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PROFESSIONAL AND OCCUPATIONAL STANDARDS
Part XLV. Medical Professions
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Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 1. General

Chapter 1. Fees and Costs

Subchapter A. General Provisions

§101. Scope of Chapter

A. The rules of this Chapter prescribe the fees and costs payable to and recoverable by the board with respect to the various services and functions performed by the board for or on behalf of the applicants for licensure, certification, or registration, the holders of licenses and certificates issued by the board and the public.

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).

§103. Form of Payment Required

A. Payment to the board of any fees or costs in excess of \$25 shall be made in the form of a check or money order.

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).

§105. Payments Nonrefundable

A. Except as may be expressly provided by these rules, all fees and costs paid to the board shall be nonrefundable in their entirety.

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).

§107. Dishonored Checks

A. In addition to the amount of fees and costs elsewhere prescribed in this Chapter, a handling charge of \$10 shall be payable to the board by any person who, in payment of fees or costs, tenders to the board any check, draft, or other instrument which is dishonored by the financial institution against which it is drawn.

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).

Subchapter B. General Fees and Costs

§113. Miscellaneous Fees and Costs

A. For providing the services indicated, the following fees shall be payable to and recoverable by the board.

- | | |
|---|---------|
| 1. Photocopies of documents, per page | \$ 0.25 |
| 2. Certification of document as true copy | \$ 2.00 |
| 3. Certification of document(s) as official records | \$ 4.00 |
| 4. Official list of licensees | \$ 5.00 |
| 5. Duplicate original certificate of license, certificate of permit | \$10.00 |

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).

§115. Reciprocity Endorsement

A. For processing and handling a request by any licensee, certificate or permit holder, or registrant for the board's endorsement of such person's licensure or certification status to another state for the purpose of reciprocity licensure or certification, a fee of \$25 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 10:906 (November 1984).

§117. Handling and Mailing Costs

A. In addition to any fees or costs elsewhere prescribed in this Chapter, when any service performed by the board requires, by its nature, or as requested by the person on whose behalf such service is performed, that the board incur any postage, mailing, shipping, handling, insurance, or other costs, any such costs in excess of the then-applicable minimum first class postage shall be payable to and recoverable by 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 10:906 (November 1984).

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 annual 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).

Subchapter D. Podiatrists Fees

§137. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of podiatrists.

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).

§139. Licenses, Permits, and Examination

A. For processing an application for licensure as a podiatrist, a fee of \$300 shall be payable to the board.

B. For issuing a temporary permit, a fee of \$100 shall be payable to the board.

C. For registration for and taking of the oral examination administered by the board, a fee of \$50 shall be payable to the board.

D. When an applicant is required by these rules to take the oral examination administered by the board, the fee prescribed by §139.C shall be added to the applicable application processing fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:613, 37: 618, 37: 621-622.

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 30:239 (February 2004).

§141. Annual Renewal

A. For processing a podiatrist's annual renewal of license, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:613, 37:618, 37:621-622.

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 30:239 (February 2004).

§143. Podiatric Postgraduate Education Registration

A. For processing an application for and issuance of a certificate of registration pursuant to Subchapter K of Chapter 13 of these rules, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:613, 37:618, and 37:621-622.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:239 (February 2004).

Subchapter E. Physicians Assistants Fees

§147. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of physicians assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:907 (November 1984).

§149. Certification

A. For processing an application for certification as a physician assistant, a fee of \$250 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1362.23, and 37:1360.24.

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 30:238 (February 2004).

§153. Annual Renewal

A. For processing an application for annual renewal of a physician assistant's certification, a fee of \$150 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1360.23, 37:1360.27.

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 30:238 (February 2004).

Subchapter F. Athletic Trainers Fees

§159. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensure of athletic trainers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3313.

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 30:234 (February 2004), amended by the Department of Health, Board of Medical Examiners, LR 43:1370 (July 2017).

§161. Licenses

A. For processing applications for licensure as an athletic trainer, a fee of \$125 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3313.

