Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 1. General
Subchapter C. Physicians and Surgeons Fees

§123. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing, certification, and registration of physicians and surgeons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984).

§125. Licenses, Permits, and Examination

A. For processing applications for licensure of the type indicated, the following fees shall be payable to the board:

1. Standard application—$250;

2. Reciprocity application—$350.

B. For processing applications for permits of the type indicated, the following fees shall be payable to the board:

1. graduate medical education and, on and after January 1, 2019, a continuing postgraduate training temporary permit—$200;

2. visiting physician permit—$100;

3. short-term residency permit—$100;

4. other institutional or temporary permits—$100.

C. For registration for and taking any step or portion of the United States Medical Licensing Examination (USMLE) or of the Special Purpose Examination (SPEX), the fee which shall be payable by the applicant to the board shall be equal to the cost of the examination to the board as charged by the Federation of State Medical Boards of the United States, Inc. With respect to each scheduled administration of an examination, the cost of the examination may be determined upon request of the office of the board and shall be set forth in application forms and materials furnished by the board upon request of the applicant.

D. When an applicant is required by Chapter 3 of these rules to take all or a portion of the USMLE, the fees prescribed by §125.C shall be added to the applicable application processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:906 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:603 (June 1991), LR 21:467 (May 1995), LR 21:1238 (November 1995), LR 30:238 (February 2004), amended by the Department of Health, Board of Medical Examiners, LR 44:586 (March 2018).

§127. Postgraduate Education Registration

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter J of Chapter 3 of these rules, a fee of $50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:1238 (November 1995), LR 30:238 (February 2004).

§131. Annual Renewal

A. For processing a licensee's annul renewal of license under §417 of these rules, a fee of $300 shall be payable to the board.

B. For processing a permit holder's annual renewal of a graduate medical education temporary permit, a fee of $100 shall be payable to the board.

C. For processing renewal of an institutional or other temporary permit, a fee of $100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984), amended LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:1238 (November 1995), LR 30:239 (February 2004).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 2. Licensure and Certification
Chapter 3. Physicians
Subchapter A. General Provisions

§301. Scope of Chapter

A. The rules of this Chapter govern the licensing of physicians to engage in the practice of medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271, 37:1272 and 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 10:908 (November 1984), amended LR 16:513 (June 1990), LR 27:835 (June 2001).

§303. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified:

ABMS—the American Board of Medical Specialties.

AOA—the American Osteopathic Association.

Applicant—a person who has applied to the board for a license or permit to engage in the practice of medicine in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate medical education.

Application—a written request directed to and received by the board, upon forms supplied by the board, for a license or permit to practice medicine in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate medical education, together with all

information, certificates, documents, and other materials required by the board to be submitted with such forms.

COMLEX-USA—the Comprehensive Osteopathic Medical Licensing Examination-USA.

COMVEX-USA—the Comprehensive Osteopathic Medical Variable-Purpose Examination-USA administered under the auspices of the NBOME.

FSMB—the Federation of State Medical Boards of the United States, Inc.

Good Moral Character—as applied to an applicant, means that:

a. the applicant has not, prior to or during the pendency of an application to the board, been guilty of any act, omission, condition, or circumstance which would provide legal cause under R.S. 37:1285 for the suspension or revocation of medical licensure;

b. the applicant has not, prior to or in connection with his application, made any representation to the board, knowingly or unknowingly, which is in fact false or misleading as to a material fact or omits to state any fact or matter that is material to the application; or

c. the applicant has not made any representation or failed to make a representation or engaged in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the qualifications for a license or permit required by this Chapter.

License—the lawful authority of a physician to engage in the practice of medicine in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

Medical Practice Act or *the Act*—R.S. 37:1261-1292, as hereafter amended or supplemented.

NBOME—the National Board of Osteopathic Medical Examiners.

Permit—the lawful authority of a physician to engage in the practice of medicine in the state of Louisiana for a designated, temporary period of time, subject to restrictions and conditions specified by the board, as evidenced by a certificate duly issued by and under the official seal of the board. A permit is of determinate, limited duration and implies no right or entitlement to a license or to renewal of the permit.

Physician—a person possessing a doctor of medicine (allopathic/M.D.), doctor of osteopathy or doctor of osteopathic medicine degree (osteopathic/D.O.) or an equivalent degree duly awarded by a medical or osteopathic educational institution approved by the board pursuant to §§333 to 341 of this Chapter.

Postgraduate Year One (Internship) Registration—the lawful authority of a physician to engage in the first year of continuing postgraduate medical education in the state of Louisiana at a medical education or internship program approved by the board, as evidenced by a certificate of registration duly issued by and under the official seal of the board.

Primarily Engaged—that activity to which the applicant devotes the majority of his or her time.

SPEX—the Special Purpose Examination administered under the auspices of the FSMB.

State—any state of the United States, the District of Columbia and Puerto Rico.

USMLE—the United States Medical Licensing Examination.

B. Masculine terms wheresoever used in this Chapter shall also be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271 and 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:835 (June 2001), LR 31:1582 (July 2005), LR 38:3173 (December 2012).

Subchapter B. Graduates of American and Canadian Medical School and Colleges

§309. Scope of Subchapter

A. The rules of this Subchapter govern the licensing of physicians who are graduates of medical or osteopathic schools and colleges approved by the board located within any state or in Canada.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271, 37:1272, 37:1274 and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:836 (June 2001).

§311. Qualifications for License

A. To be eligible for a license, an applicant shall:

1. be at least 21 years of age;

2. be of good moral character as defined by §303.A;

3. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the Immigration and Naturalization Service of the United States under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

4. possess:

a. a doctor of medicine or equivalent degree duly issued and conferred by a medical school or college approved by the board; or

b. a doctor of osteopathic medicine or doctor of osteopathy degree issued and conferred on or after June 1, 1971, by a school or college of osteopathic medicine approved by the board;

5. have within the prior 10 years, in conformity with the restrictions and limitations prescribed by §387 of these rules, and subject to the exception provided for certain applicants for licensure by reciprocity provided by §353, taken and passed:

a. all three steps of the United States Medical Licensing Examination (USMLE) of the Federation of State Medical Boards of the United States, Inc. (FSMB); or

b. both components of the Federation Licensing Examination (FLEX) of the FSMB; or

c. all three parts of the examinations of the National Board of Medical Examiners (NBME); or

d. Step 1 of the USMLE or Part I of the NBME, Step 2 of the USMLE or Part II of the NBME, and Step 3 of the USMLE or Part III of the NBME; or

e. Component 1 of the FLEX and Step 3 of the USMLE; or

f. Step 1 of the USMLE or Part I of the NBME and Step 2 of the USMLE or Part II of the NBME and Component 2 of the FLEX; or

g. Levels 1 and 2 of the COMLEX-USA examinations or its predecessor, the NBOME, or any combination thereof developed by the National Board of Osteopathic Medical Examiners (NBOME) and Step 3 of USMLE; or

h. all three levels of the COMLEX-USA examination, or its predecessor, the NBOME, or any combination thereof; and

6. have:

a. with respect to applications for licensure first received by the board before January 1, 2019, completed at least one year of postgraduate clinical training in a medical internship or equivalent program accredited by the American Council on Graduate Medical Education (ACGME) of the American Medical Association, or by the American Osteopathic Association (AOA), or by the Royal College of Physicians and Surgeons (RCPS) of Canada, and approved by the board. A combined postgraduate year one training program that is not accredited shall be deemed to satisfy the requirements of this Section provided each program comprising the combined program is accredited by the ACGME or by the AOA or by the RCPS;

b. with respect to applications for licensure first received by the board on and after January 1, 2019, completed at least two years, or alternatively have completed one year and have a current commitment in a form and manner specified by the board for a second year, of postgraduate clinical training in the United States or in Canada in a medical residency or equivalent program accredited by the ACGME, AOA, or by the RCPS and approved by the board. For physicians pursing training in oral and maxillofacial surgery, one year of such training may be in a program accredited by the Commission on Dental Accreditation of the American Dental Association. To be approved by the board such program must be: offered and taken in an institution offering not fewer than one residency or equivalent program accredited by the ACGME, AOA, or the RCPS; the program in which the applicant participates must evidence the applicant's progressive responsibility for patient care; the two years of such a program must be in the same specialty or alternatively, constitute the applicant, upon completion of the two years of such program, as eligible for specialty board certification or for postgraduate year three (PGY-3) training; and applicants are only permitted to engage in extracurricular medical practice outside of the program with the written permission and assurance of the program director that the applicant is in good standing, has good credentials, and is recommend for such extracurricular practice engagement.

7. have been primarily engaged in the practice of medicine, medical education, or postgraduate medical education or training, or any combination of the foregoing, for the four years immediately preceding the date of the submission of an application. An applicant who does not satisfy this requirement, shall demonstrate his or her clinical competency by the successful passage of an assessment examination or such other competency testing or evaluation, monitoring or supervision as may be designated by the board.

B. Pursuant to Paragraph A.5 of this Section applicants are required to have successfully completed all steps, components, parts, or levels of an approved examination within the prior 10 years and within a span of not more than 10 years. An applicant who is otherwise fully qualified for licensure, but whose successful completion of all steps, components, parts, or levels of an approved examination spanned a period of more than 10 years, shall nonetheless be eligible for licensing provided that such applicant:

1. has within the past three years, completed a medical residency training program accredited by the ACGME, AOA, or RCPS; and

2. is continuing training in a postgraduate year four or fellowship program in the same specialty or subspecialty; or

3. has been practicing or is commencing practice in the same specialty or subspecialty in which the physician completed residency or fellowship training.

C. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271, 37:1272, 37:1274, and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:836 (June 2001), LR 31:1583 (July 2005), LR 37:337 (January 2011), LR 38:3173 (December 2012), amended by the Department of Health, Board of Medical Examiners, LR 44:586 (March 2018).

§313. Procedural Requirements

A. In addition to the substantive qualifications specified in §311, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§359 to 365 of this Chapter and, if applicable, the procedures and requirements for examination provided by §§371 to 391 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271, 37:1272, 37:1274 and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:837 (June 2001).

§315. Waiver of Qualifications

A. Upon request by an applicant, supported by certification from the dean of a medical school or college within the state of Louisiana which is approved by the board, the board may, in its discretion, waive the qualifications for licensure otherwise required by §311.A.5 or 6, in favor of an applicant who has been formally appointed by and with such

medical school or college to a full-time position at a rank of assistant professor or above. The practice of such an individual shall be limited to the medical school or college for which such person has been approved by the board, and to hospitals and clinics affiliated with such medical school or college.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271, 37:1272, 37:1274 and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), LR 27:837 (June 2001), LR 35:1110 (June 2009).

Subchapter C. International Medical Graduates

§321. Scope of Subchapter; Definition

A. The rules of this Subchapter specify additional qualifications, requirements, and procedures for the licensing of physicians who are international medical graduates.

B. As used in this Subchapter, the term *international medical graduate* or *IMG* means a graduate of a medical school or college not located in any state or in Canada, recognized and officially listed by the World Health Organization and not affirmatively disapproved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1271, 37:1272 and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 12:528 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:514 (June 1990), LR 27:837 (June 2001).

§323. Qualifications for License

A. To be eligible for a license, an international medical graduate applicant shall:

1. possess all of the substantive qualifications for license specified by §311 of this Chapter;

2. have taken and successfully passed the examination administered by the Educational Council on Foreign Medical Graduates (ECFMG), or its successor examination having successfully passed the USMLE in accordance with the standards, restrictions and limitations prescribed by §§385 and 387 of this Chapter;

3. be competent and proficient in speaking, understanding, reading, and writing the English language; and

4. have completed at least three years of postgraduate clinical training in the United States or in Canada in a medical residency or equivalent program accredited by the ACGME of the American Medical Association, or by the RCPS of Canada, and approved by the board. To be approved by the board such program must be offered and taken in an institution offering not fewer than two residency or equivalent programs accredited by the ACGME or the RCPS; the program in which the applicant participates must evidence the applicant's progressive responsibility for patient care; and the three years of such a program must be in the same specialty or alternatively, constitute the IMG, upon completion of the three years of such program, as eligible for specialty board certification or for postgraduate year four (PGY-4) training.

B. In addition to the qualifications specified in §323.A, if an IMG applicant has participated in any clinical clerkship program within the United States as part of the academic training requisite to his doctor of medicine degree, such clinical clerkship program shall be subject to approval by the board as a condition of the applicant's eligibility for licensure. Such a clinical clerkship program may be approved by the board only if, at the time the applicant participated in such program, the clinical clerkship program was accredited or approved by the ACGME, the clinical clerkship was served in a hospital or other institution accredited by the Joint Commission on Accreditation of Health Care Organizations, and the applicant's supervising physician within such program held formal appointment as a professor or associate professor of the medical school or college sponsoring such program; provided, however, that notwithstanding a clinical clerkship program's satisfaction of these standards, the board may decline to approve any such program upon a finding that it was not substantially equivalent to the clinical clerkships offered by the medical schools and colleges accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges.

C. The burden of satisfying the board as to the qualifications and eligibility of the IMG applicant for licensure shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272 and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984, amended LR 12:528 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:514 (June 1990), LR 27:837 (June 2001).

§325. Procedural Requirements

A. In addition to the substantive qualifications specified in §323, to be eligible for a license, an IMG applicant shall satisfy the procedures and requirements for application provided by §§359 to 365 of this Chapter; if applicable, the procedures and requirements for examination provided in §§371 to 391 of this Chapter; and shall provide certified verification of his medical school transcript, reflecting the courses and hours taken and grades achieved together with a detailed description of each clinical clerkship in which the applicant may have participated as part of his medical education, specifying the inclusive dates and sites of any such clerkship and the name and address of the applicant's supervising physician therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272 and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 27:838 (June 2001).

§327. Waiver of Qualifications

A. The waiver of qualifications provided by §315 of this Chapter shall be available to international medical graduate applicants.

B. Upon request by an applicant, the board may, in its discretion, waive the necessity of successfully passing the ECFMG examination, as otherwise required by §323.A.2, in favor of an applicant who is currently certified by a specialty board recognized by the American Board of Medical Specialties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272 and 37:1275.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 27:838 (June 2001).

Subchapter D. Board Approval of Medical Schools and Colleges

§333. Scope of Subchapter

A. The rules of this Subchapter provide the method and procedures by which medical schools and colleges and schools or colleges of osteopathic medicine are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 27:838 (June 2001).

§335. Applicability of Approval

A. Graduation from an approved school is among the qualifications requisite to medical licensure as provided by §311.A.4 (American and Canadian graduates), §323.A.1 (international medical graduates), and §353 (reciprocity applicants). This qualification will be deemed to be satisfied if the school or college from which the applicant graduated was approved by the board as of the date the applicant's degree was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 27:838 (June 2001).

§337. Approval of American Schools and Colleges

A. A medical school or college located in any state which is currently accredited by the Liaison Committee on Medical Education of the American Medical Association and the Association of American Medical Colleges, or their successors, shall be concurrently considered approved by the board.

B. A school or college of osteopathic medicine located in any state which is currently accredited by the American Osteopathic Association, or its successor, shall be concurrently considered approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), amended LR 27:838 (June 2001).

§339. Approval of Canadian Schools

A. A medical school or college located in Canada which is currently accredited by the RCPS of Canada, or its successor, shall be concurrently considered approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:838 (June 2001).

§341. Recognition of International Medical Schools

A. To be considered acceptable as evidence of basic medical education, a medical school or college not located in any state or in Canada shall, at a minimum, be recognized and officially listed by the World Health Organization and not affirmatively disapproved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1272.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended LR 12:528 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 27:839 (June 2001).

Subchapter E. Licensure by Reciprocity

§351. Definition

Licensure by Reciprocity—the issuance of a license to practice medicine on the basis of medical licensure by another state medical or osteopathic licensing authority pursuant to written examination acceptable to the board as specified by §353.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1276.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:909 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:515 (June 1990), LR 27:839 (June 2001).

§353. Qualifications for Medical Licensure by Reciprocity

A. An applicant who possesses and meets all of the qualifications and requirements specified by §§311-313 of this Chapter, including but not limited to the restrictions and limitations prescribed by §387, save for successfully passing the examinations in the manner specified by §311.A.5.a-h within the prior 10 years, shall nonetheless be eligible for licensing if such applicant possesses, as of the time the application is filed and at the time the board passes upon such application, a current, unrestricted license to practice medicine issued by the medical (whether allopathic or osteopathic) licensing authority of another state, and the applicant has, within 10 years prior to the date of application, taken and successfully passed a written certification or recertification examination administered by and leading to certification or recertification by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA).

B. An applicant who possesses all of the qualifications for licensure by reciprocity specified by §353.A, save for having taken or passed a written medical competence examination within 10 years of the date of application, shall nonetheless be considered eligible for licensure by reciprocity if such applicant has, within 10 years prior to the date of application, taken and successfully passed the special purpose examination (SPEX), administered under the auspices of the Federation of State Medical Boards of the United States, Inc. (FSMB), or the comprehensive osteopathic medical variable-purpose examination-USA (COMVEX-USA), administered under the auspices of the NBOME, as may be determined by the board.

C. The waiver of qualifications provided by §311.B of this Chapter shall be available to reciprocity applicants.

D. An applicant who possesses all of the qualifications and requirements for licensure by reciprocity specified by §353.A, save for having taken and passed a written certification or recertification examination, SPEX or COMVEX-USA, as described in §353.A and §353.B within 10 years of the date of application, shall nonetheless be considered eligible for licensure by reciprocity if the applicant is certified by a specialty board recognized by the ABMS or AOA, has been primarily engaged in the practice of medicine in such specialty for the four years immediately preceding the submission of an application, and attests in a form prescribed by the board that applicant's practice in this state will be limited to the applicant's specialty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272, and 37:1276.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended LR 14:149 (March 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 27:839 (June 2001), LR 31:1583 (July 2005), LR 37:338 (January 2011), LR 39:3287 (December 2013).

Subchapter F. Application

§359. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensing as a physician in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:839 (June 2001).

§361. Application Procedure

A. Application for unrestricted licensing shall be made upon forms supplied by the board.

B. Application forms and instructions pertaining thereto may be obtained at any time from the board's web page at www.lsbme.org or upon written request directed to the office of the board, 630 Camp Street, New Orleans, LA, 70130. Application forms will be mailed by the board within 30 days of the board's receipt of request therefor.

C. An application for licensing under this Chapter shall include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications set forth in this Chapter;

2. three recent photographs of the applicant; and

3. a certified copy of the applicant's birth certificate, along with such other information and documentation as the board may require to evidence qualification for licensing.

D. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

E. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application form. The board may, in its discretion, require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

F. Each application submitted to the board shall be accompanied by the applicable fees, as provided in these rules and the Medical Practice Act.

G. Upon submission of or concurrently with submission of a completed application, an applicant shall, by appointment, make a personal appearance before the board, a member of the board, or its designee, as a condition to the board's consideration of such application. At the time of such appearance, the applicant shall present the original of the documents required under this Chapter. The recommendation of the board, board member, or designee as to the applicant's fitness for licensure shall be made a part of the applicant's file.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1277, 37:1278 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:516 (June 1990), LR 27:839 (June 2001).

§363. Additional Requirements for International Medical Graduates

A. Any diploma or other document required to be submitted to the board by an IMG applicant which is not in the English language must be accompanied by a certified translation thereof into English.

B. In addition to the procedures and requirements set forth in §361, upon submission of a completed application, an IMG applicant shall, by appointment, make a personal appearance before a member of the board as a condition to the board's consideration of such application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:910 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:517 (June 1990), LR 27:840 (June 2001).

§365. Effect of Application

A. The submission of an application for licensing to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each state or federal agency to which the applicant has applied for any license, permit, certificate, or registration, each person, firm, corporation, clinic, office, or institution by whom or with whom the applicant has been employed in the practice of medicine, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization or specialty board to which the applicant has applied for membership, to disclose and release to the board any and all information and documentation concerning the applicant which the board deems material to consideration of the application. With respect to any such information or documentation, the submission of an application for licensing to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation and as a waiver by the applicant of any privilege or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensing to the board, an applicant shall be deemed to have given his consent to submit to physical or mental examinations if, when, and in

the manner so directed by the board and to waive all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileges provided by law. The expense of any such examination shall be borne by the applicant.

C. The submission of an application for licensing to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose and release any information or documentation set forth in or submitted with the applicant's application or obtained by the board from other persons, firms, corporations, associations, or governmental entities pursuant to §365.A or B to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor, including, without limitation, the medical licensing authority of any state; the Federation of State Medical Boards of the United States; the American Medical Association; the American Osteopathic Association; the Louisiana Osteopathic Association; any component state and county or parish medical society, including the Louisiana State Medical Society and component parish societies thereof; the Federal Drug Enforcement Agency; the Louisiana Office of Narcotics and Dangerous Drugs, Division of Licensing and Registration; the Department of Health and Hospitals; federal, state, county, parish and municipal health and law enforcement agencies; and the Armed Services.

D. The board, acting through its president or a member designated by the president, may approve the issuance of a directive or order to carry out the provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1278.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:517 (June 1990), LR 27:840 (June 2001), LR 34:2401 (November 2008).

Subchapter G. Examination

§371. Designation of Examinations

A. Examinations recognized by the board pursuant to R.S. 37:1272(5) as qualifying for a license to practice medicine include those examinations set forth and in the manner specified by §311.A.5. Application for taking Step 3 of the USMLE is made to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272 and 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:518 (June 1990), LR 27:840 (June 2001).

§379. Subversion of Examination Process

A. An applicant-examinee who is reported to the board as having engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §383 of this Chapter.

B. Conduct which subverts or undermines the integrity of the examination process shall be deemed to include:

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made or prescribed by the entity offering the examination or those administering it;

2. removing from the examination room or rooms any of the examination materials;

3. reproducing or reconstructing, by copy, duplication, written notes, or electronic recording, any portion of the licensing examination;

4. selling, distributing, buying, receiving, obtaining, or having unauthorized possession of a future, current, or previously administered licensing examination;

5. communicating in any manner with any other examinee or any other person during the administration of the examination or providing substantive examination content or answers thereto to another examinee after the examination;

6. copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination;

7. having in one's possession during the administration of the examination any materials or objects other than the examination materials distributed, including, without limitation, any books, notes, recording devices, or other written, printed, electronic or recorded materials or data of any kind;

8. impersonating an examinee by appearing for and as an applicant and taking the examination for, as and in the name of an applicant other than himself;

9. permitting another person to appear for and take the examination on one's behalf and in one's name; or

10. engaging in any conduct which disrupts the examination or the taking thereof by other examinees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272 and 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:911 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:518 (June 1990), LR 27:841 (June 2001).

§381. Finding of Subversion

A. When, during the administration of examination, the reasonable cause exists to believe that an applicant-examinee is engaging or attempting to engage, or has engaged or attempted to engage, in conduct which subverts or undermines the integrity of the examination process, the entity administering the examination shall take such action as it deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board.

B. When the board, upon information provided by the entity administering the examination, an applicant-examinee, or any other person, has probable cause to believe that an applicant has engaged or attempted to engage in conduct which subverts or undermines the integrity of the examination process, the board shall so advise the applicant in writing, setting forth the grounds for its finding of probable cause, specifying the sanctions which are mandated or permitted for such conduct by §383 of this Subchapter and provide the applicant with an opportunity for hearing pursuant to R.S. 49:955-58 and applicable rules of the board governing administrative hearings. Unless waived by the applicant, the board's finding of fact, its conclusions of law under these rules, and its decision as to the sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272 and 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR

10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:518 (June 1990), LR 27:841 (June 2001).

§383. Sanctions for Subversion of Examination

A. An applicant who is found by the board, prior to the administration of the examination, to have engaged in conduct or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process may be permanently disqualified from taking the examination and for medical licensure in the state of Louisiana.

B. An applicant-examinee who is found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examination process shall be deemed to have failed the examination. Such failure shall be recorded in the official records of the board.

C. In addition to the sanctions permitted or mandated by §383.A or B, as to an applicant-examinee found by the board to have engaged or to have attempted to engage in conduct which subverts or undermines the integrity of the examining process, the board may:

1. revoke, suspend, or impose probationary conditions on any license or permit issued to such applicant;

2. disqualify the applicant, permanently or for a specified period of time, from eligibility for licensure in the state of Louisiana; or

3. disqualify the applicant, permanently or for a specified number of subsequent administrations of the examination, from eligibility for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272 and 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 27:841 (June 2001).

§385. Passing Scores

A. An applicant will be deemed to have successfully passed the USMLE, COMLEX-USA or NBME examination if he attains a score of at least 75 on each step, level or part of the examination.

B. An applicant will be deemed to have successfully passed the FLEX examination if he attains a score of at least 75 on each component of the examination or having taken the FLEX when a weighted average was calculated and reported thereon, had attained a FLEX weighted average of at least 75.

C. A person who is required to and does take the SPEX or COMVEX-USA examination will be deemed to have successfully passed the examination if he attains a score of at least 75.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272 and 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 27:842 (June 2001), LR 31:1583 (July 2005).

§387. Restriction, Limitation on Examinations

A. An applicant who has failed to attain a passing score upon taking Step 2 or Step 3 of the USMLE more than three times, or who has failed to attain a passing score upon taking Part 2 or Part 3 of the NBME more than three times, or who has failed to attain a passing score upon taking any component of the FLEX more than three times, or who has failed to attain a passing score upon taking Level 2 or Level 3 of the COMLEX-USA or its predecessor, the NBOME or any combination thereof more than three times, shall thereafter be deemed ineligible for licensing. The limitation stated herein with respect to the taking of the USMLE shall be applicable when such examination is taken as a component of obtaining a Standard ECFMG Certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272 and 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 27:842 (June 2001).

§389. Examination in or for Another State

A. Upon application to the board, an applicant for licensing under this Chapter may be permitted to take Step 3 of the USMLE in another state. The score attained by such applicant on such examination will be accepted by the board as if the applicant had taken the USMLE pursuant to application to the board provided that the examination is administered and taken consistently with the restrictions and limitations prescribed by §387.

B. A USMLE score attained by an applicant on a USMLE examination administered prior to the applicant's application to the board for licensing will be accepted by the board, provided that:

1. the applicant presents or causes to be presented to the board written certification of the date and place that the USMLE was taken and the score achieved;

2. the examination was administered and taken consistently with the rules, regulations, restrictions and limitations prescribed by §387 and by the medical licensing authority of the state for which the examination was taken;

3. the applicant has completed at least one year of postgraduate training, if such training is a condition to medical licensure in the state in which the examination was taken; and

4. the applicant provides the board with a satisfactory written explanation of the applicant's failure to obtain licensing in the state in which the examination was taken.

C. Upon application to the board and payment of the fee prescribed in Chapter 1 of these rules, an individual applying for licensure in another state may sit for the USMLE examination administered in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272 and 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:519 (June 1990), LR 27:842 (June 2001).

§391. Lost, Stolen, or Destroyed Examinations

A. The submission of an application for examination to the board shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, employees, and agents, and the state of Louisiana to the applicant for the loss, theft, or destruction of all or any portion of an examination taken by the applicant, prior to the reporting of the score thereon by the entity offering such examination, other than by intentional act, shall be limited exclusively to the refund of the fees, if any, paid to the board for examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272 and 37:1273.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), LR 27:842 (June 2001).

Subchapter H. Restricted Licensure, Permits

§397. Restricted Licensure in General

A. With respect to applicants who do not meet or possess all of the qualifications and requirements for licensing, the board may, in its discretion, issue such restricted licenses as are, in its judgment, necessary or appropriate to its responsibilities under law. Restricted licenses shall be designated and known as permits.

B. A temporary permit entitles the holder to engage in the practice of medicine in the state of Louisiana only for the period of time specified by such permit and creates no right or entitlement to licensing or renewal of the permit after its expiration.

C. An institutional permit entitles the holder to engage in the practice of medicine only at, in and in association with the medical institution, clinic, or location specified by such permit or within a specified medical training program approved by the board.

D. A permit issued by the board may be either temporary or institutional, or both. Other permits may be issued by the board upon such terms, conditions, limitations, or restrictions as to time, place, nature, and scope of practice, as are, in the judgment of the board, deemed necessary or appropriate to the particular circumstances of individual applicants or physicians.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1285 and 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:912 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), LR 27:842 (June 2001).

§399. Types of Permits

A. The types of permits which the board may consider issuing, as enumerated in the following Sections of this Subchapter, shall not be construed to provide any right or entitlement whatsoever to the described permit, issuance of which shall be determined in the absolute discretion of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1285 and 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), repromulgated LR 27:843 (June 2001).

§401. Provisional Temporary Permit Pending Application for Visa

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for possessing an H-1 or equivalent visa as may be required by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit and is eligible for an H-1 or equivalent visa under rules and regulations promulgated by the United States Immigration and Naturalization Service (INS).

B. A provisional temporary permit issued under this Section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this Section shall expire, and become null and void, on the earlier of:

1. 90 days from the date of issuance of such permit;

2. 10 days following the date on which the applicant receives notice of INS action granting or denying the applicant's petition for an H-1 or equivalent visa; or

3. the date on which the board gives notice to the applicant of its final action granting or denying issuance of the license or permit applied for.

C. The board may, in its discretion, extend or renew, for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to §401.B.1, in favor of an applicant who holds a provisional temporary permit issued under this Section and who has filed a petition for H-1 or equivalent visa with the INS, but whose pending petition has not yet been acted on by the INS within 90 days from issuance of such provisional temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1101 (November 1991), repromulgated LR 27:843 (June 2001).

§402. Provisional Temporary Permit Pending Results of Criminal History Record Information

A. The board may issue a provisional temporary permit to an applicant for any license or permit provided for by these rules who is otherwise completely qualified for such license or permit, save for the board having received a report from the Louisiana bureau of criminal identification and information of the office of state police within the Department of Public Safety and Corrections (Bureau) or the Federal Bureau of Investigation of the United States Department of Justice (FBI), concerning state and national criminal history record information which the board has requested pursuant to the Medical Practice Act or by these rules, provided that the applicant has completed all applicable requirements and procedures for issuance of a license or permit, submitted or attempted to submit fingerprints and all other required information to the board necessary to obtain criminal history record information and paid all applicable fees and costs prescribed by these rules and the Medical Practice Act.

B. A provisional temporary permit issued under this Section shall be of the same type and scope, and subject to the same terms and restrictions, as the license or permit applied for, provided, however, that a provisional temporary permit issued under this Section shall expire, and become null and void, on the earlier of:

1. 90 days from the date of issuance of such permit; or

2. the date on which the board gives notice to the applicant of its final action granting or denying issuance of the license or permit applied for following its receipt of criminal history record information.

C. The board may, in its discretion:

1. extend or renew for one or more additional 90-day periods, a provisional temporary permit issued hereunder which has expired pursuant to §402.B.1, in favor of an

applicant who holds a provisional temporary permit issued under this Section who has submitted or attempted to submit fingerprints and all other required information and paid all applicable fees and costs attendant thereto but whose criminal history record information has not been received from the bureau or the FBI within 90 days from issuance of such provisional temporary permit; or

2. issue the license or permit applied for to an individual holding a temporary permit under this Section whose fingerprints are rejected by the bureau or the FBI provided, however, that such individual shall submit such additional sets of fingerprints as may be required for the board to receive criminal history record information or as otherwise deemed appropriate by the board.

D. The board may waive the procedures and requirements for submitting, requesting and obtaining criminal history record information, specified in §402.A, for a non-renewable provisional temporary permit issued under this Subchapter that is effective for not more than 90 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275 and R.S. 37:1277, R.S. 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:843 (June 2001), amended LR 33:1344 (July 2007), LR 36:1243 (June 2010).

