

THE LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

MINUTES OF MEETING

April 24, 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, April 24, 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
Juzar Ali, M.D.
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

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 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 Order;** Dr. Johnson opened the meeting with the Pledge of Allegiance.
- (2.) **Minutes of March 27, 2023;** The Board reviewed and discussed the minutes of its

meeting held on March 27, 2023. On the motion of Dr. Thomas, duly seconded by Ms Sport, the Board voted unanimously¹ to approve the minutes of its March 27, 2023, meeting.

- (3.) New Business; Recommendation to not add CDS-CME Courses;** The Board discussed information regarding adding additional CDS-CME courses to the already approved courses. The recommendation is to not add any additional courses at this time. No further action was needed or taken on this matter.
- (4.) New Business; Personal Appearance; Gerry Cvitanovich, M.D., Kevin DiBenedetto, M.D., Remote Supervision of limited Scope Radiological Technologist;** Dr. Cvitanovich presented a demonstration to the Board requesting a waiver for the possibility of remote supervision for Radiological Technologist within a limited scope in. On the motion of Dr. O'Neill, duly seconded by Dr. Thomas, the Board granted the waiver as requested by Dr. Cvitanovich and Dr. DiBenedetto and will proceed with writing new rules regarding this topic. In the interim other organizations have the ability to come before the Board with additional waiver requests.
- (5.) New Business; Global Governance Private Radiological Technologist Training; Gary Sanders, M.S., ARRT, Corporate Radiation/Laser Safety Officer, EHS Walmart, Sams, Walmart Health;** The Board reviewed the Global Governance Private Radiological Technologist training requirements, course content and Regulatory requirements for the licensing and operations of these training facilities. Upon the motion of Dr. Ali, duly seconded by Dr. Weather, the Board voted unanimously to accept the Global Governance Private Radiological Technologist Training.
- (6.) Follow-Up Action Items; Request for Advisory opinion regarding the Need of Physicians to have a Dispensing License to Bill Prescriptions;** The Board reviewed an inquiry from Ryan Boudreau, Pharmacist, Epic Pharmacy regarding dispensing. The Board instructed Executive Counsel and staff to respond to the inquiry with the current dispensing rule. No further action was needed or taken on this matter.
- (7.) Follow-Up Action Items; Attorney General Opinion regarding Physicians and Death Certificates;** The Board reviewed the Attorney General's Opinion on Death Certificates in regard to Physicians. The Opinion will be placed on the LSBME website for Physician access. No further action was needed or taken on this matter.
- (8.) Communication and Information; Compounding and Patient Safety;** The Board received a letter of concern from Ryan C. White, M.D., regarding patient safety and compounding of semaglutide and tirzepatide urging the LSBME to monitor pharmacies participating in this compounding. Dr. White stated in his letter that a copy was sent to the Board of Pharmacy as well. With this being the Board of Pharmacy's jurisdiction, no further action was needed or taken on this matter.
- (11.) General Administrative Matters; President's Report;** The President thanked Ms. Sport, Mr. Carmer, Ms. Wilton, Dr. Cresswell, Dr. Francis and Dr. Allen for their involvement in the second level review process and making this happen. Ms. Wilton and Dr. Allen will work as the second level reviewers as we initiate this plan.

¹ Dr. Taylor is not included in this unanimous vote.

The President informed the Board he met with numerous folks including the Governor, LDH Secretary, LDH Counsel, and Legislators, who expressed their appreciation of what this Board does in performing the functions and willingness to receive constructive criticism.

The President expressed his thanks to Dr. Clark, Dr. Culotta and staff for meeting with the Pharmacy Board, and the Nursing Board regarding important issues and encouraged everyone to continue doing such a great job.

(12.) General Administrative Matters; Executive's Director's Report; The Executive Director informed the Board:

- A new system for CBCs from the state police is in its initial phases of roll out and we will be the second agency to use it after the Dept of Education. This new system will prevent us from losing reports, having to physically pick up reports, and shorten the processing time. It will decrease the work of our staff by allowing increased automation in disseminating the necessary information on how to get the fingerprints for the licensees. The new system should lessen the work for the staff by eliminating the need for our staff to collect funds and send payments. The state is contracting with a company called IDEMIA to operationalize this new system.
- The Louisiana Legislative Session is in full swing. Hearing on topics of interest to the board have occurred and we will review the bills that have the potential to affect the LSBME later in the agenda today.
- Since our last meeting I presented workforce data regarding physicians to the LDI conference in Baton Rouge. I attended the Simulation medical training and Education council meeting of the agency. I also attended the IMLCC technology committee meeting.
- The applications are in process for the Bridge year programs both trainees and preceptors. The unmatched numbers are low at the time of this document preparation.
- The Occupational Therapy Advisory Committee (OTAC) met, and they continue to revise the rules for OTs and OTAs.
- The PA rule revision process is delayed at the request of the PAs and staff will be meeting with the LAPA group on Tuesday the 2nd of May.

