

a. a completed application in a manner specified by the board, together with the fees prescribed by Chapter 1 of these rules;

b. satisfactory documentation that the applicant possesses the qualifications required by this Section; and

c. a letter from the program director under whom he or she will be serving in the fellowship, describing the capacity in which the applicant will be serving and the inclusive dates of such service.

3. Restrictions, Limitations. The holder of a permit issued under this Section shall not engage in the practice of medicine in any respect in the state of Louisiana, or receive medical education or training, other than within the fellowship training program for which he or she is approved by the board.

4. Term. A permit issued under this Section shall expire, and thereby become null and void and to no effect on the date specified by the permit or twelve months from the date of issuance, whichever is the shorter period. Such permit shall also expire on any date that the permittee's appointment to the designated fellowship training program is terminated.

5. Renewal. A fellowship training permit which has expired may, at the board's discretion, be renewed or reissued for not more than one successive twelve month period commencing without interruption immediately following the initial expiring permit, provided all requirements prerequisite to initial permit issuance have been met to the board's satisfaction.

6. Revocation. A fellowship training permit may be revoked by the board:

a. for any of the causes specified by R.S. 37:1285A;

b. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications prerequisite to eligibility for a permit as prescribed by this Subsection; or

c. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the terms, conditions, restrictions, or limitations prescribed by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A), 37:1270(B)(6), 37:1275, 37:1277 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:467 (May 1995), amended LR 27:846 (June 2001), LR 35:465 (March 2009), amended by the Department of Health, Board of Medical Examiners, LR 45:1470 (October 2019).

§412. Emergency Temporary Permits

A. As used in this Section, the following terms shall have the following meanings.

Allied Health Care Practitioner—an individual, other than a physician, authorized by the board to practice in this state as an athletic trainer pursuant to R.S. 37:3301 through 3312; as a clinical exercise physiologist pursuant to R.S. 37:3421 through 3433; as a clinical laboratory scientist pursuant to R.S. 37:1311 through 1329; as a midwife pursuant to R.S. 37:3240 through 3257; as an occupational therapist or occupational therapy assistant pursuant to R.S. 37:3001

through 3014; as a perfusionist pursuant to R.S. 37:1331 through 37:1343; as a physician assistant pursuant to R.S. 37:1360.21 through 1360.38; as a podiatrist pursuant to R.S. 37:611 through 628; as a polysomnographic technologist or polysomnographic technician pursuant to R.S. 37:2861 through 2870; as a private radiological technologist pursuant to R.S. 37:1292; or as a respiratory therapist or respiratory therapy assistant pursuant to R.S. 37:3351 through 3361.

Board—the Louisiana State Board of Medical Examiners established pursuant to R.S. 37:1263.

DHH—the Louisiana Department of Health and Hospitals or its successor in title.

Physician—an individual authorized by the board to practice medicine in this state, pursuant to R.S. 37:1261-1291.

B. The board may issue an emergency temporary permit to an individual to practice as a physician or allied health care practitioner, valid for a period of not more than 60 days, to provide voluntary, gratuitous medical services in this state during a public health emergency, and for such periods thereafter as DHH shall deem the need for emergency services to continue to exist, at sites specified by DHH or approved by the board, provided such individual:

1. holds a current, unrestricted license in good standing issued by the licensing authority of another state to practice the profession for which the permit is sought; and

2. presents or causes to be presented to the board in advance of providing medical services:

a. indisputable personal identification;

b. a copy of his or her professional license or other information deemed satisfactory by the board on which to verify out-of-state licensure;

c. a completed application and/or such information as may be required by the board; and

d. as to an allied health care practitioner required by the laws of this state to practice under physician supervision, designation of a physician who will serve in such capacity.

C. An emergency temporary permit may be issued upon such terms, conditions, limitations or restrictions as to time, place, nature, and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law.

D. The board may, in its discretion, issue a permit under this Section to an individual to practice as a physician or allied health care practitioner who provides medical services other than on a gratuitous basis, and/or at sites other than those specified by DHH or approved by the board. The board may also issue a permit to an individual who satisfies the provisions of R.S. 29:735.I.

E. A physician or allied health care practitioner shall visibly display a permit issued under this Section, or such other identifying information as the board may specify, in plain view on his or her person at all times while exercising the privileges of such permit.

F. An emergency temporary permit entitles the holder to engage in the practice of his profession in the state of Louisiana only for the period specified by such permit and creates no right or entitlement to licensing, registration, certification or renewal of the permit after its expiration.

