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September 8, 2015

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RE: Final Report: Proposed Amendment of Administrative Rules Governing Physician Practice; Unprofessional Conduct (LAC 46:XLV.7603), La. Rev. Stat. §49:968(D)

Dear Sirs:

Pursuant to La. Rev. Stat. §49:968(D), the Louisiana State Board of Medical Examiners is submitting the enclosed report on the final adoption of rule amendments governing physician unprofessional conduct. Notice was previously published in the October 2014 edition of the *Louisiana Register*, Vol. 40, No. 10, pp. 2069-2070. Substantive amendments appeared in the Potpourri edition of the July 2015 edition of the *Louisiana Register*, Vol. 41, No. 7, pp. 1416. The Board plans to adopt the amendments upon publication in the October 20, 2015, edition of the *Louisiana Register*.

Very truly yours,

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

By: _____
Cecilia Mouton, M.D.
Executive Director

Enclosure

FINAL REPORT RELATIVE TO PROPOSED AMENDMENT OF ADMINISTRATIVE RULES GOVERNING PHYSICIAN PRACTICE, UNPROFESSIONAL CONDUCT

(La. Rev. Stat. § 49:968(D))

By The
LOUISIANA STATE
BOARD OF MEDICAL EXAMINERS

Submitted To The

COMMITTEE ON HEALTH AND WELFARE,
LOUISIANA SENATE,

COMMITTEE ON HEALTH AND WELFARE,
LOUISIANA HOUSE OF REPRESENTATIVES,

PRESIDENT OF THE SENATE

And

SPEAKER OF THE HOUSE OF REPRESENTATIVES

September 8, 2015

This Report is respectfully submitted by the Louisiana State Board of Medical Examiners (the "Board"), within the Department of Health and Hospitals, pursuant to La. Rev. Stat. §49:968(D).

By Notice of Intent published in the October 20, 2014, edition of the *Louisiana Register,* Vol. 40, No. 10, pp. 2069-2070, the Board proposed to amend its rules governing physician unprofessional conduct, LAC 46XLV.7603. Concurrently with submission of the Notice of Intent to the *Register*, in accordance with La. Rev. Stat. §40:968, the Board submitted a Report to the Senate and House Committees on Health and Welfare, the President of the Senate and the Speaker of the House of Representatives.[1] The Board did not receive a request for public hearing; however, it did receive written comments and subsequently elected to make substantive changes. These appeared in Potpourri Section of the January 2015 edition of the *Register* and a public hearing was scheduled but postponed. A further notice effecting substantive changes was published in the Potpourri Section of the July 20, 2015 edition of the *Register*, (LR: 41:1416) and a public hearing was held on August 20, 2015. No individual appeared at hearing but one (1) additional written comment was received.

This Report, submitted by the Board pursuant to and as prescribed by La. Rev. Stat. §49:968(D), sets forth a summary of the comments received by the Board on the subject administrative rule amendments, and a statement of the Board's response to each comment, including a concise statement of the principal reasons for and against adoption of any modifications or changes suggested. A copy of the Notice of Intent published in the October 2014 edition of the *Register*, as amended by the Notice that appeared in the Potpourri Section of the July 20, 2015 edition of the *Register,* accompanies this Report as Appendix A, which the Board intends to adopt as final amendments and to formally promulgate by and upon publication in the October 20, 2015 edition of the *Register*.

I. Background—By Notice of Intent published in the October 20, 2014, edition of the *Louisiana Register,* Vol. 40, No. 10, pp. 2069-2070, the Board originally proposed to amend its administrative rules governing physician unprofessional conduct, LAC 46XLV.7603, in two (2) ways: (i) to require that any physician holding herself or himself out as a *specialist* have completed accredited residency or fellowship training in

[1] *Electronic Mail*, Cecilia Mouton, M.D., Exec. Dir., La. State Bd. Med. Exam., RE: Report Relative to Proposed Amendment of Administrative Rules Governing Physician Practice; Unprofessional Conduct (Oct. 9, 2014).

the claimed area of specialization; and (ii) to limit physician self-treatment and treatment of immediate family members with controlled substances to cases of an emergency.

