

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS
August 14, 2017
AGENDA

CALL TO ORDER

Business Meeting, Monday, August 14, 2017, 8:30 a.m., 630 Camp Street, New Orleans, 5th Floor.

Vincent L. DiCianni, Esq., President, Affiliate Monitors, Inc., Personal Appearance, Monday, August 14, 2017, 9:00 a.m.

James David Hammond, M.D., Medical Director, Healthcare Professionals' Foundation of Louisiana, Personal Appearance, Monday, August 14, 2017, 1:00 p.m.

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

Scope of Practice; Physician Assistant; Telemedicine; Follow-up.

Telemedicine; Draft Response; Follow-up.

Podiatry; Scope of Practice; Performance of H&Ps.

Physician Assistants; Scope of Practice; Act 76 Exception.

4. COMMUNICATIONS AND INFORMATION

Louisiana Association of Physician Assistants; Conference; October 4, 2017.

5. ADVISORY COMMITTEES.

Louisiana Task Force of Telehealth Access.

Prescription Monitoring Program Advisory Council

6. GENERAL ADMINISTRATIVE MATTERS

President's Report.

Executive Director's Report.

Financial Matters.

Louisiana State Board of Pharmacy; Access to Data.

Guidance; Physicians' PGY Permits; Extracurricular Practice.

7. RULES AND REGULATIONS

a. Rules/Amendments: Acupuncture: Act 550 (HB 557 Re. Jay Morris) of the 2016 Session of the Louisiana Legislature made several changes to the laws governing the practice of acupuncture in this state. The Board began a rulemaking effort to conform the Board's existing rules to the changes. In the interim, the law as amended by Act 550 controls any disparity with the rules. The Board received the input of the Acupuncture Association of Louisiana and presented draft amendments at the December 2016 meeting. Following further consideration at its January 2017 meeting, the Board approved the amendments and voted to provide *Notice of Intent* to adopt the amendments in the *Louisiana Register*. The *Notice of Intent* appeared in the April 2017 edition of the *Louisiana Register*. The comment period closed May 22, 2017. No written comments were received during the comment period. In the absence of comments, the Board directed promulgation of the amendments. Accordingly, the Board voted to adopt the rule amendments in the same form as previously noticed by and upon publication in the *Louisiana Register*. The amendments were published in the July 2017 edition of the *Register*, thereby, concluding this rule-making effort. **Athletic Trainers:** The Board's Athletic Trainer Advisory Committee worked on amendments to the athletic trainer rules to conform them to the 2014 amendments to the Athletic Trainer Practice Act. The Committee's draft was received, revised and resubmitted to

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the Advisory Committee for any final input. An initial draft of the amendments was considered by the Board at its July 2016 meeting. Following further discussion and consideration at its August 2016 meeting, the Board approved the amendments and voted to provide *Notice of Intent* to adopt the amendments in the *Louisiana Register*. The *Notice of Intent* appeared in the March 2017 edition of the *Louisiana Register*. A request for public hearing was not received; however one commenter submitted suggestions for substantive changes for Board consideration. During the May 2017 meeting, the Board considered the comment submitted. Following due consideration and discussion, the Board decided to provide written reasons rejecting the suggestions for substantive changes, and voted to adopt the rule amendments in the same form as previously noticed by and upon publication in the *Register*. The amendments were published in the July 2017 edition of the *Register*, thereby concluding this rule-making effort.

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 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 approved additional amendments. The *Notice of Intent* appeared in the July 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,

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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; 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*. **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. A draft will be presented for initial review and

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consideration in due course.

8. PUBLIC COMMENTS

EXECUTIVE SESSION

1. MINUTES/PRIOR MEETINGS

Executive Session Minutes, July 17, 2017.
Executive Session Minutes, July 24, 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 early reinstatement, off probation.
Review of request for modification of a Board Order.

6. LICENSURE AND CERTIFICATION

Clinical Laboratory Personnel, non-routine applicant.
Occupational Therapy Assistant, non-routine applicant.

Graduates of US/Canadian Medical Schools

Non-routine applicants.

Graduates of International/Foreign Medical Schools

Request for a waiver of licensure requirements.

Other Licensure Matters

Rules relative to the J1 Visa Status.
Maintenance of Certification.

7. OTHER MATTERS

Review of correspondence relative to investigatory matter.

8. NEXT MEETING

Next meeting of the Board – September 18, 19, 2017.
Proposed 2018 meeting dates.