G. A permit issued under this Section shall expire and become null and void on the earlier of:

1. 60 days from the date on which it was issued;

2. a date specified on the permit less than 60 days from the date of issuance; or

3. the date that the term of voluntary service is terminated.

H. The board may, in its discretion, extend or renew an expired emergency temporary permit for one or two additional 60-day periods provided all conditions prerequisite to original issuance are satisfied.

I. Following termination of a public health emergency the board may, in its discretion, issue, extend or renew a permit under this Section during such period as DHH shall deem the need for emergency services continues to exist.

J. In the event of a conflict between the provisions of this Section respecting emergency temporary permits and those contained in any Chapter administered by the board respecting an allied health care practitioner, the provisions of this Section shall govern.

K. If any rule, Section, provision or item of this Chapter or the application thereof is held to be invalid, such invalidity shall not affect other rules, Sections, provisions, items or applications, and to this end the rules, Sections, provisions and items of this Chapter are hereby deemed to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 1275; R.S. 37:3301-3312; R.S. 37:3421-3433; R.S. 37:1311-1329; R.S. 37:3240-3257; R.S. 37:3001-3014; R.S. 37:1331-1343; R.S. 37:1360.21-1360.38; R.S. 37:611-628; R.S. 37:2861-2870; R.S. 37:1292; R.S. 37:3351-3361 and R.S. 29:769(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 33:91 (January 2007).

Subchapter I. License Issuance, Termination, Renewal, Reinstatement and Exemptions

§413. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §311 and §313 or §323 and §325, or §353 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of medicine in the state of Louisiana.

B. A license issued under §311 of this Chapter shall be issued by the board within 30 days following the reporting of the applicant's passing scores to the board. A license issued under any other section of this Chapter shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 27:848 (June 2001), LR 31:1584 (July 2005).

§415. Expiration of Licenses and Permits

A. Every license or permit issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall annually expire and thereby become null, void, and to no effect the following year on the first day of the month in which the licensee was born.

B. A license issued pursuant to the waiver of qualifications provided by §315 of this Chapter shall become null and void on the earlier of the date prescribed by §415.A or the date on which the physician's appointment as a professor to the medical school or college, upon which the waiver was granted by the board, is terminated.

C. The timely submission of a properly completed application for renewal of a license, but not a permit, as provided by §417 of this Chapter, shall operate to continue the expiring licensing in full force and effect pending issuance of the renewal license.

D. Permits are not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:1500 (August 1998), LR 27:848 (June 2001), LR 31:1584 (July 2005).

§417. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before the first day of the month in which the licensee was born, by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fees prescribed in these rules and the Medical Practice Act, and documentation of satisfaction of the continuing medical education requirements prescribed by Subchapter K of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

C. Initial application for renewal of a license, issued on the basis of a commitment for year two of postgraduate clinical training under §311.A.6.b shall, as a prerequisite to renewal consideration, be accompanied by documentation satisfactory to the board of the completion of year two of such training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), 37:1271, 37:1272, 37:1274, 37:1275.1, 37:1280 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:1500 (August 1998), LR 26:695 (April 2000), LR 27:848 (June 2001), amended by the Department of Health, Board of Medical Examiners, LR 44:587 (March 2018).

§418. Reduced Renewal Fees for Certain Physicians

A. The fee otherwise required for annual renewal of licensure will be reduced by one-half in favor of a physician who holds an unrestricted license to practice medicine issued by the board and who has, prior to the first day of the year for which such renewal will be effective:

1. attained the age of 70 years;

§421. Authority to Issue and Renew Licenses, Certificates, Registrations or Permits

A. The board, acting through its president or designee, may approve the issuance and renewal of any license, certificate, registration, permit or other necessary authority that the board is authorized to issue with respect to a physician or an allied health care practitioner who satisfies and meets all requirements prescribed by law or applicable board regulation for issuance or renewal of such license, permit, certificate, registration or authority. In the event that a question exists with respect to an applicant's qualifications, the application or renewal shall be referred to the entire board.

B. For purposes of this Section, an *allied health care practitioner* is an individual who holds any form of health care practitioner license, certificate, registration or permit that the board is authorized to issue, other than as a physician, including but not limited to: an acupuncturist, acupuncture assistant, or acupuncture detoxification specialist pursuant to R.S. 37:1356-1360; an athletic trainer pursuant to R.S. 37:3301 through 3312; a clinical exercise physiologist pursuant to R.S. 37:3421 through 3433; a clinical laboratory scientist pursuant to R.S. 37:1311 through 1329; a midwife pursuant to R.S. 37:3240 through 3257; an occupational therapist or occupational therapy assistant pursuant to R.S. 37:3001 through 3014; a perfusionist pursuant to R.S. 37:1331 through 37:1343; a physician assistant pursuant to R.S. 37:1360.21 through 1360.38; a podiatrist pursuant to R.S. 37:611 through 628; a polysomnographic technologist or polysomnographic technician pursuant to R.S. 37:2861 through 2870; a private radiological technologist pursuant to R.S. 37:1292; or a licensed respiratory therapist pursuant to R.S. 37:3351 through 3361.