In consideration of the written comments respecting the proposed changes, only a few of which addressed the proposed limit on physician self-treatment and treatment of immediate family members with controlled substances, the Board noticed substantive changes in the Potpourri Section of the January 2015 edition of the *Register* (LR 41:294-295). The changes would have revised the original proposed amendments: by separating 7603A.9.b. into 7603A.9.b.(i) and A.9.b.(ii); deleting the word *fellowship* in 7603A.9.b.; making technical changes to name of the accrediting entity *the American Council on Graduate Medical Education* (ACGME); and adding 7603A.9.b.(ii) to include additional certifying entities falling within the scope of the amendment (*e.g.*, is certified in the specialty by a member board of the American Board of Medical Specialties (ABMS), the American Osteopathic Association (AOA) or any other medical specialty certifying entity as the board may approve). A public hearing to receive public comment on the proposed substantive changes was scheduled, but subsequently postponed, in order to discuss additional changes.

Further consideration of the comments and options were discussed and considered by the Board at its meetings over a number of months to address the concerns expressed with regard to the proposed amendment to Section 7603A.9.b. *e.g.*, representing one's self as a specialist. Ultimately, the Board decided to proceed only with that part of the proposed amendments prohibiting the prescribing of controlled substances to one's self or immediate family members except in cases of emergency. Notice to that effect was published in the Potpourri Section of the July 20, 2015 edition of the *Register*, (LR 41:1416) and a public hearing was held on August 20, 2015 to receive comment on the proposed substantive changes. No individual appeared at hearing to present comment or testimony but one (1) additional written comment was received.

II. Summary of Proposed Rules—The proposed amendments, as substantively modified by the Notice that appeared in the Potpourri Section of the July 20, 2015 edition of the *Register*, prohibit self-prescribing of controlled substances to one's self or immediate family members, defined as the physician's spouse, children, parents and siblings, except in cases of emergency.

III. Summary of the Comments and Board Response—The Board received a total of thirty-five (35) written comments supporting the proposed changes or suggesting substantive amendments. The vast majority of these comments addressed the issue of a physician hold himself or herself out as a *specialist* (which the Board is no

longer pursuing in the current rule-making effort) and most of these were in favor of the proposed change. Only three (3) commenters submitted comments on the proposed amendment being promulgated (7603A.11. *Self-treatment; Treatment of Immediate Family Members*). Summaries of all comments, as well as the Board's responses to each, are set forth below.

Comments to 7603A.11.(being promulgated in this rule effort)/Responses.

Comment 1: One commenter[2] noted that great caution should be exercised anytime a physician prescribes a controlled substance to a member of their family and physicians are encouraged to refer family members if it is determined that a controlled substance is warranted in the course of proper treatment. However, the commenter expressed the view that there are many instances in which physicians provide quality care to their family members in a manner consistent with the standard of care given to any of their non-related patients and see no reason why a physician should be deemed to have engaged in unprofessional conduct for doing so. The commenter believes the proposed amendment is unwarranted and urged its removal from the current rule-making effort.

Response. The proposed change will curtail the inappropriate use of controlled dangerous substances (CDS) prescribed by physicians in their own names, and in the names of their immediate family members, for their own personal use. The proposed amendment is consistent with the laws and rules of a number of other states, which for many years have recognized the dangers associated with physicians prescribing CDS to themselves and their immediate family members. It is also consistent with the rules respecting other providers in this state *e.g.*, advanced practice registered nurses (LAC 46:XLVII.4513D.2.b.i(c)), physician assistants (LAC 46:XLV.4506C.3.c.), and it is in line with the Opinion 8.19 of the Code of Medical Ethics of the American Medical Association, which has been in place for many years *e.g.:*

> It would not always be inappropriate to undertake self-treatment or treatment of immediate family members. In emergency settings or isolated settings where there is no other qualified physician available, physicians should not hesitant to treat themselves or family members until another physician becomes available. In addition, while physicians should not serve as a primary provider or regular care provider for immediate family members, there are situations in which routine care is acceptable for short-term, minor problems. *Except in emergencies, it is not appropriate for physicians to write prescriptions for controlled substances for themselves or immediate family members.* (Emphasis supplied).