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 30:234 (February 2004), amended by the Department of Health, Board of Medical Examiners, LR 43:1370 (July 2017).

§163. Annual Renewal

A. For processing an application for annual renewal of an athletic trainer's license, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3313.

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 30:235 (February 2004), amended by the Department of Health, Board of Medical Examiners, LR 43:1370 (July 2017).

Subchapter G. Occupational Therapists and Occupational Therapy Assistants Fees

§171. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of occupational therapists and occupational therapy assistants.

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).

§173. Licenses and Permits

A. For processing an application for an occupational therapist's license a fee of \$150 shall be payable to the board.

B. For processing an application for an occupational therapy assistant's license a fee of \$100 shall be payable to the board.

C. For issuing a temporary permit, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, 37:1270, 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 30:237 (February 2004).

§175. Annual Renewal

A. For processing an application for annual renewal of an occupational therapist's license, a fee of \$100 shall be payable to the board.

B. For processing an application for annual renewal of an occupational therapy assistant's license a fee of \$75 shall be payable to the board.

C. If the application for renewal is received beyond the deadline designated by the board, a late renewal fee of \$35 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014, 37:1270, 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 30:237 (February 2004).

§177. Reinstatement of License

A. For processing an application for reinstatement of a license which has lapsed by expiration and nonrenewal, a fee of \$25 shall be payable to the board in addition to the applicable renewal 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 10:907 (November 1984).

Subchapter H. Acupuncturists and Acupuncture Detoxification Specialists Fees

§183. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of physician acupuncturists, licensed acupuncturists and acupuncture detoxification specialists.

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 34:1615 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1362 (July 2017).

§185. Certification and Licensure

A. For processing an application for certification as a physician acupuncturist or as a licensed acupuncturist, a fee of \$200 shall be payable to the board.

B. For processing an application for certification as an acupuncture detoxification specialist, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:1360.

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 30:234 (February 2004), LR 34:1615 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1362 (July 2017).

§187. Annual Renewal

A. For processing an application for annual renewal of certification of a physician acupuncturist or a licensed acupuncturist, a fee of \$100 shall be payable to the board.

B. For processing an application for annual renewal of an acupuncture detoxification specialist, a fee of \$25 shall be payable to the board.

C. In addition to the fee prescribed by §187.A, any individual who fails to renew his or her certificate or license timely shall be charged a delinquent fee of \$50.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:1360.

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 30:234 (February 2004), LR 34:1615 (August 2004), amended by the Department of Health, Board of Medical Examiners, LR 43:1362 (July 2017).

Subchapter I. Respiratory Therapists

§193. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of respiratory therapists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, 37:1270 and 37:1281.

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 30:239 (February 2004), LR 38:52 (January 2012).

§195. Licenses

A. For processing an application for licensing a respiratory therapist, a fee of \$125 shall be payable to the board.

B. For processing a temporary license or a temporary work permit, a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, 37:1270, 37:1281.

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 30:240 (February 2004), LR 38:52 (January 2012).

§197. Annual Renewal

A. For processing an application for annual renewal of a respiratory therapist's license, a fee of \$85 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:240 (February 2004), amended LR 38:52 (January 2012).

Subchapter J. Midwives Fees

§201. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable the licensing of midwives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1277, 37:3243 and 37:3242.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 10:908 (November 1984).

§203. Licenses and Permits

A. For processing an application for a midwifery license, a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3240-3257, 37:1270, 37:1281.

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 30:236 (February 2004).

§205. Renewal

A. For processing an application for biannual renewal of a midwifery license, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3240-3257, 37:1270, 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:236 (February 2004).

Subchapter K. Adjudication Proceedings Costs

§209. Subpoenas

A. For issuance and service of a subpoena or subpoena duces tecum with respect to an administrative hearing under Chapter 99 of these rules, a fee of \$4 shall be payable to the board in addition to the witness fees prescribed by law [see R.S. 49:956(5)].

