

**THE LOUISIANA STATE
BOARD OF MEDICAL EXAMINERS**

**MINUTES
OF
MEETING**

**OCTOBER 20, 2014
NEW ORLEANS, LOUISIANA**

A meeting of the Louisiana State Board of Medical Examiners, pursuant to lawful notice, was duly convened and called to order at 8:30 a.m., Monday, October 20, 2014, by order of the President, at the offices of the Board, 630 Camp Street, New Orleans, Louisiana.

Board Members present as follows:

Mark Henry Dawson, M.D., President
John Michael Burdine, M.D., Vice-President
Joseph D. Busby, Jr., M.D.
Roderick V. Clark, M.D.
Kenneth Barton Farris, M.D.
Christy Lynn Valentine, M.D

Board Member absent as follows:

Kweli J. Amusa, M.D., Secretary-Treasurer

The following members of the Board's staff were present:

Cecilia Ann Mouton, M.D., Executive Director
Emily Diane Eisenhauer, M.D., Assistant Director of Investigations
Thania Elliott, RN, Investigator
Grace Hammons, Administrative Manager
Lilly Rodgers, Administrative Program Specialist A
Merian Gaspard, Director of Licensure
Rita L. Arceneaux, Executive Assistant

Legal counsel to the Board was present as follows:

Judge Frederick S. Ellis

Judge John W. Greene
Philip O. Bergeron

- 1. Minutes of September 15, 2014 Meeting.** The Board reviewed the minutes of its meeting held on Monday, September 15, 2014. On the motion of Dr. Clark duly seconded by Dr. Burdine and passed by unanimous voice vote, the Board approved the minutes of the meetings with all necessary corrections.
- 2. Status Report on Action Items of Prior Board Meetings; Report on Assignments to Counsel.** The Board noted the action items as assigned to staff and counsel from previous meetings.
- 3. Communication and information; Louisiana State Board of Nursing; Petition for Declaratory Statement; EKG Technologies for Peripherally Inserted Central Catheters (“PICC”) Line Placement; Personal Appearance; Kraig DeLanzac, M.D., President, Louisiana Society of Anesthesiologists.** Kraig De Lanzac, M.D., President, Louisiana Society of Anesthesiologists, appeared before the Board to offer input regarding EKG technology for PICC line placement. He explained that the new technology used an EKG lead to help determine PICC line placement which he stated could prove useful to physicians in accordance with hospital guidelines.
- 4. Communication and information; Louisiana State Board of Nursing; Petition for Declaratory Statement or Advisory Opinion; EKG Technologies for Peripherally Inserted Central Catheters (“PICC”) Line Placement.** The Board reviewed the Petition for Declaratory Statement or Advisory Opinion on Nurse Practice received from the Board of Nursing requesting the Board’s view on the use of EKG technologies for PICC line placement. Dr. Clark reported that he inquired and was informed that chest x-rays remain the standard of care for PICC line placement in this state. Following review and discussion, it was the consensus of the Board to advise the Board of Nursing that chest x-rays remain the appropriate standard of care for PICV line verification and although the Board is aware of advances in technology, given that the use of a PICC line if not placed correctly may lead to severe complications, it prefers to reserve further judgment on the use of EKG guided technology pending receipt of additional information verifying the safety, efficacy and parameters of its use.
- 5. Rulings and Advisory Opinions; Performance of Posterior Tibial Nerve Stimulation (“PTNS”) by Licensed Practical Nurse (“LPN”).** The Board reviewed the request received from Linda G. Rodrigue, Attorney, Kean Miller, LLP, for confirmation that the performance of PTNS is delegable to an LPN provided the LPN is properly trained and the physician is immediately available for assistance. Following review and discussion, it was the consensus of the Board to advise Ms. Rodrigue that it would be inappropriate for a physician to delegate the performance of PTNS to an LPN, because PTNS is considered an interactive procedure whereby based on observations and assessments judgments are made which is beyond the scope of practice for an LPN.

