

**THE LOUISIANA STATE
BOARD OF MEDICAL EXAMINERS**

**MINUTES
OF
MEETING**

**MAY 14, 2018
NEW ORLEANS, LOUISIANA**

A meeting of the Louisiana State Board of Medical Examiners, pursuant to lawful notice, was duly convened and called to order at 8:30 a.m., Monday, May 14, 2018, by order of the President, at the offices of the Board, 630 Camp Street, New Orleans, Louisiana.

Board Members present as follows:

Christy Lynn Valentine, M.D., President
Roderick V. Clark, M.D., Vice-President
Joseph Kerry Howell, M.D., Secretary-Treasurer
Kweli J. Amusa, M.D.
Mark Henry Dawson, M.D.
Lester Wayne Johnson, M.D.
Daniel K. Winstead, M.D.

The following members of the Board's staff were present:

Vincent A. Culotta, Jr., M.D., Executive Director
Jennifer Stolier, Attorney, General Counsel
Lesley Rye, RN, Compliance Investigator
Cathy Storm, RN, Compliance Investigator
Lillie Rodgers, Investigations Manager
Aloma James, Licensing Analyst Supervisor
Kieshan Falls Williams, Administrative Program Specialist
Jacintha Duthu, Administrative Program Specialist
Rita L. Arceneaux, Executive Assistant

Legal counsel to the Board was present as follows:

Philip O. Bergeron
Michael G. Bagneris (Ret)

Member of the public present as follows:

Jeff Williams, Executive Vice-President & CEO, Louisiana State Medical Society
Jeremy Walton, Legislative Auditor

[1.] General Administrative Matters; Personnel Matters. On the motion of Dr. Amusa, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board convened in executive session to discuss personnel matters pursuant to La.Rev.Stat. 42:17A(3). No further action was taken or required on this matter at this time.

2. Minutes of April 9, 2018 Meeting. The Board reviewed the minutes of its meeting held April 9, 2018. On the motion of Dr. Winstead, duly seconded by Dr. Amusa and passed by unanimous voice vote, the Board approved the minutes of the meeting with all necessary corrections.

3. Status Report on Action Items of Prior Board Meetings; Report on Assignments to Counsel. The Board noted the action items as assigned to staff and counsel from previous meetings.

4. Rulings and Advisory Opinions; Home Sleep Equipment. The Board reviewed the draft response to the electronic correspondence received from Chris Harr, LRPSGT, Premier Sleep Medicine Center, seeking clarification on whether home sleep equipment/studies can be mailed directly to the patient for testing. Following review and discussion, on the motion of Dr. Clark, duly seconded by Dr. Winstead, and passed by unanimous voice vote, the Board approved the response for dissemination to Mr. Harr stating that it is the Board's opinion that such activity constitutes the practice of polysomnography and may only be undertaken or performed with respect to individuals located in this state by Louisiana licensed physicians, polysomnographic technologists, technicians and respiratory therapists.

5. Rulings and Advisory Opinions; Physician Assistant ("PA"); Scope of Practice; Exception to PA Rule. The Board reviewed the draft correspondence received from Cheri Leary, PA, requesting an exception to the PAs rules, §1508.A.3. Ms. Leary asked the Board to allow her to provide PA services at a behavior health company of which she is co-owner. Following review and discussion, on the motion of Dr. Johnson, duly seconded by Dr. Howell, and passed by unanimous voice vote, the Board approved the draft response to Ms. Leary informing her that from the information provided the Board was unable to determine whether the supervising physician was able to exercise independent medical judgment to fulfill the obligations and responsibilities imposed by law and the Board's rules.

6. Rulings and Advisory Opinions; Rural Health Pain Management Protocol. The Board reviewed the draft response to the request of Mickey J. Viator, M.D., for guidance on the policy/protocol established for the rural health clinics of his parish. Following review and

discussion, on the motion of Dr. Clark, duly seconded by Dr. Dawson and approved by unanimous voice vote, the Board voted to advise Dr. Viator that although the Board does not develop treatment protocol and/or policy and defers to hospitals the task of determining what protocols are best suited for their particular needs, the protocol, informational and policy materials provided appear to provide a well thought-out, comprehensive pain management protocol and an excellent educational tool that is consistent with the goal of decreasing opioid use and abuse in the medical setting.