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 10:908 (November 1984).

Subchapter L. Clinical Exercise Physiologists Fees

§221. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of clinical exercise physiologists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004).

§223. Licenses and Permits

A. For processing an application for a license as a clinical exercise physiologist, a fee of \$150 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004).

§225. Annual Renewal

A. For processing an application for annual renewal of a license as a clinical exercise physiologist, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:236 (February 2004).

Subchapter M. Medical Psychologists Fees

§231. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to licensing and certification of medical psychologists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:1281; 37:1360.66.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:888 (March 2011).

§233. Licenses, Certificates, Permits

A. For processing an application for licensure as a medical psychologist, a fee of \$250 shall be payable to the board.

B. For processing an application for certification of the advanced practice of medical psychology, a fee of \$150 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1360.66.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 37:888 (March 2011).

§235. Annual Renewal

A. For processing a medical psychologist's annual renewal of license, a fee of \$200 shall be payable to the board.

B. For processing a medical psychologist's annual renewal of a certificate of advanced practice, a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1360.66.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:888 (March 2011).

Subchapter N. Polysomnographic Technologists and Technicians Fees

§241. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the board's issuance of a license or permit to practice polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3277 (December 2013).

§243. License and Permit

A. For processing an application for a license as a polysomnographic technologist a fee of \$150 shall be payable to the board.

B. For processing an application for a permit as a polysomnographic technician a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3277 (December 2013).

§245. Renewal

A. For processing an application for annual renewal of the license of a polysomnographic technologist a fee of \$75 shall be payable to the board.

B. For processing an application for renewal of the permit of a polysomnographic technician a fee of \$50 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3277 (December 2013).

Subchapter O. Perfusionists Fees

§251. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the board's issuance of a license or provisional license to practice perfusion in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 40:1370 (July 2014).

§253. Licenses and Permit

A. For processing an application for a license as a licensed perfusionist a fee of \$300 shall be payable to the board.

B. For processing an application for a provisional license as a perfusionist a fee of \$200 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343, 37:1270, 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 40:1370 (July 2014).

§255. Renewals and Extensions

A. For processing an application for renewal of a licensed perfusionist's license a fee of \$150 shall be payable to the board.

B. For processing an extension of a provisional license as a perfusionist a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health Hospitals, Board of Medical Examiners, LR 40:1370 (July 2014).

Subchapter P. Genetic Counselors

§261. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the licensing of genetic counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1070 (August 2019).

§263. Licenses and Permits

A. For processing an application for licensing a genetic counselor, a fee of \$125 shall be payable to the board.

B. For processing a genetic counselor temporary license (examination permit), a fee of \$100 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1070 (August 2019).

§265. Annual Renewal

A. For processing an application for annual renewal of a genetic counselor's license, a fee of \$75 shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1070 (August 2019).

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 pursuing 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 or chief medical officer of an academic medical center 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 a medical school or college to a full-time position at a rank of assistant professor or above or to a full-time position as an employee of an academic medical center whose duties and responsibilities are devoted primarily to training residents and fellows and other academic endeavors within postgraduate medical education. The practice of such an individual shall be limited to the medical school or college or academic medical center for which such person has been approved by the board, and to hospitals and clinics affiliated with such medical school or college or academic medical center within the same geographic area of the state.

B. Special Definition. For purposes of this Section, the term *academic medical center* shall be a hospital located in this state that sponsors four or more post-graduate medical education programs approved by the ACGME. At least two of such programs shall be in medicine, surgery, obstetrics and gynecology, pediatrics, family practice, emergency medicine or psychiatry.

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), LR 47:728 (June 2021).

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; or

5. alternative to the requirements of §323A.4, if the IMG is a graduate of a medical school or college which was, at the time of graduation, recognized by the World Federation for Medical Education (WFME) or another organization accepted by the ECFMG for the recognition of medical school accrediting agencies, and found to use standards comparable to those used to accredit medical schools in the United States by the National Committee on Foreign Medical Education and Accreditation (NCFMEA) of the U.S. Department of Education, have completed post-graduate clinical training in the manner prescribed by §311A.6.b of these rules.