(13.) General Administrative Matters; 2023 Legislative Report; The Board reviewed the following Bills of the 2023 Legislative Session:

Open Meetings Law: SB201
License Removal: HB459
Telehealth Bills: SB66, HB41, HB181
Compact Bill: SB186
Scope Expansion Bill: HB599
Abortion Bills: HB346, HB461, HB522, HB598, HB549, SB209

(14.) General Administrative Matters; DRAFT April 2023 Newsletter; The Board reviewed the Draft April Newsletter. Upon the motion of Dr. Thomas, duly seconded by Dr.

Weather, the Board voted unanimously to accept the Draft.

- (15.) General Administrative Matters; Financial Report.** The Board reviewed the Income Statements and Cash Balance Summary for the period ending February 2023. The Board also reviewed the cost-saving report brought to the Board. On the motion of Dr. Thomas, duly seconded by Dr. Weather, the Board voted unanimously to accept the Financial Report.
- (14.) Future Board Meeting Dates.** The Board reviewed the future meeting dates for 2023. No further action was needed or taken.
- (15.) Rules and Regulations. Rules/Amendments.** There are no changes to the Regulatory Report from last month. No further action was needed or taken.
- [16.] Minutes of Executive Sessions.** Upon the motion of Dr. Weather, duly seconded by Dr. Williams, 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 tabled February 27, 2023, and March 27, 2023, meeting of executive sessions. Following review, the Board returned to public session. Upon the motion of Dr. Horton, duly seconded by Ms. Sport, the Board voted unanimously to approve the February 27, 2023, and March 27, 2023, minutes with changes to the attestations.
- [17.] 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. 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
Fiaz Afzal, et al v. New Jersey BME, et al, No. 22-1609, U.S. Court of Appeals, 3d Circuit
- [18.] General Administrative Matters; Request for Non-Investigative Site Visit and Records Review: Office-Based Surgery Compliance.** The Board reviewed the request of Carol Chauvin, BSN, RN Compliance Investigator, to perform the annual random Office Based Surgery Compliance visits. Upon the motion of Dr. O'Neill, duly seconded by Dr. Thomas, the Board voted unanimously to approve the request.
- [19.] General Administrative Matters; Administrative Hearing Decision Investigation No. 22-A-001;** The Board convened in executive session to review the Administrative Hearing decision of the March 27, 2023, in Investigation No. 22-A-001. The Board agreed to defer approving the decision for Ms. Wilton, Mr. Carmer and Dr. Cresswell to review the law in regard to Administrative Hearing decisions and public decisions, if the decision is not a public action.
- [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. 05.00.01². After returning to public session, on motion of Dr. Clark, duly seconded by Dr. Weather, the Board voted 7 YEAS 1 NAY to accept the licensee's request for a waiver of examination requirements.

[21.] 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. Taylor, duly seconded by Dr. Ali, the Board voted unanimously to deny the licensee's request for the Board to sponsor an examination retake.

[22.] 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 the Board to sponsor the taking of the SPEX examination.

[23.] 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. O'Neill, duly seconded by Dr. Williams, the Board voted unanimously to approve the licensee's request for reinstatement of license.

[24.] Personal Appearances/Docket Calendar. On the motion of Ms. Sport, duly seconded by Dr. Ali, 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.

[25.] 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 Ms. Sport, the Board voted unanimously to accept the Administrative Complaint in the following matters:

Docket No. 2022-I-269
Docket No. 2022-I-460
Docket No. 2022-I-115

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

- b. Interim Action: On the motion of Dr. Thomas, duly seconded by Ms. Sport, the Board voted unanimously to ratify the interim action to Summarily Suspend the following:

Investigation No.	2022-I-315
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- c. 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.	2023-111
Case No.	2022-978
Case No.	2022-315

- d. 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:

Agenda Item No.	07.04.04 ³
Agenda Item No.	07.04.05

- e. Extend Time for Preliminary Review: On the motion of Ms. Sport, 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.	2021-947
Investigation No.	2020-734
Investigation No.	2021-1128
Investigation No.	2022-202
Investigation No.	2022-444
Investigation No.	2022-570
Investigation No.	2022-707
Investigation No.	2022-729
Investigation No.	2022-807
Investigation No.	2023-166
Investigation No.	2023-174
Investigation No.	2023-169

³ Dr. O'Neill is recused from any and all participation on this matter.

