

**THE LOUISIANA STATE
BOARD OF MEDICAL EXAMINERS**

**MINUTES
OF
MEETING**

**OCTOBER 16, 2017
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 16, 2017, by order of the President, at the offices of the Board, 630 Camp Street, New Orleans, Louisiana.

Board Members present as follows:

Christy Lynn Valentine, M.D., President
Roderick V. Clark, M.D., Vice-President
Joseph Kerry Howell, M.D., Secretary-Treasurer
Kweli J. Amusa, M.D.
Mark Henry Dawson, M.D.
Lester Wayne Johnson, M.D.
Daniel K. Winstead, M.D.

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

Vincent A. Culotta, Jr., M.D., Executive Director
Jennifer Stoller, Attorney, General Counsel
Lesley Rye, RN, Compliance Investigator
Cathy Storm, RN, Compliance Investigator
Lillie Rodgers, Investigations Manager
Aloma James, Licensing Analyst Supervisor
Kieshan Falls Williams, Administrative Program Specialist
Jacintha Duthu, Administrative Program Specialist
Rita L. Arceneaux, Executive Assistant

Legal counsel to the Board was present as follows:

Philip O. Bergeron

Glennon P. Everett, (Ret)

Public Members Present

Jeff Williams, Executive Vice-President, CEO, Louisiana State Medical Society

- 1. General Administrative Matters; Introduction of Staff; Princess E. Dennar, M.D.; Jacintha Duthu.** Princess E. Dennar, M.D., Medical Consultant, and Jacintha Duthu, Administrative Program Specialist were introduced as newest members of the Board's staff. Dr. Dennar joined the investigative staff and Ms. Duthu will work with the executive staff.
- 2. Minutes of September 18, 2017 Meeting.** The Board reviewed the minutes of its meetings held September 18, 2017. On the motion of Dr. Amusa, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board approved the minutes of the meetings with all necessary corrections.
- 3. 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.
- 4. Ruling and Advisory Opinions; Direct Supervision of LPN.** The Board reviewed correspondence received from Tawana Harris-Glover, MSN, RN-BC, Clinical Supervisor, Professional Practice, University Health, seeking the Board's direction as to what is considered "direct supervision" of an LPN with respect to monitoring patients post-op. Ms. Harris-Glover asked whether it is considered "direct supervision" by the physician if the physician is located on another level of the hospital's operating suite. Inasmuch as her previous electronic correspondence indicated the LPN would monitor regional blocks, push, and monitor Versed and Fentanyl, following review and discussion, it was the consensus of the Board to obtain clarification as to exactly what duties the LPN would be performing.
- 5. Communication and Information; National Academy of Medicine; Article.** The Board reviewed a copy of an article appearing in the National Academy of Medicine, "Breaking A Culture of Silence; The Role of State Medical Boards, written by Arthur Hengerer, M.D., Federation of State Medical Boards, Inc., and Sandeep P. Kishore, M.D., PhD, Arnhold Institute for Global Health, Icahn School of Medicine at Mount Sinai Health System. No further action was required or taken on this matter.
- 6. General Administrative Matters; President's Report.** The Board received the report of its President on her activities since the last meeting of the Board. Dr. Valentine stated that she met with staff on various licensing issues.
- 7. General Administrative Matters; Executive Director's Report.** The Board received the report of its Executive Director on his activities since the last meeting of the Board. Dr. Culotta reported that he met with the Louisiana Department of Health to discuss the application of the rules relating to pain clinics and other issues and had communicated with Drs. Hollier and Ghali

regarding the proposed rules on physician training. He also reported that he spoke to the PA Advisory Committee regarding supervision and telehealth and would be meeting with the Medical Psychologist Advisory Committee to discuss their testing issue.

8. General Administrative Matters; Gavin Businelle; U.S. Army. Dr. Valentine informed everyone that Denise Businelle's son, Gavin, enlisted in the U.S. Army and would begin boot camp this month. She asked Ms. Businelle to thank him for his willingness to serve our country.

9. General Administrative Matters; Financial Report. The Board reviewed the Income Statement, Budget vs Projected Costs for the period ending August 31, 2017 presented by Danny Allday, CPA. No further action was required or taken on this matter.