- 6. Communication and Information; Louisiana Department of Insurance Complaint.** The Board reviewed the electronic correspondence received from Korey Harvey, Deputy Commissioner, Office of Health Insurance, Louisiana Department of Insurance acknowledging receipt of the Board's complaint. No further action was required or taken on this matter.
- 7. Communication and Information; Federation of State Medical Boards ("FSMB"); Interstate Medical Licensure Compact.** The Board reviewed the Interstate Medical Licensure Compact Final Version prepared by the Medical Licensure Compact Taskforce of the FSMB. Following a review of the document, it was the consensus of the Board to defer action pending a follow-up summary of its impact to our licensure process.
- 8. General Administrative Matters; Personal Appearance; Lena Osborne, PA, Louisiana Academy of Physician Assistants, Peter Stevens, PA; Co-Signature by Supervising Physician.** Lena Osborne, PA, Louisiana Academy of Physician Assistants, accompanied by Peter Stevens, PA, Past Member, Physician Assistants Advisory Committee, appeared before the Board in follow-up to the request to eliminate the requirement of the review and countersignature of the physician assistant's written entry in the patient's medical record by the supervising physician. Following the discussion, on the motion of Dr. Farris, duly seconded and passed by unanimous voice vote, the Board voted to eliminate the requirement of the co-signature in the patient's medical record and replace it with a chart review process by the supervising physician upon completion of the rule-making process.
- 9. Communication and Information; Rudy Gomez, Partner, SSA Consultants, LLC, Statewide Summit.** The Board reviewed electronic correspondence received from Rudy Gomez, Partner, SSA Consultants, LLC, informing the Board of a statewide summit to be held in January 2015 to address the "Future of Health Care Delivery in Louisiana" to which the Board is an invited participant. No further action was required or taken on this matter at this time.
- 10. General Administrative Matters; President's Report.** The Board received the report of its President on his activities since the last meeting of the Board. No further action was required or taken on this matter.
- 11. General Administrative Matters; Executive Director's Report.** The Board received the report of its Executive Director on her activities since the last meeting of the Board. Dr. Mouton reported on items relating to computer technology and the online project and stated that she had not heard from acupuncture assistants in follow-up to their request. She concluded her report stating that the project to improve the Board's licensure processes was ongoing.
- 12. General Administrative Matters; Athletic Trainers Advisory Committee.** B.J. Duplantis, Jr., AT, Member, Athletic Trainers Advisory Committee provided the Board with a copy of correspondence mailed to athletic programs from the Louisiana Physical Therapy Board regarding the ability of physical therapists to provide wellness and injury management on the

sidelines of school-sponsored athletic activities. Following review and discussion, it was the consensus of the Board to address this matter with the Board of Elementary and Secondary Education and have staff draft correspondence to be reviewed at a subsequent meeting.

13. General Administrative Matters; Computer/Email/Internet Use Policy. The Board reviewed the Computer/Email/Internet Policy titled "Policy # IT 040908". No further action was required or taken on this matter.

14. General Administrative Matters; Financial Reports.

Financial Statement - The Board reviewed a statement on the revenue and expenses for the period ending July 31, 2014 and approved all expenditures as noted therein. The Board also reviewed the status of investments as of July 31, 2014. The Board also reviewed a balance sheet and income statement for Clinical Laboratory Personnel for the period ending July 31, 2014 and approved all expenditures as noted therein. The Board also reviewed the status of investments for Clinical Laboratory Personnel as of July 31, 2014.

15. General Administrative Matters; Prescription Monitoring Advisory Council. The Board reviewed the report of the Prescription Monitoring Advisory Council quarterly meeting held October 9, 2014, held in Baton Rouge at the offices of the Louisiana State Board of Pharmacy. It was recommended that a warning letter be mailed to a 21% of the 500 top prescribers without PMP access. No further action was required or taken at this time.