7. Rulings and Advisory Opinions; Medical Marijuana Guidance; Matt Mitchell, M.D.

The Board reviewed correspondence received from Matt Mitchell, M.D., asking the Board, for future reference, how to handle patients who may test positive for medical marijuana. Following review and discussion, it was the consensus of the Board to inform Dr. Mitchell that the Board will review the provision of its Pain Rules to be sure this matter is addressed.

8. Communication and Information; Shreveport Medical Society The Board reviewed correspondence received from Margaret M. Crittall, M.D., President, Shreveport Medical Society thanking Dr. Valentine for her presentation at their quarterly membership meeting held on March 20, 2018 and her remarks on the need for statewide collaboration on “physician burnout”. Dr. Valentine cited the Society’s initiative to address burnout that will be offered in their Physician Revitalization Program that is in the developmental stage.

9. Communication and Information; Alex Diaz-Granados, Chief Editor, Cerebral Palsy Guidance. The Board reviewed the request of Alex Diaz-Granados, Chief Editor, Cerebral Palsy Guidance asking the Board to place a link on the Board’s website information regarding cerebral palsy. Following review and discussion, it was the consensus of the Board to advise Mr. Diaz-Granados that the Board would take the matter under advisement.

10. General Administrative Matters; President’s Report. The Board received the report of its President on her activities since the last meeting of the Board. Dr. Valentine reported on the annual meeting of the Federation of State Medical Boards (“FSMB”) stating it was well attended and breakout sessions covered physician burnout and way to address the opioid epidemic. She concluded her report stating she had three upcoming presentations including the Louisiana Medical Association’s convention the first weekend in June.

11. General Administrative Matters; Executive Director’s Report. The Board received the report of its Executive Director on his activities since the last meeting of the Board. Dr. Culotta reported on the annual meeting of the FSMB. He further reported the FSMB has asked that he serve as “Staff Fellow”, along with other Board executives. A motion was made by Dr. Howell, duly seconded by Dr. Johnson and passed by unanimous voice vote to have Dr. Culotta serve as Staff Fellow to the FSMB.

12. General Administrative Matters; Phone System. The Board received the request of staff to approve the purchase of an updated phone system for the Board. Following review and discussion, on the recommendation of staff, on the motion of Dr. Johnson, duly seconded by Dr. Howell, and passed by unanimous voice vote, the Board approved the purchase of the ShoreTel-Mitel phone system.

13. General Administrative Matters; Prescription Monitoring Program (“PMP”) Advisory Council. The Board received the report of the quarterly meeting of the PMP Advisory Council meeting held April 11, 2018 in Baton Rouge. No further action was required or taken on this matter.

14. General Administrative Matters; Athletic Trainers; Occupational Therapists; Scope of Practice; Performance of Dry Needling. The Board received the report on the review of the Louisiana Athletic Trainers Law as well as the Louisiana Occupational Therapy Practice Act in light of their request to be able to perform dry needling. Following review and discussion, it was the consensus of the Board to gather more information and seek input on what provision in the law allows them the ability to perform dry needling as well as what education and training is pre-requisite.

15. General Administrative Matters; Therapeutic Marijuana Requests. The Board reviewed the draft reply to the request made at its February 19, 2018 meeting regarding the Board’s rules on Therapeutic Marijuana. Following review and discussion, on the motion of Dr. Dawson, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board approved the response informing Mr. Brown that his request to add additional medical conditions to those already place for the use of medical marijuana was not timely made for this year’s report and that the Board considered his request for amendment to its rules as a request for rule-making which would not be prudent until final action was taken on proposed legislation (HBs 579 and 627) in this current session.

16. General Administrative Matters; Financial Reports. The Board reviewed the Income Statement, for the first three months of 2018. No further action was required or taken on this matter.