§403. Visiting Physician Permits

A. The board may issue a visiting physician temporary permit to an applicant physician who is invited by one or more physicians licensed under this Chapter to participate or consult in diagnosis or treatment of a patient under care in a Louisiana medical institution, provided that such invited physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. within a reasonable time prior to the intended consultation or treatment, presents or causes to be presented to the board:

a. indisputable personal identification;

b. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical or osteopathic licensing authority of another state or, if an alien, holds an unrestricted license or other legal authorization to engage in the practice of medicine in his domicile country; and

c. a written recommendation by a physician licensed under this Chapter attesting to the professional qualifications of the visiting physician assuming responsibility for his professional activities and patient care, and specifying when and where such activities or care will be provided.

B. The board may issue a visiting professor temporary permit to an applicant physician who is invited by an accredited medical school or other accredited medical institution within the state of Louisiana approved by the board to serve on the faculty of the medical school or institution, provided that such invited physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. presents or causes to be presented to the board:

a. indisputable personal identification;

b. a completed application on forms furnished by the board;

c. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical or osteopathic licensing authority of another state;

d. an original letter of invitation from the dean of the medical school, the head of an accredited medical institution, or the director of the educational program sponsoring the activity; and

e. verification satisfactory to the board that the applicant is currently certified by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA) in the subject area of the proposed educational program.

C. The board may issue a foreign exchange visiting professor temporary permit to an applicant physician who is invited by an accredited medical school or other accredited medical institution within the state of Louisiana approved by the board to participate in an exchange of faculty between the applicant's medical school and a medical school or other accredited medical institution within the state of Louisiana approved by the board, provided that such invited physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. presents or causes to be presented to the board:

a. indisputable personal identification;

b. an H-1 or equivalent visa;

c. a completed application on forms furnished by the board;

d. verification satisfactory to the board that the applicant holds a current unrestricted license to engage in the practice of medicine in his domicile country; and

e. an original letter of invitation from the dean of the medical school, the head of an accredited medical institution, or the director of the educational program sponsoring the activity.

D. The board may issue a visiting physician evaluation temporary permit to an applicant physician to conduct a non-invasive evaluation of an individual located in Louisiana, who has given his consent thereto, provided that while acting under the authority of such permit in this state such physician shall not utilize the results of his evaluation to treat any medical condition which he may determine such individual to suffer, or engage in any activity beyond the scope of authority specifically conferred by such permit, provided that such evaluating physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. within a reasonable time prior to the intended evaluation presents or causes to be presented to the board:

a. indisputable personal identification;

b. verification satisfactory to the board that the applicant holds a current unrestricted license to practice medicine issued by the medical or osteopathic licensing authority of another state or, if an alien, holds an unrestricted license or other legal authorization to engage in the practice of medicine in his domicile country;

c. a letter setting forth the location and date on and where such evaluation is to be conducted;

d. verification satisfactory to the board that the evaluation sought to be performed will be undertaken with the consent of the individual to be evaluated; and

2. satisfies the applicable fees prescribed in these rules and the Medical Practice Act.

E. A temporary permit issued under §403.A or D may be restricted by the board to permit a specific act in consultation or evaluation and/or to restrict consultation, treatment or evaluation to a designated patient. Temporary permits issued under §403.B and C are limited to a term of 12 months from the date of issuance.

F. A temporary permit issued under this Section shall expire, and thereby become null, void, and to no effect on the date specified by such permit.

G. The term *accredited medical institution,* as used in this Subchapter, means an institution that sponsors one or more educational programs in the relevant subject area of post-graduate medical training that is accredited by the Accreditation Council of Graduate Medical Education (ACGME).

H. The term *visiting professor* as used in this Subchapter, shall apply to visiting physicians who are invited by a medical school or an accredited medical institution approved by the board to serve as instructors in the proposed educational program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1278, R.S. 37:1281 and R.S. 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:520 (June 1990), LR 27:843 (June 2001), LR 33:1344 (July 2007).

§404. Continuing Postgraduate Training beyond Year One

A. The board shall issue a temporary permit to an applicant of an approved American or Canadian medical school or college (whether allopathic or osteopathic) for the purpose of participating in an accredited program of postgraduate medical training (residency training), beyond postgraduate year one, in a Louisiana medical school, college or other medical institution that is fully accredited by the ACGME and approved by the board.

B. Qualifications for Permit. To be eligible for a temporary permit for postgraduate medical training beyond year one, the applicant shall:

1. possess all of the substantive qualifications for licensure specified by §311.A.1-4;

2. have completed one year of postgraduate training as required by §311.A.6;

3. have submitted documentation to the board from the director of the program certifying the applicant's qualification for and appointment to the postgraduate year two (PGY-2) or higher level of the program; and

4. satisfy the applicable fees prescribed in these rules and the Medical Practice Act.

C. Procedural Requirements. An application form will be supplied by the board only after the qualifications prescribed by §404.B.3 have been documented by an original letter, signed by the director of the program at which the applicant will train, certifying that the qualifications and conditions of such Subsection have been met.

D. Restrictions and Limitations. A physician (whether allopathic or osteopathic) holding a permit under this Subsection shall not enroll or participate in postgraduate medical training or otherwise engage in the practice of medicine in this state, other than at and within the scope of the program for which such person has been approved by the board.

E. Term of Permit. A permit issued under this Section shall expire and become null and void on the earliest of the following dates:

1. 12 months from the date on which it was issued;

2. effective on the date that the permittee's appointment to the program for which he was approved by the board is terminated; or

3. the date on which the board gives notice to the permittee of its final action granting or denying issuance of a license to practice medicine.

F. Renewal, Reissuance. A permit issued under this Section which has expired may be renewed or reissued by the board for two or more successive 12-month periods, provided that:

1. prior to the expiration of the initial temporary permit, permit holder has taken and successfully passed all three steps of USMLE or all three levels of COMLEX-USA or all steps, levels, parts or components of those examinations in the manner specified by §311.A.5.a-h, within the limitations and restrictions prescribed by §387 of these rules; and

2. not less than two months prior to the annual expiration of the permit, the director of the program in which the permittee is enrolled has submitted to the board a written report on the permittee's performance in such program, certifying to the board that:

a. the permit holder has performed successfully and competently in such program;

b. the medical school, college or other accredited medical institution will renew the permittee's appointment for an additional year; and

c. no grounds are known which would provide cause for the board to refuse to renew or to revoke the permittee's permit pursuant to §404.H.

G. Causes for Refusal to Issue or Renew. Notwithstanding an applicant's eligibility for a permit under this Section, under the standards and criteria set forth in this Section, the board may nevertheless deny issuance or renewal of such permit for any of the causes for which it may deny licensure under R.S. 37:1285(A) or for which it may revoke a temporary permit pursuant to §404.H.

H. Causes for Revocation. Upon prior notice and an opportunity to be heard in accordance with the Louisiana Administrative Procedure Act, a permit may be revoked by the board:

1. for any of the causes specified by R.S. 37:1285(A);

2. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of the application, any of the qualifications requisite to eligibility for the permit as prescribed by this Section; or

3. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the conditions, restrictions, and limitations prescribed by §404.D hereof.

I. Effect of Revocation. A permittee who has had his temporary permit revoked by the board pursuant to §404.H shall not thereafter be eligible for a permit or a license to practice medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1275, 37:1277, 37:1281, and 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 27:844 (June 2001), amended by the Department of Health, Board of Medical Examiners, LR 44:586 (March 2018).

§405. Short-Term Residency Permit

A. The board may issue an institutional temporary permit to an applicant who is a commissioned physician of the Armed Services of the United States for the purpose of receiving postgraduate clinical training in a medical program approved by the board and conducted by a Louisiana medical school, college, or other accredited medical institution provided that such physician:

1. possesses the qualifications for licensing prescribed by §311.A.1-4;

2. possesses a current unrestricted license to practice medicine issued by the medical or osteopathic licensing authority of another state, or has successfully passed the USMLE, FLEX, NBME, COMLEX-USA or NBOME examinations in the manner specified by §311.A.5;

3. will participate in such postdoctoral medical training program pursuant to and within the course and scope of his orders and duties as a commissioned officer of the Armed Services;

4. within a reasonable time prior to the commencement of such training program, presents or causes to be presented to the board:

a. satisfactory documentation that he possesses the qualifications required by this Section, including a certified copy of his military orders authorizing and directing his participation in the specified medical training program; and

b. written certification by the dean of the medical school or college in which the applicant is to receive such training that the applicant has been accepted for participation in such program subject to the issuance of a permit by the board; and

5. satisfies the applicable fees prescribed in these rules and the Medical Practice Act.

B. The board may, in its discretion, issue a temporary permit for the purpose of serving a preceptorship or participating in a short-term residency program conducted by a Louisiana medical school or other accredited medical institution to an applicant who possesses the qualifications for licensure prescribed by §311.A.1-5, who is currently enrolled and in good standing in an accredited graduate medical education program and who possesses a current unrestricted license to practice medicine or engage in medical training duly issued by any state and provided that:

1. the preceptorship or residency program is approved by the board;

2. the applicant presents, or causes to be presented, to the board:

a. a completed application for a short-term residency permit upon the form provided by the board, together with the fees prescribed by these rules and the Medical Practice Act:

b. satisfactory documentation that the applicant possesses the qualifications required by this Section; and

c. a letter from the physician under whom he will be serving in the preceptorship or short-term residency, describing the capacity in which the applicant will be serving and the inclusive dates of such service.

C. The holder of a permit issued under this Section shall not engage in the practice of medicine in any respect in the state of Louisiana or receive medical educational training other than within the postdoctoral medical educational program, preceptorship, or short-term residency program for which he is approved by the board.

D. A temporary permit issued under this Section shall expire, and thereby become null and void and to no effect on the date specified by such permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1275, R.S. 37:1277, R.S. 37:1281 and R.S. 37:1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:913 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 27:845 (June 2001), LR 33:1344 (July 2007).

§407. Permit Pending Examination Results

A. The board may issue an institutional temporary permit for the sole purpose of serving in an approved medical residency training program to a graduate of an American or Canadian medical school or college or school of osteopathic medicine who has taken the USMLE or COMLEX-USA examination but whose scores have not yet been reported to the board or who is scheduled to take the USMLE or COMLEX-USA examination at its next administration, to be effective pending the reporting of such scores to the board, provided that the applicant possesses and meets all of the qualifications and requirements for licensure provided by this Chapter save for having successfully passed all steps of the USMLE or all levels of the COMLEX-USA examination (§311.A.5), or completing the postgraduate medical training program required by §311.A.6, and provided further that the applicant has not previously taken and failed to achieve a passing score, as prescribed by §387 of these rules, on the USMLE, FLEX, NBME, COMLEX-USA or NBOME examination, any component thereof, or any written examination administered by the licensing authority of any state.

B. The board may issue a temporary permit to an applicant for licensure by reciprocity (§§351 to 353) who is required by §353 to take the SPEX, the COMVEX-USA or a certification or recertification examination, but who has not yet taken SPEX, the COMVEX-USA or a certification or recertification examination or whose scores have not yet been reported to the board or the applicant, provided that the applicant possesses and meets all of the qualifications and requirements for licensure provided by this Chapter save for having successfully passed the SPEX, the COMVEX-USA or a certification or recertification examination (§353), and provided further that the applicant has registered for the next available administration of the SPEX, the COMVEX-USA or a certification or recertification examination and has not previously taken and failed to achieve a passing score on the

SPEX, the COMVEX-USA or any portion of a certification or recertification examination more than three times.

C. A permit issued under this Section shall expire, and thereby become null, void, and to no effect on the date that:

1. the board gives written notice to the permit holder that he has failed to achieve a passing score on the USMLE, COMLEX-USA, SPEX or COMVEX-USA examination for which he was registered;

2. the board gives written notice to the permit holder pursuant to §381.B that it has probable cause to believe that he has engaged or attempted to engage in conduct which subverted or undermined the integrity of the examination process;

3. the permit holder is issued a license pursuant to §413.A or another type of permit as provided by §§397 to 405 of this Chapter; or

4. the holder of a permit issued under §407.B fails to appear for and take the SPEX, the COMVEX-USA or the certification or recertification examination for which he is registered or the earlier of the date on which the board or the permit holder receives notice from the entity or specialty board administering such examination that he has failed to achieve a passing score on any portion of the certification or recertification examination for which he was registered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1272, 37:1273 and 37:1275.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:521 (June 1990), LR 27:846 (June 2001), LR 31:1583 (July 2005).

§408. Telemedicine Permit Qualifications, Procedure, Issuance, Expiration and Renewal

A. Requirement for Permit/Qualifications. A physician who does not possess a Louisiana medical license shall not engage in the practice of medicine in this state via telemedicine, as defined in Chapter 75 of these rules, unless he or she holds a telemedicine permit issued by the board. A telemedicine permit is a limited license that provides lawful authority to a physician who does not hold a current, unrestricted Louisiana medical license to practice telemedicine with respect to patients located in this state. To be eligible for a telemedicine permit an applicant shall:

1. possess the qualifications for licensing prescribed by §311 of these rules;

2. possess an unrestricted license to practice medicine issued by the medical licensing authority of a state other than Louisiana (whether allopathic or osteopathic);

3. have completed a board-approved application and satisfied the applicable fee.

B. Permit Denial. The board may deny or refuse to issue a telemedicine permit to an otherwise eligible applicant:

1. who does not satisfy the qualifications prescribed by this Chapter;

2. for any of the causes enumerated by R.S. 37:1285(A), or violation of any other provision of the Louisiana Medical Practice Act, R.S. 37:1261 et seq.;

3. who has been the subject of previous disciplinary action by the medical licensing authority of any state;

4. who is the subject of a pending investigation by the board, the medical licensing authority of another state or a federal agency;

5. who has been denied, had suspended, revoked, restricted or relinquished staff or clinical privileges at a hospital or institution while under investigation for, or as a result of, professional competency or conduct;

6. who has been, or is currently in the process of being denied, terminated, suspended, refused, limited, placed on probation or under other disciplinary action with respect to participation in any private, state, or federal health care insurance program; or

7. who voluntarily surrendered while under investigation by the issuing authority, or had suspended, revoked or restricted, his or her state or federal controlled substance permit or registration.

C. Applicant's Burden. The burden of satisfying the board as to the qualifications and eligibility of the applicant for a telemedicine permit shall be upon the applicant, who shall demonstrate and evidence such qualifications in the manner prescribed by and to the satisfaction of the board.

D. Application. Application for a telemedicine permit shall be made in a format approved by the board and shall include:

1. proof documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in this Subchapter;

2. a description of how telemedicine will be used and the primary location(s) from which it will be utilized by the applicant;

3. the primary location(s) from which telemedicine will be utilized by the applicant;

4. criminal history record information;

5. such other information, acknowledgments and documentation as the board may require; and

6. a fee of $300. The board may waive such fee in favor of an applicant who advises the board in writing that his or her use of telemedicine in this state shall be limited to the provision of voluntary, gratuitous medical services.

E. Appearances. An applicant shall be required to appear before the board or its designee if the board has questions concerning the applicant's qualifications.

F. Effect of Application. The submission of an application pursuant to this Subchapter shall constitute and operate as an authorization and consent by the applicant to:

1. submit to the jurisdiction of the board in all matters set forth in the Act or any other applicable Louisiana law, as well as the board's rules;

2. produce medical or other documents, records, or materials and appear before the board upon written request; and

3. report to the board in writing within 30 days of any disciplinary action against the applicant's:

a. license to practice medicine in another state; or

b. federal or state registration or permit to prescribe, dispense or administer controlled substances or the voluntary surrender thereof while under investigation by the issuing authorities.

G. Permit Expiration, Renewal. A telemedicine permit shall expire annually on the expiration date stated thereon or the last day of the month in which the licensee was born, whichever is the later, unless renewed by the submission of a renewal application containing such information as the board may require, together with a renewal fee of $200.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, 1276.1 and 1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1532 (August 2009), amended 41:2144 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:317 (February 2017).

§411. Graduate Education Temporary Permit/Short-Term IMG Training Permit

A. In General. The board may issue a Graduate Education Temporary Permit (GETP) to an international medical graduate (a graduate of a medical school located outside of the United States, Canada, and Puerto Rico) for the purpose of enrolling and participating in an accredited program of postgraduate medical education (residency or fellowship) at a Louisiana medical school, college, or other accredited medical institution, upon documentation of the qualifications, satisfaction of the procedural requirements and compliance with the conditions and limitations prescribed by this Section.

B. Qualifications for Permit. To be eligible for a GETP, an international medical graduate (IMG) shall:

1. be at least 21 years of age;

2. be a citizen of the United States or possess valid and current legal authority to reside and work in the United States duly issued by the commissioner of the INS of the United States pursuant to the Immigration and Nationality Act and the commissioner's regulation thereunder, as evidenced by an exchange visitor (J-1), temporary worker (H-1B) or immigrant visa, or INS-issued or approved work permit or by a pending application for such visa or permit;

3. be of good moral character, as defined by §303.A;

4. possess a doctor of medicine or equivalent degree duly issued and conferred by a medical school or college listed, at the time the degree was awarded, in the then-current edition of the *World Directory of Medical Schools* published by the World Health Organization; and

5. possess the standard certificate of the (ECFMG), provided it was issued on the basis of examination taken in accordance with the standards, restrictions and limitations prescribed by §387 of these rules; and

6. have received a written commitment from an accredited Louisiana medical school, college, or other accredited medical institution formally appointing the IMG to a postgraduate medical education training program which is conducted by such medical school, college, or other medical institution and which is fully accredited by (and not on probational status with) the ACGME, subject only to the board's issuance of a GETP to the applicant; and agreeing to furnish to the board the periodic reports required by §411.F.2-3; and

7. satisfy the applicable fees prescribed in these rules and the Medical Practice Act.

C. Procedural Requirements. An application form will be supplied by the board only after the qualifications prescribed by §411.B.6 have been documented by an original letter, signed by the director of the postgraduate training program of the Louisiana medical school, college, or other accredited medical institution at which the IMG will train, certifying that the qualifications and conditions of such Subsection have been met.

D. Restrictions and Limitations. An IMG holding a GETP issued by the board shall not participate in postgraduate medical training or engage in the practice of medicine within the state of Louisiana other than as follows.

1. During the 12 months following the effective date of an initial GETP, an IMG may participate in postgraduate medical training and engage in the practice of medicine solely at the principal location of the sponsoring medical school, college, or medical institution and shall not participate in clinical rotations to or serve at institutions at any other location.

2. An IMG who is enrolled and participating in a first postgraduate year (PGY-1) medical education training program shall not assume independent responsibility for patient care or otherwise engage in the practice of medicine.

3. An IMG shall not engage in the practice of medicine, or participate in any postgraduate medical training program within the state of Louisiana, other than within the scope of the postgraduate medical training program for which such person has been approved by the board, nor other than at the medical school, college, or other accredited medical institution from which such IMG holds his or her appointment, or at medical facilities affiliated with such program.

4. An IMG holding a GETP shall be subject to supervision by the supervising physicians designated by the medical school, college, or medical institution at which the postgraduate medical education training program is conducted.

E. Term of Permit. Each GETP issued under this Section shall expire 12 months from the date on which it is issued. A GETP shall also expire, and automatically become null and void, effective on any date that the permittee's appointment to the designated postgraduate training program is terminated.

F. Renewal, Reissuance. A GETP which has expired may be renewed or reissued by the board for one or more successive 12-month period, provided that:

1. not later than 24 months following the effective date of an initial GETP, permit holder has taken and successfully passed Step 3 of the United States Medical Licensing Examination (USMLE) or had previously passed both components of the FLEX;

2. not less than five months nor more than seven months following the effective date of an initial GETP, the director of the postgraduate program in which the permit holder is enrolled has submitted to the board written reports on the IMG's performance in such program, certifying to the board that the permit holder has performed successfully and competently in such postgraduate program;

3. not less than two months prior to the annual expiration of a GETP, the director of the postgraduate program in which the permit holder is enrolled has submitted to the board written reports on the IMG's performance in such program, certifying to the board that:

a. the permit holder has performed successfully and competently in such postgraduate program;

b. the medical school, college, or other medical institution will renew the IMG's appointment for an additional year; and

c. no grounds are known which would provide cause for the board to refuse to renew or to revoke the permit holder's GETP pursuant to §411.H hereof.

G. Causes for Refusal to Issue or Renew. Notwithstanding an IMG's eligibility for a GETP, or for renewal of a GETP,

under the standards and criteria set forth in this Section, the board may nonetheless deny issuance or renewal of a GETP for any of the causes for which it may deny licensure under R.S. 37:1285.A or for which it may revoke a GETP pursuant to §411.H.

H. Causes for Revocation. Upon prior notice and an opportunity to be heard in accordance with the Louisiana Administrative Procedure Act, a GETP may be revoked by the board:

1. for any of the causes specified by R.S. 37:1285.A;

2. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications requisite to eligibility for a GETP as prescribed by this Section; or

3. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the GETP or otherwise violated any of the conditions, restrictions, and limitations prescribed by §411.D hereof.

I. Effect of Revocation. An IMG whose GETP has been revoked by the board pursuant to §411.H shall not thereafter be eligible for a GETP or license to practice medicine in the state of Louisiana.

J. Short-Term IMG Training Permit. 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 (*short-term training permit*) conducted by a Louisiana medical school or a major teaching hospital, as defined herein, to an IMG applicant who possesses the qualifications prescribed by B.1-4 of this Section, provided that:

1. the applicant has not held any permit issued under this Chapter within one year prior to the date of application;

2. the postgraduate training program is approved in advance by the board;

3. the applicant presents, or causes to be presented to the board:

a. a completed application upon a form provided by the board, together with the fees prescribed by Chapter 1 of these rules. An application form will be supplied by the board only after receipt of a written commitment signed by the program director under whom the applicant will train in the postgraduate training program describing the capacity in which the applicant will be training and the inclusive dates of such training; and

b. satisfactory documentation that the applicant possesses the qualifications required by this Subsection;

4. an IMG holding a permit under this Subsection shall not assume independent responsibility for patient care in the state of Louisiana, and shall only receive postgraduate training in this state:

a. within the postgraduate training program for which he or she is approved by the board; and

b. under the immediate supervision (*e.g.,* in the physical presence) of a Louisiana licensed physician who has been appointed or designated by the medical school or major teaching hospital;

5. a permit issued under this Subsection shall expire and thereby become null, void and to no effect on the date specified by such permit or three months from the date of its issuance, whichever period is the shortest. Such permit shall also expire on any date that the permittee's appointment to the designated postgraduate training program is terminated;

6. a short-term training permit which has expired may, at the board's discretion, be renewed or reissued for not more than one successive three month period commencing without interruption immediately following the initial expiring permit, provided all requirements prerequisite to initial permit issuance have been met to the board's satisfaction;

7. the board may refuse to issue or revoke a short-term training permit for any of the causes that it may deny issuance of licensure under R.S. 37:1285A, or for which it may revoke a permit pursuant to 411J.8 of this Subsection;

8. a short-term training permit may be revoked by the board:

a. for any of the causes specified by R.S. 37:1285A;

b. upon a finding by the board that the permittee has failed to maintain, or did not possess at the time of application, any of the qualifications requisite to eligibility for a permit as prescribed by this Subsection; or

c. upon a finding by the board that the permittee has exceeded the scope of authority accorded by the permit or otherwise violated any of the conditions, restrictions, and limitations prescribed by this Subsection;

9. an IMG whose short-term training permit has been revoked by the board shall not thereafter be eligible for any other permit or a license to practice medicine in this state.

K. The term *major teaching hospital,* as used in Subsection J of this Section, means a facility that:

1. has a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education. The facility must be a major participant in at least four approved medical residency programs. At least two of the programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry. For purposes of recognition as a major teaching hospital, a facility shall be considered a *major participant* in a graduate medical education program if it meets both of the following criteria:

a. the facility must pay for the costs of the training program in the non-hospital or hospital setting including the residents' salaries and fringe benefits attributable to direct graduate medical education and other direct administrative costs of the program; and

b. the facility must participate in residency programs that:

i. require residents to rotate for a required experience, or

ii. require explicit approval by the appropriate Residency Review Committee of the medical school with which the facility is affiliated prior to utilization of the facility, or

iii. provide residency rotations of more than one-sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited program in the Graduate Medical Education Directory of the Accreditation Council for Graduate Medical Education.

2. maintains an intern and resident full time equivalency of at least 15 filled positions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A), 37:1270(B)(6), 37:1275, 37:1277 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 21:467 (May 1995), amended LR 27:846 (June 2001), LR 35:465 (March 2009).

§412. Emergency Temporary Permits

A. As used in this Section, the following terms shall have the following meanings.

Allied Health Care Practitioner—an individual, other than a physician, authorized by the board to practice in this state as an athletic trainer pursuant to R.S. 37:3301 through 3312; as a clinical exercise physiologist pursuant to R.S. 37:3421 through 3433; as a clinical laboratory scientist pursuant to R.S. 37:1311 through 1329; as a midwife pursuant to R.S. 37:3240 through 3257; as an occupational therapist or occupational therapy assistant pursuant to R.S. 37:3001 through 3014; as a perfusionist pursuant to R.S. 37:1331 through 37:1343; as a physician assistant pursuant to R.S. 37:1360.21 through 1360.38; as a podiatrist pursuant to R.S. 37:611 through 628; as a polysomnographic technologist or polysomnographic technician pursuant to R.S. 37:2861 through 2870; as a private radiological technologist pursuant to R.S. 37:1292; or as a respiratory therapist or respiratory therapy assistant pursuant to R.S. 37:3351 through 3361.

Board—the Louisiana State Board of Medical Examiners established pursuant to R.S. 37:1263.

DHH—the Louisiana Department of Health and Hospitals or its successor in title.

Physician—an individual authorized by the board to practice medicine in this state, pursuant to R.S. 37:1261-1291.

B. The board may issue an emergency temporary permit to an individual to practice as a physician or allied health care practitioner, valid for a period of not more than 60 days, to provide voluntary, gratuitous medical services in this state during a public health emergency, and for such periods thereafter as DHH shall deem the need for emergency services to continue to exist, at sites specified by DHH or approved by the board, provided such individual:

1. holds a current, unrestricted license in good standing issued by the licensing authority of another state to practice the profession for which the permit is sought; and

2. presents or causes to be presented to the board in advance of providing medical services:

a. indisputable personal identification;

b. a copy of his or her professional license or other information deemed satisfactory by the board on which to verify out-of-state licensure;

c. a completed application and/or such information as may be required by the board; and

d. as to an allied health care practitioner required by the laws of this state to practice under physician supervision, designation of a physician who will serve in such capacity.

C. An emergency temporary permit may be issued upon such terms, conditions, limitations or restrictions as to time, place, nature, and scope of practice as are, in the judgment of the board, deemed necessary or appropriate to its responsibilities under law.

D. The board may, in its discretion, issue a permit under this Section to an individual to practice as a physician or allied health care practitioner who provides medical services other than on a gratuitous basis, and/or at sites other than those specified by DHH or approved by the board. The board may also issue a permit to an individual who satisfies the provisions of R.S. 29:735.I.

E. A physician or allied health care practitioner shall visibly display a permit issued under this Section, or such other identifying information as the board may specify, in plain view on his or her person at all times while exercising the privileges of such permit.

F. An emergency temporary permit entitles the holder to engage in the practice of his profession in the state of Louisiana only for the period specified by such permit and creates no right or entitlement to licensing, registration, certification or renewal of the permit after its expiration.

G. A permit issued under this Section shall expire and become null and void on the earlier of:

1. 60 days from the date on which it was issued;

2. a date specified on the permit less than 60 days from the date of issuance; or

3. the date that the term of voluntary service is terminated.

H. The board may, in its discretion, extend or renew an expired emergency temporary permit for one or two additional 60-day periods provided all conditions prerequisite to original issuance are satisfied.

I. Following termination of a public health emergency the board may, in its discretion, issue, extend or renew a permit under this Section during such period as DHH shall deem the need for emergency services continues to exist.

J. In the event of a conflict between the provisions of this Section respecting emergency temporary permits and those contained in any Chapter administered by the board respecting an allied health care practitioner, the provisions of this Section shall govern.

K. If any rule, Section, provision or item of this Chapter or the application thereof is held to be invalid, such invalidity shall not affect other rules, Sections, provisions, items or applications, and to this end the rules, Sections, provisions and items of this Chapter are hereby deemed to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 1275; R.S. 37:3301-3312; R.S. 37:3421-3433; R.S. 37:1311-1329; R.S. 37:3240-3257; R.S. 37:3001-3014; R.S. 37:1331-1343; R.S. 37:1360.21-1360.38; R.S. 37:611-628; R.S. 37:2861-2870; R.S. 37:1292; R.S. 37:3351-3361 and R.S. 29:769(E).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 33:91 (January 2007).

Subchapter I. License Issuance, Termination, Renewal, Reinstatement and Exemptions

§413. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §311 and §313 or §323 and §325, or §353 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of medicine in the state of Louisiana.

B. A license issued under §311 of this Chapter shall be issued by the board within 30 days following the reporting of the applicant's passing scores to the board. A license issued under any other section of this Chapter shall be issued by the board within 15 days following the meeting of the board next following the date on which the applicant's application, evidencing all requisite qualifications, is completed in every respect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1274.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR

10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 27:848 (June 2001), LR 31:1584 (July 2005).

§415. Expiration of Licenses and Permits

A. Every license or permit issued by the board under this Chapter, the expiration date of which is not stated thereon or provided by these rules, shall annually expire and thereby become null, void, and to no effect the following year on the first day of the month in which the licensee was born.

B. A license issued pursuant to the waiver of qualifications provided by §315 of this Chapter shall become null and void on the earlier of the date prescribed by §415.A or the date on which the physician's appointment as a professor to the medical school or college, upon which the waiver was granted by the board, is terminated.

C. The timely submission of a properly completed application for renewal of a license, but not a permit, as provided by §417 of this Chapter, shall operate to continue the expiring licensing in full force and effect pending issuance of the renewal license.

D. Permits are not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:1500 (August 1998), LR 27:848 (June 2001), LR 31:1584 (July 2005).

§417. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before the first day of the month in which the licensee was born, by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fees prescribed in these rules and the Medical Practice Act, and documentation of satisfaction of the continuing medical education requirements prescribed by Subchapter K of these rules.

B. An application for renewal of license form shall be mailed by the board to each person holding a license issued under this Chapter at least 30 days prior to the expiration of the license each year. Such form shall be mailed to the most recent address of each licensee as reflected in the official records of the board.

C. Initial application for renewal of a license, issued on the basis of a commitment for year two of postgraduate clinical training under §311.A.6.b shall, as a prerequisite to renewal consideration, be accompanied by documentation satisfactory to the board of the completion of year two of such training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), 37:1271, 37:1272, 37:1274, 37:1275.1, 37:1280 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), LR 24:1500 (August 1998), LR 26:695 (April 2000), LR 27:848 (June 2001), amended by the Department of Health, Board of Medical Examiners, LR 44:587 (March 2018).

§418. Reduced Renewal Fees for Certain Physicians

A. The fee otherwise required for annual renewal of licensure will be reduced by one-half in favor of a physician who holds an unrestricted license to practice medicine issued by the board and who has, prior to the first day of the year for which such renewal will be effective:

1. attained the age of 70 years;

2. voluntarily surrendered to the issuing authorities his or her state license and federal registration to prescribe, dispense, or administer controlled substances; and

3. made application to the board for such reduced licensure renewal fee, upon a form supplied by the board, verifying the conditions requisite to such reduced fee and consenting to revocation of any license renewed pursuant to this Section upon a finding by the board that the licensee, following issuance of licensure renewal pursuant to this Section, continued to hold, obtained, or sought to obtain state licensure or federal registration to prescribe, dispense, or administer controlled substances.

