File No.	2023-755
File No.	2023-478
File No.	23-1-679
File No.	22-1-796
File No.	2023-427
File No.	2023-710
File No.	2023-775

On the motion of Ms. Sport, duly seconded by Dr. Ali, the Board voted unanimously to deny closing the following with no action and substituting with an Enhanced Letter of Concern in the following matter:

File No.	22-I-937
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On the motion of Dr. Ali, duly seconded by Dr. Williams, the Board voted unanimously to deny closing the following matter with no action and refer to the Attorney General's office:

File No.	23-I-230
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⁸ Dr. O'Neill is recused from any and all participation in this matter.

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 Dr. Taylor, duly seconded by Dr. Williams, the Board voted unanimously to accept the December report.

j. Unlicensed Practice of Medicine: 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 the motion of Dr. Clark, duly seconded by Dr. Ali, the Board voted unanimously to refer to the Optometry Board.

k. Closed Case Report: 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 the motion of Dr. O'Neill, duly seconded by Dr. Ali the Board voted unanimously to approve the October 2023 closed case summary report.

[25.] 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 Item No. 09.02.01⁹, upon the motion of Ms. Sport, duly seconded by Dr. Ali, the Board voted unanimously to deny the licensee's request for reinstatement.

[26.] Investigation Miscellaneous; Request for Statement of Position; The Board reviewed the Request for a statement of position for clarification of definition of "Morbidity" for licensed Midwife reporting to the Board. The Board deferred this matter to the January meeting.

Next Meeting of the Board. The President reminded the members that the next meeting of the Board is scheduled for January 22, 23, 2024.

⁹ Drs. Horton and Johnson is recused from any and all participation in this matter.

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 December 11th, and approved by the Board on the 22nd day of January 2024.

Rita Horton, M.D.
Secretary-Treasurer

Terrie R. Thomas, M.D.
President

ⁱ *Dr. Taylor is not included in these unanimous votes.