

# LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

September 19, 2016

## AGENDA

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### CALL TO ORDER

Business Meeting, Monday, September 19, 2016, 8:30 a.m., 630 Camp Street, New Orleans, 5<sup>th</sup> Floor.

Personal Appearances; Rhonda Edwards, Tandra Foley, Robert Zeringue, Staff, Monday, September 19, 2016, 9:30 a.m.

Personal Appearances, Monday, September 19, 2016, 1:00 p.m.

Formal Administrative Hearing, Monday, September 19, 2016, 3:00 p.m.

**1. MINUTES/PRIOR MEETINGS/CONFERENCES**

Approval of minutes of last meeting.

Status report on action items of prior Board meetings.

Report on assignments to counsel.

**2. RULINGS AND ADVISORY OPINIONS**

Ketamine Infusion Center; Follow-up.

Peer Review.

**3. COMMUNICATIONS AND INFORMATION**

Laura T. Hetzler, M.D., FACS.

Texas Society of Plastic Surgeons.

American Council for Graduate Medical Education.

J Clinical Psychiatry Article, A Systematic Review of the Evidence for Medical Marijuana in Psychiatric Indications.

United State Surgeon General; Opioid Epidemic.

Kelley May, Marijuana Law.

FDA Requires New Warning on Danger of Combining Opioids, Benzodiazepines.

North Carolina Controlled Substances CME Requirement Approved.

Federation of State Regulatory Boards.

James Ruiz, M.D.; Interstate Medical Licensure Compact.

**4. GENERAL ADMINISTRATIVE MATTERS**

Financial Matters.

President's Report.

Executive Director's Report.

**5. RULES AND REGULATIONS**

a. **Rules/Amendments: Adopted: Midwifery:** The Board considered amendments to the existing rules governing licensed midwife practitioners incorporating changes pursuant to the Louisiana Midwifery Practice Act during the 2012 session of the Legislature, updating the rules generally and rearranging sections for ease of reference. The Board reviewed and discussed 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, documented in the midwife's chart for the planned hospital delivery at the onset of labor. The Louisiana Midwives Association and other interested stakeholders provided input on the changes. A revised draft was presented for the Board's consideration at its January 2016 meeting and following review and discussion, the Board voted to provide a *Notice of Intent* to adopt the amendments. Said Notice appeared in the April 2016 edition of the *Louisiana Register*. A request for a public hearing was requested but withdrawn. Therefore, a public hearing was not held. However, written comments were received from the Louisiana Midwives Association and considered by the Board at its June 2016 meeting, along with the input of staff. Following discussion, the Board voted to adopt amendments previously noticed upon publication in the *Louisiana Register*. Thereafter, a Final Legislative Report incorporating the Board's responses to the comments was

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sent to the Legislative oversight committees and the commenter. The rule amendments noticed on the April 2016 *Louisiana Register* were promulgated in the August 20, 2016 edition of the *Louisiana Register*.

**b. Rules/Amendments Noticed for Intent to Adopt - Physicians; Medications Used in the Treatment of Obesity:** During its March 2016 meeting the Board requested amendments to its obesity rules that would permit the prescribing of the individual ingredients of any non-controlling drug approved by the USFDA in the treatment of exogenous obesity. An initial draft of amendments was presented for review and discussion at its April 2016 and at its May 2016 voted to provide *Notice of Intent* to adopt the rule amendments in the *Louisiana Register*. The **NOI** appeared in the July 2016 edition of the *Louisiana Register*. **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 was presented during the May 2015 meeting for initial review and discussion and was revised per further input from the Podiatry Advisory Committee. Following discussion and consideration, the Board approved the draft at its August 2015 meeting and voted to provide *Notice of Intent* to adopt the amendments in the *Louisiana Register*. The **NOI** appeared in the June 2016 edition of the *Louisiana Register*. It is anticipated that the amendments will be promulgated in the September edition of the *Louisiana Register*. **Podiatry; Histories and Physicals:** During the 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 PAC to submit their suggestions to staff for its preparation of a draft rule addressing the topic for its further consideration. Following the receipt of suggestions from the LPMA and the input of other stakeholders and staff, the Board reviewed a draft presented for initial consideration. The President of the Louisiana Podiatry Association and a communication on behalf of the Louisiana Orthopaedic Association were considered during the April 2016 meeting. Following further discussion, the matter was deferred. At its May 2016, the Board received a follow-up communication from the Louisiana Podiatry Association advising that while not everything for which it had hoped, the proposed amendments were acceptable in their current form. Following further discussion and consideration at its June 2016 meeting, including input from the President of the LPMA, the Board voted to provide *Notice of Intent* to adopt the amendments in the *Louisiana Register*. The **NOI** appeared in the August 2016 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

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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. The item will be returned to the agenda following receipt of the committee's input. **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*. **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 has 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 and is being evaluated by staff. It is anticipated that a draft will be submitted for initial review and discussion at the October 2016 meeting. **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

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amendments in the *Louisiana Register*. **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 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*. **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*.

## EXECUTIVE SESSION

1. **MALPRACTICE COMMITTEE REPORT**  
Professional liability reports.
2. **REPORTS INVESTIGATIONS/ADJUDICATIONS/LITIGATION**  
Personal appearance schedule.  
Interim actions.  
Recommendation to Commence Investigations.  
Investigation reports.  
Other Investigative Matter.
3. **LITIGATION**  
Reports on pending appeals/suits/petitions.
4. **ADJUDICATION REPORT**
5. **GENERAL DISCIPLINARY MATTERS**  
Review of requests for reinstatement, off probation.  
Review of request for early reinstatement, off probation.  
Review of request for modification of a Consent Order.
6. **LICENSURE AND CERTIFICATION**  
Clinical Laboratory Personnel, non-routine applicant.  
Athletic Trainer, non-routine applicant.  
Occupational Therapy, 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.

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**7. NEXT MEETING**

Next meeting of the Board – October 10, 11, 2016.