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[2]Comment, Louisiana State Medical Society(LSMJ), Roberto Quintal, M.D. (Nov. 19, 2014).

Aside from concerns related to illicit prescribing, the proposed rule will promote patient autonomy and informed consent, which may be compromised when physicians attempt to treat their immediate family members. Items such as patient complaints, histories, physical examinations, laboratory data, informed consent, treatment plans, including CDS and other medication prescribed, are often lacking when physicians are asked to produce copies of their medical records related to self-treatment or treatment of an immediate family member. Indeed, in our experience, it is more often than not the case that no medical records are maintained to show what treatment was provided or demonstrate the medical indication for the CDS prescribed. The proposed rule will also address other issues noted by the AMA's Opinion 8.19 *e.g.,* the compromise of professional objectivity when treating an immediate family member and the danger of physicians practicing beyond their expertise or training when doing so. For all these reasons the Board believes that the rule is sound and declines the commenter's request to delete it from the current rule-making effort.

Comment 2: A second commenter,[3] opining that the main reason behind the proposed rule is related to impaired physicians, suggested a substantive amendment to add the word "impaired" to 7603A.11 *e.g.,* "except in cases of emergency, impaired physicians shall not prescribe controlled substances ... ." As to non-impaired physicians, the commenter found the proposal to be onerous and by way of example claimed that it would prevent a physician from prescribing CDS for a relative dying of cancer that requires short term pain medication; a physician writing for his child with attention deficit/hyperactivity disorder (ADHD) that was properly evaluated; or writing paregoric for a mother with diarrhea.

Response. With all due respect, the commenter misses the point. The patients described in all of the examples provided need to be under the care of their own physician. If such were the case, there would no need for additional treatment by a physician who is an immediate family member. Of course, if an emergency situation were to arise requiring the issuance of a CDS the proposed rule would not be applicable. For these reasons, as well as those expressed in response to Comment 1 above, the Board declines the commenter's suggested amendment.

Comments in reply to Potpourri Notice in July 20, 2015 *Register* (LR: 41:1416).

Comment 3: The third commenter[4] on 7603A.11, expressed concern that the proposal would prohibit a child psychiatrist or pediatrician from prescribing ADHD medication to their own children, particularly if their children had an evaluation with another specialist to make the diagnoses. The commenter suggested that the CDS approved for ADHD (Ritalin, Focalin, Adderall, Vyvanse and others) are safe and effective and that a shortage of qualified providers would cause such physicians to incur

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[3]Comment, Nicholas Viviano, M.D.

[4]Comment, Michael Scheeringa, M.D./Venancio Garcia, M.D. (July 31, 2015).

unneeded expense associated with the need for their children to be seen by other, sometimes less qualified, providers to prescribe these medications. The commenter suggested an amendment that would provide an exception for child and adolescent psychiatrists or pediatricians who are treating ADHD from application of the rule.

Response. For the reasons expressed in response to Comment 2 above, the Board declines the commenter's suggested amendment.

Comments offered at Potpourri public hearing held August 20, 2015.

None.

Comments to 7603A.9.b. (not being promulgated in this rule effort)/Responses.