C. In the event of a conflict between the provisions of this Section and those of any other Section in this Part, the provisions of this Section shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 34:2402 (November 2008).

§422. Reports to the Board; Suspension, Termination, Non-Renewal, Surrender, Resignation or Withdrawal from Postgraduate Medical Training

A. A physician participating in an accredited postgraduate medical training program (program) in this state under the authority of a registration, permit or license issued by the board shall report, and shall request that the program report, to the board in writing his or her suspension, termination, non-renewal, surrender, resignation or withdrawal from the program within 30 days of such action.

B. In the event of a conflict between the reporting requirements of Subsection A of this Section and a physician's duty to self-report under R.S. 37:1285(A)(31) or a program's duty to report under Louisiana Health Care Professionals Reporting Act, R.S. 37:1745.11-37:1745.17, respectively, the provisions of R.S. 37:1285(A)(31) and 37:1745.11-37:1745.17, shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, R.S. 37:1285A(31), R.S. 37:1745.11-37:1745.17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 38:3174 (December 2012).

§423. Exemptions to Licensure; Emergency Transfer of Patients

A. In addition to the exemptions to licensure provided by R.S. 37:1291, a license to practice medicine shall not be required for a physician-member of a transport team providing emergency or other medical care to an acutely ill patient during transfer or transportation to or from a hospital in this state provided such physician is duly licensed to practice medicine by the medical licensing authority of another state.

B. The exemption provided by Subsection A of this Section, shall also apply to any license, certificate or registration of any allied health care professional, which the board is authorized to issue, who is a member of a transport team providing emergency or other medical care to an acutely ill patient during transfer or transportation to or from a hospital in this state provided such allied health care practitioner is duly licensed to practice his profession by the medical licensing authority of another state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR. 36:2559 (November 2010).

§424. Exemption to Licensure; Out-of-State Physician Orders

A. Definitions. As used in this Section the following terms shall have the meanings specified.

Established Patient—a patient who is currently under the care of out-of-state physician for a diagnosed medical condition or complaint.

Out-of-state Physician—a physician who is duly licensed to practice medicine in any state or jurisdiction of the United States other than Louisiana.

Routine Diagnostic Testing—laboratory testing and radiologic studies, and such other diagnostic testing as the board may in its discretion determine to be routine upon written application, which is needed for the on-going evaluation or monitoring of the patient's condition or response to therapy.

State—any state or jurisdiction of the United States.

B. A license to practice medicine in this state shall not be required for routine diagnostic testing ordered by an out-of-state physician for an established patient provided:

1. the physician-patient relationship was initiated by an in-person, face-to-face visit in a state other than Louisiana where the out-of-state physician is duly licensed to practice medicine;

2. the order can be verified by the health care facility or provider to which or to whom it is presented. While verification need not occur in every instance, the order should be verified if:

a. the out-of-state physician or the institution from which the order was generated is unknown to the provider; or

b. there are other circumstances that would cause a prudent professional acting in the usual scope of practice to suspect non-compliance with the provisions of this Section; and

3. the results of such testing are provided directly to the ordering out-of-state physician;

Chapter 75. Telemedicine

Subchapter A. General Provisions

§7501. Scope of Subchapter

A. The rules of this Subchapter govern the use of telemedicine by physicians licensed to practice medicine in this state and those who hold a telemedicine permit issued by the board to practice medicine in this state via telemedicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1532 (August 2009), amended 41:2144 (October 2015).

§7503. Definitions

A. As used in this Chapter and in §408 of these rules, unless the content clearly states otherwise, the following words and terms shall have the meanings specified.

Board—the Louisiana State Board of Medical Examiners, as constituted in the Medical Practice Act.

Controlled Substance—any substance defined, enumerated, or included in federal or state statute or regulations 21 C.F.R. 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Department—the Louisiana Department of Health and Hospitals.

In-Person Visit—a face-to-face evaluation conducted by a physician who is at the same physical location as the patient.

Medical Practice Act or the Act—R.S. 37:1261-92, as may from time to time be amended.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license or a telemedicine permit duly issued by the board.