17. Rules and Regulations.

a. **Final Rules/Amendments: Physicians, Podiatrists, PAs, Medical Psychologists; Controlled Dangerous Substances, Continuing Medical Education:** At its July 2017 meeting, the Board reviewed Act 76 (2017 Reg. Session of the Legislature) which, among other items, requires health care providers who prescribe controlled dangerous substances (CDS) to obtain 3 hours of continuing medical education (“CME”) pertaining to drug diversion training, best practices regarding prescribing of controlled substances, appropriate treatment for addiction, and any other matters pertaining to the prescribing of CDS that are deemed appropriate by the licensing board. The CME is a one-time requirement and the three credit hours are considered among those required by the licensing board for license renewal. Act 76 provides that the CME requirement may be waived if the practitioner submits a certification form developed by the licensing board, attesting that she/he has not prescribed, administered or dispensed a CDS during the entire applicable reporting period. The certification must be verified by the Board through the PMP, which must submit aggregate annual compliance documentation to the Senate and House Committees on Health and Welfare. The law makes professional licensing boards responsible for developing rules and enforcement of the new requirements. Following review and discussion, the Board voted to undertake a rulemaking effort to comply with Act

76. As part of that effort, the Board determined it will provide a link on its website of approved courses that licensees may utilize to meet the requirements of Act 76 of the 2017 Louisiana Legislature. Further revisions providing for acceptance of CME from all approved CME providers was considered by the Board at its October 2017 meeting, following which the Board voted to provide *Notice of Intent* to adopt the rules in the *Louisiana Register*. Said notice appeared in the December 2017 edition of the *Louisiana Register*. Following such *Notice of Intent*, the Board did not receive any written comments or a request for a public hearing. The final rules appeared in the April 2018 edition of the *Louisiana Register*, thereby concluding this rule-making project.

b. **Rules/Amendments – Noticed for Intent to Adopt:** None since the last meeting of the Board.

c. **Rules/Amendments Under Development: Physician Compounding Medication:** At its December 2014 and January 2015 meetings, the Board reviewed Emergency Rules adopted by the Louisiana Board of Pharmacy to reflect certain changes in federal law concerning compounded medication. Following review and discussion, the Board elected to undertake a rulemaking effort as to physicians who compound medication in order to insure consistency with federal and state law and regulations. A draft will be presented for initial review and consideration in due course. **Physician Advertising; Board Certification:** At its March 2015 meeting, the Board determined to undertake a rulemaking effort to establish a process for its approval of certifying boards, alternative to the ABMS and AOA, for purposes of physician advertising of *Board Certification*. The Board directed that a draft be prepared and presented for review and approval. In conformity with the Board's direction, a draft was presented for initial review and discussion at the April 2015 meeting. At its May 2015 meeting, the Board approved publication of a *Notice of Intent* to adopt the rule amendments in the *Louisiana Register*. An additional word change was discussed and pre-notice input was received from interested parties. Following review and discussion, the Board elected to defer this effort to allow further consideration and input by other stakeholders. Inasmuch as further input had not been received, it was the consensus of the Board to write to several interested parties to ask for their input by the May meeting of the Board. During the May 2016 meeting, the Board reviewed the additional information submitted by the various stakeholders and entertained brief presentations by interested parties. Following discussion, the Board voted to defer action on this rule-making effort pending further review and voted to designate a Special Committee consisting of individuals recommended by the deans of the state's medical schools and a former Board member, to provide information on the processes involved in the accreditation of physician post-graduate training. During its January 2017 meeting, the Board received the committee's input. Following discussion, the Board requested certain changes to the draft previously appearing on its agenda, along with additional information for its consideration. Following further discussion and consideration at its April 2017 meeting, the Board voted to provide *Notice of Intent* to adopt Draft 2(A). During the March 2018 meeting, the Board determined to defer moving forward to the next step of the rulemaking process until it had an opportunity to further explore and consider all other available options, as well as the outcome of a bill introduced in this session of the Louisiana Legislature that would remove its jurisdiction to act in this matter. (See SB 186) **Physicians** - Amendments to the physician licensure rules as suggested by staff was presented for initial review and discussion to update generally for consistency with current standards and make other

substantive and technical modifications made necessary by the passage of time and current practices. Following review and discussion at its January 2018 meeting, the Board suggested proceeding slowly with the proposed changes in order to fully consider how such changes may affect other Sections of the rules. In the interim, the Board approved moving forward with the suggested amendment to §417B to clarify that a renewal reminder would be mailed to licensees in lieu of an actual application.

