

**THE LOUISIANA STATE
BOARD OF MEDICAL EXAMINERS**

**MINUTES
OF
MEETING**

**JANUARY 11, 2016
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, January 11, 2016, by order of the President, at the offices of the Board, 630 Camp Street, New Orleans, Louisiana.

Board Members present as follows:

John Michael Burdine, M.D., President
Kenneth Barton Farris, M.D., Vice-President
Christy Lynn Valentine, M.D., Secretary-Treasurer
Kweli J. Amusa, M.D.
Roderick V. Clark, M.D.
Mark Henry Dawson, M.D.

Board Member absent as follows:

Joseph D. Busby, Jr., M.D.

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

Cecilia Ann Mouton, M.D., Executive Director
Emily Diana Eisenhauer, M.D., Assistant Director of Investigations
Lesley Rye, RN, Compliance Investigator
Cathy Storm, RN, Compliance Investigator
Aleshia B. Madison, MBA, Administrative Manager
Lilly Rodgers, Administrative Program Specialist A
Merian Gasper, Director of Licensure
Rita L. Arceneaux, Executive Assistant

Legal counsel to the Board was present as follows:

Judge Michael G. Bagneris (Ret)
Philip O. Bergeron

- 1. Minutes of December 7, 2015 Meeting.** The Board reviewed the minutes of its meetings held on December 7, 2015. On the motion of Dr. Dawson duly seconded by Dr. Amusa 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. Rulings and Advisory Opinions; Microdermal Needling or Dermal Rolling.** The Board reviewed correspondence received from Brian R. Warren, R.S., M.S., DHH/OPH/Sanitarian Services, Food and Drug/Milk and Dairy Unit, seeking clarification as to whether microdermal needling or dermal rolling are considered by the Board to be medical procedures requiring licensure. Following review and discussion, it was the consensus of the Board to defer action pending research into the matter.
- 4. Rulings and Advisory Opinions; Departing Physician Notice to Patients.** The Board reviewed correspondence received Jeffery P. Braud, Esq., Benton, Benton & Associates, requesting clarification of its Statement of Position (“SOP”), Medical Records of Physician Upon Departure from a Group/Practice. Inasmuch as the SOP did not specifically state a written form of notification had to be sent, their proposal was to provide a verbal notification to patients calling to seek an appointment with the departing physician with instruction as how to obtain a copy of their medical record. Following review and discussion, it was the consensus of the Board to inform Mr. Braud that the SOP addresses the contractual relationship between the physician/physician group and notification to patients without giving specifics as to how it should be done and any denial of patient care would be handled on a case-by-case basis.
- 5. Communication and Information; Morbidity and Mortality Weekly Report.** The Board reviewed a copy of an article contained in the Morbidity and Mortality Weekly Report entitled, “Increase in Drug and Opioid Overdose Deaths – United States, 2000-2014”. No further action was required or taken on this matter.
- 6. Communication and Information; Louisiana State Board of Nursing (“BON”); Proposed Rules; Licensure; Certified Registered Nurse Anesthetist.** On the motion of Dr. Valentine, duly seconded by Dr. Dawson, the Board voted to take up a matter of new business, BON, Proposed Rules; Licensure; Certified Registered Nurse Anesthetist. Following review and discussion of the proposed substantive changes relative to CRNAs, on the motion of Dr. Farris, duly seconded by Dr. Clark, the Board voted to provide written comments to the proposed substantive changes. It was noted that Dr. Mouton would attend the public hearing scheduled for January 26, 2016.
- 7. General Administrative Matters; President’s Report.** The Board received the report of its President on his activities since the last meeting of the Board. Dr. Burdine discussed the best

form on communication for everyone to contact him and asked for a new phone directory with contact information.

8. 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 welcomed Dr. Eisenhower to the meeting who had just returned from a brief period of absence; reported that the online renewals were going smoothly and that initial applications should be online by March 2016; and concluded her report stating that the Joint Statement regarding APRNs was available on the website. Dr. Burdine asked to have an additional question included on the initial and renewal application dealing with surgical procedures to which Dr. Mouton answered in the affirmative.