Physician-Patient Relationship—physicians utilizing telemedicine shall establish a proper *physician-patient relationship* by:

a. verifying the identity of the individual requesting treatment. Appropriate contact and identifying information shall be made part of the medical record;

b. conducting an appropriate examination. The examination does not require an in-person visit if the technology is sufficient to provide the physician the pertinent clinical information reasonably necessary to practice at an acceptable level of skill and safety;

c. establishing a diagnoses through the use of accepted medical practices e.g., history, mental status, appropriate diagnostic and laboratory testing;

d. discussing the diagnoses and risks and benefits of various treatment options;

e. insuring the availability for appropriate follow-up care; and

f. creating and/or maintaining a medical record.

Telemedicine—the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data by a physician using interactive telecommunication technology that enables a physician and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously. Neither an electronic mail message between a physician and a patient, or a true consultation constitutes *telemedicine* for the purposes of this Part. A physician practicing by telemedicine may utilize interactive audio without the requirement of video if, after

access and review of the patient's medical records, the physician determines that he or she is able to meet the same standard of care as if the healthcare services were provided in person.

Telemedicine Permit—a permit issued by the board in accordance with §408 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:317 (February 2017).

§7505. Patient Relationship; Standard of Care; Location of Participants

A. *Physician-Patient Relationship*. Telemedicine shall not be utilized by a physician with respect to any individual located in this state in the absence of a physician-patient relationship.

B. *Standard of Care*. The practice of medicine by telemedicine, including the issuance of any prescription via electronic means shall be held to the same prevailing and usually accepted standards of medical practice as those in traditional (face-to-face) settings. An online, electronic or written mail message does not satisfy the standards of appropriate care.

C. *Location of Participants*. A physician using telemedicine may be at any location at the time the services are provided. A patient receiving medical services by telemedicine may be in any location in this state at the time that the services are received.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:317 (February 2017).

§7507. Prerequisite Conditions; Disclosures

A. The practice of medicine is deemed to occur at the location of the patient. Therefore, no physician shall utilize telemedicine to provide medical services to patients located in this state unless the physician:

1. holds an unrestricted Louisiana medical license; or
2. holds a telemedicine permit as provided in §408 of these rules.

B. A physician utilizing telemedicine with respect to patients located in this state shall have:

1. access to the patient's medical record;
2. if required by the standard of care applicable to the diagnosis or treatment of the patient's complaints in a traditional (face-to-face) setting, the ability:
 - a. to utilize peripherals (such as otoscope and stethoscope);
 - b. to obtain diagnostic testing;
 - c. if necessary in the physician's judgment, to access a patient presenter to assist with the telemedicine encounter; and
 - d. to refer the patient to another physician in this state or arrange for follow-up care within this state as may be indicated for that purpose.

C. *Disclosures*. Prior to utilizing telemedicine a physician shall insure that the following disclosures have been made to

the patient and documented in the medical record. Such disclosures need not be made or documented more than once, except to update the information provided:

1. the name, Louisiana medical license number and contact information [address, telephone number(s)] of the physician;
2. the physician's specialty or area of practice;
3. how to receive follow-up and emergency care;
4. how to obtain copies of medical records and/or insure transmission to another medical provider;
5. how to receive care in the event of a technology or equipment failure; and
6. notification of privacy practices concerning individually identifiable health information, consistent with state and federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2145 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:317 (February 2017),

§7509. Patient Records

A. Patient records shall be:

1. created and maintained for every telemedicine visit according to the same standards of care as in an in-person visit. The record shall clearly reflect and state that the patient encounter occurred by telemedicine;
2. confidential and subject to all applicable state and federal laws and regulations relative to privacy and security of health information;
3. accessible by a patient and the physician consistent with all state and federal laws and regulations; and
4. made available to the patient or a physician to whom the patient may be referred within a reasonable period of time; and
5. made available to the board upon request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1533 (August 2009), amended 41:2146 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:318 (February 2017).

§7510. Privacy and Security

A. Only secure communication technology shall be used for telemedicine. At a minimum, telemedicine technology shall comply with all state and federal laws and regulations for medical/health information privacy and security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, 41:2146 (October 2015).

§7511. Informed Consent

A. In addition to any informed consent and right to privacy and confidentiality that may be required by state or federal law or regulation, a physician shall insure that each patient to whom he or she provides medical services by telemedicine is:

1. informed of the relationship between the physician and patient and the respective role of any other health care provider with respect to management of the patient; and

2. notified that he or she may decline to receive medical services by telemedicine and may withdraw from such care at any time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1534 (August 2009).