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), LR 47:729 (June 2021).

§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 licensure 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.

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), LR 47:730 (June 2021).

§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.

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), LR 47:730 (June 2021).

§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 or an emergency temporary permit issued under §412 of these rules.

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), amended by the Department of Health, Board of Medical Examiners, LR 47:735 (June 2021).

§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; Fellowship Training 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.

E. Fellowship Training Permit; Qualifications. The board may, in its discretion, issue a temporary permit for the purpose of participating in unaccredited postgraduate fellowship training, at a minimum level of postgraduate year four (PGY-4), that is conducted by a Louisiana medical school or major teaching hospital, as defined herein, provided such school or major teaching hospital sponsors a fully accredited ACGME residency training program in the same specialty in which the fellowship training is offered. To qualify for such a permit an applicant:

1. shall:

a. have completed a residency training program accredited by the ACGME, AOA or the Commission on Dental Accreditation (CODA) of the American Dental Association in the same specialty as the fellowship; and

b. possess all of the qualifications for licensing prescribed by §311A.1-6 of these rules;

2. present, or cause to be presented, to the board:

a. a completed application in a manner specified by the board, together with the fees prescribed by Chapter 1 of these rules;

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

c. a letter from the program director under whom he or she will be serving in the fellowship, describing the capacity in which the applicant will be serving and the inclusive dates of such service.

3. Restrictions, Limitations. 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 or training, other than within the fellowship training program for which he or she is approved by the board.

4. Term. A permit issued under this Section shall expire, and thereby become null and void and to no effect on the date specified by the permit or twelve months from the date of issuance, whichever is the shorter period. Such permit shall also expire on any date that the permittee's appointment to the designated fellowship training is terminated.

5. Renewal. A fellowship training permit which has expired may, at the board's discretion, be renewed or reissued for not more than one successive twelve 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.

6. Revocation. A fellowship 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 prerequisite 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 terms, conditions, restrictions, or limitations prescribed by this Section.

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), amended by the Department of Health, Board of Medical Examiners, LR 45:1470 (October 2019).

§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; Fellowship Training Permit

A. In General. The board may issue a Graduate Education Temporary Permit (GETP) to an international

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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.

L. Fellowship Training Permit; Qualifications. The board may, in its discretion, issue a temporary permit for the purpose of participating in unaccredited postgraduate fellowship training at a minimum level of postgraduate year four (PGY-4), that is conducted by a Louisiana medical school or major teaching hospital, as defined herein, provided such school or major teaching hospital sponsors a fully accredited ACGME residency training program in the same specialty in which the fellowship is offered. To qualify for such a permit an applicant:

1. shall:

a. have completed a residency training program accredited by the ACGME, AOA or the Commission on Dental Accreditation (CODA) of the American Dental Association in the same specialty as the fellowship; and

b. possess all of the qualifications for licensing prescribed by §323 of these rules;

2. present, or cause to be presented, to the board:

a. a completed application in a manner specified by the board, together with the fees prescribed by Chapter 1 of these rules;

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

c. a letter from the program director under whom he or she will be serving in the fellowship, describing the capacity in which the applicant will be serving and the inclusive dates of such service.

3. Restrictions, Limitations. 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 education or training, other than within the fellowship training program for which he or she is approved by the board.

4. Term. A permit issued under this Section shall expire, and thereby become null and void and to no effect on the date specified by the permit or twelve months from the date of issuance, whichever is the shorter period. Such permit shall also expire on any date that the permittee's appointment to the designated fellowship training program is terminated.

5. Renewal. A fellowship training permit which has expired may, at the board's discretion, be renewed or reissued for not more than one successive twelve 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.

6. Revocation. A fellowship 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 prerequisite 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 terms, conditions, restrictions, or limitations prescribed by this Section.