18. Legislative Matters; 2018 Proposed Legislation. The Board reviewed a list of proposed legislation for 2018 that may have an impact on the Board.

19. General Administrative Matters; New Business; Graduates; Temporary Institutional Permits. On the motion of Dr. Clark, duly seconded by Dr. Amusa, and passed by unanimous voice vote, the Board voted to take up an item of new business, limited residency. The Board reviewed electronic correspondence received from Berryl Thompson-Broussard, LL.M., General Counsel, Teche Action Board, Inc., d/b/a Teche Action Clinic, asking the Board to issue a temporary institutional specific permit to medical school graduates, unable to secure one year of residency training upon graduation, to work in the Federally Qualified Health Centers/Rural Health Clinics. Following review and discussion, it was consensus of the Board to defer action pending further study of the matter.

20. Public Comments. The President asked if anyone from the public had questions and/or comments. Hearing none, the public session of the meeting ended.

[21.] Minutes of April 9, 2018 Executive Sessions. On the motion of Dr. Winstead, duly seconded by Dr. Amusa and passed by unanimous voice vote, the Board convened in executive session to review the minutes of its executive sessions conducted during the meeting of April 9, 2018. Following review and discussion, the Board resumed in open session and on the motion of Dr. Winstead, duly seconded by Dr. Amusa and passed by unanimous voice vote, approved the minutes of the executive sessions conducted during its meeting of April 9, 2018.

[22.] Report on Pending Litigation. On the motion of Dr. Amusa, duly seconded by Dr. Johnson and passed by unanimous voice vote, the Board convened in executive session to receive the reports of legal counsel on pending litigation to which the Board was a party, and the status of proceedings for judicial review of prior Board decisions, La. Rev. Stat. § 42:17A(2).

[23.] Personal Appearances/Docket Calendar. On the motion of Dr. Winstead, duly seconded by Dr. Johnson, and passed by unanimous voice vote, the Board convened in executive session, to review the calendar of personal appearances and docketed hearings, as matters relating to the character and professional conduct of a licensee and allegations of misconduct, La. Rev. Stat. 42:17 A(1), (4). No further action was required or taken on this matter.

[24.] Investigative Reports. On the motion of Dr. Dawson, duly seconded by Dr. Johnson, and passed by unanimous voice vote, the Board convened in executive session, to consider the investigative reports as matters relating to the character and professional conduct of a licensee, and allegations of misconduct, La. Rev. Stat. §42:17A(1) and (4). Following review and

discussion the Board resumed in open session. On the motion of Dr. Winstead, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board approved the following:

- a. Formal Investigations: The Board approved commencing formal investigations in the following matters:

Investigation No., 17-I-940¹
Investigation No., 18-I-246
Investigation No., 17-I-963
Investigation No., 17-I-765²
Investigation No., 17-I-926
Investigation No., 18-I-233
Investigation No., 17-I-320
Investigation No., 18-I-111

- b. Interim Action: The Board approved the Interim Action that had been handled by the President:

Docket No., 17-I-900

- c. Consent Orders: The following Consent Orders were accepted:

John William Parker, Jr., M.D., Docket No., 16-I-621
Fredrick Stephen Murray, LRT, Docket No., 17-I-1003

- d. Closed/Dismissed: The following matters were closed/dismissed:

Docket No., 17-I-323
Docket No., 18-I-008

- e. Closed/Dismissed: The following matter was closed/dismissed with a Letter of Concern:

Docket No., 16-I-293

- f. Closed Complaints Cases: The Board reviewed the Closed Complaint Cases Report for April 2018.

[25.] Professional Liability Report. On the motion of Dr. Howell, duly seconded by Dr. Johnson and passed by unanimous voice vote, the Board convened in executive session to consider the report on professional liability cases reviewed since the last meeting of the Board as

1 Dr. Clark recused himself from any and all participation in discussion and/or consideration of this matter.

2 Dr. Howell recused himself from any and all participation in discussion and/or consideration of this matter.

matters relating to the character and professional conduct of a licensee and allegations of misconduct, La. Rev. Stat. § 42:17A(1) and (4). No further action was required or taken on these matters.