Comment 4: Several commenters[5] expressed the view that completion of a residency accredited by the ACGME is usually not possible when a new specialty emerges, since the founders of the specialty must first establish and teach the training programs. As a result, when new specialties are recognized the accrediting boards are allowed to recognize experience in the specialty as a substitute for completion of an ACGME residency program or fellowship for a limited period of time. A number of commenters pointed out that many physicians who had obtained board certification in the specialty by a recognized certifying board (ABMS, AOA, or Royal College of Physicians and Surgeons of Canada RCPS) based on education, training and experience, would not be able to call themselves "specialists" because they had not completed a residency program in the area of specialization that is accredited by the ACGME, AOA or RCPS. These commenters, and a number of others[6], expressed support for an amendment to the proposed change to 7603A9.b. (holding one's self out as a *specialist*), that would also allow individuals who had not completed an accredited residency in a specialty to hold themselves out as a specialist if they had achieved board certification in the specialty by the ABMS, the AOA, or the RCPS, based on a combination of education, training and experience.

Response. The Board ultimately came to the conclusion that its well-intended attempt to insure that physicians did not misrepresent their training to the public, may continue to lead to unintended consequences. Equally as important, the Board also surmised that the proposed rule could more than likely be circumvented, by those with an

[5]Comment, ABMS, Tom Granatir (Nov. 19, 2014); American Board of Emergency Medicine, Francis Counselman, M.D. (Nov. 19, 2014).

[6]Comment, Matt Mitchell, M.D. (Oct. 31, 2014); ABMS, *infra*; West Jefferson Emergency Physician Group, Robert J. Chugden, M.D. (Nov. 1, 2014). [Note-This commenter limited the suggested amendment to those individuals certified by the specific member specialty board of the ABMS].

intent to do so, by use of an adjective other than "specialist" but which conveys a similar meaning *e.g.*, "*expert,*" "*an authority in* . . .," "*renowned* in the area of . . .," "practice *dedicated to* . . .," "*highly qualified in* . . .," etc., etc. etc. As a result, the Board elected to defer this aspect of the proposed amendments and instead rely on the authority of the Louisiana Medical Practice Act and its existing rules as a basis to deal with future complaints/transgressions along these lines.[7] For these reasons the Board has elected to defer proceeding forward with the proposed amendment to 7603A.9.b.

Comment 5: Many of the same commenters noted in Comment 1 to 7603A.9.b above and others[8] suggested an amendment to proposed 7603A.9.b. that would also allow a physician to claim sub-specialization for treatments, conditions, or procedures within the scope of the residency training that the physician completed or within the scope of practice defined by the physician's medical specialty certifying organization.

Response. The Board's response to the commenter is the same as its response to Comment 4 above, concerning its decision to defer proceeding with the proposed changes to §7603A.9.b.

Comment 6: Another commenter who voiced concerns similar to those in Comment 1 suggested an amendment that would allow individuals who had not completed an accredited residency in the specialty to hold themselves out as specialists if they had achieved board certification in a specialty that currently requires new physician applicants to complete a residency program in the specialty of certification that is accredited by the ACGME, AOA or RCPS.[9]

Response. The Board's response to the commenter is the same as its response to Comment 4 above, concerning its decision to defer proceeding with the proposed changes to §7603A.9.b.

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[7]Pursuant to La. R.S. 37:1285A the Board may deny, suspend, revoke or impose probationary or other conditions on a physician's license as a result of: '(7) Solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;' '(32) Holding oneself out to the public in any manner as being . . ."board certified", unless [certain specified criteria are satisfied];' and Board Rule, LAC 46:XLV.7603A.9. 'Failing to Adhere to Accepted Practices—a physician shall practice within the scope of his or her education, training and experience.'

[8]Comment, American Society for Dermatologic Surgery Association, George Hurza, M.D. (Nov. 19, 2014); Erin Boh, M.D., Ph.D. (Nov. 12, 2014); American Academy of Facial Plastic and Reconstructive Surgery, Thomas Rhodes (Nov. 17, 2015).

[9]Comment, American Academy of Dermatology Association, Brett Coldiron, M.D. (Nov. 20, 2014).

