

# LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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**Ms. Rita Arceneaux**  
Confidential Executive Assistant

October 25, 2013

RE: Advisory Opinion Respecting  
Self-Referred MRI Testing

At its October 2013 meeting, the Louisiana State Board of Medical Examiners (the "Board") considered your request for guidance concerning the propriety of self-referred (*e.g.*, without a physician's prescription or referral) Magnetic Resonance Imaging ("MRI"). The Board has asked that I acknowledge and thank you for your inquiry and advise you that it has long been the formal opinion of the Board that the ordering of, or prescription for, any diagnostic study necessarily encompasses an evaluation of a specific patient, consideration of the benefits versus the risks attendant to the testing contemplated, and the decided medical judgment that such study will be beneficial in the diagnosis and/or treatment of a medical condition, injury or disease. Legal authority to order the performance of diagnostic testing is not delegable.<sup>1</sup>

Thus, as a matter of law, it is the opinion of the Board that to be valid, effective and lawful, a prescription or order for "diagnostic testing" such as an MRI, clearly constitutes the practice of medicine as defined by the Louisiana Medical Practice Act,<sup>2</sup>

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<sup>1</sup>The fact that the Board was inclined to withhold enforcement action as to self-referred ultrasonography in the opinion to which you refer, does not require that we do so in other circumstances. Further, unlike ultrasonography, MRI does carry some risks. Special precautions, that is, must be taken for individuals with implanted medical devices, including heart pacemakers, hearing aids, inner ear implants and those who may have metal close to an organ, metal chips or pieces of metal. In addition, the safety of MRI during pregnancy has not been established *e.g.*, the FDA requires MRI device labels to indicate that safety to a developing fetus during the first trimester of gestation has not been established. Moreover, a sedative, which is sometimes required for patients who experience profound anxiety while undergoing MRI, and the injection of a dye or contrast which is required in some MRIs, can cause allergic reactions and complications. Either of these can only be prescribed by a physician or other authorized provider, with respect to a patient-specific order or prescription.

<sup>2</sup>La. Rev. Stat. Ann. §§37:1261-1292. In pertinent part, as defined by the Act, the "practice of medicine" means:

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and may only be offered, undertaken or performed with respect to Louisiana residents, on the prescription or order of a physician licensed to practice medicine in this state.<sup>3</sup>

A licensed radiologic technician who performs an MRI either without a physician prescription or order with respect to a particular patient, or pursuant to non-specific physician authorization, would exceed the scope of his or her licensure and be engaged in the practice of medicine, subjecting his or her license to action by the Louisiana Radiologic Technology Board of Examiners.<sup>4</sup> An unlicensed individual who engaged in such conduct would be subject to a suit for injunction by this Board, and/or to prosecution for engaging in the unauthorized practice of medicine.<sup>5</sup> So too, a physician participant in such a relationship would be subject to disciplinary action for affiliating with an unlicensed practitioner.<sup>6</sup>

While we understand that the foregoing advice was not that for which you had hoped, we nevertheless trust that we have properly understood the nature of your inquiry and that the foregoing advice is responsive.

Very truly yours,

**LOUISIANA STATE BOARD OF  
MEDICAL EXAMINERS**

By:   
Rita Arceneaux  
*Confidential Executive Assistant*

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[T]he holding out of one's self to the public as being engaged in the business of, of the actual engagement in, the diagnosing, treating curing, or relieving of any bodily or mental disease, condition, infirmity, deformity, defect, ailment, or injury in any human being...whether by the use of any drug, instrument or force...or any other agency or means; or the examining...of any person or material from any person for such purpose whether such drug, instrument, force, or other agency or means is applied to or used by the patient or by another person....

La. Rev. Stat. §37:1262(1).

<sup>3</sup>La. Rev. Stat. §37:1271 provides that "[n]o person shall practice medicine...as defined herein until he possesses a duly recorded license" issued by the Board.

<sup>4</sup>La. Rev. Stat. Ann. §37:3219A(5).

<sup>5</sup>La. Rev. Stat. Ann. §§37:1271, 1286.

<sup>6</sup>La. Rev. Stat. Ann. §37:1285A(18).