

# LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

February 13, 2017

## AGENDA

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### CALL TO ORDER

Business Meeting, Monday, February 13, 2017, 8:30 a.m., 630 Camp Street, New Orleans, 5<sup>th</sup> Floor.

Personal Appearance, John B. Bobear, M.D., Immediate Past, Interim Executive Director, Monday, February 13, 2017, 12:00 p.m.

Personal Appearances, Monday, February 13, 2017, 1:00 p.m.

**1. GENERAL ADMINISTRATIVE MATTERS**

Welcome, Joseph Kerry Howell, M.D., New Board Member.

Personnel Matters; Election of Officers.

**2. MINUTES/PRIOR MEETINGS/CONFERENCES**

Approval of minutes of last meeting.

Status report on action items of prior Board meetings.

Report on assignments to counsel.

**3. RULINGS AND ADVISORY OPINIONS**

Physician Assistant; Scope of Practice; Rendering Do Not Resuscitate Order.

Michael A. Barnes, MS, OTR/L, CHT, Respiratory Therapy; Reconsideration of Request for Ability to Perform Dry Needling.

Respiratory Therapy; Scope of Practice Issues; Use of Pulmonary Function Test Protocol; Use of Continuous Aerosolized Respiratory Medication; Nebulization of Narcan for Suspected Opioid Overdose.

Use of Chronic Pain Management Protocol.

Ketamine Administration.

**4. COMMUNICATIONS AND INFORMATION**

HCR 113, Louisiana Commission on Preventing Opioid Abuse; Follow-up.

National Commission on Certification of Physician Assistants Statistical Profile for Louisiana.

"Training Matters: A Retrospective Study of Physician Disciplinary Actions by the Louisiana State Board of Medical".

Articles on the Public's Understanding of the Concept of Board Certification.

**5. Advisory Committees.**

PMP Advisory Committee Quarterly Report.

Clinical Laboratory Personnel Committee Nominations.

Pathology Assistants; Need for Licensure.

**6. GENERAL ADMINISTRATIVE MATTERS**

Financial Matters

President's Report.

Executive Director's Report.

Personnel Matters; Immediate Past Interim Executive Director.

Review of Composition of the Board.

**7. RULES AND REGULATIONS**

**a. Rules/Amendments:** None published since the last meeting of the Board.

**b. Rules/Amendments Noticed for Intent to Adopt - Physicians; Medical Marijuana:** Act 96 (SB271, Sen. Mills) of the 2016 Regular Session of the Louisiana Legislature made several changes to the law applicable to therapeutic marijuana. Among other items, the amendments: (i) change the terminology of the act of ordering the drug for a patient from "prescription" to "recommend;" (ii) change the term for, and expand the medical conditions covered by, "eligible diseases and conditions" to "debilitating medical conditions;" (iii) provide for certain exceptions in the event of approval of the drug by the USFDA; and (iv) necessitate various other changes to the

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Board's current rules. In order to accommodate such changes, an initial draft of amendments is presented for the Board's review and discussion during its July 2016 meeting, along with a copy of Act 96 for ease of reference. Following due consideration, the Board and staff suggested additional changes which have been incorporated into a revised draft. Following further discussion and consideration at its August 2016 meeting, the Board approved the amendments and voted to provide *Notice of Intent* to adopt in the *Louisiana Register*. Such notice appeared in the October 2016 edition of the *Louisiana Register*. A timely comment was received during the comment period. Following due consideration at its December 2016 meeting, the Board voted to reject the comments and promulgate the amendments in the same form as previously noticed, by and upon publication in the *Louisiana Register*. It is anticipated that the final amendments will appear in the February 2017 edition of *Louisiana Register*.

**Physicians; Telemedicine:** Acts 630 (Rep. Schroder) and 252 (Rep. K. Jackson) of the 2016 Regular Session of the Louisiana Legislature made several changes to the law applicable to telemedicine. In order to accommodate such changes, an initial draft of amendments was presented for review and discussion at its July 2016 meeting, along with copies of Acts 640 and 252 and an annotated version of the resulting changes to the Louisiana Medical Practice Act. 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 rule amendments in the *Louisiana Register*. Said notice appeared in the October 2016 edition of the *Louisiana Register*. A timely comment was received during the comment period, however, no comment required a substantive change to the proposed amendments. Following due consideration at its December 2016 meeting, the Board voted to promulgate the amendments in the same form as previously noticed, by and upon publication in the *Louisiana Register*. It is anticipated that the final amendments will appear in the February 2017 edition of *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

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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. This will be presented in due course. In the interim, information on the public's understanding of the concept of Board Certification is included as a separate agenda item for consideration. **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 and has been reviewed by staff. A revised draft was submitted to the Advisory Committee for any final input. The Committee offered additional changes which were reviewed. 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*. Such notice will follow in due course. **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 rules to the changes. In the interim, the law as amended by Act 453 controls any disparity with the rules. In the interim, notification is being posted on the Board's web page as to how a PA may apply for Schedule II controlled substances that have been delegated by a SP. The Board solicited the input of its PA Advisory Committee and the Louisiana Academy of Physician Assistants respecting the amendments made necessary by virtue of Act 453. A draft of the proposed amendments has been received in August 2016. Following a conference between staff and representatives of the PAAC/LAPA, it was the consensus of all to recommend further be presented for the Board's review and consideration. At its January 2017 meeting, draft amendments were presented. Following discussion, the Board approved the suggested amendments, and authorized with additional change to 1521B5 respecting development of an educational activity. **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*. Such notice will follow in due course. **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. A rulemaking effort will be needed to conform the Board's existing rules to the changes. In the interim, the law as

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amended by Act 550 controls any disparity with the rules. The Board has received the input of the Acupuncture Association of Louisiana. Draft amendments were presented for initial Board consideration at the December 2016 meeting and reappear on this month's agenda for any further consideration and/or Board action. 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*.

### EXECUTIVE SESSION

1. **MINUTES/PRIOR MEETINGS**  
Executive Session Minutes, January 9, 2017.
2. **MALPRACTICE COMMITTEE REPORT**  
Professional liability reports.
3. **REPORTS INVESTIGATIONS/ADJUDICATIONS/LITIGATION**  
Personal appearance schedule.  
Interim actions.  
Recommendation to Commence Investigations.  
Investigation reports.  
Other Investigative Matter.
4. **LITIGATION**  
Reports on pending appeals/suits/petitions.
5. **ADJUDICATION REPORT**
6. **GENERAL DISCIPLINARY MATTERS**  
Review of requests for reinstatement, off probation.  
Review of request for reinstatement of inactive license.  
Review of request for early reinstatement, off probation.
7. **LICENSURE AND CERTIFICATION**  
Clinical Laboratory Personnel, non-routine applicant.  
Medical Psychology, non-routine applicant.  
**Graduates of US/Canadian Medical Schools**  
Non-routine applicants.  
**Graduates of Foreign/International Medical Schools**  
Non-routine applicant.  
**Miscellaneous Licensure Matters**  
Continuing Medical Education; Failure to Comply.
8. **GENERAL ADMINISTRATIVE MATTERS**  
Termination of Professional Service Contract.
9. **NEXT MEETING**  
Next meeting of the Board – March 13, 14, 2017.