§7513. Prohibitions

A. The following prohibitions apply to physicians who practice medicine in this state via telemedicine.

B. Preamble—Controlled Substances. While in most instances the board believes that an in-person visit is required prior to the issuance of a prescription for any controlled substance, provided the physician can examine the patient *via* telemedicine technologies sufficient to make a diagnosis, controlled substances may be prescribed by telemedicine within the limitations of Subsection 7513C.

C. No physician shall utilize telemedicine:

1. for the treatment of non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's rules;
2. for the treatment of obesity, as set forth in §§6901-6913 of the board's rules;
3. to authorize or order the prescription, dispensation or administration of any controlled substance unless;
 - a. the physician has had at least one in-person visit with the patient within the past year; provided, however, the requirement for an in-person visit shall not apply to a physician who holds an unrestricted license to practice medicine in this state and who practices telemedicine upon any patient being treated at a healthcare facility that is required to be licensed pursuant to the laws of this state and which holds a current registration with the U.S. Drug Enforcement Administration;
 - b. the prescription is issued for a legitimate medical purpose;
 - c. the prescription is in conformity with the same standard of care applicable to an in-person visit; and
 - d. the prescription is permitted by and in conformity with all applicable state and federal laws and regulations.
4. Exceptions. The board may grant an exception to the limitations of §7513.C in an individual case that is supported by a physician's written application stating how and why he or she proposes to deviate from §7513.C. If an exception is granted by the board it shall be stated in writing and specify the manner and extent to which the physician shall be authorized to depart from §7513.C.

D. A physician who practices telemedicine by virtue of a telemedicine permit issued by the board shall not:

1. open an office in this state;
2. meet with patients in this state;
3. receive telephone calls in this state from patients; or
4. engage in the practice of medicine in this state beyond the limited authority conferred by his or her telemedicine permit.

E. No physician shall supervise, collaborate or consult with an allied health care provider located in this state via telemedicine unless he or she possesses a full and unrestricted license to practice medicine in this state and satisfies and complies with the prerequisites and requirements specified by all applicable laws and rules.

F. No physician shall utilize telemedicine to provide care to a patient who is physically located outside of this state, unless the physician possesses lawful authority to do so by the licensing authority of the state in which the patient is located.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1534 (August 2009), amended LR 41:2146 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:318 (February 2017).

§7515. Exceptions

A. The following activities shall be exempt from the requirements of this Chapter:

1. furnishing medical assistance in case of a declared emergency or disaster, as defined by the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq., or as otherwise provided in Title 29 of the Louisiana Revised Statutes of 1950, or the board's rules;

2. issuance of emergency certificates in accordance with the provisions of R.S. 28:53; and

3. a true consultation, e.g., an informal consultation or second opinion, provided by an individual licensed to practice medicine in a state other than Louisiana, provided that the Louisiana physician receiving the opinion is personally responsible to the patient for the primary diagnosis and any testing and treatment provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1534 (August 2009).

§7517. Action against Medical License

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed to constitute unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), and may provide just cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license held or applied for by a physician or applicant culpable of such violation, or for such other administrative action as the board may in its discretion determine to be necessary or appropriate under R.S. 37:1285(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1534 (August 2009).

§7519. Action against Permit

A. For noncompliance with any of the provisions of this Chapter, or upon a finding of the existence of any of the causes enumerated by R.S. 37:1285(A), the board may, in addition to or in lieu of administrative proceedings provided by this Chapter, suspend, revoke, refuse to issue or impose probationary or other restrictions on any permit held or applied for by a physician or applicant culpable of such violation, or take such other administrative action as the board may in its discretion determine to be necessary or appropriate under R.S. 37:1285(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1534 (August 2009).

§7521. Unauthorized Practice

A. Any individual who utilizes telemedicine to practice medicine in this state in the absence of a medical license or a telemedicine permit duly issued by the board, shall be deemed to be engaged in the unauthorized practice of medicine and subject to the civil, injunctive and criminal penalties prescribed by the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, 1276.1 and 1290.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1535 (August 2009).

Chapter 76. Definition of Enforcement Terms

Subchapter A. General Provisions

§7601. Scope of Chapter

A. The board has the responsibility to consider and determine action upon all charges of conduct which fail to conform to the Louisiana Medical Practice Act, R.S. 37:1261-1292 et seq., as re-enacted and amended, and the rules and regulations promulgated by the board to carry out the provisions of this Part. The rules of this Chapter compliment the board's authority to deny, suspend, revoke or take such other action against a physician's license, as it may determine to be appropriate, pursuant to R.S. 37:1285.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:336 (January 2011).

