

NEWSLETTER



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FROM THE DESK OF THE EXECUTIVE DIRECTOR



Greetings, and best wishes for a happy and fruitful 2020!

The past year has been a busy and productive one here at the board. Our IT section has introduced new licensing software, and over the next few months will install backup internet servers so that if anything untoward occurs we have redundancy and can proceed with business while any issues are being resolved. We have our own internet systems and were not affected by the recent state ransomware problem.

Our licensing staff has been trained on CE Broker in anticipation of the introduction of this convenient system for tracking professional education hours in the coming year. As part of our improved and automatic CME/CE auditing process afforded by the CE Broker, licensees will be unable to renew their licenses if they are not in compliance with the requirements for continuing professional education in their licensee group.

As we have progressed into almost 100% online renewal, we are instituting a new reminder system to prevent inadvertent late renewals by our licensees. Beginning in 2020, licensees will receive reminder emails about their license renewals at 120, 90, and 60 days before the date of their license expiration. We realize that our licensees are busy people and want to help you maintain continuity in your profession. To that end, please make sure that the email address we have listed as your primary email is accurate.

In 2019 we bid a grateful goodbye to physician board members Drs. Kweli Amusa and Daniel Winstead while welcoming Drs. Patrick O'Neill and Leonard Weather.

The end of last year marked the beginning of the dispensing of therapeutic marijuana products produced in the state. As mandated by Act 207 of the 2019 Louisiana legislature's regular session, we have begun the process of designing a data system to track adverse events and outcomes that may be reported from the use of therapeutic marijuana products.

We look forward to the challenges and innovations of a new decade. As always, we want to hear from you if you have questions, concerns, or suggestions. ■

Best regards,

Vincent A. Culotta, Jr., MD

Physicians Selected for Palliative Care Interdisciplinary Council and Medicaid Pharmaceutical and Therapeutics Committee

Palliative Care Interdisciplinary Council

Act 351 of the 2019 regular Louisiana legislative session provides for the creation of the Palliative Care Interdisciplinary Council and requires that council members shall have at least two years of experience providing individual or interdisciplinary palliative care to pediatric, youth, or adult populations in inpatient, outpatient, or community settings. The council is to include seventeen members: four physicians, three nurses, one palliative care program administrator, one social worker, one pharmacist, one spiritual care advisor, one insurance administrator, three patient and family advocates, the secretary of the Louisiana Department of Health or his designee who shall be a non-voting member, and the Medicaid director or his designee. As such, the LSBME was responsible for the selection of the four physician members of the council. In its October meeting the Board reviewed the list of nominees for appointment to the Council and conducted a ballot vote in accordance with Act 351. Drs. Cori Morrison, representing a Board-certified pediatrician, Mordecai Potash, representing a Board certified pain management specialist and Mary Raven and Sonia Malhotra, representing Board-certified specialists in palliative/hospice care were appointed to the Palliative Care Interdisciplinary Advisory Council. The Board appreciates the many excellent physician candidates who were nominated for the council.

Medicaid Pharmaceutical and Therapeutics Committee

The Board was required to select new members to this committee from the list of nominees submitted for appointment to the Medicaid Pharmaceutical and Therapeutics Committee. Following a ballot vote cast by all present, Drs. Melvin G. Bourgeois, Charles Coleman, Marius McFarland and Mary Raven were nominated for possible appointment to the Medicaid Pharmaceutical and Therapeutics Committee. Drs. Coleman and McFarland have been selected for the committee; one additional vacancy is still to be filled by the governor. ■

Medical Marijuana and the Pain Rules

The LSBME would like to remind practitioners of several important issues pertaining to the treatment of patients with therapeutic marijuana for non-cancer-related chronic or intractable pain. If chronic non—cancer-related pain is the qualifying or debilitating condition described in §7717 and §7729 of the rules on Marijuana for Therapeutic Use by Patients Suffering from a Debilitating Condition, the physician recommending therapeutic marijuana must follow all of the “pain rules” as delineated in Chapter 69, part B, Medications Used in the Treatment of Non-Cancer-Related or Intractable Pain. Further, §6921.B.3 of these rules states that “A single physician shall take primary responsibility for the controlled substance therapy employed by him in the treatment of a patient's non-cancer-related chronic or intractable pain.”