10. Rules and Regulations.

- a. **Final Rules/Amendments:** None since the last meeting of the Board.
- b. **Rules/Amendments – Noticed for Intent to Adopt: Physicians; Training:** During its December 2015 meeting, the Board received a further report from staff outlining the review and analysis of data, which correlates 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 IMGs. Finally, it considered staff's recommendation that an increase in PGY training should result in a decrease in physician disciplined by the Board. 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. The Board considered an initial draft during the April 2016 meeting. Following further review and discussion at its June 2016 meeting, the Board approved providing a *Notice of Intent* to adopt rule amendments in the *Louisiana Register*. Prior to providing such notice, the Board approved additional amendments at its February 2017 meeting. The *Notice of Intent* appeared in the July 2017 edition of the *Louisiana Register*. Several written comments were received during the comment period and a public hearing was held on August 28, 2017, to receive data, views, arguments, information or comments. Said comments and a copy of the hearing transcript were considered by the Board at its September 2017 meeting. Following review and discussion, on the motion of Dr. Howell, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board suggested several substantive amendments to address the concerns raised by the commenters. It is anticipated such changes will appear in the Potpourri Section of the December 2017 edition of the *Louisiana Register*. **Physicians; Collaboration with APRNs:** The President of the Board directed staff to reach out to the Louisiana State Board of Nursing to address a number of issues previously identified as problematic for collaboration between physicians and advanced practice registered nurses ("APRNs"). Representatives of the respective agencies met in December 2016 to discuss the effort, which focused on solutions within the structure of the current law. This meeting was collegial and productive. NOTE: In April 2017, the Louisiana State Board of Nursing considered amendments to its rules on APRN collaboration that incorporate the same concepts as the Board's draft rules. At its May 2017 meeting, the Board approved the draft amendments and voted to provide *Notice of Intent* to adopt the amendments in the

Louisiana Register. The *Notice of Intent* appeared in the October 2017 edition of the *Louisiana Register* and the Board of Nursing published their rules at the same time. **Physicians, Podiatrists, PAs; Mandatory Access and Review of Prescription Monitoring Program Data:** At its July 2017 meeting, the Board reviewed Act 76 (2017 Regular Session of the Legislature) which, among other items, also requires licensing boards regulating practitioners with prescribing authority that includes opioids, to adopt rules requiring the prescriber or his delegate to access and review a patient's Prescription Monitoring Program ("PMP") data prior to initially prescribing any opioid to the patient. The Act further provides that the prescriber or his delegate shall access and review the patient's PMP data at least every ninety days if the patient's course of treatment continues for more than ninety days. The Act also provides for specific exceptions and enforcement. Following review and discussion, the Board voted to undertake a rulemaking effort to comply with Act 76. A draft was presented for initial consideration at its August 2017 meeting. At its September 2017 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 2017 edition of the *Louisiana Register*.

c. **Rules/Amendments Under Development: 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 consideration 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 word change was discussed and pre-notice input was received 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. During the May 2016 meeting, the Board reviewed the additional information submitted by the various stakeholders and entertained brief presentations by interested parties. Following discussion, the Board voted to defer action on this rule-making effort pending further review and voted to designate a Special Committee consisting of individuals recommended by the deans of the state's medical schools and a former Board member, to provide information on the processes involved in the accreditation of physician post-graduate training. During its January 2017 meeting, the Board received the committee's input. Following discussion, the Board requested certain changes to the draft previously appearing on its agenda, along with additional information for its consideration. Following further discussion and consideration at its April 2017 meeting, the Board voted to provide *Notice of Intent* to adopt Draft 2(A). **Physicians, Podiatrists, PAs, Medical Psychologists; Controlled Dangerous Substances, Continuing Medical Education:**