16. Rules and Regulations.

- a. Final Rules/Amendments: None published since the last meeting of the Board.
- b. Rules/Amendments – Noticed of Intent - Physicians and Surgeons – Office-Based Surgery: The Board considered suggestions for amendment to its office-based surgery rules. A revised draft incorporating the suggested changes was considered by the Board, and following review, discussion and further suggestions, the Board voted to provide *Notice of Intent* to adopt the proposed rules in the *Louisiana Register*. Prior to publication, staff suggested additional changes relative to the performance of office-based procedures using moderate or conscious sedation, which were discussed at its August 2013 meeting. Pursuant to the Board's instructions, a revised draft incorporating comments and suggestions of members and staff was most recently considered by the Board during its February 2014 meeting. A revised draft incorporating minor changes and staff suggestions was considered by the Board during its June 2014 meeting. Following review and discussion, the Board voted to provide *Notice of Intent* to adopt the rule amendment in the *Louisiana Register*. Such *Notice of Intent* appeared in the July 2014 edition of the *Louisiana Register*. A request for a public hearing was not received; however two (2) written comments were submitted and presented for the Board's consideration. The comments were reviewed by the Board during its September 2014 meeting. The Board's responses to the

comments are included in the Legislative Report. Given that the time for an oversight hearing has passed, it is anticipated that the amendments will be adopted upon publication in the October 2014 edition of the *Louisiana Register*. **Physicians and Surgeons – Collaborating Physicians:** The Board expressed a desire to consider the development of rules relative to physicians who collaborate with advanced practice registered nurses. A draft was prepared by staff for initial consideration at its October 2013 meeting. A revised draft incorporating comments and suggestions was considered by the Board at its December 2013 meeting. Following review and discussion, it was the consensus of the Board to preview the draft to several professional organizations (the Louisiana State Medical Society, the Louisiana Medical Association and the Louisiana Academy of Family Physicians) and the Louisiana State Board of Nursing. Revised drafts incorporating suggestions were reviewed by the Board at its March 2014 meeting at which time the Board voted to approve the draft pending the receipt of suggestions for one organization yet to respond. Additional revisions were offered by the Board during its May 2014. The Board reviewed the suggested changes offered at the May 2014 meeting along with suggestions of staff. Following consideration and discussion of the latest revised draft at its June 2014 meeting, the Board approved publication of a *Notice of Intent* to adopt the rules in the *Louisiana Register*. Said *Notice of Intent* appeared in the August 2014 issue of the *Louisiana Register*. A number of written comments were received during the comment period and a public hearing was held on Wednesday, September 24, 2014 to receive comments, view, arguments and data on the proposed rules. **Physicians and Surgeons – Unprofessional Conduct:** During its April 2013 meeting, the Board expressed a desire to consider the development of rules correlating a physician representing himself/herself as a specialist in a particular field of practice without appropriate formal training in that field. Pursuant to the Board's directions, a draft was submitted for initial review and discussion at its August and September 2013 meeting. The draft also includes a prohibition against physician prescribing of controlled substances to one's self or immediate family members in the absence of an emergency. At its October 2013 meeting, the Board decided to defer that part of the proposed rule dealing with self-prescribing and to provide *Notice of Intent* to adopt the rules. Staff presented additional information concerning physician's self/immediate family prescribing of controlled substances. Following consideration and discussion of the latest revised draft at its June 2014 meeting, the Board approved publication of a *Notice of Intent* to adopt the rules in the *Louisiana Register*. Said *Notice of Intent* appeared in the October 2014 edition of the *Louisiana Register*. **Occupational Therapy:** The Occupational Therapy Advisory Committee has proposed a number of amendments to the Board's rules respecting occupational therapists. Following review by staff and a number of revisions to conform the rules to the law, a revised draft was returned to the Committee Chair for review. Minor substantive suggestions for revision or modification were received and incorporated into the draft. In sum, the proposed amendments update the rules generally, insert additional language provided in the law, update definitions and practice standards,

rearrange various provisions and delete others that are no longer needed. The initial draft was presented for Board consideration at its July 2014 meeting. A revised draft incorporating additional changes was presented at the August 2014 meeting at which time the Board approved providing a *Notice of Intent* in the *Louisiana Register*. Such *Notice of Intent* appeared in the October 2014 edition of the *Louisiana Register*. **Telemedicine:** Act 442 of the 2012 Legislative Session, which amended R.S. 37:1271 of the Medical Practice Act, necessitates various changes to the Board's existing Telemedicine Rules. Preliminary suggestions were presented to the Board at its July 2014 meeting and a revised draft was presented at its August 2014 meeting at which time the Board authorized publication of a *Notice of Intent* to adopt the amendments. Said *Notice of Intent* appeared in the October 2014 edition of the *Louisiana register*.