Subchapter B. Unprofessional Conduct

§7603. Unprofessional Conduct

A. In the exercise of its duties the board has determined to define the term *unprofessional conduct*, as set forth in R.S. 37:1285(A)(13), as conduct that includes but is not limited to the departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice or the ethics of the medical profession including, but not limited to, the principles established by the American Medical Association, the American Osteopathic Association, and relevant medical specialty associations, or the commission of any act contrary to honesty, justice, good morals, patient safety or the best interest of the patient, whether committed in the course of the physician's practice or otherwise, and whether committed within or without of this state. For illustrative purposes only, *unprofessional conduct* includes but is not limited to:

1. *Sexual Misconduct*—any act of sexual intimacy, contact, exposure, gratification, abuse, exploitation or other sexual behavior with or in the presence of a patient or any other individual related to the physician's practice of medicine regardless of consent. Such conduct may be verbal, physical, visual, written or electronic, or it may consist of expressions of thoughts, feelings or gestures that are sexual or reasonably may be construed by a patient or other individual as sexual or which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:320 (February 2017), LR 45:1472 (October 2019).

Chapter 79. Physician Collaboration with Advanced Practice Registered Nurses

Subchapter A. General Provisions

§7901. Scope

A. The rules of this Chapter govern the practice of physicians in this state who engage in collaborative practice with an advanced practice registered nurse who provides acts of medical diagnosis or prescriptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:2720 (February 2018).

§7903. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Act—the Louisiana Medical Practice Act or Act, R.S. 37:1261 et seq.

Advanced Practice Registered Nurse or *APRN*—a licensed registered nurse who is licensed as an advanced practice registered nurse by the Louisiana State Board of Nursing.

Alternate Collaborating Physician or *ACP*—a physician meeting the eligibility requirements of this Chapter who is designated to serve as collaborating physician, in accordance with §7911.A.5 of these rules, when the collaborating physician is unavailable.

Board—the Louisiana State Board of Medical Examiners, as constituted in the Louisiana Medical Practice Act.

Clinical Practice Guidelines—written or electronic documents, jointly agreed upon by the collaborating physician and APRN that describe a specific plan, arrangement, or sequence of orders, steps, or procedures to be followed or carried out in providing patient care in various clinical situations. These may include textbooks, reference manuals, electronic communications and Internet sources.

Collaborating Physician or *CP*—a physician with whom an APRN has been approved to collaborate by the Louisiana State Board of Nursing, who is actively engaged in clinical practice and the provision of direct patient care in Louisiana, with whom an APRN has developed and signed a collaborative practice agreement for prescriptive and distributing authority. A CP shall hold a current, medical license issued by the board, or be otherwise authorized by federal law or regulation to practice medicine in this state,

have no pending disciplinary proceedings and practice in accordance with rules of the board.

Collaboration or *Collaborate*—a cooperative working relationship between a physician and APRN to jointly contribute to providing patient care and may include but not be limited to discussion of a patient's diagnosis and cooperation in the management and delivery of health care with each provider performing those activities that he or she is legally authorized to perform.

Collaborative Practice—the joint management of the health care of a patient by an APRN performing advanced practice registered nursing and one or more consulting physicians. Except as provided in R.S. 37:930, acts of medical diagnosis and prescriptions by an APRN shall be in accordance with a collaborative practice agreement.

Collaborative Practice Agreement or *CPA*—a formal written statement addressing the parameters of the collaborative practice which are mutually agreed upon by an APRN and one or more physicians which shall include but not be limited to the following provisions:

a. availability of the collaborating physician for consultation or referral, or both;

b. methods of management of the collaborative practice which shall include clinical practice guidelines; and

c. coverage of the health care needs of a patient during any absence of the APRN or physician.

Controlled Substance—any substance defined, enumerated, or included in federal or state statute or regulations 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Fair Market Value or *FMV*—the value in arm's-length transactions, consistent with the general market value of the services provided.

LSBN—the Louisiana State Board of Nursing, as constituted in R.S. 37:911 et seq.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a license duly issued by the board.

Practice Site or *Site*—a location identified in a CPA or other documentation submitted by the APRN to the LSBN at which a CP or APRN engage in collaborative practice. A hospital and its clinics, ambulatory surgery center, nursing home, any facility or office licensed and regulated by LDH, as well as a group or solo physician practice, which have more than one physical location shall be considered a *site* for purposes of this definition.

Prescription or *Prescription Drug Order*—an order from a practitioner authorized by law to prescribe for a drug or device that is patient specific and is communicated by any means to a pharmacist in a permitted pharmacy, and is preserved on file as required by law or regulation.