At its July 2017 meeting, the Board reviewed Act 76 (2017 Reg. Session of the Legislature) which, among other items, requires health care providers who prescribe controlled dangerous substances (CDS) to obtain 3 hours of continuing medical education (“CME”) pertaining to drug diversion training, best practices regarding prescribing of controlled substances, appropriate treatment for addiction, and any other matters pertaining to the prescribing of CDS that are deemed appropriate by the licensing board. The CME is a one-time requirement and the three credit hours are considered among those required by the licensing board for license renewal. Act 76 provides that the CME requirement may be waived if the practitioner submits a certification form developed by the licensing board, attesting that she/he has not prescribed, administered or dispensed a CDS during the entire applicable reporting period. The certification must be verified by the Board through the PMP, which must submit aggregate annual compliance documentation to the Senate and House Committees on Health and Welfare. The law makes professional licensing boards responsible for developing rules and enforcement of the new requirements. Following review and discussion, the Board voted to undertake a rulemaking effort to comply with Act 76. As part of that effort, the Board determined to develop its own CME, for both consistency in education among its licensees and to facilitate on-line documenting of compliance, which will be offered at no cost to the Board’s licensees with prescriptive authority. A draft was presented for initial Board consideration at its August 2017 meeting. A revised draft, including the Board’s suggestions and recommendations, was considered during the September 2017 meeting. Following review and consideration of further revisions providing for acceptance of CME from all approved CME providers, on the motion of Dr. Clark, duly seconded by Dr. Winstead, the Board approved publication of a *Notice of Intent* to adopt the rules in the *Louisiana Register*. It is anticipated such *Notice* will appear in the December 2017 edition of the *Louisiana Register*.

11. Public Comments. The President asked if anyone from the public had questions and/or comments. Hearing none, the public session of the meeting ended.

[12.] Minutes of September 18, 2017 Executive Sessions. On the motion of Dr. Dawson, duly seconded by Dr. Amusa 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 18, 2017. Following review and discussion, the Board resumed in open session and on the motion of Dr. Amusa, duly seconded by Dr. Dawson and passed by unanimous voice vote approved the minutes of the executive sessions conducted during its meeting of September 18, 2017.

[13.] Report on Pending Litigation. On the motion of Dr. Winstead, duly seconded by Dr. Johnson, 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. On the motion of Dr. Amusa, duly seconded by Dr. Clark, and passed by unanimous voice vote, the Board convened in executive session, to review 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. Dawson, duly seconded by Dr. Clark, and passed by unanimous voice vote, 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. Dawson, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board approved the following:

- a. Interim Actions: The Board approved the Interim Actions that had been handled by the President:

Docket No., 17-I-223
Docket No., 17-I-760¹

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

Investigation No., 17-526

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

Sreelatha Pulakhandam, M.D., Docket No., 16-I-585
Brett Cascio Butler, M.D., Docket No., 09-I-143
Rudolf Vaclav Hamsa, M.D., Docket No., 16-I-453
Frederick William Floyd III, DO, Docket No., 16-I-421²
Colibri Necole Jenkins, M.D., Docket No., 16-I-940³
Theresa Ann Cain, OT, Docket No., 15-I-833
Carissa Nicole Keir, MDW, Docket No., 17-I-561

- d. Consent Order: The following Consent Order was denied:

Docket No., 09-I-143

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

Docket No., 17-I-402
Docket No., 17-I-419
Docket No., 17-I-078

1 Drs. Dawson and Howell recused themselves from any and all participation in discussion and/or consideration of this matter.

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

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

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

Docket No., 16-I-885

g. Closed Complaints Cases: The Board reviewed the Closed Complaint Cases Report for September 2017.

[16.] Professional Liability Report. On the motion of Dr. Dawson, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board convened in executive session to consider the report 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.] Healthcare Professional' Foundation of Louisiana; Personal Appearance; James David Hammond, M.D., Medical Director. On the motion of Dr. Amusa, duly seconded by Dr. Dawson and passed by unanimous voice vote, the Board convened in executive session to receive the report of James David Hammond, M.D., Medical Director, 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.

[18.] General Disciplinary Matters; Personal Appearance; Keith Anthony Buller, PA. On the motion of Dr. Clark, duly seconded by Dr. Winstead and passed by unanimous voice vote, the Board convened in executive session for the personal appearance of Keith Anthony Buller, PA, 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). Mr. Buller 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. On the motion of Dr. Dawson, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board approved the request of Keith Anthony Buller, PA for reinstatement of his license to a full, unrestricted status, off probation with the prohibition against his prescriptive authority of controlled substances remaining.

[19.] General Disciplinary Matters; Personal Appearance; Paul Marion Toce, Jr., M.D. On the motion of Dr. Amusa, duly seconded by Dr. Winstead and passed by unanimous voice vote, the Board convened in executive session for the personal appearance of Paul Marion Toce, 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. Toce appeared before the Board in connection with his request for early reinstatement of his license to a full, unrestricted status, off probation. Following his dismissal, the Board resumed in open session. On the motion of Dr. Winstead, duly seconded by Dr. Amusa and passed by unanimous voice vote, the Board approved the request of Dr. Toce for early reinstatement of his license to a full, unrestricted status, off probation.

