From the President

In this issue of the Newsletter we provide timely updates on rules that may affect your practice, including a new rule establishing educational requirements for the advanced practice or podiatry and other topics of interest. For more information about all of these topics and more - visit our web site at www.lsbme.la.gov and while you are visiting subscribe to the RSS feed to keep up with the News from the Board. We welcome your feedback on the topics that are presented and recommendations regarding future topics as well as legislative and/or rule making efforts, and board services. Please contact us at feedback@lsbme.la.gov. Thank you

Linda Gage-White MD, President LSBME

Rules – Adopted

Delegation of authority for routine applications – November 2008

Amendments to the Board’s Rules relating to approval of applications for licensure were noticed for adoption in the Louisiana Register in November 2008. Under the new rule, the Board acting through its president or designee, may approve the issuance and renewal of any license, certificate, registration, permit or other necessary authority that the board is authorized to issue with respect to a physician or an allied health care practitioner who satisfies and meets all requirements prescribed by law or applicable board regulation for issuance or renewal of such license, permit, certificate, registration or authority. In the event that a question exists with respect to an applicant’s qualifications, the application or renewal shall be referred to the entire board. More information at http://www.lsbme.la.gov/

Delegation of authority for emergency actions – November 2008

Amendments to the Board’s Rules relating emergency action were noticed for adoption in the Louisiana Register in the November 2008 as follows. If the board, acting through its president or another member designated by the president, finds that the public health, safety, and welfare requires emergency action and a finding to that effect is incorporated in its order, summary suspension of a license, permit, certificate or registration may be ordered pursuant to R.S. 49:961(C), pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined pursuant to this Chapter. More information at http://www.lsbme.la.gov/

Podiatry – February 2009

Amendments to the Board’s Rules relating to Podiatry were published in the Louisiana Register in February 2009 pursuant to Act 204 of the 2007 session of the legislature. The legislation expanded the scope of practice of podiatry to include “treatment of the ankle, muscles, or tendons of the lower leg governing the functions of the foot and ankle by a podiatrist who has completed advanced training determined to be sufficient by the board at a program accredited by a nationally recognized accrediting association acceptable by the Board”.

The amendments to the Rules define the educational requirement for conservative and surgical treatment of the ankle and limit the procedures that can be done to those that are required for Board Certification in Reconstructive Rear foot / ankle surgery by the American Board of Podiatric Surgery. Podiatrists must hold a certificate in (1) Conservative Treatment of the Ankle or (2) Surgical Treatment of the Ankle issued by the Board to engage in the scope of practice relating to these certificates as defined in the rule after June 1, 2009. Applications may be made on line after April 1, 2009. A notice relating to the rule was sent to all podiatrists and hospitals in the state on March 10, 2009. More information at http://www.lsbme.la.gov/

Short Term Training Permits for International Graduates – March 09

Amendments to the Board’s Rules relating to training permits for international graduates were published in the Louisiana Register in March 2009 as follows. The board may, in its discretion, issue an institutional temporary permit for the purpose of participating in a short-term residency or other postgraduate training program conducted by a Louisiana medical school or a major teaching hospital, as defined in the rule, for up to 3 months subject to the program and applicant meeting certain requirements. More information at http://www.lsbme.la.gov/

Rules – Notices of Intent

Telemedicine May 2009

A notice of intent to amend the Boards rules relating to telemedicine was published in the Louisiana Register in May 2009. Telemedicine is defined in the rule and in statute as the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data by a physician using interactive tele-communication technology that enables a physician and a patient at two locations separated by distance to interact via two-way video and audio
transmissions simultaneously. Neither a telephone conversation, an electronic mail message between a physician and a patient, or a true consultation constitutes telemedicine for the purposes of the rule.

Telemedicine shall not be utilized by a physician with respect to any patient located in this state in the absence of a physician-patient relationship as further defined in the rule.

The practice of medicine by telemedicine, including the issuance of any prescription via electronic means, shall be held to the same prevailing and usually accepted standards of medical practice as those in traditional (face-to-face) settings. An online, electronic or written mail message or a telephonic evaluation by questionnaire or otherwise, does not satisfy the standards of appropriate care. Certain other requirements and limitations are set forth in the rule.