9. General Administrative Matters; Clinical Laboratory Advisory Committee; Resignation. The Board noted receipt of the resignation of Cesia F. Gudiel as a member of the Clinical Laboratory Advisory Committee due to personal reasons. Following review and discussion it was the consensus of the Board to thank Ms. Gudiel for her service and to notify the appropriate parties.

10. General Administrative Matters; Physician Termination of Patients. The Board reviewed a request for guidance from staff on information to be given to physicians on how to appropriately and ethically terminate a physician-patient relationship. Following review and discussion, it was the consensus of the Board to approve the suggestion of staff with one modification for posting on the website.

11. General Administrative Matters; Legislative Report on Medical Marijuana. The Board reviewed a copy of the draft report relative to Act 261, La. Rev. Stat § 40:1046 (2015); Recommendations for Therapeutic Marijuana. Following review and discussion, on the motion of Dr. Clark, duly seconded by Dr. Amusa, the Board approved the draft report for dissemination to the Committees on Health and Welfare as mandated.

12. General Administrative Matters; Financial Reports.

Travel Expenses. On the motion of Dr. Dawson, duly seconded by Dr. Clark, and passed by unanimous voice vote of the members present, the Board authorized the Executive Director to approve routine and special travel for Board Members, Board staff, Board consultants and legal counsel for calendar year 2016, including but not limited to the following:

- 1) Travel expenses in connection with attendance at all Board meetings and Board Committee meetings.
- 2) Travel expenses in connection with appearances at appropriate private or state entities on behalf of or to represent the Board.
- 3) Travel expenses in connection with investigations conducted by the Board, to include travel expenses of witnesses.
- 4) Travel expenses in connection with any court or deposition appearance for the purpose of providing testimony on behalf of the Board.

5) Travel expenses for attending the annual meetings of the Louisiana State Medical Society and the Louisiana State Medical Association, with payment of per diem for any member giving an annual report to said organizations.

6) Travel expenses in connection with meetings of the following national organizations and any committee thereof on which a member of the Board or a member of the Board's staff serves on behalf of the Board, for including, but not limited to the Federation of State Medical Boards, Administrators in Medicine and National Board of Medical Examiners, and authorized meetings for educational purposes.

13. Rules and Regulations.

a. Final Rules/Amendments: Physicians; Complaints and Investigations: The President directed that staff/counsel commence a rule-making effort detailing the processes used by the Board for handling complaints and investigations given the concerns raised by HB 576, subsequently HB 843 (Act 441, Rep. Hazel). The matter appeared on the Board's May 2015 agenda for consideration and discussion of the rulemaking effort. The new law requires the Board to promulgate rules by January 1, 2016. The Board reviewed the draft of the rules which had been presented at the July 2015 meeting. Following a lengthy review of the draft at its August 2015 meeting, the Board approved the draft as amended for publication as a *Notice of Intent* in the September edition of the *Louisiana Register*. During the comment period the Board received written comments and a public hearing was held during its meeting of October 26, 2015. At that time the Board voted to move forward with a new rulemaking effort to effect certain suggested changes and hold another meeting to consider and discuss whether to accept or reject other comments as part its new rulemaking effort. A meeting for that purpose was held on November 9, 2015. Thereafter, the Final Legislative Report was forwarded to the Legislative Oversight Committees and commenters. An oversight hearing was not called and the rules and amendments were formally adopted by and upon promulgation in the December 2015 edition of the *Register*. Marijuana for Medical Purposes: Act 261 (SB 143 Sen. Mills) of the 2015 Session of the Louisiana Legislature directed the Board to: i) promulgate rules by January 1, 2016 authorizing physicians to prescribe marijuana for specified conditions (glaucoma, symptoms resulting from administration of chemotherapy cancer treatment and spastic quadriplegia); and ii) annually submit a report to the Senate and House Health & Welfare Committees as to any additional conditions that should be added to the list. The Act was provided to the Board for review and discussion at the July 2015 meeting. A draft of the proposed rules was presented for review and consideration at this meeting. At its August 2015 meeting, the Board approved publication of a *Notice of Intent* to adopt the rules in the September edition of the *Louisiana Register*. A public hearing was not requested and the comment period closed. The Final Legislative Report was forwarded to the Legislative Oversight Committees and commenters. An oversight hearing was not called and the rules and amendments were formally adopted by and upon promulgation in the December 2015 edition of the *Register*.