B. The fee otherwise required for annual renewal of licensure will be reduced by one-half in favor of a physician who holds an unrestricted license to practice medicine issued by the board and who has, prior to the first day of the year for which such renewal will be effective:

1. ceased to engage in the practice of medicine in any form in this state as a consequence of physical or mental disability;

2. voluntarily surrendered to the issuing authorities his or her state license and federal registration to prescribe, dispense, or administer controlled substances; and

3. made application to the board for such reduced licensure renewal fee, upon a form supplied by the board, verifying the conditions requisite to such reduced fee, including independent physician verification of the applicant's physical or mental disability, and consenting to revocation of any license renewed pursuant to this Section upon a finding by the board that the licensee, following issuance of licensure renewal pursuant to this Section, engaged or sought to engage in any manner in the practice of medicine in this state or continued to hold, obtained, or sought to obtain state licensure or federal registration to prescribe, dispense, or administer controlled substances.

C. A physician whose medical license is renewed pursuant to this Section shall not thereafter engage or seek to engage in the active practice of medicine in this state or to prescribe, dispense, or administer controlled substances or other prescription medications except upon prior application to and approval by the board, which, in its discretion, as a condition to reinstatement of full licensure, may require that:

1. the physician take and successfully pass all or a designated portion of the USMLE, COMLEX-USA, SPEX, or COMVEX-USA examination; and/or

2. the physician provide medical documentation satisfactory to the board that the physician is then physically and mentally capable of practicing medicine with reasonable skill and safety to patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1280 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:523 (June 1990), amended LR 27:848 (June 2001), LR 31:1584 (July 2005).

§419. Reinstatement of Expired License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided, provided that application for reinstatement is made within four years of the date of expiration. A physician whose license has lapsed and expired for a period in excess of four years or who is otherwise ineligible for reinstatement under this Section may apply to the board for an initial original or reciprocal license pursuant to the applicable rules of this Chapter.

B. An applicant seeking reinstatement more than one year from the date on which his license expired shall demonstrate, as a condition of reinstatement, satisfaction of the continuing medical education requirements of §§433-449 of Subchapter K of these rules for each year since the date of the expiration of licensure. As additional conditions of reinstatement the board may require:

1. that the applicant complete a statistical affidavit, upon a form supplied by the board, and provide the board with a recent photograph;

2. that the applicant possess a current, unrestricted license issued by another state; and/or

3. if the applicant does not at the time of the application for reinstatement possess a current, unrestricted license issued by another state, that the applicant take and successfully pass:

a. all or a designated portion of the USMLE, COMLEX-USA, SPEX or COMVEX-USA examination; or

b. a written certification or recertification examination by a specialty board recognized by the American Board of Medical Specialties (ABMS) or the American Osteopathic Association (AOA).

C. An applicant whose medical license has been revoked, suspended, or placed on probation by the licensing authority of another state or who has voluntarily or involuntarily surrendered his medical license in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges, following the date on which his Louisiana medical license expired, shall be deemed ineligible for reinstatement of licensure.

D. An application for reinstatement of licensure meeting the requirements and conditions of this Section may nonetheless be denied for any of the causes for which an application for original licensure may be refused by the board as specified in R.S. 37:1285.

E. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation from reputable physicians of the former licensee's last professional location, together with the applicable renewal fees prescribed in these rules and the Medical Practice Act, plus a penalty computed as follows.

1. If the application for reinstatement is made less than two years from the date of license expiration, the penalty shall be equal to the renewal fee.

2. If the application for reinstatement is made more than two years but less than three years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

3. If the application for reinstatement is made more than three years from the date of license expiration, the penalty shall be equal to three times the renewal fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended LR 14:86 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:524 (June 1990), LR 24:1500 (August 1998), LR 26:695 (April 2000), LR 27:849 (June 2001), LR 31:1584 (July 2005).

§421. Authority to Issue and Renew Licenses, Certificates, Registrations or Permits

A. 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.

B. For purposes of this Section, an *allied health care practitioner* is an individual who holds any form of health care practitioner license, certificate, registration or permit that the board is authorized to issue, other than as a physician, including but not limited to: an acupuncturist, acupuncture assistant, or acupuncture detoxification specialist pursuant to R.S. 37:1356-1360; an athletic trainer pursuant to R.S. 37:3301 through 3312; a clinical exercise physiologist pursuant to R.S. 37:3421 through 3433; a clinical laboratory scientist pursuant to R.S. 37:1311 through 1329; a midwife pursuant to R.S. 37:3240 through 3257; an occupational therapist or occupational therapy assistant pursuant to R.S. 37:3001 through 3014; a perfusionist pursuant to R.S. 37:1331 through 37:1343; a physician assistant pursuant to R.S. 37:1360.21 through 1360.38; a podiatrist pursuant to R.S. 37:611 through 628; a polysomnographic technologist or polysomnographic technician pursuant to R.S. 37:2861 through 2870; a private radiological technologist pursuant to R.S. 37:1292; or a licensed respiratory therapist pursuant to R.S. 37:3351 through 3361.

C. In the event of a conflict between the provisions of this Section and those of any other Section in this Part, the provisions of this Section shall govern.

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

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 34:2402 (November 2008).

§422. Reports to the Board; Suspension, Termination, Non-Renewal, Surrender, Resignation or Withdrawal from Postgraduate Medical Training

A. A physician participating in an accredited postgraduate medical training program (program) in this state under the authority of a registration, permit or license issued by the board shall report, and shall request that the program report, to the board in writing his or her suspension, termination, non-renewal, surrender, resignation or withdrawal from the program within 30 days of such action.

B. In the event of a conflict between the reporting requirements of Subsection A of this Section and a physician's duty to self-report under R.S. 37:1285(A)(31) or a program's duty to report under Louisiana Health Care Professionals Reporting Act, R.S. 37:1745.11-37:1745.17, respectively, the

provisions of R.S. 37:1285(A)(31) and 37:1745.11-37:1745.17, shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, R.S. 37:1285A(31), R.S. 37:1745.11-37:1745.17.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 38:3174 (December 2012).

§423. Exemptions to Licensure; Emergency Transfer of Patients

A. In addition to the exemptions to licensure provided by R.S. 37:1291, a license to practice medicine shall not be required for a physician-member of a transport team providing emergency or other medical care to an acutely ill patient during transfer or transportation to or from a hospital in this state provided such physician is duly licensed to practice medicine by the medical licensing authority of another state.

B. The exemption provided by Subsection A of this Section, shall also apply to any license, certificate or registration of any allied health care professional, which the board is authorized to issue, who is a member of a transport team providing emergency or other medical care to an acutely ill patient during transfer or transportation to or from a hospital in this state provided such allied health care practitioner is duly licensed to practice his profession by the medical licensing authority of another state.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR. 36:2559 (November 2010).

§424. Exemption to Licensure; Out-of-State Physician Orders

A. Definitions. As used in this Section the following terms shall have the meanings specified.

Established Patient—a patient who is currently under the care of out-of-state physician for a diagnosed medical condition or complaint.

Out-of-state Physician—a physician who is duly licensed to practice medicine in any state or jurisdiction of the United States other than Louisiana.

Routine Diagnostic Testing—laboratory testing and radiologic studies, and such other diagnostic testing as the board may in its discretion determine to be routine upon written application, which is needed for the on-going evaluation or monitoring of the patient's condition or response to therapy.

State—any state or jurisdiction of the United States.

B. A license to practice medicine in this state shall not be required for routine diagnostic testing ordered by an out-of-state physician for an established patient provided:

1. the physician-patient relationship was initiated by an in-person, face-to-face visit in a state other than Louisiana where the out-of-state physician is duly licensed to practice medicine;

2. the order can be verified by the health care facility or provider to which or to whom it is presented. While verification need not occur in every instance, the order should be verified if:

a. the out-of-state physician or the institution from which the order was generated is unknown to the provider; or

b. there are other circumstances that would cause a prudent professional acting in the usual scope of practice to suspect non-compliance with the provisions of this Section; and

3. the results of such testing are provided directly to the ordering out-of-state physician;

C. The exemption provided by this Section shall not apply to an order of an out-of-state physician for:

1. any diagnostic test, study or evaluation other than routine diagnostic testing as defined in this Section;

2. testing of an individual who is not an established patient;

3. routine diagnostic testing of any new complaint or for any medical condition other than that for which an established patient was seen in an in-person, face-to-face visit with the out-of-state physician in another state;

4. the prescription, dispensation or administration of any drug, medication, substance or medical device;

5. screening studies or testing;

6. any therapeutic modality, treatment or care including but not limited to the:

a. treatment of non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's Rules; or

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

D. Nothing in this Section shall require a health care facility or provider to recognize an order for routine diagnostic testing by an out-of-state physician.

E. An order issued by an out-of-state physician that does not comply with the requirements of Section is not a valid order. An out-of-state physician who violates the provisions or limitations of this Section shall be deemed to be engaged in the unauthorized practice of medicine in this state and subject to the penalties prescribed by R.S. 37:1286 and 1290.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1291.1.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3276 (December 2013).

Subchapter J. Postgraduate Year One (Internship) Registration

§425. Necessity for Registration

A. As used in this Section, *postgraduate year one (PGY-1)* or *internship* means the first year of postgraduate training following graduation from a medical school or college (whether allopathic or osteopathic) approved by the board. For purposes of this Section PGY-1 includes only the first year of any such training following graduation from a medical school or college and does not include training which may be designated PGY-1 level subsequent to prior training at such level in any specialty, field, or program.

B. No person who does not possess a license or permit issued under this Chapter shall enroll or participate in a PGY-1 medical educational program, or internship, unless he is duly registered with the board pursuant to this Subchapter.

C. Notwithstanding registration under this Subchapter, no person who does not possess a license or permit issued under this Chapter shall enroll or participate in a first year postgraduate medical educational program, an internship, or any other program howsoever designated or whenever taken, which permits or requires such persons to exercise

independent medical judgment, assume independent responsibility for patient care, or otherwise to engage in the practice of medicine.

D. Upon a finding that a person or registrant has violated the proscriptions of this Section, the board may:

1. suspend or revoke such person's registration under this Subchapter or impose probationary conditions thereon;

2. consider and declare such person or registrant ineligible for a medical license or permit under this Chapter; and/or

3. cause the institution of judicial proceedings against such person for injunctive relief, costs, and attorneys fees, pursuant to R.S. 37:1286.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:914 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:524 (June 1990), LR 27:849 (June 2001).

§427. Qualifications for Registration

A. To be eligible for registration under this Subchapter, an applicant shall possess all of the substantive qualifications for licensure specified by §311.A.1-4 and shall be a graduate of an approved American or Canadian medical school or college (whether allopathic or osteopathic).

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for registration shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:524 (June 1990), LR 27:850 (June 2001).

§429. Procedural Requirements

A. In addition to the substantive qualifications specified in §427, to be eligible for registration under this Subchapter, an applicant shall:

1. submit to the board a completed application, upon forms supplied by the board, subscribed by the applicant and by the administrator or chief executive officer of the hospital or medical institution in which the postgraduate program is to be conducted, accompanied by a recent photograph of the applicant;

2. make a personal appearance, by appointment, before a member of the board or its designee, or at the office of the board before its designated officer, and present evidence of the qualifications specified by §427; provided, however, that an applicant who has completed his medical (whether allopathic or osteopathic) education but who does not yet possess a degree as required by §311.A.4 may be deemed eligible for registration upon submission to the board of a letter subscribed by the dean of an approved medical school or college (whether allopathic or osteopathic), certifying that the applicant has completed his academic and medical education at such school or college, that the applicant is a candidate for the degree of doctor of medicine or doctor of osteopathic medicine or doctor of osteopathy at the next scheduled convocation of such school or college, and specifying the date on which such degree will be awarded; and

3. pay the applicable fees, as provided in these rules and the Medical Practice Act.

B. All documents required to be submitted to the board must be the original thereof. For good cause shown, the board may waive or modify this requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:525 (June 1990), LR 27:850 (June 2001).

§431. Issuance and Term of Registration

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§427 and 429 are met to the satisfaction of the board, the board shall issue a certificate to the applicant evidencing his registration under this Subchapter for enrollment and participation in a first year postgraduate (internship) program in the state of Louisiana.

B. Registration issued under this Subchapter shall be effective on and as of the date on which an applicant's postgraduate medical education program is to commence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:915 (November 1984), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:525 (June 1990), LR 27:850 (June 2001).

Subchapter K. Continuing Medical Education

§433. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing medical education ("CME") requisite to the renewal or reinstatement of licensure, as provided by §§417 and 419 of these rules and prescribe the procedures applicable to satisfaction and documentation of continuing medical education in connection with applications for renewal or reinstatement of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000).

§435. Continuing Medical Educational Requirement

A. Subject to the waiver of and exceptions to CME prescribed by §§445 and 447 and the special requirements attendant to initial renewal of licensure specified in §449, every physician seeking the renewal or reinstatement of licensure, to be effective on or after January 1, 2002, shall annually evidence and document, upon forms supplied by the board, the successful completion of not less than 20 hours of board approved CME.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000).

§437. Qualifying Continuing Medical Education Programs

A. Any program, course, seminar or other activity offering Category 1 CME shall be deemed approved for purposes of satisfying the continuing medical education requirements under this Subchapter, if sponsored or offered by:

1. an organization or entity accredited by the Accreditation Council for Continuing Medical Education (ACCME);

2. a member board of the American Board of Medical Specialties or a specialty board recognized by the AOA;

3. the American Academy of Family Physicians (AAFP);

4. the American College of Obstetricians and Gynecologists (ACOG);

5. the American Osteopathic Association (AOA); or

6. an organization or entity accredited by the Louisiana State Medical Society or any other ACCME recognized state medical society.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:695 (April 2000), amended LR 31:1584 (July 2005).

§439. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing medical education requirements prescribed by §§433-449, shall be mailed with each application for renewal or reinstatement of licensure form mailed by the board pursuant to §§417 or 419. Such form shall be completed and delivered to the board with the physician's application.

B. Physicians will not be required to transmit documentation of compliance with continuing medical education requirements for renewal or reinstatement of licensure, unless requested by the board pursuant to §439.E.

C. A physician shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing medical education activity. Satisfactory evidence shall consist of a certificate or other documentation which shall, at a minimum, contain the:

1. program title;

2. sponsor's name;

3. physician's name;

4. inclusive date or dates and location of the CME event; and

5. documented verification of successful completion of 20 hours of Category 1 CME by stamp, signature, official or other proof acceptable to the board.

D. The board shall select for an audit of continuing medical education activities no fewer than 2 percent of the applicants for renewal or reinstatement each year. In addition, the board has the right to audit any questionable documentation of activities.

E. Verification of continuing medical education satisfying the requirements of this Subchapter shall be submitted by a physician to the board within 30 days of the date of mailing of notification of audit or such longer period as the board my designate in such notification. A physician's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

F. Any certification of continuing medical education which is not approved by the board pursuant to §437 shall not be considered as qualifying for CME recognition by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000).

§441. Failure to Satisfy Continuing Medical Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing medical education requirements prescribed by these rules shall be given written notice of such failure by the board. Such notice shall be mailed to the most recent address of the licensee as reflected in the official records of the board. The license of the applicant shall remain in full force and effect for a period of 90 days following the mailing of such notice, following which such license shall be deemed expired, unrenewed and subject to revocation without further notice, unless the applicant shall have, within such 90 days, furnished the board satisfactory evidence by affidavit that:

1. the applicant has satisfied the applicable continuing medical education requirements;

2. the applicant's failure to satisfy the continuing medical education requirements was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §445; or

3. the applicant is exempt from such requirements pursuant to §447.

B. The license of a physician which has expired for nonrenewal or been revoked for failure to satisfy the CME requirements of §435 of these rules, may be reinstated pursuant to §419 upon written application to the board, accompanied by payment of the reinstatement fee required by §419, in addition to all other applicable fees and costs, together with documentation and certification that the applicant has, for each year since the date on which the applicant's license was last issued or renewed, completed an aggregate of 20 hours of board approved CME.

C. The license of a physician which has expired, has not been renewed or been revoked for failure to meet the requirements of §449, or one which has expired, has not been renewed or revoked on more than one occasion for failure to satisfy the CME requirements of §435 of these rules shall be deemed in violation of R.S. 37:1285.A(30), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and 37:1280.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000).

§443. Falsification of Continuing Medical Education

A. Any licensee or applicant who falsely certifies attendance at and/or completion of the required continuing medical education requirements of §§433-449 shall be deemed in violation of R.S. 37:1285.A(3), (4), (13) and/or (30), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on

any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000).

§445. Waiver of Requirements

A. The board may, in its discretion, waive all or part of the CME required by these rules in favor of a physician who makes written request to the board and evidences to its satisfaction a permanent physical disability, illness, financial hardship or other similar extenuating circumstances precluding the individual's satisfaction of CME requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:696 (April 2000).

§447. Exceptions to the Continuing Medical Education Requirements

A. Except as provided in §449, the CME requirements prescribed by this Subchapter prerequisite to renewal or reinstatement of licensure shall not be applicable to a physician:

1. engaged in military service longer than one year's duration outside of Louisiana;

2. who has held an initial Louisiana license on the basis of examination for less than one year;

3. who has within the past year been certified or recertified by a member board of the American Board of Medical Specialties or a specialty board recognized by the AOA;

4. who is in a residency training program approved by the board; or

5. who is a retired physician in accordance with §418 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:697 (April 2000), amended LR 31:1585 (July 2005).

§449. CME Requirement for Initial Renewal of License

A. Effective on and after January 1, 2002, every physician seeking the initial renewal of medical licensure, whether such license was originally issued by the board on the basis of examination, reciprocity or reinstatement shall, as part of the continuing medical education required by this Subchapter as a condition prerequisite to licensure renewal, evidence and document upon forms supplied by the board attendance at an orientation program sponsored and/or approved by the board.

B. The program required pursuant to §449.A shall be conducted at such locations, on such dates and at such times as may be designated by the board, shall consist of not less than two hours in duration and involve such content, topic and structure as the board may from time to time deem appropriate.

C. Notification of the dates, times and locations at which such programs will be offered, as well as the enrollment procedure, shall be mailed to the most recent address of each applicant subject to the requirements of §449.A as reflected in the official records of the board. A physician's failure to notify the board of a change of mailing address will not absolve the applicant of the requirement to attend a board sponsored/approved orientation program as a condition of approval of an initial request for licensure renewal.

D. A physician required to attend an orientation program pursuant to §449.A shall, for each hour of attendance as may be required by the board, be granted an hour-for-hour credit towards the annual CME requirement specified by §435.

E. A physician who at the time of the initial renewal of medical licensure resides and practices medicine exclusively outside of Louisiana or who has held an unrestricted license to practice medicine in any state for at least 10 years may, in lieu of personal attendance, satisfy the mandatory requirements of Subsection A of this Section by successfully completing the board's orientation program on-line in a manner specified by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 26:697 (April 2000), amended LR 27:850 (June 2001), LR 36:1243 (June 2010).

Chapter 40. Continuing Medical Education on Controlled Dangerous Substances

Subchapter A. General Provisions

§4001. Scope of Chapter

A. The rules of this Subchapter provide for the one-time continuing medical education (CME) requirement for controlled dangerous substances prerequisite to license renewal of an authorized prescriber, and prescribe definitions and the procedures applicable to approved/qualifying CME, credit for satisfaction, documentation, non-compliance, an exception and conflict resolution with other CME rules of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(8), 1270(B)(6), 37:621, 37:628, 37:1360.23 and 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:7710 (April 2018).

§4003. Definitions

A. As used in this Subchapter, the following terms and phrases shall have the meanings specified.

Authorized Prescriber—a physician, podiatrist, physician assistant, medical psychologist and any other category of health care provider as may hereafter be licensed by the board under this Part, whose scope of practice includes authority to prescribe, dispense, or administer CDS.

Board—the Louisiana State Board of Medical Examiners, as constituted under R.S. 37:1263.

Controlled Dangerous Substances or *CDS*—any substance defined, enumerated or included in federal or state statute or regulations 21 CFR §§1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(8), 1270(B)(6), 37:621, 37:628, 37:1360.23 and 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:771 (April 2018).

§4005. Continuing Medical Educational Requirement for Controlled Dangerous Substances

A. CME Requirement for Authorized Prescribers of CDS. Notwithstanding any other provision of this Part, every authorized prescriber seeking the renewal of a license for the first time on and after January 1, 2019, shall, as part of the CME required by this Part, and as a condition prerequisite to licensure renewal, successfully complete three hours of CME approved by the board on CDS prescribing practices (the CME requirement). Such CME shall include instruction relating to drug diversion training, best practices regarding prescribing of CDS, appropriate treatment for addiction and, for physicians, the treatment of chronic pain. The CME requirement may be satisfied by completing a three-hour CME program, three one-hour CME programs, or any other combination of CME programs totaling three-hours.

B. Approved/Qualifying Continuing Medical Education Programs. Any:

1. category 1 CME program sponsored or offered by an organization or entity approved under Sections 437, 1375, 1529.D or 3955 of this Part to sponsor or offer CME for purposes of license renewal of physicians, podiatrists, physician assistants, or medical psychologist, respectively, shall be deemed approved for purposes of satisfying the CME requirement provided:

a. the board or its designee determines the CME program adequately addresses the areas of required instruction set forth in Section 4005.A; and

b. such organization or entity is capable of submitting proof of an attendee's completion of the CME activity electronically to the board;

2. CME program developed by the board, whether category 1 or otherwise, shall be deemed approved for purposes of satisfying the CME requirement;

3. information on how to access approved, qualifying CME will be maintained by the board and made available on its website www.lsbme.la.gov.

C. CME Credit. An authorized prescriber required to complete the CME requirement shall receive an hour-for-hour credit towards the annual requirement for CME provided in this Part for license renewal.

D. Documentation:

1. authorized prescribers shall request the organization or entity sponsoring or offering the CME to submit proof of completion of the CME activity electronically to the board in a form and manner specified by the board;

2. an authorized prescriber shall maintain a record of completion of the CME activity for four years. Satisfactory evidence shall consist of a certificate or other documentation which shall, at a minimum, contain the:

a. program title(s);

b. sponsor(s) name;

c. attendee's name;

d. inclusive date or dates and location of the CME event; and

e. documented verification of successful completion of the CME activity by stamp, signature, official or other proof acceptable to the board;

3. if more than one CME activity is taken to meet the CME requirement a record of completion of each activity shall be maintained;

4. CME which is not approved by the board shall not satisfy the CME requirement.

E. Non-Compliance; Reinstatement of Licensure. The license of an authorized prescriber:

1. who fails to comply with the CME requirement shall not be renewed by the board;

2. which has not been renewed for failure to satisfy the CME requirement may be reinstated upon application to the board, accompanied by payment of the renewal fee required by Subpart 1 of these rules, in addition to all other applicable fees and costs, together with confirmation of completion of the CME required by this Section.

F. Exception. An authorized prescriber renewing his/her license for the first time on and after January 1, 2019, may be excused from the CME requirement upon the submission of certification, in a form and manner specified by the board, attesting that he/she has not prescribed, administered or dispensed any CDS during the entire year covered by the authorized prescriber's expiring license. The certification shall be verified by the board through the Louisiana Prescription Monitoring Program Act, R.S. 40:1001 et seq. An exempted individual who subsequently prescribes, administers or dispenses a CDS shall satisfy the CME requirement as a condition to license renewal for the year immediately following that in which the CDS was prescribed, administered or dispensed.

G. Conflict. In the event of a conflict between the provisions of this Section concerning the one-time CME requirement for CDS, and those of any other Section in this Part, the provisions of this Section shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(8), 1270(B)(6), 37:621, 37:628, 37:1360.23 and 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:771 (April 2018).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
Subpart 3. Practice
Chapter 42. Illegal Payments; Required Disclosures of Financial Interests; Prohibition on Rural Physician Self-Referral

§4201. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter interpret, implement, and provide for the enforcement of R.S. 37:1744 and R.S. 37:1745, requiring disclosure of a physician's financial interest in another health care provider to whom or to which the physician refers a patient and prohibiting certain payments in return for referring or soliciting patients.

B. Declaration of Purpose; Interpretation and Application. Physicians owe a fiduciary duty to patients to exercise their professional judgment in the best interests of their patients in providing, furnishing, prescribing, recommending, or referring patients for health care items and services, without regard to personal financial recompense. The purpose of these rules and the laws they implement is to prevent payments by or to a physician as a financial incentive for the referral of patients to a physician or other health care provider for diagnostic or therapeutic services or items. These rules shall be interpreted, construed, and applied so as to give effect to such purposes and intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744, 37:1745, and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1111 (October 1994).

§4203. Definitions and Construction

A. Definitions. As used in this Chapter:

Board—the Louisiana State Board of Medical Examiners.

Financial Interest—a significant ownership or investment interest established through debt, equity, or other means and held, directly or indirectly, by a physician or a member of a physician's immediate family, or any form of direct or indirect remuneration for referral.

Group Practice—a group of two or more physicians legally organized as a general partnership, registered limited liability partnership, professional medical corporation, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar organization or association:

a. in which each physician who is a member of the group provides substantially the full range of services which the physician routinely provides, including medical or podiatric care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel;

b. for which substantially all of the services of the physicians who are members of the group are provided through the group and are billed under a billing number assigned to the group and amounts so received are treated as receipts of the group;

c. in which the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined;

d. in which no physician who is a member of the group directly or indirectly receives compensation based on the volume or value of referrals by the physician, except payment of a share of the overall profits of the group, which may include a productivity bonus based on services personally performed or services incident to such personally performed services, so long as the share of profits or bonus is not determined in any manner which is directly related to the volume or value of referrals by such physician;

e. in which members of the group personally conduct no less than 75 percent of the physician-patient encounters of the group practice; and

f. in the case of a faculty practice plan associated with a hospital, institution of higher education, or medical school with an approved medical residency training program in which physician members may provide a variety of different specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, solely with respect to services provided within such faculty practice plan.

Health Care Item—any substance, product, device, equipment, supplies, or other tangible good or article which is or may be used or useful in the provision of health care.

Health Care Provider—any person licensed by a department, board, commission, or other agency of the state of Louisiana to provide, or which does in fact provide, preventive, diagnostic, or therapeutic health care services or items.

Immediate Family—as respects a physician, the physician's spouse, children, parents, and siblings.

Investment Interest—a security issued by an entity, including, without limitation, shares in a corporation, interests in or units of a partnership, bonds, debentures, notes, or other debt instruments.

Payment—the tender, transfer, distribution, exchange, or provision of money, goods, services, or anything of economic value.

Person—includes a natural person or a partnership, corporation, organization, association, facility, institution, or any governmental subdivision, department, board, commission, or other entity.

Physician—includes a doctor of medicine or a doctor of podiatric medicine.

Referral—any direction, recommendation, or suggestion given by a health care provider to a patient, directly or indirectly, which is likely to determine, control, or influence the patient's choice of another health care provider for the provision of health care services or items.

Remuneration for Referral—any arrangement or scheme, involving any remuneration, directly or indirectly, in cash or in kind, between a physician, or an immediate family member of such physician, and another health care provider which is intended to induce referrals by the physician to the health care provider or by the health care provider to the physician, other than any amount paid by an employer to an employee who has a bona fide employment relationship with the employer, for employment in the furnishing of any health care item or service.

B. Construction. Masculine terms wheresoever used in this Chapter shall be deemed to include the feminine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744, 37:1745, and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1111 (October 1994).

Subchapter A. Illegal Payments

§4205. Prohibition of Payments for Referrals

A. A physician shall not knowingly and willfully make or offer to make any payment, directly or indirectly, overtly or covertly, in cash or in kind, to induce another person to refer an individual to the physician for the furnishing or arranging for the furnishing of any health care item or service.

B. A physician shall not knowingly and willfully solicit, receive, or accept any payment, directly or indirectly, overtly or covertly, in cash or in kind, in return for referring a patient to a health care provider for the furnishing or arranging for the furnishing of any health care item or service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1112 (October 1994).

§4207. Exceptions

A. Proportionate Return on Investment. Payments or distributions by an entity representing a direct return on investment based upon a percentage of ownership shall not be deemed a payment prohibited by R.S. 37:1745(B) or by §4205 of these rules, provided that:

1. the amount of payment to an investor in return for the investment interest is directly proportional to the amount or value of the capital investment (including the fair market value of any pre-operational services rendered) of that investor;

2. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must be no different from the terms offered to other investors;

3. the terms on which an investment interest was or is offered to an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity must not be related to the previous or expected volume of referrals, items or services furnished, or the amount of business otherwise generated from that investor to the entity;

4. there is no requirement that an investor make referrals to, be in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity as a condition for becoming or remaining an investor;

5. the entity or any investor does not market or furnish the entity's items or services to investors differently than to non-investors; and

6. the entity does not loan funds to or guarantee a loan for an investor who is in a position to make or influence referrals to, furnish items or services to, or otherwise generate business for the entity if the investor uses any part of such loan to obtain the investment interest.

B. General Exceptions. Any payment, remuneration, practice, or arrangement which is not prohibited by or unlawful under §1128B(b) of the Federal Social Security Act (Act), 42 U.S.C. §1320a-7b(b), as amended, with respect to health care items or services for which payment may be made under Title XVIII or Title XIX of the Act, including those payments and practices sanctioned by the secretary of the United States Department of Health and Human Services, through the Office of Inspector General, pursuant to §1128B(b)(3)(E) of the Act, through regulations promulgated at 42 CFR §1001.952, as the same may hereafter be amended, shall not be deemed a payment prohibited by R.S. 37:1745.B or by §4205 of these rules with respect to health care items or services for which payment may be made by any patient or private or governmental payer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1112 (October 1994).

§4209. Effect of Violation

A. Any violation of or failure of compliance with the prohibitions and provision of §4205 of this Chapter shall be deemed a violation of the Medical Practice Act, R.S. 37:1285 or of the Podiatry Practice Act, R.S. 37:624, as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1745 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

Subchapter B. Disclosure of Financial Interests in Third-Party Health Care Providers

§4211. Required Disclosure of Financial Interest

A. Mandatory Disclosure. A physician shall not make any referral of a patient outside the physician's group practice for the provision of health care items or services by another health care provider in which the referring physician has a financial interest (as defined by §4203.A.3 and §4211.B), unless, in advance of any such referral, the referring physician discloses to the patient, in accordance with §4215 of this Chapter, the existence and nature of such financial interest.

B. Special Definition: Significant Financial Interest. As to a physician, an ownership or investment interest shall be considered "significant," within the meaning of §4211.A, if such interest satisfies any of the following tests.

1. Such interest, in dollar amount or value, represents five percent or more of the gross assets of the health care provider in which such interest is held.

2. Such interest represents five percent or more of the voting securities of the health care provider in which such interest is held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§4213. Prohibited Arrangements

A. Any arrangement or scheme, including cross-referral arrangements, which a physician knows or should know has a principal purpose of ensuring or inducing referrals by the

physician to another health care provider, which, if made directly by the physician would be a violation of §4211, shall constitute a violation of §4211.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§4215. Form of Disclosure

A. Required Contents. The disclosure required by §4211 of this Chapter shall be made in writing, shall be furnished to the patient, or the patient's authorized representative, prior to or at the time of making the referral, and shall include:

1. the physician's name, address, and telephone number;
2. the name and address of the health care provider to whom the patient is being referred by the physician;
3. the nature of the items or services which the patient is to receive from the health care provider to which the patient is being referred; and
4. the existence and nature of the physician's financial interest in the health care provider to which the patient is being referred.