[26.] General Disciplinary Matters. On the motion of Dr. Dawson, duly seconded by Dr. Clark, and passed by unanimous voice vote, the Board convened in executive session to consider the request relating to the execution or modification of a Decision and/or Consent Order as matters relating to the character and professional conduct of licensees, pursuant to La. Rev. Stat. §42:17A(1) and (4). Following review and discussion, the Board resumed in open session and upon the motion of Dr. Howell, duly seconded by Dr. Clark and passed by unanimous voice vote, made the following decision:

- a. Harris, Michael Shane, PA. – To approve the request of Michael Shane Harris, PA, for reinstatement of his license, off probation with the restriction on his prescribing privileges remaining.
- b. Butler, Christopher Thomas, PA – To suspend the license of Christopher Thomas Butler, PA.
- c. Review of PA-Supervising Physician (“SP”) Intent to Practice – To discontinue review of the Intent to Practice application for PAs and their SP.
- d. Allied Health Monitoring Report – To accept the Allied Health Monitoring Quarterly Report.
- e. Sarkissian, Vahe, M.D. – To review the file of Vahe Sarkissian, M.D., presented for information only.

[27.] General Administrative Matters; Personnel Matters. On the motion of Dr. Dawson, duly seconded by Dr. Clark, and passed by unanimous voice vote, the Board convened in executive session to consider information relative to personnel matters, pursuant to La. Rev. Stat. §42:17A(3).

[28.] Licensure and Certification; Clinical Laboratory Personnel. On motion of Dr. Amusa, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board convened in executive session to consider the non-routine applications for licensure as a matter of the character, professional competence, or physical or mental health of an applicant, pursuant to La. Rev. Stat. 42:17A(1). Following review and discussion, the Board resumed in open session, and upon the motion of Dr. Amusa, duly seconded by Dr. Clark and passed by unanimous voice vote, approved the following for licensure provided all other requirements had been met:

Phlebotomist

Green, Jorena' Lemiracle

Generalist

Chatelain, Bradford Joseph

[29.] Licensure and Certification; Respiratory Therapist. On motion of Dr. Winstead, duly seconded by Dr. Johnson and passed by unanimous voice vote, the Board convened in executive session to consider the non-routine application for licensure as a matter of the character, professional competence, or physical or mental health of an applicant, pursuant to La. Rev. Stat. 42:17A(1). Following review and discussion, the Board resumed in open session, and on the motion of Dr. Winstead, duly seconded by Dr. Dawson and passed by unanimous voice vote, deferred action on the application of the following pending receipt of additional information:

Rivera, Janice Lee

[30.] Licensure and Certification; Physicians and Surgeons; U.S./Canadian Medical Graduates. On the motion of Dr. Amusa, duly seconded by Dr. Johnson and passed by unanimous voice vote, the Board convened in executive session to consider the non-routine applications for licensure as a matter of the character, professional competence, or physical or mental health of an applicant, pursuant to La.Rev.Stat. 42:17A(1). Following review and discussion, the Board resumed in open session and on the motion of Dr. Howell, duly seconded by Dr. Clark and passed by unanimous voice vote, made the following decisions:

a. Approved – To approve the following for licensure provided all requirements had been met:

Cocco, Abigail Michelle
Cox, Marcus Felix
Gilbert, Stewart Dixon
Henderson, Patrick Ryan
Ritter, Diane Campbell

Sam, Ronald Eric
Santos, Alberto III, DO
Sprague, Thomas Marvin, DO
Wilder, Bruce L.

b. Deferred – To defer action on the request of the following pending receipt of additional information:

Conard, Craig Joseph G.

c. Denied – To deny the request of the following for a waiver of passage of a licensing examination in the past 10 years, informing him of the need to take the SPEX examination:

Gibson, Steven

[31.] Licensure and Certification; Foreign/International Medical Graduates. On the motion of Dr. Dawson, duly seconded Dr. Amusa and passed by unanimous voice vote, the Board convened in executive session to consider the non-routine applications for licensure as a matter of the character, professional competence, or physical or mental health of an applicant, pursuant to La.Rev.Stat. 42:17A(1). Following the review, the Board resumed in open session. On the

motion of Dr. Johnson, duly seconded by Dr. Amusa and passed by unanimous voice vote, the Board made the following decisions:

a. Approved – To approve the following for licensure provided all requirements had been met:

Kachur, Patricia Chan
Okpara, Nikeisha Ann

Tanifum, Ekei Joso

b. Denied – To deny the request of the following to be allowed to maintain his license issued based on his appointment as Associate Professor on the tenure track at Tulane University School of Medicine that had been terminated:

Shah, Basil

[32.] Licensure and Certification; Physicians and Surgeons; Training Permits; U.S./Canadian Medical Graduates. On the motion of Dr. Howell, duly seconded by Dr. Winstead and passed by unanimous voice vote, the Board convened in executive session to consider the non-routine applications for issuance of a training permit as a matter of the character, professional competence, or physical or mental health of an applicant, pursuant to La.Rev.Stat. 42:17A(1). Following review and discussion, the Board resumed in open session and on the motion of Dr. Clark, duly seconded by Dr. Winstead and passed by unanimous voice vote approved the following for issuance of a training permit provided all requirements had been met:

Alexander, Douglas Joel II

Catton, Raymond Manuel

[33.] Licensure and Certification; Occupational Therapy Assistant. On the motion of Dr. Johnson, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board convened in executive session to consider the non-routine application for licensure as a matter of the character, professional competence, or physical or mental health of an applicant, pursuant to La.Rev.Stat. 42:17A(1). Following review and discussion, the Board resumed in open session and on the motion of Dr. Howell, duly seconded by Dr. Amusa and passed by unanimous voice vote, the Board approved the request of the following for a waiver of examination attempts in accordance with the Board's rule amendment:

Prelow, Antenisha Rayshell

34. Licensure and Certification; Other Licensure Matters; Short-Term Residency Program. The reviewed the request for approval of a short-term residency program in Interventional Nephrology received from Bharat Sachdeva, M.D., Medical Director, LSUHSC Shreveport as well as a request for approval of a short-term residency program in Neurointerventional Surgery from Hugo Cuellar-Saena, M.D. Following review and discussion, it was the consensus of the Board to defer action on these requests pending receipt of additional information regarding the programs.

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[35.] Licensure and Certification; Other Miscellaneous Matters; Issuance of Permit/Full Licensure; Visa Status; Follow-Up. On the motion of Dr. Dawson, duly seconded by Dr. Clark and passed by unanimous voice vote, the Board convened in executive session to consider issuance of permits or full licenses for applicants in the United States on a J1 Visa, pursuant to La.Rev.Stat. 42:17A(3). Following review and discussion, the Board resumed in open session. It was the consensus of the Board to have staff write letters to all licensees granted licensure while on a J1 Visa in accordance with La.Rev. §311.3, of the Board's rule and have them provide their current Immigration and Naturalization ("INS") status. The Board noted there were a few licensees who had not complied with the request for updated information. In accordance with the letters sent by certified mail, their licenses will not be renewed until compliance.

[36.] General Administrative Matters; Personnel Matters. On the motion of Dr. Winstead, duly seconded by Dr. Howell, and passed by unanimous voice vote, the Board convened in executive session to consider personnel matters, pursuant to La. Rev. Stat. §42:17A(3). Following review and discussion, on the motion of Dr. Johnson, duly seconded by Dr. Howell and passed by unanimous voice vote, the Board voted to offer Dr. Mouton the position of Director of Education and Resources; to hire an attorney assigned to investigative matters and report directly to the Board and authorized the President to establish a Committee to study best practices for the agency to promote the education of licensees, an efficient licensure and investigative process and determine major issues and inadequacies to affect the appropriate outcome.

37. Next Meeting of Board. The President reminded the members that the next meeting of the Board was scheduled for June 11, 2018.

Upon motion made, duly seconded and passed by unanimous voice vote, the meeting adjourned at 5:30 p.m., on Monday, May 14, 2018.

I HEREBY CERTIFY that the foregoing is a full, true and correct account of the proceedings of the meeting of the Louisiana State Board of Medical Examiners, save for executive session of the Board conducted therein, held on May 14, 2018 and approved by the Board on the 11th day of June, 2018.

Witness my hand and seal of the Louisiana State Board of Medical Examiners this 11th day of June 2018.

Joseph Kerry Howell, M.D.
Secretary-Treasurer

Attest:

Christy Lynn Valentine, M.D.
President