What this means is that a patient may not receive medications for chronic non-cancer-related pain from more than one physician. In practice, this means one of two things: if you are a physician registered to recommend therapeutic marijuana and the qualifying condition for a patient is intractable pain, you are the only physician who may write prescriptions for chronic pain for that patient. If you are a pain specialist and you and the patient want to use therapeutic marijuana as part of the treatment plan, you must complete the board’s protocols to be able to register to recommend this therapy. A patient may not receive prescriptions for traditional pain medications such as opioids or other classes of drugs from one physician, and medical marijuana recommendations from another. ■

CDSCME reminder for physicians in training

If you have a PGY, GETP or Fellowship training permit and you are renewing it for the first time, you must complete the 3 hour CDSCME requirement as specified by Act 76-2017 before you can renew. This applies to all trainees who have obtained a CDS license from the Louisiana Board of Pharmacy. If you have not obtained a CDS license from the Board of Pharmacy, you must apply for an exemption. Click [here](#) for further information, or consult with your program director. Remember that the education hours must be board approved, and must include the following topics: Best practices for Prescribing CDS, Anti-diversion Training, Treatment of Chronic Pain, and Appropriate Treatment for Addiction. For the most recent list of **pre-approved** courses, go to:

<http://www.lsbme.la.gov/content/board-approved-cme-courses-cds-requirements>

DEA and Controlled Dangerous Substance (CDS) Guidance

The LSBME would like to remind you of two DEA-related issues:

1. **Prescribing 3 months worth of a CDS** – according to the rules of the DEA and the state, physicians or other prescribers of CDS may prescribe up to a 90 day supply of a CDS but only in a certain manner. Three months of a CDS may be prescribed in 3 separate prescriptions of 30 days each, if the prescription, either written or electronic, contains the date the prescription is written and signed (which will be the same and **must be the date the physician saw the patient**) as well as three distinct fill dates 30 days apart. This is the only way in which a prescriber may write for up to 90 days of a controlled substance.

2. **Physicians who store controlled dangerous substances** in more than one location must have a separate DEA number for each location. Please be aware that anabolic steroids such as testosterone in the form of surgically inserted pellets would fall under this category. The DEA Certificate of Registration (DEA Form 223) must be maintained at the registered location in a readily retrievable manner and kept available for official inspection. The DEA Policy manual states that **"the CSA requires that a separate registration be obtained for each principal place of business or professional practice where controlled substances are manufactured, distributed, or dispensed. DEA has historically provided an exception that a practitioner who is registered at one location, but also practices at other locations, is not required to register separately for any other location at which controlled substances are only prescribed. If the practitioner maintains supplies of controlled substances, administers, or directly dispenses controlled substances at the separate location the practitioner must obtain a separate DEA registration for that location."** The exception applies only to a secondary location within the same state in which the practitioner maintains his/her registration. DEA individual practitioner registrations are based on state authority to dispense or conduct research with respect to controlled substances. Since a DEA registration is based on a state license, it cannot authorize controlled substance dispensing outside that state. Hence, the separate registration exception applies only to locations within the same state in which practitioners have their DEA registrations.

For more information on what the DEA requires, please call that department at (504) 840-1100 and ask for the Diversion group. DEA form 223 must be completed for each location where CDS are manufactured, distributed, or dispensed. ■

Do you know...?

About the rules and regulations surrounding PECs?

This article was written by guest author William "Beau" Clark.¹ He currently serves as the Coroner of East Baton Rouge Parish and the president of the State Coroner's Association. A graduate of LSU Medical School in New Orleans, he is ABMS board certified in Emergency Medicine, and is also a certified medicolegal death investigator.

The commitment of a patient in Louisiana is often a confusing process on many levels. This synopsis will hopefully help to help clarify the process and answer some common misconceptions concerning this process.