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), amended by the Department of Health, Board of Medical Examiners, LR 45:1470 (October 2019).

§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 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.

L. The board may, upon its electronic receipt of a completed application and/or such information as may be required to verify the individual as a former licensee, issue a permit under this Section to an individual who does not possess a current license to practice medicine or as allied health care practitioner in this state, provided:

1. such individual:
 - a. was formerly licensed by the board;
 - b. was not, in the preceding 15 years, disciplined by the board;
 - c. at the time his or her license last expired, held an unrestricted license in good standing with the board and was not subject to board order, investigation or disciplinary proceedings;
 - d. affirms that there is no known condition that would impair his/her ability to practice safely;
 - e. practices within the scope and expertise of his/her education, training and experience and that of the formerly held license issued by the board;
 - f. has made arrangements and registered to provide health care services with a hospital, institution or facility licensed by the Louisiana Department of Health (LDH) or at another site approved by LDH or the board, that:
 - i. is registered as a host entity pursuant to the Uniform Emergency Volunteer Health Practitioners Act, R.S. 29:781, et seq.; and
 - ii. initiated the individual's application process by providing electronic confirmation to LDH and the board that

it supports permit issuance and will accept, credential and grant privileges to the individual to provide voluntary health care services for the facility.

g. limits the provision of health care services to patients of the hospital, institution or facility licensed by LDH or at another site specified or approved by LDH or the board, at which he is registered to provide services pursuant to the Uniform Emergency Volunteer Health Practitioners Act, R.S. 29:781, et seq.;

2. a permit issued under §412.L shall be available to a physician who holds a reduced-fee license pursuant to §418 of these rules without the necessity of satisfying the requirements of §418.C;

3. permit issuance under this Section may be verified from the board's website.

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), R.S. 29:785 and R.S. 29:788.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 33:91 (January 2007), amended by the Department of Health, Board of Medical Examiners, LR 47:735 (June 2021).

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 or §327 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 to the medical school or college or academic medical center, 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), LR 47:728 (June 2021).

§417. Renewal of License; Prerequisite Condition

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. A courtesy renewal notice shall be mailed or electronically transmitted 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 transmitted to the most recent address of the licensee 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), LR 47:728 (June 2021).

§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), amended by the Department of Health, Board of Medical Examiners LR 47:730 (June 2021).

§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 shall annually evidence and document, in a manner specified 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), amended by the Department of Health, Board of Medical Examiners LR 47:731 (June 2021).

§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), amended by the Department of Health, Board of Medical Examiners LR 47:731 (June 2021).

§439. Documentation Procedure

A. Licensees shall insure that documentation of CME (or continuing education) sufficient to satisfy the annual continuing education requirement is submitted to the board. Each licensee shall request the organization or entity sponsoring or offering the activity to submit proof of the licensee's completion of a continuing education activity to the board's designated electronic education tracker (EET). In the event the sponsoring or offering organization fails or refuses to do so, the licensee shall submit such proof directly to the EET.

B. Each licensee shall be:

1. sent a transcript of the hours/credits/units of qualifying continuing education, which the board has then received from its designated EET for the licensee. The transcript shall reflect the amount of continuing education needed to satisfy the continuing education requirement for license renewal. The transcript shall be electronically transmitted to the licensee's preferred email address on file with the board at periodic intervals in advance of the date for licensure renewal;

2. obligated and responsible for reviewing his/her continuing education transcript for accuracy and resolving any discrepancies in the amount of credit awarded, lack of reporting to the board, or other issues, with the organization or entity sponsoring or offering the continuing education activity. If issues remain unresolved, the licensee shall attempt resolution by way of the board's designated EET. If still unsuccessful, the licensee may then supply documentation of his/her efforts to resolve the discrepancy or other issues to the board and request its assistance;

3. A licensee's failure to notify the board of a change in preferred email address will not absolve the licensee from his/her obligations and responsibilities under this Section.