Physicians must hold a Louisiana license or permit issued by the Board as set forth in the rules to use telemedicine in the care of patients. More information at: http://www.lsbe.me.la.gov/

Legislation
Medical Psychology Practice Act SB 294

SB 294 (Senator Nevers) provides for the regulation of medical psychologists by Board of Medical Examiners and for the further development of medical psychology as a profession. Key provisions:

A. Transfers authority for the regulation of medical psychologists from the Louisiana State Board of Examiners of Psychology to the Louisiana State Board of Medical Examiners on January 1, 2010.
B. Incorporates existing provisions in state law and regulation relating to the qualifications, and scope of practice of medical psychologists, and the requirements for consultation and coordination of care with referring physicians.
C. Provides for the licensure and regulation of medical psychologists after the transfer date.
D. Provides for the orderly transfer of medical psychologists licensed and certified by the psychology board to the medical board when the authority for regulation switches from one board to the other.
E. Requires applicants for licensure as medical psychologists after the transfer date to be licensed as psychologists by the psychology board.
F. After licensure as medical psychologists by the medical board, medical psychologists will no longer be licensed by the psychology board.
G. Provides for the issuance of certificates of advanced practice for medical psychologists who have been in practice for 3 years, and who have completed additional training and met certain other requirements.
H. Provides for an Advisory Committee with 5 members subject to approval by the Board. One member will be a psychiatrist nominated by the Louisiana State Medical Society and recommended by the Louisiana Academy of Medical Psychologists and the Louisiana Psychiatric Medical Association and 4 will be nominated by the Louisiana Academy of Medical Psychologists.

We believe that the legislation will improve access to psychiatric care throughout the state by promoting collaboration between physicians and medical psychologists and by providing for the further development of medical psychology as a learned profession.

Uniform Emergency Volunteer Health Practioners Act
SB 107

SB 107 (Senator Cheek) is based on model legislation that was proposed in 2007 by the Uniform Law Commission (ULC). Versions have been enacted in 7 states. Key provisions:

A. Enables out-of-state healthcare practitioners holding unrestricted licenses in other states to provide healthcare services in Louisiana during declared emergencies.
B. Provides for advance registration and identification of out of state (and instate) health practitioners.
C. Provides for the verification of credentials in real time by provider organizations.
D. Protects practitioners from ordinary liability for care that is provided at no cost to those receiving the care.
E. Empowers licensing authorities to take action against healthcare practitioners for due cause.

Highlights
Dispensing Medications

Our rules permit physicians to dispense bona fide medical samples defined as a "medication, other than a controlled substance, packaged by the original manufacturer thereof in such quantity as does not exceed a reasonable therapeutic dosage and provided at no cost to a physician for administration or dispensation to a patient at no cost to the patient." (La Admin Code 46 XLV §6301). The rule may be found on our web site at www.lsbe.me.la.gov/rules.html

Also of note, the Nurse Practice Act (R.S. 37:913A:3 b) permits advanced practice registered nurses (APRNs) to distribute a therapeutic regimen of prepackaged drugs prepared and labeled by a licensed pharmacist, and free samples supplied by a drug manufacturer, and to distribute drugs for administration to and use by other individuals within the scope of practice as defined by the Board (of Nursing). The statute may be found at www.lsbn.state.la.us/Documents/npa.asp

The following terms are defined in the Board of Nursing Rules (La Admin Code 46 XLVII §4505)

1. Distribute, Distribution or Distributed the issuing of free samples and other gratuitous medications supplied by drug manufacturers, as defined by clinical practice guidelines contained in a collaborative practice agreement for prescriptive authority.
2. Gratuitous Medications the medications provided by the manufacturer to be distributed to indigent populations and/or HIV and STD patients free of charge.
3. Samples - a unit of prescription drug, which is not intended to be sold and is intended to promote the sale of the drug.

More information at www.lsbn.state.la.us/documents/rules/fullrules.pdf

Physicians Health Program

As you know, physicians often find themselves caring for others continuously, many times sacrificing their own wants and/or needs. However, physicians also need assistance at times, and we want you to know that it is ok to ask for help. It is the primary role of the Physicians’ Health Foundation of Louisiana (PFHL) Physicians Health Program (PHP) to offer assistance to physicians who may be suffering from difficulties such as substance use issues, depression, anxiety, etc., in addition to a host of physical ailments and disruptive behavioral patterns. The PHP supports physicians who are in the program and advocates for them with hospitals, health plan networks, malpractice insurance carriers, medical boards, etc.
Of noteworthy importance, the assistance offered by the PHFL PHP is confidential. For example, any physician who is experiencing a problem with substance use for which they have not been adequately treated or monitored, can access the PHFL PHP without any obligation on the part of the PHFL PHP to notify the Louisiana State Board of Medical Examiners (LSBME). In fact, a physician in the PHFL PHP for the first time can answer "No" on their license renewal to questions #1 and #2. There are some circumstances which the PHFL PHP is mandated to notify the LSBME. The PHFL PHP is obligated to inform the LSBME when it receives information indicating a physician has diverted prescription drugs for trade or sale, information of a physician acting inappropriately with a patient (boundary violation), or a return to substance use once in the program. However, in all cases, the LSBME and the PHFL PHP mutually support early detection and treatment of physicians.

If you or someone you know could use the assistance of the PHFL PHP, please do not hesitate to contact them at 888-743-5747.