Comment 7: Another commenter suggested an amendment that would allow individuals who had not completed an accredited residency in the specialty to hold themselves out as specialists if they had achieved board certification through a "practice exception" due to the non-existence of residency program for the particular specialty at the time the physician began his or her residency training.[10]

Response. The Board's response to the commenter is the same as its response to Comment 4 above concerning the proposed changes to §7603A.9.b.

Comment 8: Comment: One commenter expressed support for the notion of physicians not misleading the public by holding themselves out as something they are not but opined that the proposed rule might lead to unintended consequences. The commenter urged the Board to consider rewording the rule to mitigate such consequences.[11]

Response. The Board's response to the commenter is the same as its response to Comment 4 above, concerning its decision to defer proceeding with the proposed changes to §7603A.9.b.

Comment 9: One comment suggested deleting "fellowship" from the proposed change to 7603A.9, because fellowships always follow residencies. As the regulation seems to contemplate a description of the specialty in terms of what is within the residency, the commenter suggested that the reference to post-residency fellowship is unnecessary. In addition, the commenter noted that some subspecialties have determined not to pursue ACGME accreditation for their post-residency fellowships.[12]

Response. The Board's response to the commenter is the same as its response to Comment 4 above, concerning its decision to defer proceeding with the proposed changes to §7603A.9.b.

Comment 10: Two commenters, the American Board of Addiction Medicine Foundation, and the American Society of Addiction Medicine, requested an amendment to accept their certifications *e.g.*, ABAMF, ASAM (and the American Board of Addiction Medicine, ABAM), as a credential for holding one's self out as a specialist in an area of

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[10]Comment, Katherine Holcomb, M.D. (Nov. 17, 2014).

[11]Comment, LSMS, *infra.*

[12]Comment, American Academy of Facial Plastic and Reconstructive Surgery, *infra.*

medical practice.[13]

Response. The Board's response to the commenter is the same as its response to Comment 4 above, concerning its decision to defer proceeding with the proposed changes to §7603A.9.b.

Comment 11: For a variety of reasons a number of commenters (21),[14] principally physicians who had completed a residency training program in dermatology accredited by one of the accrediting entities identified in the proposed rule, expressed support for the proposed amendments concerning holding one's self out as a specialist (7603A9.b.). For the most part, the commenters expressed the view that the proposed change was needed to address patient safety resulting from misdiagnoses and inappropriate treatment by physicians claiming they are specialists (*e.g.*, in dermatology) but who do not have appropriate training.

Response. The Board's response to the commenter is the same as its response to Comment 4 above, concerning its decision to defer proceeding with the proposed changes to §7603A.9.b.

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[13]Comment, American Board of Addiction Medicine Foundation, Kevin Kunz, M.D., (Nov. 17, 2014); Joint comment, American Society of Addiction Medicine/Louisiana Society of Addiction Medicine, Stewart Gitlow, M.D.,/John Epling, Jr., M.D. (Nov. 19, 2014).

[14]Ccommenters include: The Louisiana Dermatologic Society, Nicole Rogers, M.D. (Nov. 17, 2014); Rene Koppel, M.D. (Nov. 7, 2014); Douglas Koppel, M.D. (Nov. 7, 2014); Elizabeth Long, M.D. (Nov. 7, 2014); Andrea Murina, M.D. (Nov. 7, 2014); Frankie Rholdon, M.D. (Nov. 7, 2014); G. Harvard Albright, M.D. (Nov. 12, 2014); Robert Jones, M.D. (Nov. 12, 2014); Mary Lupo, M.D. (Nov. 12, 2014); Philip Neal, M.D. (Nov. 12, 2014); Donald Nunnally, M.D.; (Nov. 12, 2014); Chad Prather, M.D. (Nov. 12, 2014); Rachel Reina, M.D. (Nov. 12, 2014); Lynn Tucker, M.D. (Nov 12, 2014); Emily Greishaber, M.D. (Nov. 17, 2014); Mara Haseltine, M.D. (Nov. 17, 2014); Julie Mermilliod, M.D. (Nov. 17, 2014); Kristen Losavio, M.D. (Nov. 18, 2014); Rhonda Baldone, M.D. (Nov. 18, 2014); Eric Finley, M.D. (Nov. 19, 2014); Robert Grieshaber, M.D. (Nov. 20, 2014).