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. 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 may 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), amended by the Department of Health, Board of Medical Examiners LR 47:731 (June 2021).

§441. Failure to Satisfy Continuing Medical Education Requirements

A. Non-Compliance; Reinstatement of Licensure. A licensee:

1. who fails to satisfy the continuing education requirement shall not be eligible for licensure renewal consideration;

2. whose license has not been renewed for failure to satisfy the continuing education 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 continuing education requirement.

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), amended by the Department of Health, Board of Medical Examiners LR 47:732 (June 2021).

§443. Application of Requirements to All Licensees; Resolution of Conflict

A. Sections 439 and 441 of this Chapter shall apply to physicians and all allied health care providers licensed by the board who are required to complete continuing education as a prerequisite to the renewal of a license or other authority to practice a profession regulated by the board. All references to CME or continuing education and credits or hours, shall apply equally to any word or term utilized in this Part to describe the requirement for or amount of continuing education required for the renewal of such license or other authority. In the event of a conflict between §439 and §441, and those of any other Section in this Part, §439 and §441 shall govern and control.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners LR 47:732 (June 2021).

§444. Falsification of Continuing Medical Education (Formerly §443)

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), amended by the Department of Health, Board of Medical Examiners, LR 47:732 (June 2021).

§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), amended by the Department of Health, Board of Medical Examiners LR 47:732 (June 2021).

§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), amended by the Department of Health, Board of Medical Examiners LR 47:732 (June 2021).

§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), amended by the Department of Health, Board of Medical Examiners LR 47:733 (June 2021).

Chapter 13. Podiatrists

Subchapter A. General Provisions

§1301. Scope of Chapter

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:612, 37:613 and 37:616.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1088 (July 2003).

§1303. Definitions

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

Ankle—the joint between the leg and foot in which the tibia and fibula articulate with the talus.

Applicant—a person who has applied to the board for a license or permit to engage in the practice of podiatry in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate podiatric 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 podiatry in the state of Louisiana or for a registration to engage in the first year of continuing postgraduate podiatric education, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Board Qualified—a certification status of the American Board of Podiatric Surgery (ABPS) which is granted pursuant to satisfaction of established requirements.

Foot—that part of the human anatomy which consists of the tarsal bones, metatarsal bones, phalanges, and all supportive or connective tissue, or both, immediately adjacent thereto not to extend proximal to the proximal dome of the talus.

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. 37:624 for the suspension or revocation of podiatry 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 podiatrist to engage in the practice of podiatry in the state of Louisiana, as evidenced by a certificate duly issued by and under the official seal of the board.

Permit—the lawful authority of a podiatrist to engage in the practice of podiatry 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.

Podiatrist—a person possessing a doctor of podiatric medicine degree or an equivalent degree duly awarded by a school or college of podiatry approved by the board.

Podiatry—that profession of the health sciences which deals with:

- a. the prevention, examination, diagnosis, medical, surgical and adjuvant treatment of the human foot; and
- b. the treatment of the ankle, muscles, or tendons of the lower leg governing the functions of the foot and ankle by a podiatrist who has completed advanced training determined to be sufficient by the board at a program accredited by a nationally recognized accrediting association acceptable by the board.

Podiatry Practice Act or the Act—R.S. 37:611-628, as hereafter amended or supplemented.

Postgraduate Year One (Internship) Registration—the lawful authority of a podiatrist to engage in the first year of continuing postgraduate podiatric training in the state of Louisiana at a podiatric 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.

Practice Prerogatives—the authority of a podiatrist to engage in the treatment of the ankle, muscles or tendons of the lower leg governing the functions of the foot and ankle.

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

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, 37:612, 37:613, 37:616 and 37:618.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1088 (July 2003), amended LR 35:240 (February 2009).

Subchapter B. Requirements and Qualifications for Licensure, Scope of Practice

§1304. Necessity for License; Practice Prerogatives

A. No individual may hold himself out as a podiatrist or engage in the practice of podiatry in this state unless he or she has been licensed by or holds a permit duly issued by the board.