The ability to take someone's civil rights away in the United States and in Louisiana is a very serious matter. The Constitution of both the country and state protect a citizen's civil rights above all else. However, when it is necessary to violate an individual's rights for the greater good of the individual or society, there is a safety net designed to assist us. This process is a medico-legal process; however, it is more legal than medical. **Commonly referred to as the Mental Health Commitment Spectrum, the process involves the following steps: the order of protective custody, the physician's emergency certificate, the coroner's emergency certificate, and the judicial commitment.**

The order of protective custody (OPC) is based on a personal statement submitted to the parish coroner or district court judge of competent jurisdiction that allows for the involuntary transport of an individual from their present location to a treatment facility for evaluation. The person who swears to the affidavit, or "affiant," must present reasonable, credible, witnessed behavior that demonstrates an individual is a danger to themselves, a danger to others, or is gravely disabled. Once executed, this document is a public record and is subject to inspection by the individual named in the document. If the affiant files a false public record, then this action is a felony and punishable under the law. An active OPC is valid for 72 hours. In simple terms, the OPC causes the transport of the individual from their current location to a treatment facility for evaluation.

The **physician's emergency certificate (PEC)** represents the legal admission status of a patient. It is used for a patient that is either involuntary to the admission or is unable or incapable of comprehending a voluntary admission. The preferred mechanism is always voluntary; however, the PEC exists to ensure the safety of the individual or the community. The certificate shall state:

1. The name, address, date of birth, sex, and race of the individual;
2. the name of the signator, address of the treatment facility, the date and time of the admission and examination;
3. the objective findings of the exam;
4. the determination of dangerous to self, dangerous to others, and/or gravely disabled;
5. the determination of unwilling and/or unable to seek voluntary admission; and
6. the signature, license number, and date and time signed by the examiner.

The PEC form may be completed by a physician, physician assistant when acting in accordance with their respective clinical practice guidelines, psychiatric mental health nurse practitioner, other nurse practitioner who acts in accordance with a collaborative practice agreement and receives verbal approval for executing the certificate from his/her collaborating physician, or a psychologist. The person who signs the PEC must be the person performing the examination. It is not permissible to sign the document for another healthcare professional if you have not personally conducted the examination of the patient. The coroner of jurisdiction must be notified immediately of the execution of the PEC document.

The coroner's emergency certificate (CEC) represents the legal admission status of a patient. It must be completed within 72 hours of an "in-parish" PEC. (If a patient is PEC'd in one parish and transferred to another parish prior to being CEC'd, then a second PEC in the receiving parish must be executed prior to execution of the CEC. This second PEC is commonly referred to as an "in-parish" PEC.)

The CEC form may be completed by a physician, physician assistant when acting in accordance with their respective clinical practice guidelines, psychiatric mental health nurse practitioner, other nurse practitioner who acts in accordance with a collaborative practice agreement and receives verbal approval for executing the certificate from his/her collaborating physician, or a psychologist, who is also a representative of the coroner of jurisdiction either as a coroner, deputy coroner, or assistant coroner.

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¹ The content of a guest authors' piece is not reviewed by the Board prior to publication. It does not necessarily reflect the Board's opinions and any and all statements and/or opinions regarding legal provisions contained in the guest author's piece is his/her own. If licensees have a question with regard to the law, they are encouraged to seek advice from an attorney.

PEC, continued

The two documents together (PEC and CEC) constitute the legal authority to confine an individual involuntarily for a maximum of 15 days; however, the treating physician has the authority to release the patient from involuntary commitment at any time during that period. It is important to note that this process is a legal process; The illegal commitment of a patient, by not properly addressing the above requirements is a violation of the individual's civil rights; it may be subsequently prosecutable by law and/or asserted in a civil suit. Furthermore, the documents do contain HIPPA information, are not public records and are protected under the law.

The judicial commitment (JC) is a process that addresses the continued commitment of an individual beyond 15 days. The individual's case will be heard in the appropriate judicial court and is afforded representation through an advocate. The district court judge of competent jurisdiction will make a decision based on the evidence submitted as to the continued commitment of the patient or his/her release. ■

The process of committing a patient may be confusing; here are a few FAQs we hope you find helpful:

1. Who can legally issue a PEC or CEC?

Physician, physician assistant when acting in accordance with their respective clinical practice guidelines, psychiatric mental health nurse practitioner, other nurse practitioner who acts in accordance with a collaborative practice agreement and receives verbal approval for executing the certificate from his/her collaborating physician, or a psychologist.