B. Permissible Contents. The form of disclosure required by §4211 of this Chapter may include a signed acknowledgment by the patient or the patient's authorized representative that the required disclosure has been given.

C. Approved Form. Notice to a patient given substantially in the form of Disclosure of Financial Interest prescribed in the Appendix to these rules (§4219) shall be presumptively deemed to satisfy the disclosure requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§4217. Effect of Violation; Sanctions

A. Effect of Violation. Any violation of or failure of compliance with the prohibitions and provision of §4211 of this Chapter shall be deemed a violation of the Medical Practice Act, R.S. 37:1285 or of the Podiatry Practice Act, R.S. 37:624, as applicable, providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

B. Administrative Sanctions. In addition to the sanctions provided for by §4217, upon proof of violation of §4211 by a physician, the board may order that all or any portion of any amounts paid by a patient, and/or by any third-party payer on behalf of a patient, for health care items or services furnished upon a referral by the physician in violation of §4211, be refunded by the physician to such patient and/or third-party payer, together with legal interest on such payments at the rate prescribed by law calculated from the date on which any such payment was made by the patient and/or third-party payers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1113 (October 1994).

§4219. Appendix—Disclosure of Financial Interest Form

[Name of Physician/Group]
[Address]
[Telephone Number]

DISCLOSURE OF
FINANCIAL INTEREST
As Required by R.S. 37:1744 and
LAC 46:XLV.4211-4215

TO:_____
DATE: _____
(Name of Patient to Be Referred)
_____
(Patient Address)
_____

Louisiana law requires physicians and other health care providers to make certain disclosures to a patient when they refer a patient to another health care provider or facility in which the physician has a significant financial interest. [I am/we are] referring you, or the named patient for whom you are legal representative, to:

_____
(Name and Address of Provider to Whom Patient is Referred)
to obtain the following health care services, products, or items:

_____
(Purpose of the Referral)

[I/we] have a financial interest in the health care provider to whom we are referring you, the nature and extent of which are as follows:

_____
_____
_____

PATIENT ACKNOWLEDGEMENT

I, the above-named patient, or legal representative of such patient, hereby acknowledge receipt, on the date indicated and prior to the described referral, of a copy of the foregoing Disclosure of Financial Interest.

_____
(Signature of Patient or Patient's Representative)

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1744 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1114 (October 1994).

Subchapter C. Prohibition on Rural Physician Self Referral

§4231. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter implement enforcement of R.S. 37:1308, which prohibits physician referral of health care services to a healthcare facility, located within the primary service area of a rural hospital, in which the referring physician or an immediate family member of the referring physician maintains a direct or indirect ownership interest.

B. Declaration of Purpose. Interpretation and Application. Rural hospitals are an essential part of the healthcare delivery system in this state. For many, rural hospitals and the full time emergency room services they offer provide the only healthcare services readily available. The development of healthcare facilities that duplicate services in the primary service areas of rural hospitals endangers their continued existence by reducing revenue and potentially leading to the closure or reduction of access to hospital and emergency room services. The purpose of these rules and the laws they implement is to encourage innovative collaboration between and among rural hospitals and physicians in the delivery of services in rural areas. These rules shall be interpreted, construed, and applied so as to give effect to such purposes and intent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:438 (March 2008).

§4233. Definitions and Construction

A. Definitions. As used in this Chapter the following terms shall have the following meanings unless the context requires otherwise.

Board—the Louisiana State Board of Medical Examiners.

Commercially Reasonable Terms and C*onditions*—those terms and conditions that would be reasonable to a prudent individual operating a business of similar type and size as a rural hospital even in the absence of referrals to the rural hospital or healthcare facility by a physician who owns, or whose immediate family member owns, an interest in the healthcare facility in which the rural hospital has been offered the opportunity to participate as an owner. The provisions of 42 U.S.C. 1395nn, and the regulations and regulatory guidance promulgated and issued by the Centers for Medicare and Medicaid Services and its predecessor or successor, shall be considered in determining whether terms and conditions are commercially reasonable.

Department—the Louisiana Department of Health and Hospitals.

Healthcare Facility—an independent diagnostic testing facility, magnetic resonance imaging equipment or facility, computerized tomography equipment or facility, Positron Emission Tomography scanner or facility, an ambulatory surgical center licensed by the department, or any outpatient surgical facility required to be licensed by the department as an ambulatory surgical center in order to obtain certification by Medicare as an ambulatory surgical center. However, the term *healthcare facility* shall not mean:

a. a rural hospital that existed on April 1, 2006, or that replaces a rural hospital that existed on April 1, 2006;

b. a rural hospital that is a replacement facility of a rural hospital that was damaged by Hurricane Rita or Hurricane Katrina;

c. an entity owned or operated by the state of Louisiana or the United States;

d. a physician's practice or a physician group practice, when such practice is owned and operated exclusively by physicians for the purpose of providing healthcare services and is not licensed or Medicare-certified as a rural health clinic;

e. any facility under development, including services provided by a mobile unit that is part of an existing facility as of April 1, 2006, or operating as of April 1, 2006. A facility shall be considered under development if:

i. a representative of the facility has, prior to April 1, 2006, filed a license application with the department for the establishment of the proposed healthcare facility;

ii. the facility can demonstrate that a minimum of $25,000 in architectural or engineering expenses have been incurred in connection with the proposed facility prior to April 1, 2006; or

iii. the facility has received a certificate of occupancy; or

f. any community health care clinic or rural health clinic.

Healthcare Services—magnetic resonance imaging services, computerized tomography services, Positron Emission Tomography scanner services, ultrasound services, any other imaging services that have become generally accepted methods of providing imaging services after April 17, 2006, as determined by the department, any services rendered by an ambulatory surgical center licensed by the department, or any services rendered by an outpatient surgical facility required to be licensed by the department as an ambulatory surgical center in order to obtain certification by Medicare as an ambulatory surgical center.

Immediate Family Member—husband or wife, birth or adoptive parent, child, or sibling, stepparent, stepchild, stepbrother or stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, grandparent or grandchild, and spouse of grandparent or grandchild.

Primary Service Area—the smaller of either a radius of twenty-five miles from a rural hospital's main campus or the area represented by the number of postal zip codes, commencing with the rural hospital's zip code, in which seventy-five percent of a rural hospital's patients reside, as determined by using data derived from the hospital's most recent twelve month Medicare cost reporting period. In determining the primary service area, each outpatient encounter and each inpatient stay shall be viewed as a separate patient, and the zip code attributable to the patient shall be the zip code of the patient at the time of the inpatient stay or outpatient encounter. Primary service area descriptions published by the department in the *Louisiana Register* shall be utilized in determining primary service areas. However, the term *primary service area* shall not include the cities of Alexandria, Baton Rouge, Bossier City, Covington, Hammond, Houma, Kenner, Lafayette, Lake Charles, Mandeville, Monroe, New Iberia, New Orleans, Opelousas, Ponchatoula, Ruston, Shreveport, Slidell, Thibodaux, or West Monroe.

Proposing Party—a person or entity that offers to enter into a joint venture with a rural hospital as well as any person or entity related to the proposing party by common ownership or control as such terms are defined for purposes of 42 C.F.R. 413.17, or its successor provision.

Rural Hospital—shall be defined as provided for in R.S. 40:1300.143, as such law existed on April 1, 2006.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:438 (March 2008).

§4235. Physician Prohibitions

A. Except as provided in §4337 of this Subchapter, no physician shall make a referral to any healthcare facility for the receipt of healthcare services in which the referring physician or an immediate family member of the referring physician maintains a direct or indirect ownership interest. The prohibition contained in this Section shall only apply if both of the following conditions are met:

1. the physician provides professional medical services within the primary service area of a rural hospital; and

2. the healthcare facility in which the physician or any immediate family member of the physician maintains a direct

or indirect ownership is located within the primary service area of any rural hospital.

B. No physician who refers a patient to a healthcare facility in contravention of this Section shall bill any patient, third party payer, or any other entity for healthcare services provided by the physician to the patient at the time during which the referral was made in violation of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:439 (March 2008).

§4237. Exceptions

A. The prohibitions contained in Section 4235 of this Subchapter shall not apply to healthcare services furnished by a healthcare facility provided that:

1. the rural hospital in whose primary service area such facility is located is offered the option to participate in the ownership of the healthcare facility on commercially reasonable terms and conditions that are conveyed in a written offer by the proposing party;

2. the offer is priced commensurate with the interest offered, whether such purchase price is in the form of cash or debt, and the interest offered is not less than a majority interest in the healthcare facility;

3. the rural hospital accepts or rejects the offer in writing within 90 days of receipt from the proposing party after being provided an opportunity to review the following with respect to the proposed healthcare facility:

a. a bona fide business plan, including a financial feasibility study;

b. pro forma income and balance sheets; and

c. a sources and uses of funds analysis;

4. the closing of the acquisition of the ownership interest occurs within 90 days of written acceptance of the offer unless delayed by mutual consent of the rural hospital and proposing party; and

5. the rural hospital and proposing party act in good faith in accordance with the requirements of Civil Code Article 1759.

B. The prohibitions contained in Section 4235 of this Subchapter shall not be applicable until and unless *primary service area descriptions* are published in the *Louisiana Register* in accordance with R.S. 37:1309B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:439 (March 2008).

§4239. Effect of Violations; Sanctions

A. Any violation or failure of compliance with the provisions of this Subchapter shall be deemed a violation of the Medical Practice Act, R.S. 37:1285, providing cause for the board to suspend the license of a physician culpable of such violation or take such other action as the board may deem appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1306-1310.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:440 (March 2008).

Chapter 65. Dispensation of Medications

Subchapter A. General Provisions

§6501. Scope of Chapter

A. The rules of this Chapter govern the dispensation of drugs, chemicals, and medications by physicians. These rules are not intended to alter or modify the effect or applicability of state and federal laws and regulations governing the acquisition, possession, maintenance, prescription, dispensation, or administration of, or accounting for, legally controlled substances and other drugs and medications, but are complimentary and supplementary to such laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987).

§6503. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

Administer—with respect to a medication provided or dispensed by a physician for use by a patient, the term *administered* means directly or through an agent to give, provide, or supply for immediate oral ingestion, insertion, or topical application by the patient, or to insert, apply topically, or inject intravenously, intramuscularly, subcutaneously, intrathecally, or extrathecally.

Board—the Louisiana State Board of Medical Examiners.

Bona Fide Medication Sample—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.

Controlled Substance—any medication or other substance which is designated as a controlled substance and regulated as such under Louisiana or federal law or regulations.

Dispense—with respect to a drug, chemical, medication, or controlled substance, the term *dispense* means to give, provide, or supply for later oral ingestion, insertion, application, injection, or other use.

Drug—synonymous with *medication*, as defined herein.

Drugs of Concern—carisoprodol, dezocine, nalbuphine and tramadol and such other non-controlled substances, as defined by rule, which demonstrate a potential for abuse.

Medical Firm—a partnership of physicians engaged in the practice of medicine in the state of Louisiana or a corporation lawfully organized, existing, and engaged in the practice of medicine in the state of Louisiana pursuant to the Professional Medical Corporations Act, as the same may be amended from time to time, as codified at R.S. 12:901-15.

Medical Practice Act or *the Act*—may be amended from time to time, as codified at R.S. 37:1261-92.

Medication—any chemical, potion, compound, mixture, suspension, solution, or other substance or material, natural or synthetic, recognized and listed in the official United States Pharmacopoeia, which is lawfully produced, manufactured,

sold, or provided and intended and approved for medical, diagnostic, therapeutic, or preventative use in and by humans.

Physician—a person lawfully entitled to engage in the practice of medicine in the state of Louisiana, as evidenced by a current license or permit duly issued by the board.

Registrant—a physician who is registered with the board as a dispensing physician in accordance with Subchapter C of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:1193 (June 2004), LR 34:1626 (August 2008), repromulgated LR 34:1905 (September 2008).

§6504. Clinical Trials

A. *Clinical Trial Research*—for purposes of this Chapter, means a clinical study conducted by a physician in accordance with United States Food and Drug Administration protocols involving an investigational drug, which is not a controlled substance, and is supplied to participants at no cost.

B. A dispensing registration shall not be required for a physician engaged in clinical trial research.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 36:1244 (June 2010).

Subchapter B. Prohibitions, Sanctions and Exceptions

§6505. Prohibitions

A. No physicians shall dispense any medication, other than a bona fide medication sample, except in strict compliance with the Louisiana and federal law and regulations applicable thereto and with the rules of this Chapter.

B. On and after December 1, 1987, no physician shall dispense any medication, other than a bona fide medication sample, unless he is currently registered with the board as a dispensing physician, in accordance with Subchapter C of this Chapter, and the physician's dispensation of medications is within the scope of such registration.

C. No physician shall dispense any medication except in the usual and ordinary course of his medical practice for a legitimate medical purpose.

D. No physician shall dispense any medication upon the prescription of another practitioner.

E. Except as provided in §6506 of this Subchapter, a registrant shall not dispense any controlled substance or drug of concern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1626 (August 2008), repromulgated LR 34:1905 (September 2008).

§6506. Exceptions

A. Notwithstanding §6505.E of this Subchapter, a registrant may dispense up to a single 48 hour supply of a single controlled substance or drug of concern to a patient.

B. The prohibition contained in §6505.E of this Subchapter shall not apply to a registrant:

1. practicing in a facility maintained or operated by the state of Louisiana or a governmental entity of this state;

2. practicing in a clinic maintained or operated by the United States or by any of its departments, offices or agencies;

3. practicing in a substance abuse or addiction treatment facility licensed by the Louisiana Department of Health and Hospitals; or

4. engaged in clinical research or investigational studies regulated by the U.S. Food and Drug Administration, in compliance with all applicable state and federal laws, rules and regulations.

C. Upon written application by a physician to the board made in accordance with this Subsection the board may, with respect to an identified individual patient:

1. authorize a physician to depart from the dispensing limitation prescribed by §6506.A of this Subchapter. Such application shall contain:

a. a statement by the physician of the specific manner in which the physician proposes to deviate from the provisions of this Subchapter respecting the dispensing limitation on controlled substances and drugs of concern, together with a statement by the physician of the medical facts and circumstances deemed by the physician to justify such departure; and

b. such other information and documentation as the board may request;

2. the board may deny, grant, or grant in part any application for exception in an individual case made under this Section. The board's action on any such application shall be stated in writing and shall specify the manner and extent to which the physician shall be authorized to depart from the provisions of §6506.A of this Subchapter and the period of time during which such authorized exception shall be effective. A physician who makes application to the board under this Section shall not deviate from the prohibitions, conditions, and limitations provided in §6506.A of this Subchapter except following receipt of written authorization from the board or other than pursuant to the specifications and limitations of such authorization.

D. Notwithstanding §6505.E of this Subchapter, a registrant may dispense up to a single seven day supply of a non-narcotic, non-anorectic schedule V controlled substance for the purpose of assessing a therapeutic response when prescribed according to indications approved by the United States Food and Drug Administration and:

1. the medication is prepackaged by the original manufacturer;

2. the prepackaged medication is provided at no cost to a dispensing physician for dispensation to a patient at no cost to the patient; and

3. the dispensing physician submits all required information regarding each dispensation to the Louisiana Board of Pharmacy in accordance with the Prescription Monitoring Program Act, R.S. 40:1001 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1626 (August 2008), repromulgated LR 34:1905 (September 2008), amended LR 39:1047 (April 2013).

§6507. Action against Medical License

A. Violation of the prohibitions set forth in §6505, or providing false or misleading statements in connection with any application required by this Subchapter, shall be deemed to constitute just cause for the suspension, revocation, refusal to issue, or the imposition of probationary or other restrictions on any license or permit to practice medicine in the state of Louisiana held or applied for by a physician culpable of such violation, or for other administrative action as the board may in its discretion determine to be necessary or appropriate, under R.S. 37:1285.A.(3), R.S.37:1285.A.(4), R.S. 37:1285.A.(6), and R.S. 1285.A.(30), respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:1248 (July 1999), LR 28:2352 (November 2002).

§6509. Action against Registration

A. For noncompliance with any of the provisions of this Chapter, the board may, in addition to or in lieu of administrative proceedings pursuant to the preceding paragraph, suspend, revoke, or cancel a physician's registration as a dispensing physician or impose such restrictions or conditions on the physician's authority to dispense medications as the board may deem necessary or appropriate.

B. The board may suspend, revoke, or cancel a physician's registration as a dispensing physician or impose such restrictions or conditions on the physician's authority to dispense medications as the board may deem necessary or appropriate, upon a finding of the existence of any of the causes enumerated by R.S. 37:1285.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987).

§6511. Reinstatement of Registration

A. The board may reinstate any registration which has been suspended, revoked, canceled, conditioned, or restricted by the board; provided, however, that no registration which has been revoked or canceled shall be reinstated by the board within five years of the effective date of such revocation or cancellation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987).

Subchapter C. Registration

§6513. Eligibility for Registration as a Dispensing Physician

A. To be eligible for registration as a dispensing physician for all medication, including but not limited to controlled substances and drugs of concern, a physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine duly issued by the board;

2. have been in the active practice of medicine for not less than three years following the date on which the physician was awarded a doctor of medicine or doctor of osteopathy degree;

3. not currently be enrolled in a medical residency or other post graduate medical training program; and

4. possess a current, unrestricted license to prescribe, dispense, and administer controlled substances duly issued by the Office of Narcotics and Dangerous Drugs, Department of Health and Human Resources, state of Louisiana, and be currently registered to prescribe, dispense, and administer controlled substances, without restriction, with the Drug Enforcement Administration, United States Department of Justice.

B. A physician shall be deemed ineligible for registration as a dispensing physician who:

1. has been convicted, whether upon verdict, judgment, or plea of guilty or nolo contendere, of any crime constituting a felony under the laws of the United States or of any state, or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

2. has been convicted, whether upon verdict, judgment, or plea of guilty or nolo contendere, of any crime an element of which is the manufacture, production, possession, use, distribution, sale or exchange of any controlled substance or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

3. has, within the five years preceding application for registration, abused or excessively used any medication, alcohol, or other substance which can produce physiological or psychological dependence or tolerance or which acts as a central nervous system stimulant or depressant;

4. has voluntarily surrendered or had suspended, revoked or restricted, his narcotics controlled substance license, permit or registration (state or federal);

5. has had his professional license suspended, revoked or placed on probation or restriction in any manner by the board or by any licensing authority, or who has agreed not to seek re-licensure, voluntarily surrendered, or entered into an agreement with the board or with any licensing authority in lieu of the institution of disciplinary charges or action against such license;

6. has had an application for professional examination or license rejected or denied;

7. has been denied, had suspended, revoked, restricted, or relinquished, staff or clinical privileges at any hospital or other health care institution while under investigation for, or as a result of, the physician's competency or conduct;

8. has been, or is currently in the process of being, denied, terminated, suspended, refused, limited, placed on probation or under other disciplinary action with respect to his participation in any private, state, or federal health insurance program; or

9. has had any court determine that he is currently in violation of a court's judgment or order for the support of dependent children.

C. The board may deny registration to an otherwise eligible physician for any of the causes enumerated by R.S. 37:1285 or any other violation of the provisions of the Medical Practice Act.

D. The burden of satisfying the board as to the qualifications and eligibility of the physician-applicant for

registration as a dispensing physician shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by, and to the satisfaction of, the board.

E. To be eligible for registration as a dispensing physician for all medication except controlled substances and drugs of concern, a physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine duly issued by the board;

2. have successfully completed a graduate medical education training program approved by the board;

3. successfully complete on-line or other training offered by the board respecting its dispensing rules; and

4. not be deemed ineligible for registration as a dispensing physician for any of the causes set forth in §6513.B-D of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1201.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:570 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:1249 (July 1999), LR 28:2352 (November 2002), LR 39:3290 (December 2013).

§6515. Registration Procedure

A. Application for registration as a dispensing physician shall be made upon forms supplied by the board.

B. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1626 (August 2008), repromulgated LR 34:1906 (September 2008).

§6517. Original Application

A. An application for registration as a dispensing physician under this Chapter shall include:

1. the applicant's full name, home address, and the municipal and post office addresses of each office or other location at which the applicant practices medicine in the state of Louisiana;

2. the name, municipal and post office address of the medical firm or firms, if any, with which the applicant is associated, and the full names of all physician partners or employees of such firm or firms;

3. the applicant's Louisiana controlled dangerous substance license number and the applicant's United States Drug Enforcement Agency (DEA) controlled substance registration number;

4. the municipal and post office addresses and telephone number of each location at which the applicant dispenses or proposes to dispense medications;

5. a designation of the schedules, classes, types, or specific medications which the applicant dispenses or proposes to dispense;

6. certification by affidavit or other proof, documented in a form satisfactory to the board as specified by the secretary, that the applicant possess the qualifications for registration set forth by this Chapter; and

7. such other information and documentation as the board may require to evidence qualification for registration as a dispensing physician.

B. The board may refuse to consider any application which is not complete in every detail and may, in its discretion require a more detailed or complete response to any request for information set forth in the application form as a condition to consideration of an application.

C. Each original or initial application for registration as a dispensing physician shall be accompanied by a fee of $75.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:571 (October 1987).

§6519. Effect of Application

A. The submission of an application for registration as a dispensing physician shall have the same effect as the submission of an application for medical licensure, as provided in Board Rule 365 (to be codified at §1145 of these rules).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:572 (October 1987).

§6521. Certification of Registration

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§6513 to 6517 are met to the satisfaction of the board, the board shall issue to the applicant certification of registration as a dispensing physician bearing the Dispensing Physician Registration Number (DPRN). The original of such certificate, or a duplicate thereof certified by the board, shall be maintained at each location at which the registrant dispenses medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:572 (October 1987).

§6523. Expiration of Registration

A. Registration with the board as a dispensing physician under this Chapter shall expire, and thereby become null, void, and to no effect, on the last day of the year for which such registration was made and certified.

B. Notwithstanding the provisions of §6523.A, every registration issued by the board under this Chapter, to be effective on or after January 1, 1999, and each year thereafter, shall expire, and thereby become null, void and to no effect the following year on the first day of the month in which the registrant was born.

C. The timely submission of an application for renewal of registration as a dispensing physician, as provided by §6525 of this Chapter, shall operate to continue the expiring registration in effect pending certification of renewal registration or other final action by the board on such application for renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:572 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998).

§6525. Renewal of Registration

A. Registration as a dispensing physician under this Chapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, upon forms supplied by the board, together with a registration renewal fee of $50.

B. Notwithstanding the provisions of §6525.A, every registration issued by the board under this Chapter to be effective on or after January 1, 1999, shall be renewed in the year 2000, and each year thereafter, on or before the first day of the month in which the registrant was born. Renewal fees shall be prorated if the registration is to be effective for more than one year.

C. An application for registration renewal form shall be mailed by the board to each registrant at least 30 days prior to the expiration of the registration each year. Such form shall be mailed to the most recent address of each registrant as reflected in the official records of the board.

D. Registration as a dispensing physician which has expired by virtue of nonrenewal shall not be reinstated by the board except upon the applicant's satisfaction of the qualifications, requirements and procedures prescribed by this Chapter for original application for registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:572 (October 1987), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998).

Subchapter D. Recordkeeping

§6527. Purchases, Acquisitions

A. Each registrant shall maintain current, accurate, complete, and readily retrievable records of all transactions by which the registrant orders, purchases, acquires, receives, or otherwise comes into possession or custody of medications, other than bona fide medication samples, for dispensation or administration to patients.

B. The records required to be maintained by this Section shall include:

1. a record of each order, purchase, or other acquisition made or placed by the registrant for medications, including:

a. a photocopy, counterfoil carbon copy, or other duplicate of each original order or purchase form;

b. the full name and address of the person, firm, or entity from whom the medications were ordered, purchased, or otherwise acquired;

c. the date of the order, purchase, or other acquisition; and

d. the generic chemical or trade name, quantity, or amount, and dosage strength of each medication ordered, purchased, or otherwise acquired; and

2. a record of the delivery or receipt by the registrant of medications ordered, purchased, or otherwise acquired, including:

a. the original, photocopy, counterfoil carbon copy, or other duplicate of each receiving invoice for medications;

b. the full name and address of the person, firm, or entity from whom the medications were delivered or received;

c. the date of the delivery or receipt; and

d. the generic chemical or trade name, quantity or amount, and dosage strength of each medication delivered or received; and

e. the name of the person taking physical delivery or receipt of such medications on behalf of the registrant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:572 (October 1987).

§6529. Medication Inventories

A. Each registrant shall maintain current, accurate, and complete records, in writing or electronically recorded so as to be readily convertible into writing, of the generic chemical or trade name, and exact quantity or amount and location of all medications in the registrant's possession or custody, which records shall, not less frequently than monthly, be updated to reflect and account for all purchases, acquisitions, dispensations, transfers, losses of, or other transactions involving the medications in the registrant's possession.

B. Not less frequently than quarterly during each calendar year, each registrant shall conduct or cause to be conducted a physical inventory of all medications in the possession or custody of the registrant for each location at which the registrant maintains or stores medications and shall conduct reasonable inquiry to determine and to record the nature and cause of any discrepancy between such physical inventory and the kind and amount of medications evidenced by the records required under the preceding paragraph of this Section. A record of each such quarterly physical inventory and reconciliation shall be made and retained by the registrant.

C. A registrant shall conduct or cause to be conducted a physical inventory of all medications in the possession or custody of the registrant for each location at which the registrant maintains or stores medication and shall conduct reasonable inquiry to determine and to record the nature and cause of any discrepancy between such physical inventory and the kind and amount of medications evidenced by the records required under §6529.A, within 20 days of the date on which:

1. a registrant's license to practice medicine or registration as a dispensing physician is suspended, revoked, canceled, or expires by virtue of nonrenewal;

2. the registrant terminates, concludes, sells, assigns, or retires from his practice of medicine; or

3. medications in the registrant's possession are seized under executory process, sequestration, attachment, bankruptcy, or by authority of any federal, state, or local regulatory or law enforcement agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:572 (October 1987).

§6531. Dispensation Records

A. Each registrant shall, concurrently with the dispensation or administration of any medication, record the generic chemical or trade name of any medication dispensed or administered, other than bona fide medication samples, the quantity or amount and dosage strength of such medication, the date on which such medication was dispensed or administered, and the full name and address of the patient to whom or for whom such medication was dispensed or administered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6533. Other Transaction Records

A. A registrant shall, concurrently with the transfer or delivery of any medication in his possession to any other location or with the sale, delivery, return, or other transfer of any medication to any other registrant, physician, person, firm, or entity, other than by dispensation to a patient, record the generic chemical or trade name of any medication so sold, delivered, returned, or transferred, the quantity or amount and dosage strength of such medication, the date on which such medication was sold, delivered, returned, or transferred, and the name, address, and DEA registration number of the person, firm, or entity to whom such medication was sold, delivered, returned, or otherwise transferred.

B. Each registrant shall, with respect to any medication intentionally disposed of or destroyed, concurrently with such destruction or disposal, record the generic chemical or trade name, quantity or amount, and dosage strength of such medication, the date of its destruction or disposal and the reasons for or circumstances surrounding its destruction or disposal.

C. A registrant shall record the generic chemical and trade name, quantity and amount, and dosage strength of any medication lost, stolen, accidentally destroyed, or otherwise unaccounted for, together with the date of and reasons for or circumstances surrounding such loss, theft, accidental destruction, or other such disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6535. Separate Maintenance Records for Schedule II Substances

A. All records required to be maintained by this Subchapter relating to medications designated as Schedule II controlled substances by state or federal law or regulations shall be maintained separately from all such records relating to other medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6537. Computerized Records

A. Any record required by this Subchapter, other than original or duplicate order and receiving invoice forms and prescriptions, may be recorded and stored on a computerized, electronic data processing system provided that such system is designed so as to ensure that the records and information so recorded are accurate, complete, and readily retrievable and convertible to hard copy printout and provided further that such system satisfies standards of security prescribed by §§6549 to 6551.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6539. Retention of Records

A. All records and documents required by this Subchapter shall be securely maintained, in accordance with the standards of security prescribed by §6547, for a period of not less than five years from the date on which the subject data is first recorded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6541. Board Access to Records

A. The records required by this Subchapter shall be available for examination, inspection, copying, and verification of accuracy, currency, and completeness by the board or its designated employee or agent at any reasonable time, but without the necessity of prior notice by the board. The failure or refusal of a registrant to make such records available to the board pursuant to this Section shall constitute a violation of these rules subjecting the registrant to suspension or revocation of medical licensure or registration as a dispensing physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

Subchapter E. Labeling and Packaging

§6543. Labeling

A. No registrant shall dispense any medication, other than a bona fide medication sample, unless the bottle, package, or other container for such medication bear a securely-affixed indelible, legible, typewritten, or printed label including:

1. the name and address of the registrant;
2. the name of the patient to whom or for whom dispensed;
3. the generic chemical or trade name, quantity or amount, dosage form, and strength of the medication dispensed;
4. the date of dispensation; and
5. appropriate directions for self-administration, ingestion, insertion, application, or injection by the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6545. Packaging for Dispensation

A. Medications shall be dispensed in such bottles, containers, or other packages as may be reasonably necessary or appropriate to safeguard the dispensed medication against contamination, adulteration or deterioration, or spillage or other inadvertent loss.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

Subchapter F. Security

§6547. Storage of Medications

A. All medications in the possession of a registrant shall be physically stored and maintained in such location and in

such manner as to reasonably secure all such medications against contamination, adulteration, deterioration, loss, accidental destruction, theft, and access or use by unauthorized persons.

B. Medications which are Schedule II controlled substances shall, in addition, be stored and maintained in a metal cabinet, box, safe, vault, or other container of suitable strength and in such location as to safeguard such medication against loss or destruction by fire, flood, or other accidental causes. Such repository shall further be equipped with a secure lock so as to prevent theft of or unauthorized access to or use of such medications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6549. Security for Records

A. The records and documents required under Subchapter D of these rules shall be kept, stored, and maintained in such location and manner as to reasonably secure such records and documents against lost, destruction, theft, or access by unauthorized persons.

B. All records and documents required under Subchapter D of these rules relating to Schedule II controlled substances shall be kept, stored, and maintained in such manner and in such location as is specified by §6547 for the storage of Schedule II controlled substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

§6551. Maintenance of Computerized Records

A. Records, information, and data recorded and stored on computerized, electronic data processing equipment, as permitted by this Chapter, shall be periodically, and not less frequently than monthly, duplicated on electronic/magnetic media or converted to hard copy printout, and such duplicate media or printout shall be stored and maintained separately from the central or original data memory in accordance with the standards of security prescribed by §6549.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:573 (October 1987).

Subchapter G. Reporting

§6553. Theft or Unexplained Loss of Controlled Substances

A. Any theft or unexplained loss of controlled substances in the possession of a registrant shall be reported by the registrant to the board, in writing, within 10 days of the date of the registrant's discovery of such theft or loss, but in no event later than 10 days following the completion of the quarterly physical inventory next following such theft or loss. Such written report shall state the date or estimated date of such theft or loss, the generic chemical or trade name, amount or quantity, and dosage form and strength of any medications stolen or lost and a detailed description of the circumstances surrounding the theft or loss.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

§6555. Termination of Practice or Dispensation

A. Not later than 10 days following the date on which a registrant terminates, concludes, sells, assigns, or retires from his practice of medicine or ceases dispensation and administration of medications, the registrant shall report the same to the board in writing. Upon completion of the physical inventory and reconciliation required in such event by §6529 hereof, the registrant shall deliver to the board a copy of such physical inventory record and reconciliation, together with his certificate of registration as a dispensing physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

§6557. Diversion of Medications

A. A registrant shall immediately report to the board, in writing, any known or reasonably suspected instance of diversion of medications to unauthorized use or possession by any patient or any other person.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

§6559. Other Reporting Requirements Unaffected

A. The reporting requirements imposed by this Subchapter do not relieve a registrant of any other reporting requirements imposed by existing state or federal laws or regulations.

