

**THE LOUISIANA STATE
BOARD OF MEDICAL EXAMINERS**

**MINUTES
OF
MEETING**

**MARCH 14, 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, March 14, 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
Christy Lynn Valentine, M.D., Secretary-Treasurer
Kweli J. Amusa, M.D.
Joseph D. Busby, Jr., M.D.
Roderick V. Clark, M.D.

Board Members absent as follows:

Kenneth Barton Farris, M.D., Vice-President
Mark Henry Dawson, M.D.

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

Cecilia Ann Mouton, M.D., Director of Investigations
Emily Diana Eisenhauer, M.D., Assistant Director of Investigations
Jennifer Stoller, Attorney, General Counsel 1
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 February 15, 2016 Meeting.** The Board reviewed the minutes of its meetings held on February 15, 2016. On the motion of Dr. Amusa duly seconded by Dr. Valentine 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; Federation of State Medical Boards; Task Force.** The Board noted a Resolution introduced by the North Carolina Board on the need for a Task Force to Study the Need for State Board Regulation of Physician Compounding to be considered at the House of Delegates Meeting on April 30, 2016. No further action was required or taken on this matter.
- 4. Communication and Information; Federation of State Medical Boards; Reference Committee.** The Board noted the Report of the Bylaws Committee on its proposed amendments to the Federation Bylaws. No further action was required or taken on this matter.
- 5. Communication and Information; Physician Owed Duty to Nurse Practitioner's Patient.** The Board reviewed correspondence received from Robert Peltier, M.D., enclosing an article entitled "Physician Owed Duty to Nurse Practitioner's Patient". The article reported that the Indiana Court of Appeals recently held that a physician who enters into a collaborative agreement with a nurse practitioner has a "duty of care" to the nurse practitioner's patient even though he has never treated or seen the patient. Dr. Peltier asked if the Board was addressing this matter. Following review and discussion it was the consensus of the Board to advise Dr. Peltier that in its view physicians who elect to engage in a collaborative practice with a NP in this state should understand their commitments and be mindful of the obligations and associated duties to which they have "mutually agreed" and to provide him with a copy of the Joint Statement of Position with the Board of Nursing on Collaboration and Collaborative Practice.
- 6. Communication and Information; New York Times Article "Governors Unite in the War Against Opioids".** The Board reviewed an article which appeared in the New York Times entitled "Governors Unite in the War Against Opioids." Following review and discussion it was the consensus of the Board to obtain statistics from the Physicians Monitoring Program regarding physicians prescribing of opioids in Louisiana for discussion at a subsequent meeting of the Board. It was also noted that certain pharmacies are not required to report to the PMP and to inquire why they are exempt.
- 7. General Administrative Matters; Athletic Trainer; Request for Formal Review.** The Board reviewed correspondence received from Ray Castle, PhD, ATC, LAT, seeking the Board's

review of the law respective to athletic trainers in this state and their treatment by physical therapy clinics throughout the state. Following review and discussion it was the consensus of the Board to write to the Physical Therapy forwarding a copy of their declaratory statement and advising them that according to the law physical therapists cannot supervise athletic trainers in this state.

8. General Administrative Matters; Financial Reports. Financial Statement – David Aucoin, CPA and Denise Businelle, Director of Operations, appeared before the Board as they reviewed and discussed the budgeted expenditures versus actual through January 31, 2016, the Balance Sheet through January 31, 2016 and a statement on the revenue and expenses for the period ending January 31, 2016 and approved all expenditures as noted therein. The Board also reviewed the status of investments as of January 31, 2016. The Board also reviewed a balance sheet and income statement for Clinical Laboratory Personnel for the period ending January 31, 2016 and approved all expenditures as noted therein. The Board also reviewed the status of investments for Clinical Laboratory Personnel as of January 31, 2016. Finally, it noted the Income Statement for the Physicians Health Program through January 31, 2016. No further action was required or taken on this matter.

9. General Administrative Matters; Draft Newsletter. The Board reviewed a draft copy of the issue of the *Newsletter*. Following review and discussion, it was the consensus of the Board to revise the issue for review and approval at its next meeting.

10. Rules and Regulations.

- a. Final Rules/Amendments: None since the later meeting of the Board.
- 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*. Neither comments nor a request for a public hearing were received during the comment period. It is anticipated that the amendments will be promulgated in the same form as previously noticed and become effective upon publication in the April 20, 2016 edition of the *Louisiana Register*. **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*. Said notice appeared in the February 2016 edition of the *Louisiana 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. The Board approved the rule amendments at its January 2016 meeting and voted to provide *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. **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. Inasmuch as further input had not been received, it was the consensus of the Board to write to several interested parties to ask for their input by the May meeting of the Board. **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 and reviewed by staff. A revised draft was submitted to the Athletic Trainer Advisory Committee for their final input. It is anticipated that the draft amendments will be presented at next month's meeting. **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*. **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 ("LPMA") 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. Following receipt of the suggestions from the LPMA and input from interested parties, the Board reviewed a draft prepared. Following review and discussion of the draft, several changes were suggested. A revised draft will be presented following input from the LPMA and the PAC..

11. Legislative Matters; New Business; 2016 Proposed Legislation. On the motion of Dr. Amusa, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board voted to consider new business relative to 2016 proposed legislation that may have an impact on the Board. The Board then reviewed various proposed legislation. Following review and discussion it was noted that Mr. Torres would be addressing this matter on behalf of the Board.