Investigation No.	2023-175
Investigation No.	2020-141
Investigation No.	2020-387
Investigation No.	2020-890
Investigation No.	2021-426
Investigation No.	2021-453
Investigation No.	2021-454
Investigation No.	2021-508
Investigation No.	2021-509
Investigation No.	2021-510
Investigation No.	2021-511
Investigation No.	2021-512
Investigation No.	2021-526
Investigation No.	2021-531
Investigation No.	2021-544
Investigation No.	2021-546
Investigation No.	2021-553
Investigation No.	2021-1058
Investigation No.	2021-1059
Investigation No.	2021-1060
Investigation No.	2021-1099
Investigation No.	2021-1079
Investigation No.	2021-1081
Investigation No.	2021-1274
Investigation No.	2021-1369
Investigation No.	2021-1335
Investigation No.	2021-1336
Investigation No.	2021-1339
Investigation No.	2021-1340
Investigation No.	2022-86
Investigation No.	2022-107
Investigation No.	2022-141
Investigation No.	2022-325
Investigation No.	2022-330
Investigation No.	2022-338
Investigation No.	2022-345
Investigation No.	2022-366
Investigation No.	2022-373
Investigation No.	2022-513
Investigation No.	2022-519
Investigation No.	2022-544
Investigation No.	2022-551
Investigation No.	2022-794

Investigation No.	2022-833
Investigation No.	2022-699
Investigation No.	2022-750
Investigation No.	2022-812
Investigation No.	2023-94
Investigation No.	2023-108
Investigation No.	2023-156
Investigation No.	2022-738
Investigation No.	2022-740
Investigation No.	2023-83
Investigation No.	2023-89
Investigation No.	2023-95
Investigation No.	2023-102
Investigation No.	2023-107
Investigation No.	2023-109
Investigation No.	2023-121
Investigation No.	2022-151
Investigation No.	2023-79
Investigation No.	2023-85
Investigation No.	2023-97
Investigation No.	2023-135
Investigation No.	2020-577
Investigation No.	2021-309
Investigation No.	2021-1180
Investigation No.	2022-273
Investigation No.	2022-176
Investigation No.	2022-458
Investigation No.	2022-522
Investigation No.	2022-741
Investigation No.	2021-71
Investigation No.	2023-87
Investigation No.	2023-245

f. Voluntary Surrender: On the motion of Dr. Ali, duly seconded by Ms. Sport, the Board voted unanimously to accept the voluntary surrender in Docket No. 22-I-156.

g. Consent Orders: On the motion of Dr. Ali, duly seconded by Ms. Sport, the Board voted unanimously to approve Option 1 in the Proposed Consent Order for 2023-I-9.

On the motion of Dr. Ali, duly seconded by Ms. Sport, the Board voted unanimously to accept the proposed Consent Orders in the following matters:

Investigation No.	23-I-206
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Investigation No.	20-I-165
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h. Close with a Letter of Concern: On the motion of Dr. Ali, duly seconded by Dr. Thomas, the Board voted unanimously to close the following matters with a letter of concern:

Investigation No.	2022-797 ⁴
Investigation No.	2023-100
Investigation No.	2023-42
Investigation No.	2022-622

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

File No.	2023-61
File No.	2023-135
File No.	2023-97
File No.	2022-738
File No.	2022-961
File No.	2023-131 ⁵
File No.	2023-35
File No.	2023-45
File No.	2023-43
File No.	2023-33
File No.	2023-47
File No.	2023-36
File No.	2023-46
File No.	2022-881
File No.	2023-91
File No.	2023-92
File No.	2021-1340
File No.	2021-1336
File No.	2023-187
File No.	22-I-551
File No.	2022-513
File No.	22-I-629
File No.	2022-565
File No.	2023-109
File No.	2021-1339
File No.	2023-194
File No.	2023-174

⁴ Dr. Clark left the meeting and will not be included in the unanimous votes.

⁵ Drs. Horton and Johnson are recused from any and all participation on this matter.

File No.	2023-172
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j. 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. Thomas, duly seconded by Dr. Ali, the Board voted unanimously to accept the April report.

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 Dr. Thomas, duly seconded by Dr. Ali, the Board voted unanimously to approve the March 2023 closed case summary report.

[26.] 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 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 actions:

With regard to Agenda No. 09.02.01, upon the motion of Dr. Thomas duly seconded by Ms. Sport, the Board voted 8 YEAS 1 NAY to deny the licensee's request to modify the current Consent Order.

[27.] Compliance Report; April 2023 PMP Compliance Report; The Board reviewed the April 2023 PMP Compliance Report. On the motion of Ms. Sport, duly seconded by Dr. Weather, the Board voted unanimously to accept the April 2023 PMP Compliance Report.

[28.] Attorney Advice; Private Meeting with Dr. Courtland Chaney, Industrial Behavioral Psychologist, Report; The Board met and received Attorney advice during a private meeting with Dr. Courtland Chaney.

Next Meeting of the Board. The President reminded the members that the next meeting of the Board is scheduled for May 22, 23 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 public session of the Board conducted therein, held on April 24, 2023, and approved by the Board on the 22nd day of May 2023.

Kim Sport, Esq.
Secretary-Treasurer

Lester W. Johnson, M.D.
President