- c. **Rules/Amendments Under Development: Midwifery:** Given changes to the Louisiana Midwifery Practice Act during the 2012 session of the Legislature, staff anticipates presenting revisions to its existing rules in due course for the Board's consideration and discussion.

[17.] Minutes of September 15, 2014; Executive Sessions. On the motion of Dr. Valentine, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board convened in executive session to review the minutes of its executive sessions conducted during the meeting of September 15, 2014. Following review and discussion, the Board resumed in open session and on the motion of Dr. Busby, duly seconded by Dr. Valentine, and passed by unanimous voice vote, approved the minutes of the executive sessions conducted during its meeting of September 15, 2014 with all necessary corrections.

[18.] Report on Pending Litigation. On the motion of Dr. Burdine, duly seconded by Dr. Farris, the Board convened in executive session to receive the report of legal counsel on pending litigation to which the Board was a party and the status of proceedings for judicial review of prior Board decisions, La. Rev. Stat. § 42:17A(2). No further action was required or taken on this matter.

[19.] Personal Appearances/Docket Calendar. Continuing in executive session, the Board reviewed the calendar of personal appearances and docketed hearings, as matters relating to the character and professional conduct of a licensee and allegations of misconduct, La. Rev. Stat. 42:17 A(1), (4). No further action was required or taken on this matter.

[20.] Investigative Reports. On the motion of Dr. Valentine, duly seconded by Dr. Burdine, 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, La. Rev. Stat. §42:17A(1) and (4). Following review and discussion the Board resumed in open session. Upon motion made, duly seconded and passed by unanimous voice vote, the Board approved the following:

- a. **Consent Orders:** The following Consent Orders were accepted:

Kevin Govan Work, M.D., Docket No., 13-I-014¹
Kelly Lynn Cobb, M.D., Docket No., 13-I-1202
Brooke Alicia Bryant, CLP, Docket No., 13-I-529
Anthony Dewayne Anderson, LRT, Docket No., 11-I-756

- b. Closed/Dismissed: The following matter was closed/dismissed:

Docket No., 14-I-167

- c. Close/Dismissed: The following matters was closed/dismissed with a Letter of Concern:

Docket No., 14-I-174

- d. Closed Complaint Cases: The Board reviewed the Closed Complaint Cases Report.

- e. Interim Action: The Board approved the Interim Action that had been handled by the President:

Docket No., 14-I-769

[21.] Professional Liability Report. On the motion of Dr. Valentine, duly seconded by Dr. Farris and passed by unanimous voice vote, the Board convened in executive session to consider the report of Dr. Eisenhauer, 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). No further action was required or taken on these matters.

[22.] Physicians Health Program. On the motion of Dr. Farris, duly seconded by Dr. Busby and passed by unanimous voice vote, the Board convened in executive session to receive the report of Louis Cataldie, M.D., Medical Director, Physicians' Health Foundation ("PHP") on the participants in the Physicians' Health Program who were either appearing before the Board or had matters before the Board for review and discussion, as matters relating to the character and professional conduct and allegations of misconduct of a licensee, La .Rev. Stat.§ 42:17A(1) and (4). No further action was required or taken on this matter.

[23.] General Disciplinary Matters; Personal Appearance; Randy Lane Lavespere, M.D. On the motion of Dr. Busby, duly seconded by Dr. Valentine and passed by unanimous voice vote, the Board convened in executive session, for the personal appearance of Randy Lane Lavespere, M.D., as a matter relating to the character and professional conduct and allegations of misconduct of a licensee, La .Rev. Stat.§ 42:17A(1) and (4). Dr. Lavespere appeared before

1 This was not a unanimous decision. Drs. Busby and Clark opposed acceptance of this Consent Order.

the Board in connection with the reinstatement of his license to a full, unrestricted status, off probation. Following his dismissal, the Board resumed in open session and upon the motion of Dr. Burdine, duly seconded and passed by unanimous voice vote, approved reinstatement of the license of Dr. Lavespere to a full, unrestricted status, off probation.