b. Rules/Amendments – Noticed of Intent: Physicians; Complaints and Investigations: During its October 2015 meeting, the Board considered a draft containing various changes (Sections 8315, 9707, 9709 and 9711) to its proposed rules on Complaints and Investigations of physicians, which were *Noticed for Intent* in the

September 2015 *Louisiana Register*. Following discussion and consideration, the Board elected to proceed with a new rule effort and provide *Notice of Intent* to adopt the changes in the *Louisiana Register*. Such notice appeared in the December 2015 edition of the *Register*.

c. Rules/Amendments Under Development: **Midwifery:** The Board reviewed the initial draft of rule amendments to the existing rules governing licensed midwife practitioners. The amendments incorporate changes made to the Louisiana Midwifery Practice Act during the 2012 session of the Legislature, update the rules generally and rearrange sections for ease of reference. The amendments were presented for initial review at the Board's December 2014 meeting. The Board further reviewed and discussed the proposed changes at its January and February 2015 meetings. At its April 2015 meeting, the Board considered a suggestion that a licensed midwife be permitted to continue providing prenatal care to a woman with *one* prior cesarean section provided arrangements have been made with a physician and documented in the midwife's chart for a planned hospital delivery at the onset of labor. The suggested language was included in a revised draft for review and consideration. The Louisiana Midwives Association has provided input on the suggested changes and input for another stakeholder has been received and it is being reviewed by staff. A revised draft was presented for review and consideration incorporating the suggested changes along with technical and drafting changes. Following review and discussion, on the motion of Dr. Dawson, duly seconded by Dr. Valentine, the Board approved publication of a *Notice of Intent* to adopt the rule amendments in the *Louisiana Register*. **Physician Compounding Medication:** At its December 2014 and January 2015 meetings, the Board reviewed Emergency Rules adopted by the Louisiana Board of Pharmacy to reflect certain changes in federal law concerning compounded medication. Following review and discussion, the Board elected to undertake a rulemaking effort as to physicians who compound medication in order to insure consistency with federal and state law and regulations. A draft will be presented for initial review and discussion in due course. **Clinical Laboratory Personnel:** At the request of its Clinical Laboratory Personnel ("CLP") Advisory Committee, the Board agreed to undertake a rulemaking effort to amend its CLP Rules to reduce the term of a temporary permit from six months to three months. The Board directed that a draft be prepared and presented for review and discussion. In conformity with the Board's direction, a draft was presented for initial review and discussion at the April 2015 meeting. At its May 2015 meeting the Board approved publication of a *Notice of Intent* to adopt the rule amendments in the *Louisiana Register*. The Board reviewed the draft as presented at the April 2015 meeting. It is anticipated the notice will appear in the February edition of the *Louisiana Register*. **Physician Advertising; Board Certification:** At its March 2015 meeting, the Board determined to undertake a rulemaking effort to establish a process for its approval of certifying boards, alternative to the ABMS and AOA, for purposes of physician advertising of *Board Certification*. The Board directed that a draft be prepared and presented for review and approval. In conformity with the Board's direction, a draft was presented for initial review and discussion at the April 2015 meeting. At its May 2015 meeting, the Board approved publication of a *Notice of Intent* to adopt the rule amendments in the *Louisiana Register*. An additional wording change was discussed and pre-notice input was received (as noted above) from interested parties. Following review and discussion, the Board elected to defer this effort to allow further consideration and input by other stakeholders. **Athletic Trainers:** The Board's Athletic Trainer Advisory Committee is working on amendments to the athletic trainer rules to conform them to the