may seek a permit is believed to be relatively modest, these portions of the applications will be processed within existing systems for permit issuance/renewal. The board anticipates it can absorb the projected modest increase in administrative workload with existing personnel and resources. The proposed Rule changes are necessary to conform the board's existing telemedicine Rules to Act 442 of the 2014 Regular Session of the Louisiana Legislature, to update the Rules generally and incorporate substantive and technical changes made necessary by the passage of time.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Implementation of the proposed changes will generate additional fees of $150 for issuance of an initial telemedicine permit and $100 for permit renewal. Twenty-five physicians currently hold telemedicine permits. The board anticipates these permits will be renewed in the current fiscal year. While the board has no reliable data, 30 new applicants for a telemedicine permit are projected in the current fiscal year and for each of the next several years. It is estimated that additional agency revenue from initial/renewal telemedicine permits will total: $7,000 for FY 2015 (30 new permits x $150 = $4,500, 25 renewal permits x $100 = $2,500. Total additional revenues = $7,000); $10,000 in FY 16 (30 new permits x $150 = $4,500, 55 renewal permits x $100 = $5,500. Total additional revenues = $10,000); and $13,000 in FY 17 (30 new permits x $150 = $4,500, 85 renewal permits x $100 = $8,500. Total additional revenues = $13,000). The board does not anticipate an appreciable increase in the number of new applicants in forthcoming years. Additional annual revenues will be utilized to off-set the board's general operating expenses.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed changes will affect: out-of-state physicians who already possess a telemedicine permit to the extent that any do not already have a referral arrangement with a physician who maintains a physical practice location in this state; all physicians who use telemedicine technology which does not comply with state and federal laws and regulations for medical/health information privacy and security; and, potentially those that prescribe certain types of controlled substances by telemedicine. The current fees for permit issuance/renewal are $150/$100, respectively. The proposed changes will increase fees to $300 at issuance and $200 at renewal. The proposed changes remove the requirements for support staff and the presence of a licensed health care professional with the patient during all telemedicine encounters.

Because there is no information or data available either as to the number of physicians who utilize telemedicine in their practice or the extent to which those that may/may not already comply with the proposed changes, it is not possible to estimate the proposed changes' impact in these respects. To an extent not quantifiable, the public will receive an economic benefit by enhanced access to medical services via telemedicine from both Louisiana-licensed physicians and out-of-state physicians possessing a telemedicine permit. The proposed changes may also, to an extent not quantifiable, increase receipts and/or income of physicians who utilize telemedicine.

The proposed rules also require physicians to disclose privacy and other practices to new patients in a format specified by the board. It is believed that most physicians already use some form of disclosure that would substantially satisfy most if not all of the required information. Therefore, the board does not anticipate that this requirement will have a material effect on paperwork or workload on affected physicians.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of the proposed changes may, to an extent not quantifiable, have a positive impact on competition or employment in either the public or private sector.

Celia Mouton, M.D.	John D. Carpenter
Executive Director	Legislative Fiscal Officer
1410#048	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Board of Medical Examiners

Physician Practice; Unprofessional Conduct
(LAC 46:XLV.7603)

Notice is hereby given that in accordance with the Louisiana Administrative Procedure Act, R.S. 49:950 et seq., and pursuant to the authority vested in the Louisiana State Board of Medical Examiners (board) by the Louisiana Medical Practice Act, R.S. 37:1270, the board intends to amend its rules governing unprofessional conduct of physicians, LAC 46:XLV.7603. The proposed changes require that any physician holding herself or himself out as a specialist have completed accredited residency or fellowship training in the claimed area of specialization, and limit self-treatment and treatment of immediate family members with controlled substances to cases of an emergency.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 76. Definition of Enforcement Terms
Subchapter B. Unprofessional Conduct
§7603. Unprofessional Conduct

A. - A.8.b. ...

9. *Failing to Adhere to Accepted Practices; Misleading Practices*—a physician shall:

a. practice within the scope of his or her education, training and experience; and

b. not hold himself or herself out as a specialist in an area of medical practice unless the physician has successfully completed a residency or fellowship training program, which is accredited by the American Council on Graduate Medical Education of the American Medical Association, the American Osteopathic Association, or the Royal College of Physicians and Surgeons of Canada.