B. Any report required by this Subchapter which is also required to be made in substantially the same form and content to any other regulatory or law enforcement agency by state or federal law or regulations may be made by submitting to the board, within the time prescribed by this Subchapter, a photocopy or other duplicate of the reporting form submitted or to be submitted to any such state or federal agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

Subchapter H. Registrant Responsibilities

§6561. Personal Responsibility

A. A registrant is personally responsible for knowledge of and compliance with the provisions, requirements, and procedures set forth in this Chapter and with knowledge of and compliance with all other federal, state, and local laws and regulations applicable to the purchase, acquisition, possession, storage, maintenance, and dispensation of and recordkeeping and reporting for medication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1204.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

Chapter 69. Prescription, Dispensation, and Administration of Medications

Subchapter A. Medications Used in the Treatment of Obesity

§6901. Scope of Subchapter

A. The rules of this Subchapter govern physician prescription, dispensation, administration, or other use of medications for weight control or weight reduction in the medical treatment of obesity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6), and 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:744 (July 1992).

§6903. Definitions

A. As used in this Subchapter, the following terms shall have the meanings specified.

Anorectic—a drug, medication, or substance used or intended for use as an appetite suppressant.

Schedule II Controlled Substance—any substance so classified under and pursuant to regulations of the Drug Enforcement Administration (DEA), U.S. Department of Justice, 21 CFR §1308.12, or any substance which may hereafter be so classified by amendment or supplementation of such regulation.

Schedule III Anorectic—benzphetamine, phendimetrazine, and any other substance now or hereafter classified as a Schedule III controlled substance under and pursuant to Federal DEA regulations, 21 CFR §1308.13, and which is indicated for use in the treatment of exogenous obesity by express approval of the U.S. Food and Drug Administration (FDA).

Schedule IV Anorectic—fenfluramine, dexfenfluramine, phentermine, diethylpropion, mazindol, and any other substance now or hereafter classified as a Schedule IV controlled substance under and pursuant to federal DEA regulations, 21 CFR §1308.14 and which is indicated for use in the treatment of exogenous obesity by express approval of the FDA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6), and 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:744 (July 1992), amended LR 23:1146 (September 1997).

§6905. Prohibitions Error! Bookmark not defined.

A. Absolute Prohibitions. A physician shall not prescribe, dispense, administer, supply, sell, give, or otherwise use to or for any person for the purpose of weight control or weight reduction in the treatment of obesity any amphetamine, dextroamphetamine, methamphetamine, or phenmetrazine drug or compound; any Schedule II controlled substance; human chorionic gonadotropin (HCG); thyroid hormones; diuretic medications; or any drug, medication, compound, or substance which is not indicated for use in the treatment of exogenous obesity by express approval of the U.S. Food and Drug Administration (FDA).

B. Schedule III-IV Anorectics. A physician shall not prescribe, dispense, or administer Schedule III or Schedule IV anorectics for the purpose of weight reduction or control in the treatment of obesity other than in strict conformity with each of the conditions and limitations prescribed by §6907 of this Subchapter.

C. When a non-controlled drug has been approved in the treatment of exogenous obesity by the FDA, the prohibitions in Subsection A of this Section shall not prevent the individual components of such drug from being separately prescribed, dispensed or administered for the treatment of obesity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6), and 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:744 (July 1992), amended by the Department of Health, Board of Medical Examiners, LR 42:2197 (December 2016).

§6907. Use of Schedule III-IV Anorectics; Conditions; Limitations

A. General Conditions. A physician shall not prescribe, dispense, or administer a Schedule III or Schedule IV anorectic for the purpose of weight reduction or control in the treatment of obesity, except as an adjunct to a therapeutic regimen of weight reduction based on prescribed sound nutrition, caloric restriction, exercise, and behavior modification and otherwise in accordance with the FDA-approved indications for the medication and contraindications for unapproved combinations of anorectic agents. Schedule III-IV anorectics may be prescribed, dispensed, or administered only to an adult patient who is obese under recognized generally accepted criteria for determining obesity, whose obesity is exogenous and not primarily metabolic, who is not pregnant, who does not suffer from or have any disease or condition constituting a recognized contraindication for use of the substance, and who otherwise satisfies the conditions requisite to treatment with anorectics as prescribed by this Section.

B. Requisite Prior Conditions. Before initiating treatment utilizing a Schedule III or IV anorectic with respect to any patient, a physician shall:

1. obtain a thorough prior history, including the patient's weight loss/gain history and prior efforts at weight reduction;

2. perform a thorough and complete physical examination;

3. determine that the patient is a proper candidate for weight reduction treatment and that the patient's obesity is not primarily metabolic;

4. rule out the presence of conditions recognized as contraindicating the use of anorectic medications, including, without limitation, pregnancy, hypertension, and hypersensitivity or idiosyncrasy to anorectics;

5. determine whether the patient has a history of or any tendency or propensity toward abuse of drugs, including alcohol;

6. determine that the patient has made a substantial good-faith effort at weight reduction under a bona fide program not utilizing anorectics;

7. take reasonable measures to ensure that the patient has not previously, in the course of treatment by one or more other practitioners, or otherwise, obtained and used anorectics in excess of the quantitative and durational limitations on the use of anorectics prescribed by §6907.E; and

8. provide the patient with a carefully prescribed diet, together with counseling on exercise and, as appropriate, other supportive or behavioral therapy.

C. Initiation of Anorectic Use. Upon completion and satisfaction of the conditions prescribed by §6907.A and B and upon the physician's judgment that the prescription, dispensation, or administration of an anorectic medication is medically warranted, the physician shall initiate anorectic treatment with the lowest dosage expected to be effective, as indicated by the manufacturer's FDA-approved dosage recommendation, employing a Schedule IV anorectic in preference to a Schedule III anorectic and refraining from use of Schedule III anorectics until and unless the anorectic initially used proves ineffective.

D. Continued Use of Anorectics. During the continued use of anorectics as permitted in this Section, and subject to the limitations prescribed in §6907.E, the physician shall monitor the patient's progress closely and frequently, shall re-examine the patient not less frequently than monthly during such continued use and shall continue use of anorectics only if, upon each such re-examination, the patient demonstrates continued clinically significant weight loss since the prior examination.

E. Limitations on Use. A physician shall not prescribe or dispense Schedule III or IV anorectics to any patient:

1. in dosage greater than the maximum dosage indicated by the anorectic manufacturer's FDA-approved dosage recommendation;

2. in number or dosage units greater than an amount sufficient for use of the anorectic for a period of 30 days; or

3. for an aggregate period in excess of 12 weeks during any 12-month period; provided, however, that this limitation shall not be applicable with respect to Schedule IV anorectics.

F. Termination of Anorectic Use. Without regard to the permissible limitations otherwise prescribed by §6907.E, a physician shall refuse to initiate or re-initiate or shall terminate the use of anorectics with respect to a patient on any date that the physician determines, becomes aware, knows, or should know that:

1. the patient is not a proper candidate for the use of anorectics under the conditions and limitations prescribed by this Section;

2. the patient has failed to demonstrate clinically significant weight loss since anorectics were last prescribed, dispensed, or administered to the patient by the physician;

3. the patient has developed tolerance to the appetite suppressant effect of the anorectic or has experienced euphoria followed by irritability or depression;

4. the patient has engaged in excessive use, misuse, or abuse of the anorectic or has otherwise consumed or disposed of the anorectics or any other controlled substance other than in strict compliance with the directions and indications for use given by the physician; or

5. the patient did not demonstrate clinically significant weight loss during a prior term of use of anorectics within the limitations of §6907.E.3 hereof.

G. Treatment Records. Satisfaction of each of the conditions and requirements prescribed by this Section, all material elements of the patient's history, all significant findings from physical examination and diagnostic testing, and all medication and other treatment, including diet, prescribed by the physician, shall be accurately and completely recorded, documented, and dated, in writing, by the physician in the patient's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6), and 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:744 (July 1992), amended LR 23:1146 (September 1997).

§6909. Exemption of Controlled Scientific Studies

A. The prohibitions, conditions, and limitations on the use of Schedule III and Schedule IV anorectic medications prescribed by §6905.B and §6907 of this Subchapter shall not be applicable to a physician engaged in the conduct of a controlled scientific study of the efficacy of such medications in the medical treatment of obesity, provided that the physician is employed by or otherwise officially affiliated with an accredited medical school or college or other institution of higher learning located in the state of Louisiana, such study is conducted under the auspices of such school, college, or institution, and the interim and final results of such study are furnished to the board in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6), and 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board Of Medical Examiners, LR 18:744 (July 1992).

§6911. Exceptions in Individual Cases

A. Availability of Exceptions. Upon written application to the board made in accordance with this Subsection, the board may authorize a physician, with respect to an identified individual patient, to exceed or otherwise depart from the prohibitions, conditions, and limitations on the use of Schedule III or Schedule IV anorectics otherwise prescribed by §6905.B and §6907 of this Subchapter.

B. Form, Content of Application for Exception. An application for board approval of an individual exception from the provisions of this Subchapter shall be submitted to the board's medical consultant in writing and shall contain:

1. individual identification of the patient to whom the physician proposes to prescribe, dispense, or administer anorectics other than in accordance with the provisions of this Subchapter;

2. a summary of the patient's medical and weight loss/gain history;

3. a complete copy of the patient's medical record, including a record of all anorectic medications prescribed, dispensed, or administered to or for the patient within 24 months prior to the application;

4. a statement by the physician of the specific manner in which the physician proposes to deviate from the provisions of this Subchapter respecting the prescription, dispensation, and administration of anorectic medications, together with a statement by the physician of the medical facts and circumstances deemed by the physician to justify such departure; and

5. such other information and documentation as the board or its medical consultant may request.

C. Board Action. The board may deny, grant, or grant in part any application for exception in an individual case made under this Section. The board's action on any such application shall be stated in writing and shall specify the manner and extent to which the physician shall be authorized to depart from the provisions of this Subchapter and the period of time during which such authorized exception shall be effective. A physician who makes application to the board under this Section shall not deviate from the prohibitions, conditions, and limitations provided in this Subchapter except following receipt of written authorization from the board or other than pursuant to the specifications and limitations of such authorization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6), and 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:745 (July 1992).

§6913. Effect of Violation

A. Any violation of or failure of compliance with the provisions of this Subchapter, §§6901-6913, shall be deemed a violation of R.S. 37:1285.A(6) and (29), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license or permit held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6), and 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:746 (July 1992).

Subchapter B. Medications Used in the Treatment of Non-Cancer-Related Chronic or Intractable Pain

§6915. Scope of Subchapter Error! Bookmark not defined.

A. The rules of this Subchapter govern physician responsibility for providing effective and safe pain control for patients with noncancer-related chronic or intractable pain.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 23:727 (June 1997), amended LR 26:693 (April 2000).

§6917. Definitions

A. As used in this Subchapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Board—the Louisiana State Board of Medical Examiners.

Chronic Pain—pain which persists beyond the usual course of a disease, beyond the expected time for healing from bodily trauma, or pain associated with a long term-incurable or intractable medical illness or disease.

Controlled Substance—any substance defined, enumerated or included in federal or state statute or regulations 21 C.F.R. §§1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

Diversion—the conveyance of a controlled substance to a person other than the person to whom the drug was prescribed or dispensed by a physician.

Intractable Pain—a chronic pain state in which the cause of the pain cannot be eliminated or successfully treated without the use of controlled substance therapy and, which in the generally accepted course of medical practice, no cure of the cause of pain is possible or no cure has been achieved after reasonable efforts have been attempted and documented in the patient's medical record.

Noncancer-Related Pain—that pain which is not directly related to symptomatic cancer.

Physical Dependence—the physiological state of neuroadaptation to controlled substance which is characterized by the emergence of a withdrawal syndrome if the controlled substance use is stopped or decreased abruptly, or if an antagonist is administered. Withdrawal may be relieved by readministration of the controlled substance.

Physician—physicians and surgeons licensed by the Board.

Protracted Basis—utilization of any controlled substance for the treatment of noncancer-related chronic or intractable pain for a period in excess of 12 weeks during any 12-month period.

Substance Abuse (may also be referred to by the term *Addiction*)—a compulsive disorder in which an individual becomes preoccupied with obtaining and using a substance, despite adverse social, psychological, and/or physical consequences, the continued use of which results in a decreased quality of life. The development of controlled substance tolerance or physical dependence does not equate with substance abuse or addiction.

Tolerance—refers to the physiologic state resulting from regular use of a drug in which an increased dosage is needed to produce the same effect or a reduced effect is observed with a constant dose. Controlled substance tolerance refers to the need to increase the dose of the drug to achieve the same level of analgesia. Controlled substance tolerance may or may not be evident during controlled substance treatment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 23:727 (June 1997), amended LR 26:693 (April 2000).

§6919. General Conditions/Prohibitions

A. The treatment of noncancer-related chronic or intractable pain with controlled substances constitutes legitimate medical therapy when provided in the course of professional medical practice and when fully documented in the patient's medical record. A physician duly authorized to practice medicine in Louisiana and to prescribe controlled substances in this state shall not, however, prescribe, dispense, administer, supply, sell, give, or otherwise use for the purpose of treating such pain, any controlled substance unless done in strict compliance with applicable state and federal laws and the rules enumerated in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6) and 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners LR 23:727 (June 1997), amended LR 26:694 (April 2000).

§6921. Use of Controlled Substances, Limitations

A. Requisite Prior Conditions. In utilizing any controlled substance for the treatment of noncancer-related chronic or intractable pain on a protracted basis, a physician shall comply with the following rules.

1. Evaluation of the Patient. Evaluation of the patient shall initially include relevant medical, pain, alcohol and substance abuse histories, an assessment of the impact of pain on the patient's physical and psychological functions, a review of previous diagnostic studies, previously utilized therapies, an assessment of coexisting illnesses, diseases, or conditions, and an appropriate physical examination.

2. Medical Diagnosis. A medical diagnosis shall be established and fully documented in the patient's medical record, which indicates not only the presence of noncancer-related chronic or intractable pain, but also the nature of the underlying disease and pain mechanism if such are determinable.

3. Treatment Plan. An individualized treatment plan shall be formulated and documented in the patient's medical record which includes medical justification for controlled substance therapy. Such plan shall include documentation that other medically reasonable alternative treatments for relief of the patient's noncancer-related chronic or intractable pain have been considered or attempted without adequate or reasonable success. Such plan shall specify the intended role of controlled substance therapy within the overall plan, which therapy shall be tailored to the individual medical needs of each patient.

4. Informed Consent. A physician shall ensure that the patient and/or his guardian is informed of the benefits and risks of controlled substance therapy. Discussions of risks and benefits should be noted in some format in the patient's record.

B. Controlled Substance Therapy. Upon completion and satisfaction of the conditions prescribed in §6921.A, and upon a physician's judgment that the prescription, dispensation, or administration of a controlled substance is medically warranted, a physician shall adhere to the following rules.

1. Assessment of Treatment Efficacy and Monitoring. Patients shall be seen by the physician at appropriate intervals, not to exceed 12 weeks, to assess the efficacy of treatment, assure that controlled substance therapy remains indicated, and evaluate the patient's progress toward treatment objectives and any adverse drug effects. Exceptions to this interval shall be adequately documented in the patient's record. During each visit, attention shall be given to the possibility of decreased function or quality of life as a result of controlled substance treatment. Indications of substance abuse or diversion should also be evaluated. At each visit, the physician should seek evidence of under treatment of pain.

2. Drug Screen. If a physician reasonably believes that the patient is suffering from substance abuse or that he is diverting controlled substances, the physician shall obtain a drug screen on the patient. It is within the physician's discretion to decide the nature of the screen and which type of drug(s) to be screened.

3. Responsibility for Treatment. A single physician shall take primary responsibility for the controlled substance therapy employed by him in the treatment of a patient's noncancer-related chronic or intractable pain.

4. Consultation. The physician should be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention should be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder may require extra care, monitoring, documentation, and consultation with or referral to an expert in the management of such patients.

5. Medications Employed. A physician shall document in the patient's medical record the medical necessity for the use of more than one type or schedule of controlled substance employed in the management of a patient's noncancer-related chronic or intractable pain.

6. Treatment Records. A physician shall document and maintain in the patient's medical record, accurate and complete records of history, physical and other examinations and evaluations, consultations, laboratory and diagnostic reports, treatment plans and objectives, controlled substance and other medication therapy, informed consents, periodic assessments, and reviews and the results of all other attempts at analgesia which he has employed alternative to controlled substance therapy.

7. Documentation of Controlled Substance Therapy. At a minimum, a physician shall document in the patient's medical record the date, quantity, dosage, route, frequency of administration, the number of controlled substance refills authorized, as well as the frequency of visits to obtain refills.

C. Termination of Controlled Substance Therapy. Evidence or behavioral indications of substance abuse or diversion of controlled substances shall be followed by

tapering and discontinuation of controlled substance therapy. Such therapy shall be reinitiated only after referral to and written concurrence of the medical necessity of continued controlled substance therapy by an addiction medicine specialist, a pain management specialist, a psychiatrist, or other substance abuse specialist based upon his physical examination of the patient and a review of the referring physician's medical record of the patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6), and 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:727 (June 1997), amended LR 26:694 (April 2000).

§6923. Effect of Violation

A. Any violation of or failure of compliance with the provisions of this Subchapter, §§6915-6923, shall be deemed a violation of R.S. 37:1285.A(6) and (14), providing cause for the board to suspend or revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6), and 37:1285(B).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:728 (June 1997), amended LR 26:695 (April 2000).

Subchapter C. Mandatory Access and Review of Prescription Monitoring Program Data

§6931. Scope of Subchapter

A. The rules of this Subchapter provide for prescriber mandatory access and review of the Louisiana Prescription Monitoring Program, R.S. 40:1001 et seq., as from time-to-time may be amended (PMP), and for exceptions and non-compliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628, 37:1360.23, and 40:978.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:271 (February 2018).

§6933. Definitions

A. As used in this Subchapter, the following terms and phrases shall have the meanings specified.

Administer—with respect to a medication provided or dispensed by a prescriber for use by a patient, the term *administer* means directly or through an agent to give, provide, or supply for immediate oral ingestion, insertion, or topical application by the patient, or to insert, apply topically, or inject intravenously, intramuscularly, subcutaneously, intrathecally, or extrathecally.

Board—the Louisiana State Board of Medical Examiners, as constituted under R.S. 37:1263.

Controlled Dangerous Substance—any substance defined, enumerated or included in federal or state statute or regulations 21 CFR §§1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations and statute.

Delegate—an individual authorized by a prescriber or dispenser who is also authorized to access and retrieve prescription monitoring program data for the purpose of assisting the prescriber or dispenser, and for whose actions the authorizing prescriber or dispenser retains accountability.

Prescribe—to issue a request or order for a drug or medical device by an individual licensed under this Part for a legitimate medical purpose. The act of prescribing must be in good faith and in the usual course of the licensee's professional practice.

Prescriber—a physician, podiatrist, physician assistant, and any other category of health care provider as may hereafter be licensed by the board under this Part, whose scope of practice includes authority to prescribe opioids.

Prescription—an order from a practitioner authorized by law to prescribe for a drug or device that is patient specific and is communicated by any means to a pharmacist in a permitted pharmacy.

Prescription Monitoring Program or *PMP*—the electronic system for the monitoring of controlled substances and other drugs of concern established by the Prescription Monitoring Program Act, R.S. 40:1001 et seq., as may from time-to-time be amended.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628, 37:1360.23, and 40:978.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:271 (February 2018).

§6935. Mandatory Access and Review of Prescription Monitoring Program Data; Exceptions

A. Prior to initially prescribing any opioid to a patient, a prescriber or his/her delegate shall access and review the patient's record in the PMP; and

B. If opioids are prescribed to the patient for more than 90 days, the prescriber or his/her delegate shall access and review the record in the PMP at least every 90 days.

C. This Section shall not apply if:

1. the drug is prescribed or administered to a hospice patient or any other patient who has been diagnosed as terminally ill;

2. the drug is prescribed or administered for the treatment of cancer-related chronic or intractable pain;

3. the drug is ordered or administered to a patient being treated in a hospital;

4. the PMP is not accessible or not functioning properly due to an electronic issue. However, the prescriber shall check the PMP after electronic accessibility has been restored and note the cause for the delay in the patient's chart; or

5. no more than a single seven-day supply of the drug is prescribed or administered to a patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628, 37:1360.23, and 40:978.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:271 (February 2018).

§6937. Effect of Non-Compliance

A. For non-compliance with any of the provisions of this Subchapter the board may suspend, revoke, refuse to issue or impose probationary or other terms, conditions and restrictions on any license to practice in the state of Louisiana, or any registration issued under this Part, held or applied for by:

1. a physician culpable of such violation under R.S. 37:1285(A);

2. a podiatrist culpable of such violation under R.S. 37:624(A); and

3. a physician assistant culpable of such violation under R.S. 37:1360.33.

Chapter 71. Integrative and Complementary Medicine

Subchapter A. General Provisions

§7101. Scope of Chapter

A. The rules of this Chapter govern physician use of integrative or complementary medicine in the treatment of patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1589 (July 2002).

§7103. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Board—the Louisiana State Board of Medical Examiners.

Controlled Substance—any substance defined, enumerated or included in federal or state regulations or statute 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Conventional or Conventional Medicine—diagnostic methods or therapies offered or employed by a physician, or under his on-site supervision and direction, in the diagnosis, prevention or treatment of any illness, disease or condition which are generally accepted and recognized as falling within the standard of care in the course of medical practice based upon medical training, experience and peer reviewed scientific literature.

Integrative or Complementary Medicine—diagnostic methods or therapies offered or employed by a physician, or under his on-site supervision and direction, in addition or as an alternative to conventional medicine methods or therapies, in the diagnosis, prevention or treatment of any illness, disease or condition which do not, in the judgment of the physician, pose a safety risk for a patient that is greater than conventional medicine methods or therapies and provided there exists a reasonable probability for diagnostic or therapeutic effectiveness in its intended use. Integrative or complementary medicine does not include the use of controlled substances in the treatment of patients suffering from chemical dependency.

On-Site Supervision and Direction—medical functions or procedures performed under physician supervision and direction by an appropriately trained and qualified non-physician in the course and scope of his or her employment or contractual relationship with a physician, when such physician is physically present on the premises at all times that such non-physician is on duty and retains full responsibility to patients and the board for the manner and results of all services rendered. On-site supervision and direction shall not be construed under any circumstances to permit a non-physician to act independently of a physician or exercise independent medical judgment in rendering a diagnosis, prescribing medication or in implementing modalities of diagnosis or treatment.

Physician—a person possessing a current license issued by the board to practice medicine in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1589 (July 2002).

§7105. General Conditions/Prohibitions

A. The use of integrative or complementary medicine for the diagnosis or treatment of any illness, disease or condition, constitutes legitimate medical therapy when provided in the course of professional medical practice, complies with the standard of care applicable to conventional medicine practitioners, and when fully documented in the patient's medical record. Any physician utilizing integrative or complementary medicine shall do so in strict compliance with the rules enumerated in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1589 (July 2002).

§7107. Use of Integrative or Complementary Medicine; Limitations

A. Requisite Prior Conditions. Any physician offering or utilizing integrative or complementary medicine shall comply with the following rules.

1. Evaluation of the Patient. Prior to offering integrative or complementary medicine a physician shall perform an evaluation of the patient that shall include but not be limited to any conventional methods of diagnosis which, in the judgment of the physician, are deemed necessary or appropriate to the condition of the patient. Such an evaluation shall include:

a. a relevant medical history;

b. an appropriate physical examination; and

c. a review of the results of any relevant diagnostic studies or therapies undertaken or previously attempted.

2. Medical Diagnosis. A medical diagnosis shall be established by the physician and documented in the patient's medical record, which indicates the nature of the patient's illness, disease, condition or other reason for which treatment is being sought if such is determinable.

3. Treatment Plan. A treatment plan by which progress or success can be evaluated with stated objectives shall be formulated by the physician which is tailored to the individual

needs of the patient and documented in the patient's medical record. Such plan shall include documentation of:

a. whether conventional or complementary methods of diagnosis or treatment for the current complaint or condition have been considered, are being undertaken or have been attempted without adequate or reasonable success or a statement that the patient has refused such methods;

b. consideration for the need for conventional testing, consultation, referral or treatment when indicated;

c. the intended role of integrative or complementary medicine within the overall plan; and

d. whether integrative or complementary medicine offered or utilized could interfere with any ongoing conventional therapy.

4. Informed Consent. A physician shall inform a patient or his guardian of each of the following, which discussions shall be noted in some form in the patient's record:

a. his education, experience and credentials regarding any integrative or complementary medicine which is recommended; and

b. the risks and benefits of both conventional medicine and integrative or complementary medicine incorporated within each treatment plan.

B. A physician shall inform the patient that his recommendation for the use of a particular drug, substance or medical device for diagnosis or treatment of the patient's illness, disease or condition is investigational, experimental, new, unconventional or unproven.

C. Initiation of Integrative or Complementary Medicine. Upon completion and satisfaction of the conditions prescribed in §7107.A.-B, and upon a physician's judgment that integrative or complementary medicine is warranted for purposes of diagnosis or treatment, a physician shall adhere to the following rules.

1. Assessment of Treatment Efficacy and Monitoring. Patients shall be seen by the physician at intervals appropriate to the danger or safety risk of the diagnostic methods or therapy provided, to assess the efficacy thereof, assure that all treatment recommended or prescribed remains indicated and evaluate the patient's progress toward treatment objectives and any adverse effects. During each visit attention should be given to the need for additional methods of diagnosis, consultation, referral or treatment. Lack of progress from integrative or complementary medicine therapy, or a worsening of symptoms, signs or prognosis, shall indicate the need to revise the treatment plan.

2. Consultation. Physicians shall refer a patient as necessary for additional evaluation or treatment by conventional or integrative or complementary methods, particularly in those patients who are at risk from a potentially life-threatening illness, disease or condition.

3. Medication/Medical Devices Employed. A physician shall document in the patient's medical record the medical rationale for the use of any medication or substance, including a controlled substance, and any medical device employed in the diagnosis or treatment of a patient's illness, disease or condition. The use of controlled substances for the treatment of obesity and chronic or intractable pain shall be in conformity with §6901 et seq., and §6915 et seq., respectively, of the board's rules.

4. Treatment Records. A physician shall document and maintain in the patient's medical record, accurate and complete records of history, physical and other examinations and diagnostic evaluations, consultations, laboratory and diagnostic reports, treatment plans and objectives, medications, including controlled substances, informed consents, periodic assessments and the results of all conventional and integrative or complementary medicine therapies utilized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1589 (July 2002).

§7109. Effect of Violation

A. Any violation or failure of compliance with the provisions of this Chapter, shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285.A(13) and (30) respectively, as well as violation of any other applicable provision of R.S. 37:1285.A, providing cause for the board to suspend, revoke, refuse to issue, or impose probationary or other restrictions on any license held or applied for by a physician to practice medicine in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1590 (July 2002).

Subchapter B. Integrative or Complementary Medicine Advisory Committee

§7111. Organization, Authority and Responsibilities

A. Constitution. An Integrative and Complementary Medicine Advisory Committee (the "advisory committee") to the board is hereby constituted to be composed, appointed and to have such functions as hereinafter provided.

B. Composition and Qualifications. The advisory committee shall be comprised of up to five physicians each of whom shall be in good standing with the board, have practiced and resided within the state of Louisiana for not less than one year, possess experience in and have specialized in integrative or complementary medicine for not less than three years.

C. Appointment; Term of Service. Of the board's initial appointments, two members of the advisory committee will be appointed to serve terms expiring on the last day of the year of appointment with the remaining members to serve terms expiring on the last day of the year succeeding the year of appointment. Thereafter, each member of the advisory committee shall serve a term of two years or until his or her successor is appointed. Advisory committee members shall be eligible for reappointment. All members of the advisory committee shall serve and be subject to removal at any time at the pleasure of the board. Members appointed to the advisory committee to fill a vacancy occurring other than by expiration of the designated term shall serve for the unexpired term. Other than the initial appointments provided for herein, board appointments to the advisory committee shall be effective when made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the year following the date of appointment.

D. Functions and Responsibilities of the Committee. The advisory committee is responsible and authorized by the board to:

1. provide advice and recommendations to the board respecting the modification, amendment and supplementation of rules and regulations, standards of care and policies and procedures respecting integrative or complementary medicine;

2. advise, assist and provide the board with such information and expertise as it may request and upon which it may rely, with respect to investigative and/or disciplinary proceedings affecting physicians utilizing integrative or complementary medicine;

3. serve as a liaison between the board and physicians practicing integrative or complementary medicine;

4. perform such other functions and provide such additional advice and recommendations as may be requested by the board; and

5. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board.

E. Confidentiality. In discharging the functions authorized under §7111, the advisory committee and the individual members thereof, when acting within the scope of such authority, shall be deemed agents of the board. All information obtained by the advisory committee members pursuant to §7111.D of this Chapter or otherwise shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, its employees or agents, any information or documents obtained when acting as agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1590 (July 2002).

Chapter 72. Consultation or Collaboration with Medical Psychologists

Subchapter A. General Provisions

§7201. Preamble and Scope of Subchapter

A. Pursuant to Act 11 of the 2004 session of the Louisiana Legislature, the Louisiana Psychology Practice Act was amended to include, among other items, R.S. 37:2375C(1), which provides: "A medical psychologist holding a valid certificate to prescribe shall prescribe only in consultation and collaboration with the patient's primary or attending physician, and with the concurrence of that physician. The medical psychologist shall also re-consult with the patient's physician prior to making changes in the patient's medication regimen, including dosage adjustments, adding or discontinuing a medication. The medical psychologist and the physician shall document the consultation in the patient's medical record."

B. Pursuant to the authority granted by R.S. 37:1270(B)(6), and in the interest of promoting the public health, safety, and welfare, the rules of this Chapter are adopted by the Louisiana State Board of Medical Examiners to govern the practice of physicians in this state who consult and collaborate with a medical psychologist with respect to a patient of the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1529 (August 2009).

§7203. Definitions

A. As used in this Chapter, the following words and terms shall have the meanings specified.

Active Clinical Relationship—shall mean that the physician has seen the patient professionally *e.g.,* examined, diagnosed and/or treated the patient within the past 12 months.

Board—the Louisiana State Board of Medical Examiners, as constituted in the Act.

Concurrence or Concur—a physician's agreement to a plan for psychopharmacological management of a patient based on prior discussion with an MP.

Consultation and Collaboration with an MP or *Consult and/or Collaborate*—that practice in which a physician discusses and, if deemed appropriate, concurs in an MP's plan for psychopharmacologic management of a patient for whom the physician is the primary or attending physician.

Controlled Substance—any substance defined, enumerated, or included in federal or state statute or regulations 21 C.F.R. 1308.11-.15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Discussion—a communication between a physician and a medical psychologist conducted in person, by telephone, in writing or by some other appropriate means.