2014 amendments to the Athletic Trainer Practice Act. The Committee's draft has been received. It is anticipated that a draft will be presented for initial review and consideration in due course. **Podiatry; Eligibility for Advanced Practice:** The Podiatry Advisory Committee ("PAC") has requested amendments to the Board's Podiatry Rules to remove the requirements for board certification or eligibility as to an applicant for advanced practice who has completed a three year podiatry medical surgical residency training (PM&S 36) program; The draft resented during its May 2015 meeting has been revised per the input of the PAC. Following discussion and consideration, the Board approved the draft during the August 2015 meeting and voted to *Notice of Intent* to adopt the amendments in the *Louisiana Register*. It is anticipated that such notice will appear in the March 2016 edition of the *Louisiana Register*. **Physician Assistants:** Act 453 (SB 115, Sen. Mills) modified the law governing physician assistants ("PAs) in a number of ways. A rulemaking effort will be needed to conform the Board's existing rules to the changes in the law. In the interim, the law as amended by Act 453 controls any disparity with the rules. The Board has solicited the input of its PA Advisory Committee and the Louisiana Association of Physician Assistants respecting the amendments made necessary by virtue of Act 453. **Physicians; Training:** During its December 2015 meeting, the Board received a further request from staff outlining the review and analysis of data which demonstrates a decrease in disciplinary action with an increase in post-graduate year medical education. It also discussed the PGY requirements of other state medical boards and considered the current requirements in Louisiana for both US and international medical graduates. Finally, it considered the notation of staff that an increase in PGY training should result in a decrease in the amount of discipline. Following lengthy discussion and consideration, the Board asked that a draft rule be prepared for its review that would prospectively require physician applicants to complete an ACGME residency as a prerequisite to medical licensure. A draft will be presented in due course. **Podiatry; Histories and Physicals:** During its December 2015 meeting, the Board heard the request of the Louisiana Podiatric Medical Association and the Board's Podiatry Advisory Committee ("PAC") for a rule-making effort or advisory opinion authorizing the performance of histories and physicals ("H&Ps") by podiatrists in Louisiana. Following discussion, the Board asked the Association and the PAC to submit their suggestions to staff for its preparations of a draft rule addressing the topic for its further consideration.

[14.] Minutes of December 7, 2015; Executive Sessions. On the motion of Dr. Dawson, duly seconded by Dr. Valentine and passed by unanimous voice vote of the members present, the Board convened in executive session to review the minutes of its executive sessions conducted during the meeting of December 7, 2015. Following review and discussion, the Board resumed in open session and on the motion of Dr. Valentine, duly seconded by Dr. Dawson, and passed by unanimous voice vote of the members present, approved the minutes of the executive sessions conducted during its meeting of December 7, 2015 meetings with any necessary corrections.

[15.] Report on Pending Litigation. On the motion of Dr. Farris, duly seconded by Dr. Dawson, 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). The Board also received the report of counsel on cases potentially impacting the Board. No further action was required or taken on this matter.

[16.] 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.

[17.] Investigative Reports. On the motion of Dr. Amusa, duly seconded by Dr. Farris, 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. On the motion of Dr. Amusa, duly seconded by Dr. Dawson and passed by unanimous voice vote, the Board approved the following:

- a. Administrative Complaint: The following Administrative Complaint was accepted and scheduling of a formal hearing:

Docket No., 14-I-1084¹

- b. Interim Actions: The Board approved the Interim Actions that had been handled by the Dr. Dawson:

Docket No., 15-I-1037

Docket No., 15-I-1020

Docket No., 15-I-997

Docket No., 14-I-1084²

- c. Formal Investigations: The Board approved commencing formal investigations in the following matters:

Investigation No., 14-785

Investigation No., 15-223

Investigation No., 15-867

Investigation No., 15-690

- d. Consent Orders: The following Consent Orders were accepted:

James E. Hines III, M.D., Docket No., 14- I-413

Kevin Govan Work, M.D., Docket No., 15-I-098

Roy Edward Berkowitz, M.D., Docket No., 14-I-787

Charles Callan Mary III, M.D., Docket No., 14-I-572

Ronald Dane Sylvest, M.D., Docket No., 13-I-247³

Patricia E. Thorn, Poly, Docket No., 15-I-959

Cathleen J. Rearick, CLP, Docket No., 15-I-942

- e. Closed/Dismissed: The following matters were closed/dismissed:

1 Dr. Burdine recused himself from any and all participation in discussion and/or consideration of this matter.

2 Dr. Burdine recused himself from any and all participation in discussion and/or consideration of this matter.

3 Dr. Burdine recused himself from any and all participation in discussion and /or consideration of this matter.

Docket No., 14-I-101⁴
Docket No., 15-I-610

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

[18.] 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. Mouton, 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.