2. What are the required items to be documented on a PEC or CEC?

The name, address, date of birth, sex, and race of the individual; the name of the signator, address of the treatment facility, the date and time of the admission and examination; the objective findings of the exam; the determination of dangerous to self, dangerous to others, and/or gravely disabled; the determination of unwilling and/or unable to seek voluntary admission; and the signature, license number, and date and time signed. These are the mandatory items.

3. What validates the decision? Is there a danger to self, danger to others, and/or gravely disabled? Is the individual unwilling and/or unable (incapable to understand voluntary admission) to seek voluntary admission?

These items are mandatory and must be enumerated on the emergency certificate (PEC/CEC) without exception.

4. When should the coroner be notified of an admission by PEC? Immediately.

5. If the patient has been transferred between parishes, has a second "in-parish" PEC been executed?

The coroner of the receiving parish only has to respond to an "in-parish" PEC and has 72 hours from the time the "in-parish" PEC is signed to respond.

6. What is a 72 hour hold?

This is an urban legend that exists because of the time frame between the PEC and the CEC is 72 hours. The 72 hour time frame applies only to the coroner's response for evaluation for a CEC.

DISCIPLINARY ACTIONS. Information on disciplinary actions may be found on the board's website at <http://www.lsbme.la.gov>. A summary of Board Orders, Consent Decrees and Reprimands for the past 10 years and related documents may be found by selecting Verifications in the upper left hand corner of the home page, then Disciplinary Actions.

Advisory Opinions in 2019

During their regularly scheduled monthly meetings, the Board responds to requests for advice or clarification from the public or healthcare organizations on a variety of topics. Some of these responses believed by the Board to be of particular interest are included on its web page as advisory opinions. Two such advisory opinions were released by the board in 2019, and can be found in their entirety at <http://www.lsbme.la.gov/content/advisory-opinions>.

1. *PA Scope of Practice*. The board was asked if the scope of practice of a Physician Assistant (PA) could include the surgical insertion of hormone pellets such as estradiol or testosterone. The board's answer was that a PA may assist in such a procedure but not perform it independently.

2. *Off label use of Ketamine for mental disorders and chronic pain*. The LSBME is of the opinion that the off label use of ketamine to treat severe depression, mental disorders and chronic pain is still investigational and is ill advised for routine clinical practice settings. Physicians are advised to be very cautious in its use until further investigation occurs and FDA treatment guidelines are established. The advisory opinion of May 13, 2019 gives important background on this medication and related substances in its footnotes: A task force convened by the American Psychiatric Association (APA) reviewed the clinical evidence supporting the effectiveness of Ketamine in the treatment of depression and reported in the October 1, 2015, edition of the American Journal of Psychiatry that current data revealed "the effects of the drug were rapid, robust but transient and that more research was needed to establish both the risks associated with the long term use of the drug and the development of treatment guidelines." As also highlighted in the notes, the FDA has approved eskatamine (the s-enantiomer of Ketamine) spray in conjunction with oral antidepressants for adult treatment-resistant depression (2019). In so doing, the FDA noted that due to the risk of serious adverse reaction from sedation and dissociation caused by the drug, and the potential for abuse and misuse, the drug is only available through a restricted distribution system in a certified medical office where the physician can monitor the patient for at least 2 hours after administration. As an FDA approved product, physicians may conformably utilize this particular drug for the treatment of adults suffering from treatment-resistant depression, in accordance with FDA protocols. Other than the controlled use of eskatamine for certain cases of depression, the view of the LSBME pertaining to the off-label use of Ketamine for the treatment of severe depression, other mental disorders and chronic pain, remain unchanged. ■

Statements of position

The board also issues statements of position occasionally, which can be found at <http://www.lsbme.la.gov/content/statements-position>. No such statements were issued in 2019. ■

Board Needs Physician Experts

The LSBME seeks physician experts to consult on content-specific cases when a standard(s) of care determination is needed. Examples of specialty fields where physician experts are required include but are not limited to: orthopedics, neurosurgery, neurology, plastic surgery and general surgery. Beginning in 2020, our online renewal application will ask physicians if they are interested in serving as an expert in this capacity. You may check the box and we will contact you. If interested you may contact our Director of Investigations Lawrence H. Cresswell, III, DO, JD with questions at lcresswell@lsbme.la.gov. ■