[24.] General Disciplinary Matters; Personal Appearance; Nancy Lynn Rogers, M.D. On the motion of Dr. Clark, duly seconded by Dr. Burdine, the Board convened in executive session for the personal appearance of Nancy Lynn Rogers, M.D., as a matter relating to the character and professional conduct and allegations of misconduct of a licensee, La .Rev. Stat.§ 42:17A(1) and (4). Dr. Rogers appeared before the Board in connection with the reinstatement of her license to a full, unrestricted status, off probation. Following her dismissal, the Board resumed in open session and upon the motion of Dr. Farris, duly seconded and passed by unanimous voice vote, approved reinstatement of the license of Dr. Rogers to a full, unrestricted status, off probation.

[25.] General Disciplinary Matters. On the motion of Dr. Farris, duly seconded by Dr. Clark, the Board convened in executive session to consider the requests relating to the execution or modification of a Decision and/or Consent Order as matters relating to the character and professional conduct of licensees, pursuant to La. Rev. Stat. §42:17A(1) and (4). Following review and discussion, the Board resumed in open session and upon motion made and passed by unanimous voice vote, took the following actions:

- a. Thompson, Kristen Edwards, OTA – To approve the request of Kristen Edwards Thompson, OTA, for reinstatement of her license to a full, unrestricted status, off probation in accordance with the terms of her Consent Order.
- b. Allied Heath Monitoring Report – To note receipt of the Allied Health Monitoring Report showing the active participants in the program.
- c. Hyatt, James, PA – To approve the additional supervising physician for James Hyatt, PA.

[26.] Licensure and Certification; Clinical Laboratory Personnel. Upon the motion of Dr. Burdine, duly seconded by Dr. Valentine and passed by unanimous voice vote, the Board convened in executive session to consider the non-routine application for licensure as a matter of the character, professional competency, or physical or mental health of an applicant pursuant to La. Rev. Stat. 42:17A(1). Following review and discussion, the Board resumed in open session, and upon motion made, duly seconded and passed by unanimous voice vote, approved the following for licensure provided all requirements has been met:

Technician

Fontenot, Donald Ray

[27.] Licensure and Certification; Physicians and Surgeons; U.S./Canadian Medical Graduates. On motion of Dr. Busby, duly seconded by Dr. Valentine and passed by unanimous voice vote, the Board convened in executive session to consider the non-routine applications for licensure as a matter of the character, professional competence, or physical or mental health of an applicant, pursuant to La.Rev.Stat. 42:17A(1). Following review and discussion, the Board resumed in open session, and upon motion made, duly seconded and passed by unanimous voice vote, approved the following non-routine applicants for licensure provided all requirements had been met:

Feldman, Michael David
Lopez-Diaz, Manuel Enrique

Reich, Thomas Summers
Treese, Theodore Robert

[28.] Licensure and Certification; Physicians and Surgeons; Foreign Medical Graduates. On motion of Dr. Farris, duly seconded by Dr. Burdine and passed by unanimous voice vote, the Board convened in executive session to consider the non-routine applications for licensure as a matter of the character, professional competence, or physical or mental health of an applicant, pursuant to La.Rev.Stat. 42:17A(1). Following review and discussion, the Board resumed in open session, and upon motion made, duly seconded and passed by unanimous voice vote approved the following for licensure provided all requirements had been met:

Gilligan, Michael Stephen

29. Next Meeting of Board. The President reminded the members that the next meeting of the Board was scheduled for December 8, 9, 2014.

Upon motion made, duly seconded and passed by unanimous voice vote, the meeting adjourned at 2:30 p.m., on Monday, October 20, 2014.

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 of the Board conducted therein, held on October 20, 2014 as approved by the Board on the 8th day of December, 2014.

Witness my hand and seal of the Louisiana State Board of Medical Examiners this 8th day of December, 2014.

Kweli J. Amusa, M.D.
Secretary-Treasurer

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

MINUTES OF MEETING
OCTOBER 20, 2014

Attest:

Mark Henry Dawson, M.D.
President