**Responsibility of Hospitals to report impaired providers**

The Louisiana Health Care Professionals Reporting Act (LRS §1745.14) requires a health care entity to submit a written report to the appropriate professional licensing board within 72 hours of each instance in which it: (1) takes adverse action against a health care professional due to impairment or possible impairment; or (2) accepts the surrender of a physician acting inappropriately with a patient (boundary violation), or a return to substance use once in the program. However, in all cases, the LSBME and the PHFL PHP mutually support early detection and treatment of physicians.

The ONLY exception to this reporting requirement is when an individual has executed a treatment contract with the Physicians Health Program (or a comparable program approved by the Board or Nursing/Dentistry/Psychology).

We have reason to believe that some hospitals do not understand the limitations with respect to the reporting requirement and believe that enrollment in a hospital program is sufficient which it is not. We recommend that you look at your current activities in this area to ensure that you are in compliance.

It is our opinion that a hospital discharges its responsibility to report illegal acts such as self prescribing controlled substances, forging prescriptions and diversion of controlled substances that are associated with impairment due to use of controlled substance by the person committing these acts by following the provisions of the Louisiana Health Care Professionals Reporting Act referenced above. What happens next is a matter for the licensing authorities and related programs to deal with after a proper investigation which a hospital is in no position to undertake. Depending on the circumstances the individual may or may not be reported to the local authorities and/or DEA. [http://www.legis.state.la.us/lss/iss.asp?doc=452586](http://www.legis.state.la.us/lss/iss.asp?doc=452586)

**Responsibility of physicians to self report impairment**

The Medical Practice Act (LRS §37:1285 A) imposes a duty on physicians to self report impairment due to drugs (5) and/or improper prescribing of controlled substances (6) with the ONLY exception being in cases where the physician has executed a treatment contract with the Physicians Health Program or an alternative program approved by the Board. It is NOT sufficient for the physician to be enrolled in a hospital program only. We will take action against physicians when we find that they have not reported as required. [http://www.legis.state.la.us/lss/iss.asp?doc=93167](http://www.legis.state.la.us/lss/iss.asp?doc=93167)

**In the News**

**Board Members Appointed**

On 11/25/08 the Governor announced the appointment of Dr. Robert Dawson and the reappointment of Dr. Kim LeBlanc to the Board. Both were nominated by the Louisiana State Medical Society. On 2/17/09 the Governor announced the appointment of Dr. Cynthia Montgomery to the Board. Dr. Montgomery was nominated by the Louisiana Medical Association.

Drs. Tonya Sheppard and Keith Ferdinand will be leaving the Board having completed their terms of office. Their dedication and long service to the Board and to the people of Louisiana were gratefully acknowledged by the Board.

**Robert Dawson MD MPH – bio**

Dr. Robert E. Dawson is a native of New Orleans, LA. He was educated in the Jefferson Parish Public School System. He is a 1977 graduate of Tulane University with a Bachelor of Science degree in Biology and Chemistry. Dr. Dawson received a scholarship to the Uniformed Services Uniformed Services University, F. Edward School of Medicine where he graduated with a Doctor of Medicine degree in May of 1982.

Dr. Dawson furthered his education with a residency in internal medicine at Baylor College of Medicine in Houston, TX; a Master of Public Health in Health Policy and Administration and a residency in preventive medicine from the University of California at Berkeley in 1991; and a fellowship in geriatrics at Tulane and Baylor Colleges of Medicine in 2006. He is a diplomat of the American Board of Internal Medicine.

He served in the United States Public Health Service for 22 years with assignments as Special Assistant to Secretary Louis Sullivan, DHHS and Senior Advisor to Surgeons General. During his career he has been recognized with many awards and accolades for his expertise in community medicine.

Presently, he is the Associate Medical Director for the St. Charles Community Health Center in Kenner, LA, a NCQA accredited medical home facility providing care to the uninsured and underserved. Dr. Dawson is an assistant professor at Tulane University School of Medicine Department of Family and Community Medicine. He is most proud of having founded the Black Bag Medicine Foundation, “Planting seeds, Nurturing Dreams and Growing Doctors.”

His service to community includes an appointment to the Louisiana State Board of Medical Examiners by Governor Bobby Jindal, membership in the Louisiana State Medical Society, the New Orleans Medical Association, AMA and NMA. His contribution to mankind has been his former marriage to Dale Soniat-Dawson and their three daughters, Brionne a diplomat with the National Democratic Institute in Johannesburg, South Africa, Clarice an aeronautical space engineer in San Diego, CA and Arista an artist in Walnut Creek, CA.

**Board Officers elected**

On December 7, 2008 Dr. Linda Gage-White was elected President of the Board succeeding Dr. Kweli Amusa whose term had ended. Dr. Mark Dawson was elected Vice President and Dr. Kim Edward LeBlanc, MD, PhD was elected Secretary Treasurer at the same time. The distinguished service of Dr. Amusa who served as President for 3 years was gratefully acknowledged by the Board.