Unpredictable, Involuntary Reasons—the death, disability, disappearance, unplanned relocation, or a similar unpredictable or involuntary reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:272 (February 2018).

§7905. Prohibitions

A. A physician who has signed a CPA with an APRN shall comply with the rules of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:273 (February 2018).

§7907. Exceptions

A. This Chapter shall not apply to physician collaboration:

1. with an APRN who does not engage in acts of medical diagnosis or prescriptions, as described in R.S. 37:913(8) and (9), or those otherwise exempt from collaborative practice pursuant to R.S. 37:930; and

2. in cases of a declared emergency or disaster, as defined by the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq., or as otherwise provided in title 29 of the Revised Statutes of 1950, or the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:273 (February 2018).

Subchapter B. Due Diligence;

Eligibility; Requirements of

Collaborative Practice Agreement and Required Information

§7909. Due Diligence

A. Before entering into a collaborative practice agreement with an APRN, a physician shall:

1. insure that he or she possesses the qualifications specified by this Chapter; and
2. have an understanding of the rules of this Chapter.

B. After signing a collaborative practice agreement with an APRN a physician shall confirm with the APRN that any required documentation concerning the collaborative practice has been submitted to the LSBN.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:273 (February 2018).

§7911. Eligibility; Required Components of Collaborative Practice Agreement

A. To be eligible to engage in collaborative practice with an APRN a physician shall:

1. be actively engaged in the provision of direct patient care in Louisiana;

2. practice in an area comparable in scope, specialty, or expertise to that of the APRN;

3. except as provided in §7911.A.5, have signed a collaborative practice agreement as described in R.S. 37:913(8) and (9) with an APRN that complies with the standards of practice prescribed by §§7915-7919 of this Chapter. In addition, a collaborating physician shall insure that the CPA includes:

a. a plan of accountability among the parties that addresses:

i. prescriptive authority of the APRN and the responsibilities of the collaborating physician;

ii. a plan for hospital and other healthcare institution admissions and privileges which provides that a collaborating physician must have hospital privileges at an institution before an APRN receives privileges at the same hospital or institution;

iii. arrangements for diagnostic and laboratory testing; and

iv. a plan for documentation of medical records;

b. clinical practice guidelines as required by R.S. 37:913(9)(b), documenting the types or categories or schedules of drugs available and generic substitution for prescription by the APRN and be:

i. mutually agreed upon by the APRN and collaborating physician;

ii. specific to the practice setting;

iii. maintained on site;

iv. reviewed and signed at least annually by the CP to reflect current practice;

c. availability of the collaborating physician when he or she is not physically present in the practice setting for consultation, assistance with medical emergencies, or patient referral;

d. confirming that in the event all collaborating physicians are unavailable, and there is no alternate collaborating physician(s), the APRN will not medically diagnose or prescribe;

e. documentation that patients are informed about how to access care when both the APRN and/or the collaborating physician are absent from the practice setting;

f. an acknowledgment of the mutual obligation and responsibility of the APRN and collaborating physician to insure that all acts of prescriptive authority are properly documented;

4. if the APRN has been granted prescriptive authority by the Louisiana State Board of Nursing that includes controlled substances; possess a current, unrestricted Louisiana controlled dangerous substance permit and a

current, unrestricted registration to prescribe controlled substances issued by the United States Drug Enforcement Administration; and

5. in the event all CPs at a practice site are unavailable, the CP may designate an alternate collaborating physician at the practice site to be available for consultation and collaboration provided the following conditions are met:

a. there is a formal, documented, approved and enforceable organizational policy that allows and provides for designation of an alternate collaborating physician;

b. the organizational policy establishes and provides for documenting such designation and such documentation shall be made available to board representatives when requested, including the dates of the designation and name of the alternate collaborating physician(s);

c. the alternate collaborating physician agrees to the provisions of the collaborative practice agreement previously signed by the collaborating physician(s);

d. the collaborating physician and APRN are responsible for insuring that the documented organization policy is established and that such policy and any ACP meet the requirements of this Chapter; and

e. the ACP is designated to collaborate with the APRN only at the same practice site as the designating CP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:273 (February 2018).

§7913. Required Information

A. Each physician shall report to the board annually, as a condition to the issuance or renewal of medical licensure, whether or not he or she is engaged in collaborative practice with an APRN, along with such other information as the board may request.

B. The information required by this Section shall be reported in a format prepared by the board, which shall be made part of or accompany each physician's renewal application for medical licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:274 (February 2018).

