

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

January 8, 2018

AGENDA

CALL TO ORDER

Business Meeting, Monday, January 8, 2018, 8:30 a.m., 630 Camp Street, New Orleans, 5th Floor.

1. PUBLIC/VISITORS INTRODUCTION/COMMENTS

2. MINUTES/PRIOR MEETINGS/CONFERENCES

Approval of minutes of last month's meetings.
Status report on action items of prior Board meetings.
Report on assignments to counsel.

3. RULINGS AND ADVISORY OPINIONS

Performance of Physical Examinations Utilizing Telemedicine; Follow-up.
Administration of Ketamine in the Hospital Setting by RNs; Follow-up.
Refusal of Patient for Surgical Treatment; Follow-up.
Use of Telepsychiatry.
Use of Telemedicine Services.
Standard of Care with Respect to Telemedicine.

4. COMMUNICATIONS AND INFORMATION

Federation of State Medical Boards, Inc.

5. GENERAL ADMINISTRATIVE MATTERS

President's Report.
Executive Director's Report.
Report; Debilitating Conditions for Therapeutic Marijuana.
LSBME Annual Report – 2017.
CME Report.
Financial Matters; Travel Authorization 2018.

6. RULES AND REGULATIONS

a. Rules/Amendments: Noticed for Adoption: 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 International Medical Graduates. Finally, it considered staff's recommendation 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. An initial draft was presented for review and consideration at its April 2016 meeting. Following further discussion and consideration at its June 2016 meeting, the Board approved the draft and voted to provide *Notice of Intent* to adopt the amendments in the *Louisiana Register*. Following further discussion and consideration at its September 2016 meeting, the Board approved the amendments and voted to provide *Notice of Intent*. At its February 2017, the Board approved additional amendments. 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 and comments. The written comments and a copy of the hearing transcript were considered and discussed at the September 2017 meeting.

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Following review and discussion, at its October 2017 meeting, the Board suggested several substantive amendments to address the concerns raised by commenters. These amendments appeared in the Potpourri Section of the December 2017 edition of the *Louisiana Register*. A public hearing on the proposed changes has been scheduled for January 24, 2018 at 8:30 a.m. **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. Representatives of the respective agencies met in December 2016 to discuss the effort, which focused on solutions within the structure of the current law. Following consideration and discussion at its May 2017 meeting, the Board 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*. **Physicians; Podiatrists; Physician Assistants; Mandatory Access and Review of Prescription Monitoring Program Data:** At its July 2017 meeting, the Board reviewed Act 76 (2017 Reg. Session of the Legislature) which, among other items, requires licensing boards regulating practitioners with prescriptive 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 Board member review and consideration at its August 2017 meeting. A revised draft, including the Board's suggestions and recommendations, was approved at the September 2017 meeting and approved for publication of *Notice of Intent* to adopt the new rules. The *Notice of Intent* appeared in the October 2017 edition of the *Louisiana Register*. **Physicians; Podiatrists; Physician Assistants, Medical Psychologists; Controlled Dangerous Substances ("CDS"); Continuing Medical Education ("CME"):** 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 CDS to obtain 3 hours of 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 3 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. 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 the effort, the Board determined to develop its own CME, for both consistency in education among its licensees and to facilitate on-line documentation of compliance, which will be offered at no cost to the Board's licensees with prescriptive authority. A draft was presented for initial review and consideration at its August 2017 meeting. A revised draft, including the Board's suggestions and recommendations was presented at the September 2017 meeting. Further revisions providing for acceptance of CME from all approved CME providers was considered by the Board at its October 2017 meeting, following which the Board voted

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to provide *Notice of Intent* to adopt the rules in the *Louisiana Register*. Said *Notice of Intent* appeared in the December 2017 edition of the *Louisiana Register*.

c. **Rules/Amendments under Development:** The following rules are under consideration by the Board. **Physicians Compounding Medication:** At its December 2014 and January 2015 meetings, the Board reviewed Emergency Rules adopted by the Louisiana State 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 its April 2015 meeting. Following further discussion at its May 2015 meeting, the Board voted to provide *Notice of Intent* to adopt the amendments. An additional wording change was discussed at the September 2015 meeting and pre-notice input was received from interest parties at that time. Following review and discussion, the Board elected to defer action on this matter for at least another month to allow further consideration and input by other stakeholders. The additional information requested from interested stakeholders by the Board on certification, training and accreditation has not been received. In line with the Board's direction at its March 2016 meeting, a letter was sent to interested stakeholders requesting that they submit any additional information they may want to be considered in time for the May 2016 agenda. During its May 2016 meeting, the Board received the input of interested parties present who wished to speak on the agenda item. It also gave initial consideration to the voluminous materials submitted by various organizations and individuals. Following discussion the Board elected to defer action on the rule-making effort pending further review of the information submitted and the receipt of additional information. To that end, it also elected to designate a special committee comprised 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 Report of the Ad Hoc Committee. Following discussion, the Board requested certain changes to the draft previously appearing on its agenda, along with additional information for its consideration. Per the Board's directions, attached are two (2) drafts amending the draft that was previously in the 2015 agenda: Draft one ((Exh. 2A) limits board approval to certifying organizations that require passage of a psychometric exam and complete ACGME training in the specialty/subspecialty; Draft two (2B) limits board approval to certifying organizations that require passage of a psychometric exam *plus* completion of ACGME/AOA training of comprehensive scope that is substantially equivalent to training required for ABMS/AOA certification in the specialty or subspecialty or for training other than ACGME, training of comprehensive scope that is substantially equivalent to that of an ACGME accredited program in the specialty or subspecialty. During its March 2017 meeting, the Board considered and discussed the two drafts of the proposed rule and received input from interested parties present. Following further discussion and consideration at its April 2017 meeting, the Board approved Draft 2A and voted to provide *Notice of Intent* to adopt the amendments in the *Louisiana Register*. **Physicians-** Amendments to the physician licensure rules as suggested by staff is presented to initial review and discussion to update generally for

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consistency with current standards and make other substantive and technical modifications made necessary by the passage of time and current practices.

7. PUBLIC COMMENTS

EXECUTIVE SESSION

1. MINUTES/PRIOR MEETINGS

Executive Session Minutes, October 16, 2017.

2. MALPRACTICE COMMITTEE REPORT

Professional liability reports.

3. REPORTS INVESTIGATIONS/ADJUDICATIONS/LITIGATION

Recommendation to Commence Investigations.

Investigation reports.

Other Investigative Matters.

4. LITIGATION

Reports on pending appeals/suits/petitions.

5. GENERAL DISCIPLINARY MATTERS

Review of requests for reinstatement, off probation.

Review of request for modification in the terms of an order.

6. LICENSURE AND CERTIFICATION

Clinical Laboratory Personnel, non-routine applicants.

Graduates of US/Canadian Medical Schools

Non-routine applicants.

Graduates of International/Foreign Medical Schools

Requests for waiver of examination attempt.

Request for waiver of licensure requirements.

Other Licensure Matters

Visiting Physician Permit, non-routine applicant.

Occupational Therapist; Request for waiver of examination attempt.

Request for USMLE Sponsorship.

Miscellaneous Licensure Matters

Interview Process; Personal Appearance; Follow-up

7. NEXT MEETING

Next meeting of the Board – February 19, 20, 2018.