[19.] Other Investigative Matters; Referral to Other Boards. On the motion of Dr. Valentine, duly seconded by Dr. Farris, the Board convened in executive session to consider the report on referrals to other boards 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 this matter.

[20.] General Disciplinary Matters. On the motion of Dr. Clark, duly seconded by Dr. Farris, 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 the motion of Dr. Amusa, duly seconded by Dr. Clark and passed by unanimous voice vote of the members present, took the following actions:

- a. Daniels, Larry Clyde, M.D. – To approve the request of Larry Clyde Daniels, M.D., for reinstatement of his license to a full, unrestricted status, off probation.
- b. Gibson, William Lee, Jr., M.D. – To deny the request of William Lee Gibson, Jr., M.D., for early relief from the terms of his probation.
- c. Thibaut, Jonathan Charest, LRT – To approve the request of Jonathan Charest Thibaut, LRT, for reinstatement of his license to a full, unrestricted status, off probation in accordance with the terms of his Consent Order dated February 18, 2013..

[21.] Personal Appearances/Docket Calendar; Formal Maurice Jean Gremillion, M.D. On the motion of Dr. Dawson, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board convened in executive session for the conclusion of the formal hearing in the matter of Maurice Jean Gremillion, M.D., as a matter relating to allegations of misconduct and the character and professional conduct of a licensee, La.Rev.Stat§ 42:17A(4) and (10) in accordance with the Louisiana Administrative Procedure Act, La.Rev.Stat.49:951, et.Seq. Following the conclusion, the Board resumed in open session and on the motion of Dr. Clark, duly seconded by Dr. Dawson and passed by the unanimous vote of the members present, rendered a decision in the matter

⁴ Dr. Burdine recused himself from any and all participation in discussion and/or consideration of this matter.

and instructed George Papale, Esq., Independent Counsel, to prepare a written Opinion and Order to reflect the ruling.

[22.] Licensure and Certification; Clinical Laboratory Personnel. On motion of Dr. Dawson, 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 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 the motion of Dr. Valentine, duly seconded by Dr. Farris and passed by unanimous voice vote of the members present, approved the following for licensure provided all other requirements had been met:

Laboratory Assistant

Bolen, Michael Chase

[23.] Licensure and Certification; Physician Assistant. On motion of Dr. Clark, duly seconded by Dr. Amusa 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 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 on the motion of Dr. Clark, duly seconded by Dr. Amusa and passed by unanimous voice vote of the members present, approved the following for licensure provided all other requirements had been met:

Toner, Robert Edwin III

[24.] Licensure and Certification; Physicians and Surgeons; Foreign Medical Graduates. On motion of Dr. Valentine, duly seconded by Dr. Farris 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 on the motion of Dr. Clark, duly seconded by Dr. Valentine and passed by unanimous voice vote of the members present, approved the following non-routine applicants for licensure provided all requirements had been met in accordance with §315 of the Board's rules, who were appointed assistant professor on the tenure track in the Department of Otolaryngology/Head and Neck Surgery at LSU School of Medicine, Shreveport:

Pipkorn, Patrick

Seyyedi, Mohammad

[25.] Licensure and Certification; Physicians and Surgeons; U.S./Canadian Medical Graduates. On motion of Dr. Farris, duly seconded by Dr. Clark 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 on the motion of Dr. Clark, duly seconded by Dr. Farris and passed by unanimous voice vote of the members present, made the following decisions:

a. Approved – To approve the following non-routine applicant for licensure provided all requirements had been met:

Parekh, Vipul Vrajala

b. Deferred – To defer action on the application of the following pending receipt of additional information:

Gill, Navdeep Singh

26. Next Meeting of Board. The President reminded the members that the next regular meeting of the Board was scheduled for February 15, 16, 2016.

Upon motion made, duly seconded and passed by unanimous voice vote, the meeting adjourned at 4:30 p.m., on Monday, January 11, 2016.

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 January 11, 2016 and approved by the Board on the 15th day of February, 2016.

Witness my hand and seal of the Louisiana State Board of Medical Examiners this 15th day of February, 2016.

Christy Lynn Valentine, M.D.
Secretary-Treasurer

Attest:

John Michael Burdine, M.D.
President