Drug—shall mean the same as the term "drug" as defined in R.S. 40:961(16), including controlled substances except narcotics, but shall be limited to only those agents related to the diagnosis and treatment of mental and emotional disorders as defined in R.S. 37:2352(5).

Medical Practice Act or *the Act*—R.S. 37:1261-92 as may be amended from time to time.

Medication—is synonymous with *drug*, as defined herein.

Medical Psychologist or *MP*—a psychological practitioner who has undergone specialized training in clinical psychopharmacology, passed a national proficiency examination in psychopharmacology approved by the board and holds a current license to practice medical psychology in this state, duly issued by the board.

Medical Psychology Practice Act, or *MP Act*—Acts 2009, No. 251, R.S. 37:1360.51-1360.72.

Narcotics—natural and synthetic opioid analgesics, and their derivatives used to relieve pain.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license duly issued by the board.

Primary or Attending Physician—a physician who has an active clinical relationship with a patient and is: principally responsible for the health care needs of the patient; or currently attending to the health care needs of the patient; or considered by the patient to be his or her primary or attending physician.

Psychopharmacologic Management—the treatment and/or management of mental or emotional disorders with medication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1529 (August 2009).

§7205. General Conditions

A. A physician shall only consult and collaborate with an MP provided such is performed in the course of his or her professional practice, documented in the patient's medical record, and in compliance with all of the requirements specified by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1529 (August 2009), amended LR 37:898 (March 2011).

§7207. General Prohibitions

A. A physician shall not consult and collaborate, as defined in §7203 of these rules:

1. if the physician is no longer engaged in the clinical practice of medicine and the provision of patient care in this state;

2. on any patient for whom the physician is not the primary or attending physician;

3. with a psychologist who is not an MP;

4. with more than one MP on the same patient;

5. if he or she is aware that more than one primary or attending physician is consulting or collaborating with the MP on the same patient at the same time;

6. with respect to the treatment of any condition other than mental and emotional disorders;

7. with respect to controlled substances if the physician's controlled substance privileges, registration or permit has been suspended, revoked or restricted by the board or other state or federal authorities;

8. with respect to narcotics; or

9. with an MP who seeks to utilize controlled substances for the treatment of:

a. non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's rules; or

b. obesity, as set forth in §§6901-6913 of the board's rules.

B. Physicians and MPs providing coverage call for a colleague, those providing rotating coverage for a patient in the same clinical setting, and those consulted by a physician or MP with respect to a given patient, are exempt from the limitations provided in Paragraphs A.2, 4 and 5 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1529 (August 2009), amended, LR 37:898 (March 2011).

§7209. Authority, Responsibility and Limitations

A. Consultation and Collaboration. Consultation and collaboration shall include discussion of any item the physician considers relevant to the coordination of the patient's medical care or evaluation of the psychopharmacologic management planned by the MP. The physician's consultation shall be documented in the patient's medical record and include, at a minimum:

1. Patient Authorization. A physician shall not consult and collaborate without the patient's written authorization to provide and/or receive from the MP any documents or records the physician may deem necessary throughout the course of psychopharmacologic management. A physician shall either obtain such authorization directly or document the MP's verification that the MP has done so and request and obtain a copy for his medical record on the patient;

2. Patient Identity, Date and Parties. The patient's name, current addresses and telephone number; the date of the consult; and the MP's name and telephone number shall be clearly identified. If the physician is unfamiliar with the MP, the physician shall also verify that the MP holds a current certificate of prescriptive authority;

3. Purpose. The purpose for the consult (e.g., new medication; change in medication; discontinuance of medication; adverse treatment effects; treatment failure; change in mental status; etc.);

4. Psychological Evaluation and Diagnosis. If known, the MP's psychological evaluation of the patient, including any relevant psychological history, laboratory or diagnostic studies; the MP's psychological diagnosis; and any other information the physician may deem necessary for the coordination of medical care of the patient;

5. Medication. The specific drug(s) the MP plans to utilize, including the starting dosage and titration plan, if any; frequency of use; the number of refills and anticipated duration of therapy; relevant indications and contraindications; any previously utilized psychopharmacologic therapy; and any alternatives;

6. Treatment Plan. The MPs treatment and/or management plan for the patient;

7. Results of Consultation. The results of the consultation (e.g., concurrence, deferring or denying medication recommended by the MP);

8. Responsibilities. Any specific responsibilities of the physician and MP respecting the patient's care;

9. Reporting. Any reporting and documentation requirements the physician may request of the MP and/or a schedule by which such are to take place; and

10. Immediate Consultation. A plan to accommodate immediate consultation between the physician, MP and/or the patient.

B. Denying or Deferring Concurrence. If, following discussion, the physician does not concur or believes that there is a need for further medical evaluation or information before concurring in the psychopharmacologic management planned by the MP (e.g., that the patient may be suffering from a condition that may be primarily physiological; physician assessment or additional laboratory or diagnostic testing is indicated; information has been requested from the MP or the patient for prior review; etc.), the physician shall deny concurrence of the psychopharmacologic management planned by the MP or shall defer concurrence until and unless the physician determines that such is appropriate for the patient.

C. Concurrence in Psychopharmacologic Management. Upon completion and satisfaction of the conditions prescribed in Subsection 7209.A of this Section, and upon a physician's judgment that the psychopharmacologic management planned by an MP is medically appropriate, the physician may concur. Thereafter, continued coordination of the patient's medical care shall include consultation and collaboration and other activities as the physician may deem appropriate including, but not limited to, the following:

1. Assessment of Treatment Efficacy. A physician shall see any patient subject to consultation or collaboration with an MP at least once every 12 months to assess the medical efficacy of the treatment and assure such treatment remains medically indicated. In the event the psychopharmacologic management includes a Schedule II or III controlled substance, the physician shall see the patient at least once every 6 months.

2. Treatment records. A physician shall document and maintain in the medical record of a patient subject to consultation and collaboration:

a. accurate and complete records of all consultations with the MP including, but not limited to each of the items specified in 7209.A;

b. copies of all consultations and documentation received from the MP; and

c. history, physical and other examinations and evaluations, consultations, laboratory and diagnostic reports, diagnoses, treatment plans and objectives, psychopharmacologic and other medication therapy, informed consents, and the results of periodic assessments and reviews.

D. Responsibility for Treatment. A physician shall retain professional responsibility to his or her patients for consultation and collaboration with an MP.

E. Consultation or collaboration with an MP is personal to the physician. A physician shall not authorize a non-physician to consult with an MP on his or her behalf.

F. Consultation and Collaboration. All adjustments or changes in the patient's medication subsequent to initial concurrence of psychopharmacologic management, including dosage adjustments or adding or discontinuing a medication, shall be preceded by consultation and collaboration with the MP that includes, but is not limited to, updating the information required by Subsection 7209.A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1530 (August 2009).

§7211. Withdrawal or Termination of Concurrence

A. A physician shall notify an MP and his patient in a timely manner that he or she has withdrawn or terminated concurrence if:

1. the physician determines that the medication prescribed is no longer appropriate or is contraindicated;

2. the physician receives information indicating that the patient is non-compliant with the treatment prescribed and questions relating to such non compliance cannot be addressed satisfactorily upon further consultation with the MP;

3. the MP fails or refuses to provide requested documentation or other information that may impact the physician's decision to concur or continue to concur in the psychopharmacologic management planned by the MP;

4. adjustments or changes were made to the patient's psychopharmacologic management by the MP without consultation and collaboration;

5. the physician becomes aware of information that would prohibit consultation and collaboration under §7207 of this Chapter;

6. the physician is advised of the patient's election to withdraw from psychopharmacologic management by an MP, or to withdraw his or her authority for the physician or the MP to consult and collaborate;

7. the physician retires or withdraws from clinical practice in this state or relocates his or her practice to a location that would render continuing care of the patient impractical; or

8. the physician's license is suspended, revoked or restricted in a manner that would prohibit consulting and collaborating with an MP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1531 (August 2009).

§7213. Informed Consent

A. A physician shall not consult and collaborate with an MP without the patient's written authorization as set forth in Subparagraph 7209.A.1.

B. A physician shall insure that each of his or her patients subject to consultation and collaboration with an MP is informed:

1. of the relationship between the physician and MP and the respective role of each with respect to the patient's psychopharmacologic management;

2. that he or she may decline to participate in such a practice and may withdraw at any time without terminating the physician-patient relationship;

3. of the physician's decision to deny or withdraw from consultation and collaboration with an MP; and

4. by written disclosure, of any contractual or financial arrangement that may impact the physician's decision to engage in consultation and collaboration with an MP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:2371-2378.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1531 (August 2009).

§7215. Reporting Obligations

A. A physician who consults and collaborates with a MP should report to the board all instances in which he or she has a good faith reason to believe that the MP has:

1. failed to consult with the primary or attending physician prior to prescribing medication or making any adjustments or changes in an established medication regimen;

2. prescribed a narcotic, as defined in R.S. 40:961;

3. treated any condition, illness or disease other than management of mental or emotional disorders; or

4. prescribed a course of medication that resulted in the injury or death of a patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1531 (August 2009), amended, LR 37:898 (March 2011).

§7217. Action against Medical License

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on

any license held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 1285.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1531 (August 2009).

Chapter 73. Office-Based Surgery

Subchapter A. General Provisions

§7301. Scope of Chapter

A. The rules of this Chapter govern the performance of office-based surgery by physicians in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:424 (March 2004).

§7303. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Anesthesia—moderate sedation or deep sedation, as such terms are defined in this Section.

Anesthesia Provider—an anesthesiologist or certified registered nurse anesthetist who possesses current certification or other evidence of completion of training in advanced cardiac life support training or pediatric advanced life support for pediatric patients.

Anesthesiologist—a physician licensed by the board to practice medicine in this state who has completed post-graduate residency training in anesthesiology and is engaged in the practice of such specialty.

Board—the Louisiana State Board of Medical Examiners.

Certified Registered Nurse Anesthetist (*CRNA*)—an advanced practice registered nurse certified according to the requirements of a nationally recognized certifying body approved by the Louisiana State Board of Nursing ("Board of Nursing") who possesses a current license or permit duly authorized by the Board of Nursing to select and administer anesthetics or provide ancillary services to patients pursuant to R.S. 37:911 et seq., and who, pursuant to R.S. 37:911 et seq., administers anesthetics and ancillary services under the direction and supervision of a physician who is licensed to practice under the laws of the state of Louisiana.

Deep Sedation/Analgesia—a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. Monitoring of patients undergoing deep sedation shall only be performed by an anesthesia provider.

General Anesthesia—a drug-induced loss of consciousness, by use of any anesthetic induction agent or otherwise, during which patients are not arousable even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. General anesthesia shall only be performed by an anesthesia provider.

Medical Practice Act or the Act—R.S. 37:1261-92 as may be amended from time to time.

Moderate Sedation/Analgesia (conscious sedation)—a drug induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. Monitoring of the patients undergoing moderate sedation shall be performed by qualified monitoring personnel or an anesthesia provider.

Office-Based Surgery—any surgery or surgical procedure not exempted by these rules that is performed in an office-based surgery setting or facility.

Office-Based Surgery Setting or Facility—any clinical setting not exempted by these rules where surgery is performed.

Physician—a person lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license or permit duly issued by the board.

Qualified Monitoring Personnel—an appropriately trained, qualified and licensed health care provider in this state, who is currently certified in advanced cardiac life support, or pediatric advanced life support for pediatric patients, and designated to monitor and attend to the patient during the pre-operative, intra-operative and post-operative periods.

Reasonable Proximity—a distance of not more than 30 miles or one which may be reached within 30 minutes for patients 13 years of age and older and a distance of not more than 15 miles or one which can be reached within 15 minutes for patients 12 years of age and under.

Regional Anesthesia/Blocks (referred to in this Chapter as *regional anesthesia*)—the administration of anesthetic agents that interrupt nerve impulses without loss of consciousness or ability to independently maintain an airway, ventilatory or cardiovascular function that includes but is not limited to the upper or lower extremities. For purposes of this Chapter regional anesthesia of or near the central nervous system by means of epidural or spinal shall be considered general anesthesia.

Single Oral Dose—one dosage unit of a medication in an amount recommended by the manufacturer of the drug for oral administration to the patient.

Surgery or Surgical Procedure—the excision or resection, partial or complete destruction, incision or other structural alteration of human tissue by any means, including but not limited to lasers, pulsed light, radio frequency, or medical microwave devices, that is not exempted by these rules upon the body of a living human being for the purpose of preserving health, diagnosing or curing disease, repairing injury, correcting deformity or defects, prolonging life, relieving suffering or any elective procedure for aesthetic, reconstructive or cosmetic purposes. Surgery shall have the same meaning as "operate."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:424 (March 2004), amended LR 40:2246 (November 2014).

§7305. Exemptions

A. This Chapter shall not apply to the following surgical procedures or clinical settings:

1. exempt surgical procedures include those:

a. that do not involve a drug induced alteration of consciousness and do not require the use of anesthesia or an anesthetic agent, those using only local, topical or regional anesthesia or those using a single oral dose of a sedative or analgesic which is appropriate for the unsupervised treatment of anxiety or pain; and/or

b. performed by a physician oral and maxillofacial surgeon under the authority and within the scope of a license to practice dentistry issued by the Louisiana State Board of Dentistry;

2. exempt clinical settings include:

a. a hospital, including an outpatient facility of the hospital that is separated physically from the hospital, an ambulatory surgical center, abortion clinic or other medical facility that is licensed and regulated by the Louisiana Department of Health and Hospitals;

b. a facility maintained or operated by the state of Louisiana or a governmental entity of this state;

c. a clinic maintained or operated by the United States or by any of its departments, offices or agencies; and

d. an outpatient setting currently accredited by one of the following associations or its successor association:

i. the Joint Commission on Accreditation of Healthcare Organizations relating to ambulatory surgical centers;

ii. the American Association for the Accreditation of Ambulatory Surgery Facilities; or

iii. the Accreditation Association for Ambulatory Health Care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:425 (March 2004), amended LR 40:2246 (November 2014).

§7307. Prohibitions

A. On and after January 1, 2005, no physician shall perform office-based surgery except in compliance with the rules of this Chapter.

B. The level of sedation utilized for office-based surgery shall be appropriate to the procedure. Under no circumstances shall a physician withhold appropriate sedation or under-sedate a patient for the purpose of avoiding compliance with the requirements of this Chapter.

C. General anesthesia shall not be utilized in office-based surgery. Any surgery or surgical procedure that employs general anesthesia shall only be performed in an exempted clinical setting as described in Section 7305 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:425 (March 2004), amended LR 40:2246 (November 2014).

§7308. Required Information

A. Each physician shall report to the board annually as a condition to the issuance or renewal of medical licensure, whether or not and the location(s) where the physician performs office-based surgery, along with such other information as the board may request.

B. The information shall be reported in a format prepared by the board, which shall be made a part of or accompany each physician's renewal application for medical licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:2247 (November 2014).

§7309. Prerequisite Conditions

A. A physician who performs office-based surgery shall adhere to and comply with the following rules.

1. Facility and Safety

a. The facility shall comply with all applicable federal, state and local laws, codes and regulations pertaining to fire prevention, building construction and occupancy, accommodations for the disabled, occupational safety and health, medical waste and hazardous waste, infection control and storage and administration of controlled substances.

b. All premises shall be kept neat and clean. Operating areas shall be sanitized and materials, instruments, accessories and equipment shall be sterilized.

c. Supplies of appropriate sterile linens, gloves and dressings shall be maintained in sufficient quantities for routine and emergency use. All surgical personnel shall wear suitable operative attire.

d. Supplies of appropriate drugs, medications and fluids shall be maintained in sufficient quantities for routine and emergency use.

2. Quality of Care

a. A physician performing office-based surgery shall:

i. possess current staff privileges to perform the same procedure at a hospital located within a reasonable proximity; or

ii. have completed residency training in a specialty that encompasses the procedure performed in an office-based surgery setting;

b. a physician performing office-based surgery shall possess current certification or other evidence of completion of training in advanced cardiac life support training or pediatric advanced life support for pediatric patients;

c. physician performing office-based surgery shall ensure that all individuals who provide patient care in the office-based surgery setting are duly qualified, trained and possess a current valid license or certificate to perform their assigned duties.

3. Patient and Procedure Selection

a. Any office-based surgical procedure shall be within the training and experience of the operating physician, the health care practitioners providing clinical care assistance and the capabilities of the facility.

b. The surgical procedure shall be of a duration and degree of complexity that shall permit the patient to recover and be discharged from the facility on the same day. Under no circumstances shall a patient be permitted to remain in an office-based surgery setting overnight.

4. Informed Consent

a. Informed consent for surgery and the planned anesthetic intervention shall be obtained from the patient or legal guardian in accordance with the requirements of law.

5. Patient Care

a. A physician performing office-based surgery shall remain physically present throughout surgery and be

immediately available for diagnosis, treatment and management of complications or emergencies. The physician shall also insure the provision of indicated post-anesthesia care.

b. The anesthesia provider or qualified monitoring personnel shall be physically present throughout the surgery.

c. The anesthesia provider or qualified monitoring personnel shall remain in the facility until all patients have been released from anesthesia care by a CRNA or a physician.

d. Discharge of a patient shall be properly documented in the medical record and include:

i. confirmation of stable vital signs;

ii. return to pre-surgical mental status;

iii. adequate pain control;

iv. minimal bleeding, nausea and vomiting;

v. confirmation that the patient has been discharged in the company of a competent adult; and

vi. time of discharge.

6. Monitoring and Equipment

a. There shall be sufficient space to accommodate all necessary equipment and personnel and to allow for expeditious access to the patient and all monitoring equipment.

b. All equipment shall be in proper working condition; monitoring equipment shall be available, maintained, tested and inspected according to the manufacturer's specifications.

c. In the event of an electrical outage which disrupts the capability to continuously monitor all specified patient parameters, heart rate and breath sounds shall be monitored using a precordial stethoscope or similar device and blood pressure measurements shall be re-established using a non-electrical blood pressure measuring device until power is restored.

d. In an office where anesthesia services are to be provided to infants and children the required equipment, medication, including drug dosage calculations, and resuscitative capabilities shall be appropriately sized for a pediatric population.

e. All facilities shall have an auxiliary source of oxygen, suction, resuscitation equipment and medication for emergency use. A cardiopulmonary resuscitative cart shall be available and shall include, but not be limited to, an Ambu Bag, laryngoscope, emergency intubation equipment, airway management equipment, a defibrillator with pediatric paddles if pediatric patients are treated and a medication kit which shall include appropriate non-expired medication for the treatment of anaphylaxis, cardiac arrhythmia, cardiac arrest and malignant hyperthermia when triggering agents are used or if the patient is at risk for malignant hyperthermia. Resources for determining appropriate drug doses shall be readily available.

7. Emergencies and Transfers

a. Emergency instructions along with the names and telephones numbers to be called in the event of an emergency (i.e., emergency medical services ["EMS"], ambulance, hospital, 911, etc.) shall be posted at each telephone in the facility.

b. Agreements with local EMS or ambulance services shall be in place for the purpose of transferring a patient to a hospital in the event of an emergency.

c. Pre-existing arrangements shall be established for definitive care of patients at a hospital located within a reasonable proximity when extended or emergency services are needed to protect the health or well being of the patient.

8. Medical Records

a. A complete medical record shall be documented and maintained by the physician performing office-based surgery of the patient history, physical and other examinations and diagnostic evaluations, consultations, laboratory and diagnostic reports, informed consents, preoperative, inter-operative and postoperative anesthesia assessments, the course of anesthesia, including monitoring modalities and drug administration, discharge and any follow-up care.

9. Policies and Procedures

a. A written policy and procedure manual for the orderly conduct of the facility shall be prepared, maintained on-site and updated annually, as evidenced by the dated signature of a physician performing office-based surgery at the facility for the following areas:

i. management of anesthesia including:

(a). patient selection criteria;

(b). drug overdose, cardiovascular and respiratory arrest, and other risks and complications from anesthesia;

(c). the procedures to be followed while a patient is recovering from anesthesia in the office; and

(d). release from anesthesia care and discharge criteria;

ii. infection control (surveillance, sanitation and asepsis, handling and disposal of waste and contaminants, sterilization, disinfection, laundry, etc.); and

iii. management of emergencies, including:

(a). the procedures to be followed in the event that a patient experiences a complication;

(b). the procedures to be followed if the patient requires transportation for emergency services including the identity and telephone numbers of the EMS or ambulance service if one is to be utilized, the hospital to which the patient is to be transported and the functions to be undertaken by health care personnel until a transfer of the patient is completed;

(c). fire and bomb threats.

b. All facility personnel providing patient care shall be familiar with, appropriately trained in and annually review the facility's written policies and procedures. The policy and procedure manual shall specify the duties and responsibilities of all facility personnel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1) and 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:425 (March 2004), amended LR 40:2247 (November 2014).

§7311. Administration of Anesthesia

A. Evaluation of the Patient. All patients shall have a pre-surgical evaluation (history and physical) to screen for and identify any medical condition that could adversely affect the patient's response to the medications utilized for moderate or deep sedation.

B. Diagnostic Testing, Consultations. Appropriate pre-anesthesia diagnostic testing and consults shall be obtained as indicated by the pre-anesthesia evaluation.

C. Anesthesia Plan of Care. A patient-specific plan for anesthesia care shall be formulated based on the assessment

of the patient, the surgery to be performed and the capacities of the facility.

D. Administration of Anesthesia. Deep sedation/analgesia shall be administered by an anesthesia provider who shall not participate in the surgery.

E. Monitoring. Monitoring of the patient shall include continuous monitoring of ventilation, oxygenation and cardiovascular status. Monitors shall include, but not be limited to, pulse oximetry, electrocardiogram continuously, non-invasive blood pressure measured at appropriate intervals, an oxygen analyzer and an end-tidal carbon dioxide analyzer. A means to measure temperature shall be readily available and utilized for continuous monitoring when indicated. An audible signal alarm device capable of detecting disconnection of any component of the breathing system shall be utilized. The patient shall be monitored continuously throughout the duration of the procedure. Post-operatively, the patient shall be evaluated by continuous monitoring and clinical observation until stable. Monitoring and observations shall be documented in the patient's medical record. Qualified monitoring personnel assigned to monitor a patient shall not participate in the surgery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1) and 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:427 (March 2004), amended LR 40:2247 (November 2014).

§7313. Reports to the Board

A. A physician performing office-based surgery shall notify the board in writing within 15 days of the occurrence or receipt of information that an office-based surgery resulted in:

1. an unanticipated and unplanned transport of the patient from the facility to a hospital emergency department;

2. an unplanned readmission to the office-based surgery setting within 72 hours of discharge from the facility;

3. an unscheduled hospital admission of the patient within 72 hours of discharge from the facility; or

4. the death of the patient within 30 days of surgery in an office-based facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1) and 1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:427 (March 2004).

§7314. Creation of Log; Board Access to Log and Facilities

A. A physician shall create and maintain a continuous log by calendar date of all office-based surgical procedures. The log shall include patient identifiers and the type and duration of each procedure and remain at the physician's office-based surgery facility. The log shall be provided to the board's staff or its agents upon request.

B. A physician who performs office-based surgery shall respond to the inquiries and requests of, and make his or her office-based surgery facility available for inspection by, the board's staff or its agents at any reasonable time without the necessity of prior notice. The failure or refusal to respond or comply with such inquiries or requests, or make an office-based surgery facility available for inspection, shall be deemed a violation of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:2247 (November 2014).

§7315. Effect of Violation

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:427 (March 2004).

Chapter 74. Collaborative Drug Therapy Management

Subchapter A. General Provisions

§7401. Scope of Subchapter

A. The rules of this Chapter govern the registration and practice of physicians engaged in collaborative drug therapy management with pharmacists in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1639 (August 2007).

§7403. Definitions

A. As used in this Chapter, unless the content clearly states otherwise, the following terms and phrases shall have the meanings specified.

Board—the Louisiana State Board of Medical Examiners, as constituted in the Medical Practice Act.

Collaborative Drug Therapy Advisory Committee or *Advisory Committee*—the Louisiana State Board of Medical Examiners' *Collaborative Drug Therapy Advisory Committee*, as constituted under §7417 of this Chapter.

Collaborative Drug Therapy Management or *Drug Therapy Management*—that practice in which a pharmacist voluntarily agrees with a physician to manage the disease specific drug therapy of one or more patients of such physician, within a predetermined range of medication selected by the physician and set forth in a patient specific written order set. *Drug therapy management* shall be limited to:

a. monitoring and modifying a disease specific drug therapy;

b. collecting and reviewing patient history;

c. obtaining and reviewing vital signs, including pulse, temperature, blood pressure and respiration;

d. ordering, evaluating, and applying the results of laboratory tests directly related to the disease specific drug therapy being managed under an order set, provided such tests do not require the pharmacist to interpret such testing or formulate a diagnosis; and

e. providing disease or condition specific patient education and counseling.

Controlled Substance—any substance defined, enumerated, or included in federal or state statute or

regulations 21 CFR 1308.11-.15 or R.S. 40:964, or any substance which may hereafter be designated as a *controlled substance* by amendment or supplementation of such regulations or statute.

Disease Specific Drug Therapy—a specific drug(s) prescribed by a physician for a specific patient of such physician that is generally accepted within the standard of care for the treatment of the disease or condition.

Drug—a legend *drug*.

Drugs of Concern—a drug that is not a controlled substance but which is nevertheless defined and identified, in accordance with the procedures established by the Louisiana Prescription Monitoring Program Act, R.S. 40:1001-1014, as a drug with the potential for abuse.

Legend Drug—for purposes of this Chapter, any drug bearing on the label of the manufacturer or distributor as required by the Food and Drug Administration, the statement "Caution: Federal law prohibits dispensing without a prescription" or "Rx Only." For purposes of this Chapter, *legend drugs* do not include controlled substances.

Medical Practice Act or *the Act*—R.S. 37:1261-92 as may be amended from time to time.

Medication—except in these rules where its use may indicate otherwise, is synonymous with *drug*, as defined herein.

Order Set—a written set of directives or instructions containing each of the components specified by §7429 of this Chapter for collaborative drug therapy management of disease specific drug therapy for a specific patient. The order set shall be signed by the physician and represents the physician orders for the collaborative drug therapy management to be provided to the patient.

Pharmacist—for purposes of this Chapter an individual who has a current, unrestricted license to practice pharmacy in this state duly issued by the Louisiana Board of Pharmacy, who is approved by the Louisiana Board of Pharmacy to engage in collaborative practice for a specific disease or condition based on the pharmacist's training and experience.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current, unrestricted license duly issued by the board.

Prescribe—a request or order transmitted in writing, orally, electronically or by other means of telecommunication for a drug that is issued in good faith, in the usual course of professional practice and for a legitimate medical purpose, by a physician for the purpose of correcting a physical, mental, or bodily ailment of his/her patient.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1639 (August 2007), amended LR 39:3287 (December 2013).

Subchapter B. Prohibitions and Exceptions

§7405. Prohibitions and Exceptions

A. No physician shall engage in collaborative drug therapy management except in compliance with the rules of this Chapter.

B. This Chapter shall not apply to a physician's practice in a hospital licensed by the Louisiana Department of Health and Hospitals, provided the medication ordered or prescribed by the physician for in-patients of the hospital is managed in accordance with a written agreement approved by the members of the medical staff of the hospital.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007).

Subchapter C. Registration

§7407. Eligibility for Registration

A. No physician shall engage in collaborative drug therapy management in this state until registered with the board in accordance with the provisions of this Subchapter. To be eligible for registration a physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine issued by the board and not be the subject of a pending investigation or complaint by the board or by the medical licensing authority of any other state or jurisdiction;

2. be actively engaged in the clinical practice of medicine and the provision of patient care in this state in the particular field of medicine in which collaborative drug therapy management is to take place; and

3. not be employed by or serve as an independent contractor to a pharmacist, pharmacy, or pharmaceutical company, or be a party to any other or similar employment, contractual or financial relationship. The board may, in its discretion, grant an exception to this requirement on a case-by-case basis where it has been shown to its satisfaction that such relationship is structured so as to prohibit interference or intrusion into the physician's relationship with patients, the exercise of independent medical judgment and satisfaction of the obligations and responsibilities imposed by law or the board's rules on the physician.

B. A physician shall be deemed ineligible for registration of collaborative drug therapy management who:

1. does not possess the qualifications prescribed by Subsection A of this Section;

2. has voluntarily surrendered or had suspended, revoked or restricted, his/her controlled substances license, permit or registration, either state or federal;

3. has had a medical license suspended, revoked, placed on probation or restricted in any manner by the board or by the medical licensing authority of any other state or jurisdiction;

4. has had an application for medical licensure rejected or denied; or

5. has been, or is currently in the process of being denied, terminated, suspended, refused, limited, placed on probation or under other disciplinary action with respect to participation in any private, state, or federal health insurance program.

C. Upon the affirmative recommendation of the advisory committee the board may, in its discretion, waive the ineligibility restrictions of Paragraphs 7407.B.2-5 of this Section on a case-by-case basis where it has been shown to its satisfaction that the license, registration, permit, or participation in the health insurance program giving rise to ineligibility has been granted, reinstated or restored on an unrestricted basis, that following such action the individual has not been subject to further or additional disqualifying action and has demonstrated exemplary conduct or accomplishments meriting waiver consideration.

D. The board may deny registration to an otherwise eligible physician for any of the causes enumerated by R.S. 37:1285(A), or any other violation of the provisions of the Medical Practice Act or of the board's rules.

E. The burden of satisfying the board as to the eligibility of a physician for registration to engage in collaborative drug therapy management shall be upon the physician. A physician shall not be deemed to possess such qualifications unless and until the physician demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007), amended LR 39:3288 (December 2013).

§7409. Registration Procedure

A. Application for registration to engage in collaborative drug therapy management shall be made upon forms supplied by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1640 (August 2007), amended LR 39:3288 (December 2013).

§7415. Expiration of Registration; Renewal

A. Registration of authority to engage in collaborative drug therapy management shall expire annually on the same day as a physician's medical license unless renewed by a physician by submitting an application to the board upon forms supplied by the board, together with verification of the accuracy of registration and collaborative drug therapy management agreement information on file with the board. An application for registration renewal shall be made part of and/or accompany a physician's renewal application for medical licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007), amended LR 39:3288 (December 2013).

Subchapter D. Collaborative Drug Therapy Advisory Committee

§7417. Constitution of Committee

A. To assist the board on matters relative to collaborative drug therapy management, a Collaborative Drug Therapy Management Advisory Committee is hereby constituted, to be composed and appointed, to have such functions, and to discharge such duties and responsibilities as hereinafter provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007).

§7419. Composition; Appointment

A. The advisory committee shall be composed of seven members, consisting of four physicians and three pharmacists. These members shall include: one physician designated by the Louisiana State University Health Sciences Center School of Medicine in New Orleans; one physician designated by the Louisiana State University Health Sciences Center School of Medicine in Shreveport, one physician designated by the Tulane University Health Sciences Center School of Medicine; one physician designated by the Louisiana State Medical Society; one pharmacist who holds the academic degree of Doctor of Pharmacy designated by the Xavier University of Louisiana College of Pharmacy; one pharmacist who holds the academic degree of Doctor of Pharmacy designated by the University of Louisiana at Monroe School of Pharmacy; and one pharmacist designated by the Louisiana Board of Pharmacy. The president of the Louisiana State Board of Medical Examiners or his/her designee may sit on the committee in an ex officio capacity.