10.a. - 10.f. ...

11. *Self-Treatment; Treatment of Immediate Family Members*—except in cases of emergency, physicians shall not prescribe controlled substances for themselves or their immediate family members. As respects a physician, *immediate family members* include the physician's spouse, children, parents, and siblings.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:336 (January 2011), amended LR 41:

Appendix A

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on the family has been considered. It is not anticipated that the proposed amendments will have any impact on family, formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on those that may be living at or below 100 percent of the federal poverty line has been considered. It is not anticipated that the proposed amendments will have any impact on child, individual or family poverty in relation to individual or community asset development, as described in R.S. 49:973.

Provider Impact Statement

In compliance with HCR 170 of the 2014 Regular Session of the Louisiana Legislature, the impact of the proposed amendments on organizations that provide services for individuals with development disabilities has been considered. It is not anticipated that the proposed amendments will have any impact on the staffing, costs or overall ability of such organizations to provide the same level of services, as described in HCR 170.

Public Comments

Interested persons may submit written data, views, arguments, information or comments on the proposed amendment to Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, ex. 242. She is responsible for responding to inquiries. Written comments will be accepted until 4 p.m., November 19, 2014.

Public Hearing

A request pursuant to R.S. 49:953(A)(2) for a public hearing must be made in writing and received by the board within 20 days of the date of this notice. If a public hearing is requested to provide data, views, arguments, information or comments orally in accordance with the Louisiana Administrative Procedure Act, the hearing will be held on November 24, 2014, at 10 a.m. at the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Any person wishing to attend should call to confirm that a hearing is being held.

Cecilia Mouton, M.D.
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Physician Practice; Unprofessional Conduct

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Other than one-time costs for notice and rule publication estimated at a total of $292 in FY 15, it is not anticipated that the proposed Rule change will result in any additional costs or savings to the board or other state or local governmental units. The proposed Rule change clarifies unprofessional conduct with regard to claiming oneself as a specialist without the requisite accredited residency or fellowship training and with regard to the prescribing of controlled dangerous substances to oneself or one's immediate family member except in cases of emergency.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated effect on the revenue collections of the Board of Medical Examiners or any state or local governmental unit as a result of the proposed amendments.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Any physician who: holds herself or himself out as a *specialist* but has not completed accredited residency or fellowship training in the claimed area of specialized medical practice; or treats her or his immediate family members or herself/himself with controlled substances, other than in an emergency, would be directly affected by the proposed amendments and may experience an increase in costs and/or decrease in revenue to an extent that is not quantifiable. It is not possible to estimate the impact of the proposed changes in these respects as no information or data is available as to the number of physicians who hold themselves out as a specialist but do not have accredited residency training or who prescribe controlled substances to their immediate family or themselves in other than an emergency situation. The board does not anticipate that the changes will have a material effect on paperwork or workload on affected physicians.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is not anticipated that the proposed amendments will have any significant impact on competition or employment in either the public or private sector.

Celia Mouton, M.D.	John D. Carpenter
Executive Director	Legislative Fiscal Officer
1410#047	Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals
Bureau of Health Services Financing

Crisis Receiving Centers
Licensing Standards
(LAC 48:I.Chapters 53 and 54)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 48:I.Chapters 53 and 54 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 28:2180.14. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950, et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which adopted provisions to establish licensing standards for Level III crisis receiving centers (CRCs) in order to provide intervention and crisis stabilization services for individuals who are experiencing a behavioral health crisis (*Louisiana Register*, Volume 39, Number 4).