[20.] General Disciplinary Matters; Personal Appearance; Casey Clark McVea, M.D. On the motion of Dr. Howell, duly seconded by Dr. Amusa and passed by unanimous voice vote, the Board convened in executive session for the personal appearance of Casey Clark McVea, 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. McVea, accompanied by his attorney, Linda Rodrigue, appeared before the Board in connection with his request for modification of the terms of his probation. Following his dismissal, the Board resumed in open session. On the motion of Dr. Dawson, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board denied the request of Dr. McVea for modification of the terms of his Consent Order.

[21.] General Disciplinary Matters; Personal Appearance; James Beam Aiken, M.D. On the motion of Dr. Winstead, duly seconded by Dr. Amusa and passed by unanimous voice vote, the Board convened in executive session for the personal appearance of James Beam Aiken, 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. Aiken appeared before the Board in connection with his request for early reinstatement of his license to a full, unrestricted status, off probation. Following his dismissal, the Board resumed in open session. On the motion of Dr. Dawson, duly seconded by Dr. Winstead and passed by unanimous voice vote, the Board approved the request of Dr. Aiken for reinstatement of his license to a full, unrestricted status, off probation.

[22.] General Disciplinary Matters. On the motion of Dr. Amusa, duly seconded by Dr. Clark, the Board convened in executive session to consider the request relating to the execution or modification of a Decision and/or Consent Order as a matter 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. Dawson, duly seconded by Dr. Amusa and passed by unanimous voice vote, made the following decisions:

- a. Burns, Denise Gay, CLP-GEN – To approve the request of Denise Gay Burns, CLP-GEN, for reinstatement of her license to a full, unrestricted status.
- b. Whitecloud, Jacques St. Germain, M.D. – To approve the request of Jacques St. Germain Whitecloud, M.D., to recall the summary suspension of his license.
- c. Office-Based Surgery Report – To accept the Office Based Surgery Report.
- d. Allied Health Monitoring Report – To accept the Allied Health Monitoring Report.

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

Zapata, Omar Steve

[24.] Licensure and Certification; Respiratory Therapist. On motion of Dr. Clark, duly seconded by Dr. Howell 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. Howell, duly seconded by Dr. Amusa and passed by unanimous voice vote, approved the following for licensure provided all requirements had been met:

Richmond, Tiffany Rochelle

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

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

Bosmia, Anand N.
Beach-Beyer, Rebecca

Oldham, Lorrie J.

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

Podolsky, Joel

[26.] Licensure and Certification; U.S. Graduates; Telemedicine Permit. On the motion of Dr. Amusa, duly seconded Dr. Winstead 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 the review, the Board resumed in open session. On the motion of Dr. Dawson, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board approved the following for issuance of a telemedicine permit provided all requirements had been met:

David, Steven Q.

[27.] Licensure and Certification; Other Miscellaneous Matters; Issuance of Permit/Full Licensure; Visa Status; Follow-Up. On the motion of Dr. Dawson, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board convened in executive session to consider issuance of permits or full licenses for applicants in the United States on a J1 Visa, pursuant to

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La.Rev.Stat. 42:17A(3). Following review and discussion, the Board resumed in open session. It was the consensus of the Board to have staff write letters to all licensees granted licensure while on a J1 Visa in accordance with La.Rev. §311.3 of the Board's rule and have them provide their current Immigration and Naturalization ("INS") status.

[28.] Licensure and Certification; Other Miscellaneous Matters; Applicants' Personal Appearance before a Board Member. At the request of Dr. Johnson, the Board reviewed the process of conducting an interview of applicants for licensure. Following review and discussion, it was the consensus of the Board to have a script of set questions for utilization by all.

29. Next Meeting of Board. The President reminded the members that the next meeting of the Board was scheduled for December 4, 5, 2017.

Upon motion made, duly seconded and passed by unanimous voice vote, the meeting adjourned at 3:00 p.m., on Monday, October 16, 2017.

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 16, 2017 and approved by the Board on the 4th day of December, 2017.

Witness my hand and seal of the Louisiana State Board of Medical Examiners this 4th day of December 2017.

Joseph Kerry Howell, M.D.
Secretary-Treasurer

Attest:

Christy Lynn Valentine, M.D.
President