B. To be eligible for appointment to the advisory committee each individual shall have maintained residency and practiced their profession in the state of Louisiana for not less than one year, hold the qualifications prescribed by this Chapter for those of their respective professions who may wish to engage in collaborative drug therapy management, and possess education, particular experience, advanced training or other qualifications that the board may deem to be of value to the advisory committee in the discharge of its duties and responsibilities.

C. Each member of the advisory committee shall be appointed by the board from among a list of one or more qualified nominees for each position submitted to the board. Accompanying each nominee shall be a personal resume or curriculum vitae for the individual. In the event a designating entity does not submit nominees within 90 days of the board's request the position or vacancy may be filled by a physician or pharmacist designated by the board. Each member of the advisory committee shall serve for a term of three years or until a successor is appointed and shall be eligible for reappointment. With the exception of the member designated by the Louisiana Board of Pharmacy, who shall serve at the pleasure of that board, all members of the advisory committee shall serve and be subject to removal at any time at the pleasure of the board. Members appointed to fill a vacancy occurring other than by expiration of the designated term shall serve for the unexpired term. Appointments to the advisory committee shall be effective when made with respect to appointments for unexpired terms and otherwise shall be effective as of the first day of the month following the date of appointment.

D. The advisory committee shall meet not less than once each calendar year, or more frequently as may be deemed necessary or appropriate by a quorum of the advisory committee or by the board. The presence of four members shall constitute a quorum. The advisory committee shall elect from among its members a chairperson, a vice-chairperson and a secretary. The chair or in the absence or unavailability of the chair the vice-chair, shall call, designate the date, time and place of, and preside at meetings of the advisory committee. The secretary shall record or cause to be recorded, accurate and complete written minutes of all meetings of the advisory committee and shall cause copies of the same to be provided to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1641 (August 2007), amended LR 39:3288 (December 2013).

§7421. Duties and Responsibilities

A. The advisory committee is authorized by the board to assist by:

1. providing advice and recommendations to the board respecting the modification, amendment, and supplementation of its rules concerning physicians who engage in collaborative drug therapy management;

2. serving as a liaison between and among the board, physicians and pharmacists who engage in collaborative drug therapy management; and

3. identifying and recommending to the board acceptable certificate programs and other advanced training or programs in the areas of practice covered by collaborative drug therapy management.

B. In discharging the functions authorized under this Section the advisory committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. All information obtained by the advisory committee members pursuant to this Section shall be considered confidential. Advisory committee members are prohibited from communication, disclosing, or in any way releasing to anyone any information or documents obtained when acting as agents of the board without first obtaining the written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1642 (August 2007), amended LR 39:3289 (December 2013).

Subchapter E. Standards of Practice

§7423. Authority, Responsibility and Limitations of Collaborative Drug Therapy Management

A. A physician may only engage in collaborative drug therapy management with a pharmacist in accordance with a patient specific, drug specific, disease or condition specific order set satisfying the requirements of §7429 of this Chapter.

B. A physician engaged in collaborative drug therapy management shall:

1. retain professional responsibility to his/her patients for the management of their drug therapy;

2. establish and maintain a physician-patient relationship with each patient subject to the collaborative drug therapy management;

3. be geographically located so that the physician, or a back-up physician, is able to be physically present daily to provide medical care to a patient subject to collaborative drug therapy management;

4. receive on a scheduled basis no less than every three months, a status report on the patient including, but not limited to any problem, complication or other issues relating to patient non-compliance with drug therapy management. This requirement may be met by entering the information in the patient’s medical record; and

5. be available through direct telecommunication for consultation, assistance, and direction.

C. A physician shall not engage in collaborative drug therapy management with a non-pharmacist or with any pharmacist who is not approved by the Louisiana State Board of Pharmacy to engage in collaborative practice for the specific disease or condition subject to collaboration, based on the pharmacist's training and experience.

D. Collaborative drug therapy management shall only be utilized for *disease specific drug therapy* as defined in §7403 of this Chapter.

E. The scope of the collaborative drug therapy management shall not include:

1. any patient of the physician for whom such physician has not prepared a patient specific, drug specific, disease or condition specific order set based on a face-to-face visit with the patient;

2. initiation or discontinuance of drug therapy by a pharmacist, except as specified in the order set;

3. the management of controlled substances or drugs of concern; or

4. substitution of a drug prescribed by a physician without the explicit written consent of such physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1642 (August 2007), amended LR 39:3289 (December 2013).

§7425. Informed Consent

A. A physician shall not engage in collaborative drug therapy management of a patient without the patient's written informed consent.

B. In addition to the requirements provided by law for obtaining a patient's informed consent, each patient who is subject to collaborative drug therapy management shall be:

1. informed of the collaborative nature of drug therapy management for the patient's specific medical disease or condition and provided instructions and contact information for follow-up visits with the physician and pharmacist;

2. informed that he or she may decline to participate in a collaborative drug therapy management practice and may withdraw at any time without terminating the physician-patient relationship; and

3. provided written disclosure of any contractual or financial arrangement with any other party that may impact one of the party's decisions to participate in the agreement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6) and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1643 (August 2007), amended LR 39:3289 (December 2013).

§7429. Order Sets

A. An order set shall be utilized for each patient to be managed by collaborative drug therapy management. The order set shall incorporate whatever patient specific variations the physician may deem necessary and shall adhere to generally accepted standards of care. A copy of the order set shall be:

1. provided to the collaborating pharmacist; and

2. made part of the patient's medical record.

B. The order set shall identify, at a minimum:

1. the physician, the pharmacist and telephone number and other contact information for each;

2. the patient's name, address, gender, date of birth, and telephone number;

3. the disease or condition to be managed;

4. the disease specific drug(s) to be utilized;

5. the type and extent of drug therapy management the physician authorizes the pharmacist to perform;

6. the specific responsibilities of the physician and pharmacist;

7. the procedures, criteria or plan the pharmacist is required to follow in connection with drug therapy management;

8. the specific laboratory test(s), if any, that are directly related to drug therapy management that the physician authorizes the pharmacist to order and evaluate;

9. the reporting and documentation requirements of the physician and pharmacist respecting the patient and schedule by which such are to take place;

10. the conditions and events upon which the physician and pharmacist are required to notify one another; and

11. procedures to accommodate immediate consultation by telephone or direct telecommunication with or between the physician, pharmacist and/or the patient.

C. Every order set utilized for collaborative drug therapy management of a patient shall be reviewed annually by the physician, or more frequently as such physician deems necessary, to address patient needs and to insure compliance with the requirements of this Chapter. The physician's signature and date of review shall be noted on the order set and maintained by the physician in accordance with Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1644 (August 2007), amended LR 39:3289 (December 2013).

§7435. Reporting Obligations and Responsibilities

A. A physician engaged in collaborative drug therapy management shall:

1. annually report, as a condition to the renewal of that physician's license, whether or not and the extent to which the physician is engaged in collaborative drug therapy management and such other information as the board may request; and

2. within 15 days of the occurrence or discovery notify the board in writing of complications or errors that are, in the physician's opinion, directly related to drug therapy mismanagement; and

3. comply with reasonable requests by the board for personal appearances and/or information relative to the functions, activities and performance of a physician or pharmacist engaged in collaborative drug therapy management.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1645 (August 2007), amended LR 39:3290 (December 2013).

§7437. Records

A. Included in the medical record on a patient subject to collaborative drug therapy management shall be a copy of:

1. the prescription or order implementing drug therapy management and any subsequent orders or order sets modifying the therapy;

2. documentation of physician annual review, as well as the quarterly periodic reports required by §7423B.4 of this Chapter;

3. documentation of all activities performed by the physician and pharmacist;

4. consultations and reports by and between the physician and pharmacist; and

5. documentation of the patient's informed consent to collaborative drug therapy management.

B. A physician engaged in drug therapy management shall maintain and produce, upon inspection conducted by or at the request of a representative of the board, a list of all patients subject to collaborative drug therapy management, a copy of any order sets and such other records or documentation as may be requested by the board to assess a physician's compliance with the requirements of this Chapter, the Act or other applicable rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1645 (August 2007), amended LR 39:3290 (December 2013).

Subchapter F. Sanctions

§7439. Action against Medical License

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license to practice medicine in Louisiana held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), 1285, and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1645 (August 2007).

§7441. Action against Registration

A. For noncompliance with any of the provisions of this Chapter the board may, in addition to or in lieu of administrative proceedings against a physician's license, suspend, revoke, or cancel a physician's registration to engage in collaborative drug therapy management or impose such terms, conditions or restrictions thereon as the board may deem necessary or appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), 1285, and 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1646 (August 2007).

§7443. Unauthorized Practice

A. Nothing in this Chapter shall be construed as authorizing a pharmacist to issue prescriptions, exercise independent medical judgment, render diagnoses, provide treatment, assume independent responsibility for patient care, or otherwise engage in the practice of medicine as defined in the Medical Practice Act. Any person who engages in such activities, in the absence of medical licensure issued by the board, shall be engaged in the unauthorized practice of medicine and subject to the penalties prescribed by the Medical Practice Act.

B. Any physician who associates with or assists an unlicensed person engage in the practice of medicine shall be deemed to be in violation of R.S. 37:1285(A)(18), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license to practice medicine in Louisiana held or applied for by a physician culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(1), 1270(B)(6), 1271, 1285, 1286, 1290, and R.S. 37:1164(37).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 33:1646 (August 2007).

Chapter 75. Telemedicine
Subchapter A. General Provisions

§7501. Scope of Subchapter

A. The rules of this Subchapter govern the use of telemedicine by physicians licensed to practice medicine in this state and those who hold a telemedicine permit issued by the board to practice medicine in this state via telemedicine.

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 35:1532 (August 2009), amended 41:2144 (October 2015).

§7503. Definitions

A. As used in this Chapter and in §408 of these rules, unless the content clearly states otherwise, the following words and terms shall have the meanings specified.

Board—the Louisiana State Board of Medical Examiners, as constituted in the Medical Practice Act.

Controlled Substance—any substance defined, enumerated, or included in federal or state statute or regulations 21 C.F.R. 1308.11-.15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Department—the Louisiana Department of Health and Hospitals.

In-Person Visit—a face-to-face evaluation conducted by a physician who is at the same physical location as the patient.

Medical Practice Act or the Act—R.S. 37:1261-92, as may from time to time be amended.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a current license or a telemedicine permit duly issued by the board.

Physician-Patient Relationship—physicians utilizing telemedicine shall establish a proper *physician-patient relationship* by:

a. verifying the identity of the individual requesting treatment. Appropriate contact and identifying information shall be made part of the medical record;

b. conducting an appropriate examination. The examination does not require an in-person visit if the technology is sufficient to provide the physician the pertinent clinical information reasonably necessary to practice at an acceptable level of skill and safety;

c. establishing a diagnoses through the use of accepted medical practices e.g., history, mental status, appropriate diagnostic and laboratory testing;

d. discussing the diagnoses and risks and benefits of various treatment options;

e. insuring the availability for appropriate follow-up care; and

f. creating and/or maintaining a medical record.

Telemedicine—the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data by a physician using interactive telecommunication 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 an electronic mail message between a physician and a patient, or a true consultation constitutes *telemedicine* for the purposes of this Part. A physician practicing by telemedicine may utilize interactive audio without the requirement of video if, after access and review of the patient's medical records, the physician determines that he or she is able to meet the same standard of care as if the healthcare services were provided in person.

Telemedicine Permit—a permit issued by the board in accordance with §408 of these rules.

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 35:1533 (August 2009), amended 41:2145 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:317 (February 2017).

§7505. Patient Relationship; Standard of Care; Location of Participants

A. Physician-Patient Relationship. Telemedicine shall not be utilized by a physician with respect to any individual located in this state in the absence of a physician-patient relationship.

B. Standard of Care. 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 does not satisfy the standards of appropriate care.

C. Location of Participants. A physician using telemedicine may be at any location at the time the services are provided. A patient receiving medical services by telemedicine may be in any location in this state at the time that the services are received.

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 35:1533 (August 2009), amended 41:2145 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:317 (February 2017).

§7507. Prerequisite Conditions; Disclosures

A. The practice of medicine is deemed to occur at the location of the patient. Therefore, no physician shall utilize telemedicine to provide medical services to patients located in this state unless the physician:

1. holds an unrestricted Louisiana medical license; or

2. holds a telemedicine permit as provided in §408 of these rules.

B. A physician utilizing telemedicine with respect to patients located in this state shall have:

1. access to the patient's medical record;

2. if required by the standard of care applicable to the diagnosis or treatment of the patient's complaints in a traditional (face-to-face) setting, the ability:

a. to utilize peripherals (such as otoscope and stethoscope);

b. to obtain diagnostic testing;

c. if necessary in the physician's judgment, to access a patient presenter to assist with the telemedicine encounter; and

d. to refer the patient to another physician in this state or arrange for follow-up care within this state as may be indicated for that purpose.

C. Disclosures. Prior to utilizing telemedicine a physician shall insure that the following disclosures have been made to

the patient and documented in the medical record. Such disclosures need not be made or documented more than once, except to update the information provided:

1. the name, Louisiana medical license number and contact information [address, telephone number(s)] of the physician;

2. the physician's specialty or area of practice;

3. how to receive follow-up and emergency care;

4. how to obtain copies of medical records and/or insure transmission to another medical provider;

5. how to receive care in the event of a technology or equipment failure; and

6. notification of privacy practices concerning individually identifiable health information, consistent with state and federal laws and regulations.

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 35:1533 (August 2009), amended 41:2145 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:317 (February 2017),

§7509. Patient Records

A. Patient records shall be:

1. created and maintained for every telemedicine visit according to the same standards of care as in an in-person visit. The record shall clearly reflect and state that the patient encounter occurred by telemedicine;

2. confidential and subject to all applicable state and federal laws and regulations relative to privacy and security of health information;

3. accessible by a patient and the physician consistent with all state and federal laws and regulations; and

4. made available to the patient or a physician to whom the patient may be referred within a reasonable period of time; and

5. made available to the board upon request.

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 35:1533 (August 2009), amended 41:2146 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:318 (February 2017).

§7510. Privacy and Security

A. Only secure communication technology shall be used for telemedicine. At a minimum, telemedicine technology shall comply with all state and federal laws and regulations for medical/health information privacy and security.

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, 41:2146 (October 2015).

§7511. Informed Consent

A. In addition to any informed consent and right to privacy and confidentiality that may be required by state or federal law or regulation, a physician shall insure that each patient to whom he or she provides medical services by telemedicine is:

1. informed of the relationship between the physician and patient and the respective role of any other health care provider with respect to management of the patient; and

2. notified that he or she may decline to receive medical services by telemedicine and may withdraw from such care at any time.

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).

§7513. Prohibitions

A. The following prohibitions apply to physicians who practice medicine in this state via telemedicine.

B. Preamble—Controlled Substances. While in most instances the board believes that an in-person visit is required prior to the issuance of a prescription for any controlled substance, provided the physician can examine the patient *via* telemedicine technologies sufficient to make a diagnosis, controlled substances may be prescribed by telemedicine within the limitations of Subsection 7513C.

C. No physician shall utilize telemedicine:

1. for the treatment of non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's rules;

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 within the past year; provided, however, the requirement for an in-person visit shall not apply to a physician who holds an unrestricted license to practice medicine in this state and who practices telemedicine upon any patient being treated at a healthcare facility that is required to be licensed pursuant to the laws of this state and which holds a current registration with the U.S. Drug Enforcement Administration;

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 §7513.C in an individual case that is supported by a physician's written application stating how and why he or she proposes to deviate from §7513.C. 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 §7513.C.

D. A physician who practices telemedicine by virtue of a telemedicine permit issued by the board shall not:

1. open an office in this state;

2. meet with patients in this state;

3. receive telephone calls in this state from patients; or

4. engage in the practice of medicine in this state beyond the limited authority conferred by his or her telemedicine permit.

E. No physician shall supervise, collaborate or consult with an allied health care provider located in this state via telemedicine unless he or she possesses a full and unrestricted license to practice medicine in this state and satisfies and complies with the prerequisites and requirements specified by all applicable laws and rules.

F. No physician shall utilize telemedicine to provide care to a patient who is physically located outside of this state, unless the physician possesses lawful authority to do so by the licensing authority of the state in which the patient is located.

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 41:2146 (October 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:318 (February 2017).

§7515. Exceptions

A. The following activities shall be exempt from the requirements of this Chapter:

1. furnishing medical assistance in case of a declared emergency or disaster, as defined by the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq., or as otherwise provided in Title 29 of the Louisiana Revised Statutes of 1950, or the board's rules;

2. issuance of emergency certificates in accordance with the provisions of R.S. 28:53; and

3. a true consultation, e.g., an informal consultation or second opinion, provided by an individual licensed to practice medicine in a state other than Louisiana, provided that the Louisiana physician receiving the opinion is personally responsible to the patient for the primary diagnosis and any testing and treatment provided.

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).

§7517. Action against Medical License

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed to constitute unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), and may provide just cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license held or applied for by a physician or applicant culpable of such violation, or for such other administrative action as the board may in its discretion determine to be necessary or appropriate under R.S. 37:1285(A).

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).

§7519. Action against Permit

A. For noncompliance with any of the provisions of this Chapter, or upon a finding of the existence of any of the causes enumerated by R.S. 37:1285(A), the board may, in addition to or in lieu of administrative proceedings provided by this Chapter, suspend, revoke, refuse to issue or impose probationary or other restrictions on any permit held or applied for by a physician or applicant culpable of such violation, or take such other administrative action as the board may in its discretion determine to be necessary or appropriate under R.S. 37:1285(A).

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).

§7521. Unauthorized Practice

A. Any individual who utilizes telemedicine to practice medicine in this state in the absence of a medical license or a telemedicine permit duly issued by the board, shall be deemed to be engaged in the unauthorized practice of medicine and subject to the civil, injunctive and criminal penalties prescribed by the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1262, 1270, 1271, 1275, 1276.1 and 1290.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1535 (August 2009).

Chapter 76. Definition of Enforcement Terms

Subchapter A. General Provisions

§7601. Scope of Chapter

A. The board has the responsibility to consider and determine action upon all charges of conduct which fail to conform to the Louisiana Medical Practice Act, R.S. 37:1261-1292 et seq., as re-enacted and amended, and the rules and regulations promulgated by the board to carry out the provisions of this Part. The rules of this Chapter compliment the board's authority to deny, suspend, revoke or take such other action against a physician's license, as it may determine to be appropriate, pursuant to R.S. 37:1285.

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).

Subchapter B. Unprofessional Conduct

§7603. Unprofessional Conduct

A. In the exercise of its duties the board has determined to define the term *unprofessional conduct*, as set forth in R.S. 37:1285(A)(13), as conduct that includes but is not limited to the departure from, or the failure to conform to, the standards of acceptable and prevailing medical practice or the ethics of the medical profession including, but not limited to, the principles established by the American Medical Association, the American Osteopathic Association, and relevant medical specialty associations, or the commission of any act contrary to honesty, justice, good morals, patient safety or the best interest of the patient, whether committed in the course of the physician's practice or otherwise, and whether committed within or without of this state. For illustrative purposes only, *unprofessional conduct* includes but is not limited to:

1. *Sexual Misconduct*—any act of sexual intimacy, contact, exposure, gratification, abuse, exploitation or other sexual behavior with or in the presence of a patient or any other individual related to the physician's practice of medicine regardless of consent. Such conduct may be verbal, physical, visual, written or electronic, or it may consist of expressions of thoughts, feelings or gestures that are sexual or reasonably may be construed by a patient or other individual as sexual or which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient

or another individual. Sexual misconduct between a physician and a former patient after termination of the physician-patient relationship may also constitute *unprofessional conduct* if the sexual misconduct is a result of the exploitation of trust, knowledge, influence or emotions derived from the professional relationship;

2. *Disruptive Behavior*—aberrant behavior, including but not limited to harassment, sexual or otherwise, manifested through personal interaction with physicians, employees, co-workers, hospital personnel, health care professionals, patients, family members or others, which interferes with patient care or could reasonably be expected to interfere with the process of delivering quality care or jeopardizing patient safety;

3. *Failing to Cooperate with the Board*—physicians shall cooperate with and assist the board to carry out its duties. A physician shall, among other matters:

a. respond or provide information or items requested, respond to a subpoena, or complete an evaluation within the time designated by the board or its staff;

b. not attempt to influence the board, its members, staff or agents by means of intimidation, falsehoods or other means prohibited by law;

c. not contact members of the board directly or through others in an attempt to influence the outcome of an investigation or disciplinary proceeding; and

d. not contact or attempt to contact a complainant or witness regarding a complaint or an investigation by the board for purposes of intimidation or harassment;

4. *Failing to Maintain Independent Medical Judgment*—at all times while engaged in the practice of medicine in this state a physician shall exercise independent medical judgment in the sole interest of the patient. To that end a physician shall not:

a. allow a non-physician to impose or substitute his, her, or its judgment for that of the physician in the exercise of the rights and privileges provided for by medical licensure; or

b. enter into or attempt to enforce an agreement that would have the effect of requiring a physician to abandon a patient, deny a patient continuity of care, or interfere with the patient's freedom of choice in the selection of health care providers or services;

5. *Improperly Delegating or Supervising*—physicians retain responsibility to their patients for the training, delivery and results of medical services rendered to their patients. A physician shall not:

a. delegate professional responsibilities to a person the physician knows or has reason to know is not qualified by training, experience or licensure to perform them; or

b. fail to exercise appropriate supervision over a person who is authorized to practice only under physician supervision;

6. *Exercising Undue Influence*—physicians shall exercise their professional judgment in the best interest of their patients. A physician shall not:

a. place his or her own financial gain over the interest and welfare of a patient in providing, furnishing, prescribing, recommending or referring a patient for therapy, treatment, diagnostic testing or other health care items or services;

b. perform, or refer a patient to another to perform, unnecessary tests, examinations or services which have no legitimate medical purpose; or

c. exercise influence over a patient in such a manner as to exploit the patient or his or her third party payor for financial gain of the physician or of a third party through the promotion or sale of services, goods, appliances or drugs;

7. *Enabling the Unauthorized Practice of Medicine*—A physician shall insure that he or she is practicing in conformity with the law and in a lawful setting. A physician shall not:

a. enter into any arrangement, as medical director or otherwise, that allows or condones an unlicensed individual to engage in the practice of medicine, as defined by R.S. 37:1261(1), in the absence of the physician's direction and immediate personal supervision—i.e., where the physician is physically present on the premises at all times that the unlicensed individual is on duty and retains full responsibility to patients for the training, delivery and results of all services rendered; or

b. practice in a pain management clinic that is not licensed by the Department of Health and Hospitals pursuant to R.S. 40:2198.11 et seq., or in any other clinic or medical setting that the physician knows or reasonably should know, is operating in violation of the law or the board's rules;

8. *Practicing or Enabling Practice by Impaired Provider*—a physician shall not:

a. engage in the practice of medicine while under the influence of a mood-altering substance that compromises or has the potential to compromise a physician's medical judgment or practice, irrespective of whether or not prescribed by another physician or authorized practitioner; or

b. prescribe any mood-altering substance to a patient, who is a physician or another licensed health care provider, without instructing the patient to refrain from practice while under the influence of the substance. The physician's record on the patient shall document this instruction;

9. *Failing to Adhere to Accepted Practices*—Physicians shall practice within the scope of their education, training and experience;

10. *Failing to Create or Maintain Medical Records*—a physician shall create and maintain adequate and legible patient records. In addition, a physician shall:

a. not falsely create or alter a medical record or destroy a medical record except as authorized by law;

b. upon receipt of proper authorization, and in conformity with R.S. 40:12999.96, make patient medical records in the physician's possession available within a reasonable period of time to the patient, the patient's representative, or another physician or licensed health care provider;

c. make arrangements for patient access to medical records of the physician after relocating or closing a medical practice, retiring, or being prohibited from practice by consent, decision or other order of the board;

d. make arrangements, or assist another physician practicing in the same group make arrangements, for access by a physician or patients to their medical records after the physician has left a medical practice, relocated a practice to a new location, closed a practice, or retired;

e. insure proper destruction of medical records by methods approved by state or federal authorities; and

f. not abandon or desert medical records.

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. By implementing the meanings set forth hereinabove, the board does not intend to restrict and indeed reserves unto itself its authority and right to take action based upon R.S. 37:1285(A)(13), in any instance in which the particular facts and circumstances of a complaint, investigation or adjudication rise to a level of conduct that it may, in its discretion, determine constitutes unprofessional conduct.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:336 (January 2011), amended LR 41:2146 (October 2015), repromulgated LR 41:2353 (November 2015).

§7605. Effect of Violation

A. Any violation or failure to comply with the provisions of this Subchapter shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A), providing cause for the board to suspend, revoke, refuse to issue or impose probationary or other restrictions on any license held or applied for by a physician culpable of such violation.

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 37:337 (January 2011).

Chapter 77. Marijuana for Therapeutic Use by Patients Suffering from a Debilitating Condition

Subchapter A. General Provisions

§7701. Preamble, Warning, and Suggested Consultation

A. Preamble—State Law. Pursuant to Act 261, R.S. 40:1046, of the 2015 Session of the Louisiana Legislature, as amended and supplemented by Act 96 of the 2016 Session of the Louisiana Legislature, the Louisiana State Board of Medical Examiners was directed to:

1. promulgate rules and regulations authorizing physicians licensed to practice in this state to recommend marijuana for therapeutic use by patients clinically diagnosed as suffering from a debilitating medical condition; and

2. submit to the Senate and House Committees on Health and Welfare on an annual basis not less than 60 days prior to the beginning of the Regular Session of the Legislature a report as to any additional diseases or conditions that should be added to the list of eligible diseases and conditions for prescription.

B. Warning—Federal Law. Irrespective of Louisiana law, which as an agency of this state the board is obliged to adhere, marijuana is classified as a schedule I controlled substance under federal law and regulation and has not been approved by the United States Food and Drug Administration (USFDA) for the treatment of any medical condition. Prescribing marijuana is illegal under federal law and physicians who do so may be subject to criminal, civil and administrative consequences that include, among others, federal criminal prosecution, civil fines, forfeitures, penalties, revocation of controlled dangerous substance registration issued by the United States Drug Enforcement Administration, exclusion from Medicare and other federal payer programs, etc. Patients who possess marijuana, on the written request or recommendation of a physician or otherwise, may also be exposed to federal criminal prosecution, civil fines, forfeitures and penalties. Neither Louisiana nor the board's rules preempt federal law, which may also impact the methods of payment to physicians for visits when therapeutic marijuana is requested or recommended and inhibit the deposit of proceeds from such visits into banks and other federally insured institutions.

C. Consultation. For the foregoing reasons, physicians may wish to consult with their own legal counsel, as well as any health care facility, private or governmental payor with which the physician is affiliated, medical malpractice insurers and financial institutions before suggesting marijuana for the treatment of a qualifying medical condition in their patients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2631 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:318 (February 2017).

§7703. Scope of Chapter

A. This Chapter is being adopted in order to comply with the obligations imposed upon the board by Act 261, R.S. 40:1046, of the 2015 Session of the Louisiana Legislature, as amended and supplemented by Act 96 of the 2016 Session of the Louisiana Legislature, and govern a physician's recommendation for the therapeutic use of marijuana for a patient suffering from a debilitating medical condition with whom the physician has established a bona-fide physician-patient relationship.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:318 (February 2017).

§7705. Definitions

A. As used in this Chapter, the following terms and phrases shall have the meanings specified.

Board—the Louisiana State Board of Medical Examiners, as established in R.S. 37:1261-1292.

Bona-Fide Physician-Patient Relationship—a relationship in which a physician:

a. has conducted at least one in-person examination at a physical practice location in this state;

b. maintains a medical record in accordance with professional standards; and

c. is responsible for the ongoing assessment, care and treatment of a patient's qualifying medical condition, or a symptom of the patient's qualifying medical condition.

Controlled Substance—any medication or other substance which is designated as a controlled substance and

regulated as such under Louisiana or federal law or regulations.

Conventional Treatment or *Conventional Medicine*—therapeutic modalities and medications offered or employed by a physician in the treatment of a debilitating medical condition which are generally accepted and recognized as falling within the standard of care in the course of medical practice based upon medical training, experience and peer reviewed scientific literature.

Debilitating Medical Condition (also referred to in this Chapter as a *Qualifying Medical Condition*)—cancer, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, cachexia or wasting syndrome, seizure disorders, epilepsy, spasticity, Crohn's disease, muscular dystrophy, or multiple sclerosis, and/or such other diseases or conditions that may subsequently be identified as a debilitating medical condition by amendment of R.S. 40:1046 or other state law.

Licensed Therapeutic Marijuana Pharmacy—a pharmacy located in this state that is licensed by and in good standing with the Louisiana Board of Pharmacy to provide therapeutic marijuana to a patient on the written request or recommendation of the patient's physician.

Marijuana—tetrahydrocannabinols, or a chemical derivative of tetrahydrocannabinols in any form, except for inhalation, raw or crude marijuana, as permitted by the rules and regulations of the Louisiana Board of Pharmacy.

Medical Practice Act or *the Act*—R.S. 37:1261-92, as may from time-to-time be amended.

Patient—an individual who:

a. is a resident of this state;

b. has a current clinical diagnoses of a qualifying medical condition; and

c. with whom the physician has a *bona-fide* physician-patient relationship.

Physical Practice Location in this State—a clinic or office physically located in this state where the physician spends the majority of his or her time practicing medicine.

Physician—an individual lawfully entitled to practice medicine in this state, as evidenced by a current license duly issued by the board.

Prescription Monitoring Program or *PMP*—the prescription monitoring program established by R.S. 40:1001 et seq., as may from time-to-time be amended.

Qualifying Medical Condition—a debilitating medical condition, as defined in this Section.

Recommend or *Recommendation* (also referred to in this Chapter as a *written request* or *recommendation*)—a physician's written direction transmitted in a form and manner specified in §7721 of this Chapter, to a licensed therapeutic marijuana pharmacy. The issuance of a recommendation must be in good faith and in the usual course of the physician's professional practice.

Registrant—a physician who is registered with the board to issue a written request or recommendation for the use of marijuana for therapeutic purposes.

Step Therapy or *Fail First Protocols*—as used in this Chapter means that if the USFDA approves the use of therapeutic marijuana for a debilitating medication condition, in a form or derivative that is different than provided for in this Chapter, the USFDA form or derivative shall be used first. If the physician determines that such USFDA approved form or derivative has been ineffective in the treatment of the patient's debilitating medical condition, the physician may then recommend a form of therapeutic marijuana provided in this Chapter for use by the patient as medically necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017).

Subchapter B. Prohibitions and Exceptions

§7707. Prohibitions

A. No physician shall:

1. issue a written request or recommendation for therapeutic marijuana unless he or she is registered with the board and complies with Louisiana law and the rules of this Chapter;

2. issue a written request or recommendation for therapeutic marijuana to more than 100 patients; provided, however, the board may grant an exception to this requirement pursuant to §7709.B of this Subchapter;

3. delegate to any other healthcare professional or other person the authority to diagnose the patient as having a qualifying medical condition;

4. examine a patient at any location where marijuana is provided; or

5. have an ownership or investment interest established through debt, equity, or other means, whether held directly or indirectly by a physician or a member of a physician's immediate family, nor any contract or other arrangement to provide goods or services, in or with a licensed therapeutic marijuana pharmacy or a producer licensed by the Louisiana Department of Agriculture and Forestry to produce marijuana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015).

§7709. Exceptions

A. This Chapter is subject to the following exceptions.

1. The rules of this Chapter shall not apply to a physician's prescription of cannabinoid derived pharmaceuticals that are approved by the USFDA for administration to patients.