The department promulgated an Emergency Rule which amended the provisions of the April 20, 2013 Emergency Rule in order to clarify the provisions governing the licensing standards for free-standing CRCs (*Louisiana Register*, Volume 40, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 20, 2014 Emergency Rule.

Appendix A

2. for the treatment of obesity, as set forth in §§6901-6913 of the board's rules;

3. to authorize or order the prescription, dispensation or administration of any controlled substance unless;

a. the physician has had at least one in-person visit with the patient at a physical practice location in this state within the past year;

b. the prescription is issued for a legitimate medical purpose;

c. the prescription is in conformity with the same standard of care applicable to an in-person visit; and

d. the prescription is permitted by and in conformity with all applicable state and federal laws and regulations.

4. Exceptions. The board may grant an exception to the limitations of Subsection 7513C in an individual case that is supported by a physician's written application stating how and why he or she proposes to deviate from 7513C. If an exception is granted by the Board it shall be stated in writing and specify the manner and extent to which the physician shall be authorized to depart from 7513C.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275 and 1276.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1534 (August 2009), amended LR 41:

Public Hearing

In accordance with R.S. 49:968(H)(2), the board gives notice that a public hearing to receive comments and testimony on these substantive amendments to the Rule amendments original proposed will be held August 20, 2015, at 9:30 a.m. in the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Interested persons may contact Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130, (504) 568-6820, Ex. 242. She is responsible for responding to inquiries.

Cecilia Mouton, M.D.
Executive Director

1507#055

POTPOURRI

Department of Health and Hospitals
Board of Medical Examiners

Public Hearing—Substantive Changes to Proposed Rule—Physician Practice; Unprofessional Conduct (LAC 46:XLV.7603)

The board published a Notice of Intent to amend its rules in the October 20, 2014 edition of the *Louisiana Register* (LR 40:2069-2070). The notice solicited comments. As a result of the board's consideration of the comments it proposed substantive changes. Pursuant to R.S. 49:968H(2) a public hearing was scheduled (LR 41:294-295) but subsequently cancelled to consider additional changes. After further review the board has decided to defer proceeding at this time on the amendments original proposed in §7603A.9 (e.g., holding one's self out as a *specialist*) and proceed only with the proposed amendments to §7603A.11. No fiscal or economic impact will result from the amendments proposed in this notice. As substantively amended, this provision will read as set forth below.

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 76. Definition of Enforcement Terms
Subchapter B. Unprofessional Conduct
§7603. Unprofessional Conduct

A. - A.10.f. ...

11. *Self-Treatment; Treatment of Immediate Family Members*—except in cases of emergency, physicians shall not prescribe controlled substances for themselves or their immediate family members. As respects a physician, *immediate family members* include the physician's spouse, children, parents, and siblings.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:336 (January 2011), amended LR 41:

Public Hearing

In accordance with R.S. 49:968(H)(2), the board gives notice that a public hearing to receive comments and testimony on these substantive changes to the Rule amendments original proposed will be held August 20, 2015, at 10:30 a.m. in the office of the Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA 70130. Interested persons may contact Rita Arceneaux, Confidential Executive Assistant, Louisiana State Board of Medical Examiners, 630 Camp Street, New Orleans, LA, 70130 (504) 568-6820, Ex. 242. She is responsible for responding to inquiries.

Cecilia Mouton, M.D.
Executive Director

1507#054

POTPOURRI

Department of Natural Resources
Office of Conservation

Orphaned Oilfield Sites

Office of Conservation records indicate that the oilfield sites listed in the table below have met the requirements as set forth by section 91 of Act 404, R.S. 30:80 et seq., and as such are being declared orphaned oilfield sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Carl B. Morgan	Converse	S	Dorothy Morgan	001	150616
Goodrich Oil Company	Opelousas	L	BIHM	001	212106 (30)
Madlyn Harris Muench	Benson	S	Harris Estate	001	155204