Subchapter C. Standards of Practice

§7915. Responsibilities, Compensation Arrangements

A. A collaborating physician shall insure that the identity, contact information and availability of the collaborating physician(s) and APRN are available to patients of the collaborative practice.

B. When serving as the sole CP for an APRN at a practice site, the CP:

1. shall give no less than 30-days notice to the APRN when ending a collaborative practice agreement for

predictable, voluntary reasons in order to provide for continuity of care of patients; and

2. work with the APRN to identify and enlist a physician to serve as alternate collaborating physician for unpredictable, involuntary reasons. A physician serving as alternate collaborating physician for unpredictable or involuntary reasons:

a. shall insure that the APRN notifies the LSBN within two business days of the commencement of service as an ACP;

b. may serve in such capacity for at least 30, but no more than 120, days to provide for continuity of care while the APRN secures another CP; and

c. may be excused from the requirements §7911.A.2 (e.g., practice in an area comparable in scope, specialty, or expertise of the APRN, unless following notification pursuant to §7915.B.2.a of this Section, the APRN advises the ACP that the collaborative practice has not been approved by LSBN).

C. In structuring any compensation arrangement or other financial relationship with an APRN, a collaborating physician shall be mindful that a CPA is not an option for an APRN; rather, it is a requirement of state law. Any attempt to exploit such requirement by way of compensation arrangements for performing no professional services, merely serving as a CP under a CPA, or for an amount that is not consistent with the FMV of the services provided to an APRN under a CPA shall be viewed as unprofessional conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:274 (February 2018).

§7917. Limitations

A. A physician shall not collaborate with an APRN:

1. except in compliance with all applicable state and federal laws and regulations;

2. when the APRN and collaborating physician, or in the physician's absence an alternate collaborating physician, do not have the capability to be in contact with each other face-to-face, by telephone or other means of direct telecommunication;

3. who treats and/or utilizes controlled substances in the treatment of:

a. non-cancer-related chronic or intractable pain, as set forth in §§6915-6923 of the board's rules;

b. obesity, as set forth in §§6901-6913 of the board's rules;

c. one's self, spouse, child or any other family member; or

4. who distributes medication, other than free or gratuitous non-controlled substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:274 (February 2018).

§7919. Continuous Quality Improvement; Board Access to Documents

A. A collaborating physician shall insure that copies of the collaborative practice agreement, clinical practice guidelines, organization policy and required designation documentation for an alternate collaborating physician are available at the practice site for examination, inspection and copying upon request by the board or its designated employees or agents.

B. A collaborating physician or alternate collaborating physician shall comply with and respond to requests by the board for personal appearances and information relative to his or her collaborative practice;

C. Employees or agents of the board may perform an on-site review of a collaborating physician or alternate collaborating physician's practice at any reasonable time, without the necessity of prior notice, to determine compliance with the requirements of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:274 (February 2018).

Subchapter D. Sanctions

§7921. Effect of Violation

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:275 (February 2018).

Chapter 80. Louisiana Uniform Prescription Drug Prior Authorization Form

Subchapter A. General Provisions

§8001. Louisiana Uniform Prescription Drug Prior Authorization; Requirements; Referral for Enforcement

A. A prescriber or pharmacy required to obtain prior authorization from a third party payor shall complete the Louisiana Uniform Prescription Drug Prior Authorization Form referenced below in §8003, either in written form or its electronic equivalent.

B. In the event a third party payor demands the completion of an alternative authorization process, the prescriber or pharmacy shall refer the demand to the appropriate enforcement agency.

1. If the demand is made by a Medicaid-managed care organization, the prescriber or pharmacy shall refer the demand to the Department of Health.

2. If the demand is made by any other third party payor, the prescriber or pharmacy shall refer the demand to the Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1006.1(C) and 46:460.33(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:2154 (December 2018).

§8003. Louisiana Uniform Prescription Drug Prior Authorization Form

LOUISIANA UNIFORM PRESCRIPTION DRUG PRIOR AUTHORIZATION FORM

SECTION I - SUBMISSION

Submitted to:	Phone:	Fax:	Date:
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SECTION II - PRESCRIBER INFORMATION

Last Name, First Name MI:		NPI# or Plan Provider #:	Specialty:	
Address:		City:	State:	ZIP Code:
Phone:	Fax:	Office Contact Name:	Contact Phone:	

SECTION III - PATIENT INFORMATION

Last Name, First Name MI:	DOB:	Phone:	<input type="checkbox"/> Male	<input type="checkbox"/> Female
			<input type="checkbox"/> Other	<input type="checkbox"/> Unknown