2. If the USFDA approves the use of therapeutic marijuana:

a. in the same form provided for in this Chapter for a debilitating medical condition, identified in §7705.A, that medical condition shall no longer be covered by this Chapter;

b. in a form or derivative different than provided for in this Chapter for a debilitating medical condition, identified in §7705.A, that disease state shall remain covered by this Chapter. However, the patient shall first be treated through utilization of step therapy or fail first protocols.

B. Upon written application the board may, in its discretion, authorize a physician to exceed the patient limit set forth in §7707.A.2 of this Subchapter. The application shall contain a statement by the physician of the specific manner in which the physician proposes to deviate from such limit, together with a statement of the medical facts and circumstances deemed by the physician to justify such

departure, and such other information and documentation as the board may request. The board's action on any such application shall be stated in writing and shall specify the manner and extent to which the physician shall be authorized to exceed the patient limit set forth in §7707.A.2 and the period of time during which such authorized exception shall be effective.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2632 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017).

Subchapter C. Registration

§7711. Registration, Physician Eligibility

A. To be eligible for registration under this Chapter a physician shall, as of the date of the application:

1. hold a current, unrestricted license to practice medicine issued by the board;

2. hold current schedule I authority or such other authority as may be designated for therapeutic marijuana by the Louisiana Board of Pharmacy;

3. be domiciled in and practice at a physical practice location in this state; and

4. complete an on-line educational activity available at no cost on the board's web page.

B. A physician shall be deemed ineligible for registration who has:

1. has been convicted, whether upon verdict, judgment, or plea of guilty or nolo contendere, of a felony or any crime an element of which is the manufacture, production, possession, use, distribution, sale or exchange of any controlled substance or who has entered into a diversion program, a deferred prosecution or other agreement in lieu of the institution of criminal charges or prosecution for such crime;

2. has within the 10 years preceding application for registration, abused or excessively used any medication, alcohol, or other substance which can produce physiological or psychological dependence or tolerance or which acts as a central nervous system stimulant or depressant; or

3. is the subject of a pending formal investigation or administrative proceeding before the board.

C. The board may deny registration to an otherwise eligible physician for any of the causes enumerated by R.S. 37:1285 or any other violation of the provisions of the Act.

D. The burden of satisfying the board as to the qualifications and eligibility of the physician-applicant for registration shall be upon the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:319 (February 2017).

§7713. Application

A. Application for registration shall be made in a format approved by the board and shall include:

1. the applicant's full name, contact information, and such other information and documentation as the board may require;

2. criminal history record information; and

3. an application fee of $75.

B. The board may refuse any application that is not complete and may require a more detailed or complete response to any request for information in the application.

C. Applications and instructions may be obtained from the board's webpage, www.lsbme.la.gov, or by contacting the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, 1281, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015).

§7715. Registration Issuance, Expiration, Renewal

A. If the qualifications, requirements, and procedures set forth in this Chapter are met to the satisfaction of the board, registration shall be issued to the applicant.

B. Registration shall expire and become null, void, and to no effect the following year after issuance on the last day of the month in which the registrant was born.

C. Registration shall be renewed annually on or before its date of expiration by submitting to the board a renewal application and a renewal fee of $50.

D. Registration which has expired as a result of nonrenewal may be reinstated upon the applicant's satisfaction of the qualifications, requirements and procedures prescribed for original application for registration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, 1281, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015).

Subchapter D. Marijuana for Therapeutic Purposes, Limitations, Access to Records

§7717. Use of Marijuana for Therapeutic Purposes, Limitations

A. Required Prior Conditions. Nothing in this Chapter requires that a physician issue a written request or recommendation for marijuana. However, if a physician determines it medically appropriate to do so to treat or alieve symptoms of a patient's qualifying medical condition the physician shall comply with the following rules.

1. Medical Diagnosis. A medical diagnosis of a debilitating medical condition shall be clinically established and clearly documented in the patient's medical record, based on an in-person physical examination. The diagnosis shall be supported by an assessment of the patient which, at a minimum, shall include a review of the patient's present illness, medical and surgical history, social history, alcohol and substance use history (including addiction, mental illness and psychotic disorders), prescription history, and an assessment of current coexisting illnesses, diseases, or conditions.

2. Prescription Monitoring Program. The physician shall review the patient's information in the Prescription Monitoring Program database prior to issuing any written request or recommendation for marijuana.

3. Independent Medical Judgment. A physician's decision to utilize marijuana in the treatment of a patient must be based on the physician's independent medical judgment. The indication, appropriateness, and safety of the recommendation shall be evaluated in accordance with current standards of practice and in compliance with the laws of this state and the rules of this Chapter.

4. Treatment Plan. An individualized treatment plan shall be formulated and documented in the patient's medical record which includes medical justification for the use of marijuana. In addition, the plan shall include documentation:

a. that conventional treatment for the patient's debilitating medical condition have been considered, are being undertaken or have been attempted without adequate or reasonable success or a statement that the patient has refused such methods;

b. whether therapeutic marijuana could interfere with any ongoing conventional treatment; and

c. the intended role of therapeutic marijuana within the overall plan.

5. Informed Consent. A physician shall explain the potential risks and benefits of both the therapeutic use of marijuana and any alternative conventional treatment to the patient. Among other items, informed consent should caution against driving, operating machinery or performing any task that requires the patient to be alert or react when under the influence of the drug and the need for secure storage to reduce the risk of exposure to children or diversion by others. Unless approved by the USFDA for treatment of the patient's debilitating medical condition, a physician shall also advise patients that therapeutic marijuana is experimental, unconventional, and has not been approved by the USFDA for the treatment of the patient's debilitating medical condition, and that possession may be viewed as illegal under federal law and subject to federal (and workplace) enforcement action. Discussion of the risks and benefits should be clearly noted in the patient's record. If the patient is a minor a custodial parent or legal guardian shall be fully informed of the risks and benefits and consent to such use.

6. Continued Use of Marijuana. The physician shall monitor the patient's progress closely, re-examine the patient at intervals not to exceed 90 days to assess the benefits of treatment, assure the therapeutic use of marijuana remains indicated, and evaluate the patient's progress toward treatment objectives. Exceptions to this interval shall be adequately documented in the patient's record. During each visit, attention shall be given to the possibility that marijuana use is not masking an acute or treatable progressive condition or that such use will lead to a worsening of the patient's condition. Indications of substance abuse or diversion should also be evaluated.

7. Medical Records. A physician shall document and maintain in the patient's medical record, accurate and complete records of the medical diagnoses of a qualifying medical condition, PMP inquiries, consultations, treatment plans, informed consents, periodic assessments, and the results of all other attempts which the physician has employed alternative to marijuana. A physician shall also document the date, type, quantity, dosage, route, and frequency of each written request or recommendation for marijuana which the physician has made for the patient. A copy of a written request or recommendation shall suffice for this purpose.

B. Termination of Use. A physician shall refuse to initiate or re-initiate or shall terminate the use of marijuana with respect to a patient on any date that the physician determines, becomes aware, knows, or should know that:

1. the patient is not a qualifying candidate for the use of marijuana under the conditions and limitations prescribed by this Section;

2. the patient has failed to demonstrate clinical benefit from the use of marijuana; or

3. the patient has engaged in diversion, excessive use, misuse, or abuse of marijuana or has otherwise consumed or disposed of the drug other than in compliance with the directions and indications for use given by the physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2633 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:319 (February 2017).

§7719. Board Access to Records

A. The records required by this Subchapter shall be available for examination, inspection and copying by the board or its designated employee or agent at any reasonable time, but without the necessity of prior notice by the board. The failure or refusal of a registrant to make such records available pursuant to this Section shall constitute a violation of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015).

§7721. Form of Written Request or Recommendation

A. Required Contents. A written request or recommendation for therapeutic marijuana shall include:

1. the physician's name, address, telephone number, e-mail address, registration number issued under this Chapter, and Louisiana schedule I or other license number for therapeutic marijuana issued by the Louisiana Board of Pharmacy;

2. the name, address and date of birth of the patient;

3. the date, name and address of the licensed therapeutic marijuana pharmacy to whom the written request or recommendation is being transmitted;

4. the form, amount, dosage and instructions for use of therapeutic marijuana in an amount which is not greater than that necessary to constitute an adequate supply to ensure uninterrupted availability for a period of one month, including amounts for topical treatment; and

5. confirmation that the written request or recommendation for therapeutic marijuana is being submitted for the physician's patient as defined by and in and conformity with the rules of this Chapter.

B. Approved Form. Direction provided to a pharmacist substantially in the form of the written request or recommendation form prescribed in the Appendix to these rules (§7729) shall be presumptively deemed to satisfy the requirements of this Section.

C. Manner of Transmission. A written request or recommendation for therapeutic marijuana shall be transmitted by the physician or physician's designee to a licensed therapeutic marijuana pharmacy in a manner that provides for medical/health information privacy and security

and is in compliance with rules promulgated by the Louisiana Board of Pharmacy. The pharmacy shall be selected by the patient from a list of licensed therapeutic marijuana pharmacies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015), amended by the Department of Health, Board of Medical Examiners LR 43:320 (February 2017).

Subchapter E. Sanctions, Severability

§7723. Sanctions Against Medical License or Registration

A. For noncompliance with any of the provisions of this Chapter the board may suspend, revoke, refuse to issue or impose probationary or other terms, conditions and restrictions on any license or permit to practice medicine in the state of Louisiana, or any registration issued under this Chapter, held or applied for by a physician culpable of such violation under R.S. 37:1285(A)(6), and R.S. 1285(A)(30), respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2634 (December 2015).

§7727. Severability

A. If any rule, provision, or item of this Chapter or the application thereof is held invalid as in excess of or inconsistent with statutory or constitutional authority, such invalidity shall not affect other rules, provisions, items, or applications, and to this end the rules and provisions of this Chapter are hereby declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 1270, and 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2635 (December 2015).

§7729. Appendix—Form for Recommendation for Therapeutic Marijuana

—THIS IS NOT A PRESCRIPTION—

PHYSICIAN RECOMMENDATION FORM

Section A. Patient's Physician Information (Required)

1. Legal First Name	2. Middle Initial	3a. Legal Last Name	3b. Suffix (Jr., Sr., III, etc.)
4a. Full Professional Address (street, city (in LA), zip code) 4b. e-mail address 4c.fax number			
5. City	6. State	7. Zip Code	8. Telephone Number
9a. LSBME Registration No. for Therapeutic Marijuana **No. _____**		9b. Schedule I No. (Board of Pharmacy) for Therapeutic Marijuana **No. _____**	

Section B. Patient Information (Required)

10. Legal First Name	11. Middle Initial	12a. Legal Last Name	12b. Suffix (Jr., Sr., III, etc.)
13. Date of Birth	14. Full Address of Patient [street, city (in LA), zip code]		

Section C. Patient's Debilitating Medical Condition(s) (Required)

This patient has been diagnosed with the following debilitating medical condition:
(A minimum of one condition must be checked)

___ Acquired Immune Deficiency Syndrome
___ Cachexia or Wasting Syndrome
___ Cancer
___ Crohn's Disease
___ Epilepsy
___ Multiple Sclerosis
___ Muscular Dystrophy
___ Positive Status for Human Immunodeficiency Virus
___ Spasticity
___ Seizure Disorders

Section D. Form, Amount, Dose, and Instructions for Use of Therapeutic Marijuana (Required)

Section E. Certification, Signature and Date (Required)

By signing below, I attest that the information entered on this recommendation is true and accurate. I further attest that the above-named individual is my patient, who suffers from a debilitating medical condition and that this recommendation is submitted by and in conformity with Louisiana Law, R.S. 40:1046, and administrative rules promulgated by the Louisiana State Board of Medical Examiners, LAC 46:XLV.Chapter 77.

Signature of Physician: X_____

Date:_____

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, and R.S. 40:1046.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 41:2635 December 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:320 (February 2017)

Chapter 79. Physician Collaboration with Advanced Practice Registered Nurses

Subchapter A. General Provisions

§7901. Scope

A. The rules of this Chapter govern the practice of physicians in this state who engage in collaborative practice with an advanced practice registered nurse who provides acts of medical diagnosis or prescriptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:2720 (February 2018).

§7903. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Act—the Louisiana Medical Practice Act or Act, R.S. 37:1261 et seq.

Advanced Practice Registered Nurse or *APRN*—a licensed registered nurse who is licensed as an advanced practice registered nurse by the Louisiana State Board of Nursing.

Alternate Collaborating Physician or *ACP*—a physician meeting the eligibility requirements of this Chapter who is designated to serve as collaborating physician, in accordance with §7911.A.5 of these rules, when the collaborating physician is unavailable.

Board—the Louisiana State Board of Medical Examiners, as constituted in the Louisiana Medical Practice Act.

Clinical Practice Guidelines—written or electronic documents, jointly agreed upon by the collaborating physician and APRN that describe a specific plan, arrangement, or sequence of orders, steps, or procedures to be followed or carried out in providing patient care in various clinical situations. These may include textbooks, reference manuals, electronic communications and Internet sources.

Collaborating Physician or *CP*—a physician with whom an APRN has been approved to collaborate by the Louisiana State Board of Nursing, who is actively engaged in clinical practice and the provision of direct patient care in Louisiana, with whom an APRN has developed and signed a collaborative practice agreement for prescriptive and distributing authority. A CP shall hold a current, medical license issued by the board, or be otherwise authorized by federal law or regulation to practice medicine in this state, have no pending disciplinary proceedings and practice in accordance with rules of the board.

Collaboration or *Collaborate*—a cooperative working relationship between a physician and APRN to jointly contribute to providing patient care and may include but not be limited to discussion of a patient's diagnosis and cooperation in the management and delivery of health care with each provider performing those activities that he or she is legally authorized to perform.

Collaborative Practice—the joint management of the health care of a patient by an APRN performing advanced practice registered nursing and one or more consulting physicians. Except as provided in R.S. 37:930, acts of medical diagnosis and prescriptions by an APRN shall be in accordance with a collaborative practice agreement.

Collaborative Practice Agreement or *CPA*—a formal written statement addressing the parameters of the collaborative practice which are mutually agreed upon by an APRN and one or more physicians which shall include but not be limited to the following provisions:

a. availability of the collaborating physician for consultation or referral, or both;

b. methods of management of the collaborative practice which shall include clinical practice guidelines; and

c. coverage of the health care needs of a patient during any absence of the APRN or physician.

Controlled Substance—any substance defined, enumerated, or included in federal or state statue or regulations 21 CFR 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled substance by amendment or supplementation of such regulations or statute.

Fair Market Value or *FMV*—the value in arm's-length transactions, consistent with the general market value of the services provided.

LSBN—the Louisiana State Board of Nursing, as constituted in R.S. 37:911 et seq.

Physician—an individual lawfully entitled to engage in the practice of medicine in this state as evidenced by a license duly issued by the board.

Practice Site or *Site*—a location identified in a CPA or other documentation submitted by the APRN to the LSBN at which a CP or APRN engage in collaborative practice. A hospital and its clinics, ambulatory surgery center, nursing home, any facility or office licensed and regulated by LDH, as well as a group or solo physician practice, which have more than one physical location shall be considered a *site* for purposes of this definition.

Prescription or *Prescription Drug Order*—an order from a practitioner authorized by law to prescribe for a drug or device that is patient specific and is communicated by any means to a pharmacist in a permitted pharmacy, and is preserved on file as required by law or regulation.

Unpredictable, Involuntary Reasons—the death, disability, disappearance, unplanned relocation, or a similar unpredictable or involuntary reason.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:272 (February 2018).

§7905. Prohibitions

A. A physician who has signed a CPA with an APRN shall comply with the rules of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:273 (February 2018).

§7907. Exceptions

A. This Chapter shall not apply to physician collaboration:

1. with an APRN who does not engage in acts of medical diagnosis or prescriptions, as described in R.S. 37:913(8) and (9), or those otherwise exempt from collaborative practice pursuant to R.S. 37:930; and

2. in cases of a declared emergency or disaster, as defined by the Louisiana Health Emergency Powers Act, R.S. 29:760 et seq., or as otherwise provided in title 29 of the *Revised Statutes* of 1950, or the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:273 (February 2018).

Subchapter B. Due Diligence; Eligibility; Requirements of Collaborative Practice Agreement and Required Information

§7909. Due Diligence

A. Before entering into a collaborative practice agreement with an APRN, a physician shall:

1. insure that he or she possesses the qualifications specified by this Chapter; and

2. have an understanding of the rules of this Chapter.

B. After signing a collaborative practice agreement with an APRN a physician shall confirm with the APRN that any required documentation concerning the collaborative practice has been submitted to the LSBN.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).
HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:273 (February 2018).

§7911. Eligibility; Required Components of Collaborative Practice Agreement

A. To be eligible to engage in collaborative practice with an APRN a physician shall:

1. be actively engaged in the provision of direct patient care in Louisiana;

2. practice in an area comparable in scope, specialty, or expertise to that of the APRN;

3. except as provided in §7911.A.5, have signed a collaborative practice agreement as described in R.S. 37:913(8) and (9) with an APRN that complies with the standards of practice prescribed by §§7915-7919 of this Chapter. In addition, a collaborating physician shall insure that the CPA includes:

a. a plan of accountability among the parties that addresses:

i. prescriptive authority of the APRN and the responsibilities of the collaborating physician;

ii. a plan for hospital and other healthcare institution admissions and privileges which provides that a collaborating physician must have hospital privileges at an institution before an APRN receives privileges at the same hospital or institution;

iii. arrangements for diagnostic and laboratory testing; and

iv. a plan for documentation of medical records;

b. clinical practice guidelines as required by R.S. 37:913(9)(b), documenting the types or categories or schedules of drugs available and generic substitution for prescription by the APRN and be:

i. mutually agreed upon by the APRN and collaborating physician;

ii. specific to the practice setting;

iii. maintained on site;

iv. reviewed and signed at least annually by the CP to reflect current practice;

c. availability of the collaborating physician when he or she is not physically present in the practice setting for consultation, assistance with medical emergencies, or patient referral;

d. confirming that in the event all collaborating physicians are unavailable, and there is no alternate collaborating physician(s), the APRN will not medically diagnose or prescribe;

e. documentation that patients are informed about how to access care when both the APRN and/or the collaborating physician are absent from the practice setting;

f. an acknowledgment of the mutual obligation and responsibility of the APRN and collaborating

physician to insure that all acts of prescriptive authority are properly documented;

4. if the APRN has been granted prescriptive authority by the Louisiana State Board of Nursing that includes controlled substances; possess a current, unrestricted Louisiana controlled dangerous substance permit and a current, unrestricted registration to prescribe controlled substances issued by the United States Drug Enforcement Administration; and

5. in the event all CPs at a practice site are unavailable, the CP may designate an alternate collaborating physician at the practice site to be available for consultation and collaboration provided the following conditions are met:

a. there is a formal, documented, approved and enforceable organizational policy that allows and provides for designation of an alternate collaborating physician;

b. the organizational policy establishes and provides for documenting such designation and such documentation shall be made available to board representatives when requested, including the dates of the designation and name of the alternate collaborating physician(s);

c. the alternate collaborating physician agrees to the provisions of the collaborative practice agreement previously signed by the collaborating physician(s);

d. the collaborating physician and APRN are responsible for insuring that the documented organization policy is established and that such policy and any ACP meet the requirements of this Chapter; and

e. the ACP is designated to collaborate with the APRN only at the same practice site as the designating CP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:273 (February 2018).

§7913. Required Information

A. Each physician shall report to the board annually, as a condition to the issuance or renewal of medical licensure, whether or not he or she is engaged in collaborative practice with an APRN, along with such other information as the board may request.

B. The information required by this Section shall be reported in a format prepared by the board, which shall be made part of or accompany each physician's renewal application for medical licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:274 (February 2018).

Subchapter C. Standards of Practice

§7915. Responsibilities, Compensation Arrangements

A. A collaborating physician shall insure that the identity, contact information and availability of the collaborating physician(s) and APRN are available to patients of the collaborative practice.

B. When serving as the sole CP for an APRN at a practice site, the CP:

1. shall give no less than 30-days notice to the APRN when ending a collaborative practice agreement for predictable, voluntary reasons in order to provide for continuity of care of patients; and

2. work with the APRN to identify and enlist a physician to serve as alternate collaborating physician for unpredictable, involuntary reasons. A physician serving as alternate collaborating physician for unpredictable or involuntary reasons:

a. shall insure that the APRN notifies the LSBN within two business days of the commencement of service as an ACP;

b. may serve in such capacity for at least 30, but no more than 120, days to provide for continuity of care while the APRN secures another CP; and

c. may be excused from the requirements §7911.A.2 (e.g., practice in an area comparable in scope, specialty, or expertise of the APRN, unless following notification pursuant to §7915.B.2.a of this Section, the APRN advises the ACP that the collaborative practice has not been approved by LSBN).

C. In structuring any compensation arrangement or other financial relationship with an APRN, a collaborating physician shall be mindful that a CPA is not an option for an APRN; rather, it is a requirement of state law. Any attempt to exploit such requirement by way of compensation arrangements for performing no professional services, merely serving as a CP under a CPA, or for an amount that is not consistent with the FMV of the services provided to an APRN under a CPA shall be viewed as unprofessional conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:274 (February 2018).

§7917. Limitations

A. A physician shall not collaborate with an APRN:

1. except in compliance with all applicable state and federal laws and regulations;

2. when the APRN and collaborating physician, or in the physician's absence an alternate collaborating physician, do not have the capability to be in contact with

each other face-to-face, by telephone or other means of direct telecommunication;

3. who treats and/or utilizes controlled substances in the treatment of:

a. non-cancer-related chronic or intractable pain, as set forth in §§6915-6923 of the board's rules;

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

c. one's self, spouse, child or any other family member; or

4. who distributes medication, other than free or gratuitous non-controlled substances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:274 (February 2018).

§7919. Continuous Quality Improvement; Board Access to Documents

A. A collaborating physician shall insure that copies of the collaborative practice agreement, clinical practice guidelines, organization policy and required designation documentation for an alternate collaborating physician are available at the practice site for examination, inspection and copying upon request by the board or its designated employees or agents.

B. A collaborating physician or alternate collaborating physician shall comply with and respond to requests by the board for personal appearances and information relative to his or her collaborative practice;

C. Employees or agents of the board may perform an on-site review of a collaborating physician or alternate collaborating physician's practice at any reasonable time, without the necessity of prior notice, to determine compliance with the requirements of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:274 (February 2018).

Subchapter D. Sanctions

§7921. Effect of Violation

A. Any violation or failure to comply with the provisions of this Chapter shall be deemed unprofessional conduct and conduct in contravention of the board's rules, in violation of R.S. 37:1285(A)(13) and (30), respectively, as well as violation of any other applicable provision of R.S. 37:1285(A).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:275 (February 2018).

Chapter 97. Complaints and Investigations

§9701. Scope of Chapter

A. The rules of this Chapter govern the board's processing of complaints and investigations relative to the laws governing the practice of medicine by physicians, other state and federal laws to which physicians are subject and the board's rules. These rules are intended to supplement, but not replace, any applicable provision of the Louisiana Administrative Practice Act, R.S. 49:950 et seq. regarding the disciplinary process and procedures. To the extent that any rule of this Chapter is in conflict therewith, the provisions of the Louisiana Administrative Procedure Act shall govern.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2627 (December 2015).

§9703. Definitions

A. As used in this Chapter, the following terms shall have the meanings specified.

Board—the Louisiana State Board of Medical Examiners, as established in the Louisiana Medical Practice Act, R.S. 37:1261-1292.

Complaint—any information, claim or report of whatsoever kind or nature received or obtained by the board that alleges or may indicate a violation of the law by a licensee.

Jurisdictional—a matter within the board's authority under the law.

Law (or *the law*)—unless the context clearly indicates other, the Louisiana Medical Practice Act, R.S. 37:1261-1292, other applicable laws administered by the board and the board's rules, LAC 46:XLV.101 et seq.

Physician or *Licensee* —an individual who holds a current license or permit duly issued by the board to practice medicine in this state pursuant to R.S. 37:1261-1292.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2628 (December 2015).

§9705. Complaint Origination

A. Complaints may be initiated by any person or based on information independently developed by the board.

B. The board provides a complaint form on its website, www.lsbme.la.gov., which is to be completed, dated and signed by persons making complaints to the board. Use of the form is preferred but not required.

C. The board shall not take action on an anonymous complaint except when supported by apparently reliable information or evidence provided with the complaint or obtainable from another source.

D. The identity of and communications from a complainant constitute part of a preliminary review or investigative record of the board and shall be maintained

in confidence by the board. Confidentiality shall be waived only by written authorization of the complainant, when the complainant will be offered as a witness in a formal administrating hearing before the board or as otherwise provided by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2628 (December 2015).

§9707. Complaint Processing

A. The board's staff processes all complaints and conducts all investigations on behalf of the board.

B. Any staff member of the board, except the executive director, may act as the lead investigator on any complaint received by the board regarding a physician or any investigation regarding a physician initiated by the board on its own motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2628 (December 2015), amended LR 42:571 (April 2016).

§9709. Preliminary Review

A. Upon receipt of a complaint a preliminary review may be conducted to determine if the complaint is jurisdictional and whether sufficient cause exists to warrant formal investigation.

B. During a review such action may be initiated and taken as deemed necessary or appropriate and additional information may be obtained to assist in the determination. As part of the preliminary review:

1. documents and information which may be needed to determine if the complaint is jurisdictional and whether sufficient cause exist to warrant formal investigation may be gathered and secured. To assist in a review a designee authorized by the board is authorized to issue, as necessary or upon request of board staff, subpoenas to obtain medical, hospital and pharmacy records and records from law enforcement, state and federal agencies. Affidavits may be obtained to preserve the testimony of a complainant and complaint witnesses;

2. the complainant may be contacted; and

3. the licensee may be provided the opportunity to respond to the complaint or provide related information; provided, at the time of the first communication from the board to a licensee regarding a complaint the licensee shall be provided:

a. a brief summary of the complaint or alleged violation or a copy of the complaint if authorization has been provided;

b. notice that the licensee may, at his own expense, retain legal counsel of his choice to represent his interest; and

c. such other information as may be deemed appropriate.

C. Any information gathered during the preliminary review will be added to the information maintained on the complaint.

D. Preliminary review of a complaint shall be completed as promptly as possible within one-hundred and eighty days of receipt. However, this period may be increased by the board for satisfactory cause and shall not apply to information received from local, state or federal agencies or officials relative to on-going criminal, civil or administrative investigations or proceedings.

E. Nothing in this Chapter requires that a preliminary review be conducted if the complaint or information clearly indicates the need for formal investigation or emergent action.

F. At the conclusion of a preliminary review a determination shall be made as to whether the complaint is jurisdictional and there is sufficient cause for investigation. If the complaint:

1. is not jurisdictional or there is insufficient cause for investigation, a report and recommendation shall be submitted to the board to close the complaint without investigation. If approved by the board, the complainant and the licensee, if the licensee was notified of the preliminary review, shall be notified of the disposition. If not approved by the board, the board shall direct the board's staff to undertake such additional review as may be necessary or indicated within a specified period of time. A complaint closed after preliminary review shall not be considered an investigation by the board and need not be reported as such by a licensee on subsequent renewal applications to the board;

2. is jurisdictional and there is sufficient cause for investigation, a report and recommendation shall be submitted to the board to commence a formal investigation. The report shall include:

a. a brief summary of the complaint or alleged violation;

b. a statement of the possible violations of the law involved; and

c. a summary of the licensee's biographical, licensure and disciplinary history on file with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2628 (December 2015), amended LR 42:571 (April 2016).

§9711. Formal Investigation

A. If the board determines by a majority vote of the members present and voting at a board meeting that a complaint warrants investigation it shall instruct board staff to initiate a formal investigation. If the board determines that a compliant does not warrant investigation it shall be closed pursuant to §9709F.1. of this Chapter.

B. Written notice of the investigation including a brief summary of the facts constituting the alleged violation shall be provided to the licensee no later than five business days after the board's formal investigation is initiated by registered, return-receipt-requested mail, as well as by regular first class mail, or by personal delivery or other means, at the most current address for the licensee reflected in the official records of the board. Such notice shall also include the information set forth in §9709.B.3.a-c of this Chapter.

C. Once a formal investigation is initiated by the board, an investigation shall be undertaken to determine whether or not there is sufficient information and evidence to indicate that a violation of the law has occurred. To assist in a formal investigation subpoenas may be issued in the same manner as set forth in §9709.B to obtain any of the items listed therein and any other documents and other information, the appearance of witnesses and sworn testimony.

D. Past complaints and investigations of a licensee may be utilized in a current investigation for the purpose of determining if there is a pattern of practice or continuing or recurring conduct that fails to satisfy the prevailing and usually accepted standards of medical practice in this state on the part of the licensee.

E. If the complaint giving rise to the formal investigation involves medical incompetency, as part of the investigation a request may be made, or the board may order in a manner prescribed by §365D of these rules, the licensee to undergo a competency evaluation at a third-party evaluation center approved by the board.

F. If the investigation does not provide sufficient information and evidence to indicate that a violation of the law has occurred, a report and recommendation shall be made to the board that the investigation be closed without further action. If the board approves the recommendation, the complainant and the licensee shall be provided written notification of the disposition. If the recommendation is not approved, such further investigation or other action shall be taken as may be necessary or appropriate.

G. If the investigation provides sufficient information and evidence to indicate that a violation of the law has occurred, an administrative complaint may be filed with the board, pursuant to Chapter 99 of these rules, provided one or more of the following conditions exist:

1. a draft administrative complaint, in the form and content specified in §9903.B of these rules, has been mailed or provided to the licensee accompanied by a letter providing a reasonable opportunity for a conference to show compliance with all lawful requirements for the retention of the license without restriction, or to show that the complaint is unfounded as contemplated by R.S. 49:961(C); however, the licensee fails to respond to the complaint and letter, waives the opportunity, or the response does not satisfactorily demonstrate lawful compliance or that the complaint is unfounded. Such conference shall be attended only by the board's director of investigations or the investigator assigned to the matter and legal counsel, if any, and by the physician and the physician's counsel, if any;

2. informal disposition is attempted but fails to resolve all of the issues and the procedures specified in §9711G.1 of this Section have been provided with the same result described;

3. emergency action is required to pursuant to §9931.

H. Formal investigations shall be completed within 24 months after initiated by the board. However, this period may be increased by the board for satisfactory cause and no complaint shall be dismissed solely because a formal investigation was not completed within this period. This period shall also not apply to any investigation pending on July 1, 2015.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2629 (December 2015), amended LR 42:571 (April 2016).

§9713. Informal Settlements and Consent Orders

A. The board may, before, during, or following an investigation, or after filing an administrative complaint, dispose of any complaint through informal disposition.

B. Informal dispositions may take the form of any disposition recognized by R.S. 49:955(D), or any other form of agreement which adequately addresses the complaint or matter under review or investigation; provided, however, that such dispositions are considered by the board only upon the recommendation of the board's lead investigator with respect to the investigation and all such dispositions require approval by a majority vote of the board members present and voting at a board meeting.

C. Informal dispositions may be either non-disciplinary or disciplinary:

1. Non-disciplinary dispositions consist of correspondence, an informal conference and a letter of concern. These dispositions shall not constitute disciplinary action, are not a public record of the board and are not reported and distributed in the same manner as final decisions of the board.

2. Disciplinary dispositions consist of consent orders, and other orders and agreements, and stipulations for voluntary surrender of a license. These dispositions shall constitute disciplinary action, shall be a public record of the board, and are reported and distributed in the same manner as final decisions of the board.

D. Any matter may be referred to the board for administrative hearing without first offering an informal disposition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2629 (December 2015).