[12.] Minutes of February 15, 2016; Executive Sessions. On the motion of Dr. Clark, duly seconded by Dr. Valentine 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 February 15, 2016. 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 approved the minutes of the executive sessions conducted during its meeting of February 15, 2016.

[13.] Report on Pending Litigation. On the motion of Dr. Busby, duly seconded by Dr. Amusa, 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.

[14.] 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.

[15.] Investigative Reports. On the motion of Dr. Busby, duly seconded by Dr. Valentine, 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. Clark and passed by unanimous voice vote, the Board approved the following:

- a. Administrative Complaints: The following Administrative Complaints were accepted and scheduling of a formal hearing:

Docket No., 14-I-785

Docket No., 14-I-732

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

Investigation No., 16-108

Investigation No., 16-082

Investigation No., 15-1-997

Investigation No., 15-961

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

William Frederick Kortum, M.D., Docket No., 15- I-880

Jeffrey Lee Giddens, M.D., Docket No., 15-I-936

Barbara Ellen Hainsworth, M.D., Docket No., 15-I-960

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

Docket No., 15-I-851

Docket No., 14-I-772

- e. Closed/Dismissed: The following matter was closed/dismissed with a Letter of Concern:

Docket No., 15-I-414

- f. Cease and Desist: The following matter was approved for issuance of a Cease and Desist Order and for filing an injunction if non-compliant:

Docket No., 15-985

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

[16.] Professional Liability Report. On the motion of Dr. Amusa, duly seconded by Dr. Busby 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.

[17.] General Disciplinary Matters. On the motion of Dr. Valentine, duly seconded by Dr. Amusa, 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 action:

Sejud, Joseph Francis III, M.D. – To deny the request of Joseph Francis Sejud III, M.D., for early reinstatement of his license to a full, unrestricted status, off probation.

18. Licensure and Certification; Physician Assistants; Intent to Practice Form. The Board noted receipt of a request to modify the Intent of Practice Form for physician assistants to add several supervising physicians on one form. The Board reviewed the form developed by staff to facilitate this request. Following review and discussion, upon the motion of Dr. Clark, seconded by Dr. Busby, the Board approved the form to be used by hospitalists.

[19.] General Disciplinary Matters; Personal Appearance; Lynn Simon, M.D. On the motion of Dr. Valentine, duly seconded by Dr. Busby and passed by unanimous voice vote, the Board convened in executive session, for the personal appearance of Lynn Simon, 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. Simon appeared before the Board in connection with his request for 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. Clark, duly seconded by Dr. Amusa and passed by unanimous voice vote, approved the request of Dr. Simon for reinstatement of his license to a full, unrestricted status in accordance with the terms of his Consent Order dated March 14, 2011.

[20.] General Disciplinary Matters; Personal Appearance; David Charles Vajnar, M.D. On the motion of Dr. Amusa, duly seconded by Dr. Busby and passed by unanimous voice vote, the Board convened in executive session, for the personal appearance of David Charles Vajnar, 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. Vajnar appeared before the Board in connection with his request for reinstatement of his license to a full, unrestricted status. Following his dismissal, the Board resumed in open session and upon the motion of Dr. Amusa, duly seconded by Dr. Clark and passed by unanimous voice vote, approved the request of Dr. Vajnar for reinstatement of his license to a full, unrestricted status, off probation.

[21.] General Disciplinary Matters; Personal Appearance; Mark Nelson Singleton, DO. On the motion of Dr. Valentine, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board convened in executive session, for the personal appearance of Mark Nelson Singleton, DO, 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. Singleton appeared before the Board in connection with his request for reinstatement of his license to a full, unrestricted status. Following his dismissal, the Board resumed in open session and upon the motion of Dr. Valentine, duly seconded by Dr. Clark and passed by unanimous voice vote, approved the request of Dr. Singleton for reinstatement of his license to a full, unrestricted status, off probation.

[22.] Licensure and Certification; Physicians and Surgeons; U.S./Canadian Medical Graduates. On the motion of Dr. Clark, duly seconded by Dr. Busby 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 made the following decisions:

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

Hill, Cody Ryan
Hshieh, Chenen
Muhlfelder, Dana Rahel

Muldrew, Kenneth Lynn
Moussaoui, Ali

b. Denied – To deny the request of the following for a waiver of an examination attempt due to inadequate justification:

Woods, Ted, M.D., MPH

[23.] Personal Appearance/Docket Calendar; Formal Hearing; Martha Coppage-Hoover, M.D. On the motion of Dr. Valentine, duly seconded by Dr. Amusa and passed by unanimous voice vote, the Board convened in executive session for the formal hearing in the matter of Martha Coppage-Hoover, 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) and conduct an administrative hearing as provided by the Legislature in the Louisiana Administrative Procedure Act, La.Rev.Stat.49:951, et.Seq.

24. Next Meeting of Board. The President reminded the members that the next meeting of the Board was scheduled for April 11, 12, 2016.

Upon motion made, duly seconded and passed by unanimous voice vote, the meeting adjourned at 4:00 p.m., on Monday, March 14, 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 March 14, 2016 and approved by the Board on the 11th day of April, 2016.

Witness my hand and seal of the Louisiana State Board of Medical Examiners this 11th day of April, 2016.

Christy Lynn Valentine, M.D.
Secretary-Treasurer

Attest:

John Michael Burdine, M.D.
. President