B. Each podiatrist licensed by the board may engage in the prevention, examination, diagnosis, medical, surgical, and adjuvant treatment of the human foot as defined herein.

C. A podiatrist shall not engage in the treatment of the ankle unless such practice is:

1. within the podiatrist's education and level of training; and
2. included within the scope of practice prerogatives for advanced practice for which the podiatrist has been approved by the board as reflected by certification issued under this Chapter.

D. No individual licensed under this Chapter shall display or use the title "doctor" or its synonym, without the designation "podiatrist" or "podiatric medicine" nor mislead the public as to the limited professional scope of practice to treat human ailments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:240 (February 2009).

§1305. 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 §1303.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 doctor of podiatric medicine or equivalent degree duly issued and conferred by a podiatric school or college approved by the board;

5. have taken and passed all three parts of the examination offered by the National Board of Podiatric Medical Examiners, or its successor, or such other national examination as may be approved by the board following consultation with the board's Podiatry Advisory Committee; and

6. with respect to applications for licensure first received by the board on and after January 1, 2005, have completed at least one year of postgraduate podiatric training in an internship or equivalent program accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association or its successor association, and approved by the board.

B. 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, 37:612, 37:613 and 37:616.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1089 (July 2003), amended LR 35:240 (February 2009).

§1307. Qualifications for Certification for Advanced Practice; Scope of Practice

A. Certification of an applicant for advanced practice may be issued by the board for either the conservative treatment of the ankle or the surgical treatment of the ankle, or both, depending upon an applicant's education and training.

B. Qualifications for Certification in Conservative Treatment of the Ankle. To be eligible for certification for the conservative treatment of the ankle an applicant who possesses and meets the qualifications and requirements of §1305A.1.-5 of this Chapter shall have completed at least one year of postgraduate podiatric training in an internship or equivalent program accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association or its successor association, and approved by the board.

C. Scope of Practice for Conservative Treatment of the Ankle. The scope of practice for the conservative treatment of the ankle shall be limited to the following:

1. the prevention, examination, diagnosis, medical, surgical, and adjuvant treatment of the human foot, as defined in §1303.A, which is authorized for a doctor of podiatric medicine without certification in advanced practice;

2. the medical treatment of the ankle to include the muscles or tendons of the lower leg governing the functions of the foot and ankle;

3. surgical treatment of the superficial conditions of the ankle involving the skin and overlying tissues and extending proximally; and

4. assisting an orthopedic surgeon or a doctor of podiatric medicine whose practice prerogatives include surgical treatment of the ankle, as defined in this Section.

D. Qualifications for Certification in Surgical Treatment of the Ankle. To be eligible for certification in the surgical treatment of the ankle, whether for initial licensure or annual renewal, an applicant who possesses and meets the qualifications and requirements of §1305.A.1-5 of this Chapter shall:

1. have completed a surgical residency approved by the Council on Podiatric Medical Education of the American Podiatric Medical Association, consisting of:

a. a three-year podiatric surgery residency (PSR 36) program or greater; or

b. a three-year podiatric medicine and surgery residency (PM and S 36) program or greater; or

c. a two-year podiatric surgery residency (PSR 24) program and:

i. be board-certified in reconstructive rear foot and ankle surgery (RRA) by the American Board of Foot and Ankle Surgery (ABFAS), formerly the American Board of Podiatric Surgery (APBS); or

ii. be board-certified in foot surgery and board qualified in reconstructive rear foot/ankle surgery (RRA) by the ABFAS.

E. Scope of Practice for Surgical Treatment of the Ankle. The scope of practice for surgical treatment of the ankle shall be limited to the following:

1. the scope of practice as described in this Section for the conservative treatment of the ankle; and

2. surgical treatment of the ankle and muscles or tendons of the lower leg governing the functions of the foot and ankle, limited to procedures listed by the Council on Podiatric Medical Education (CPME) and the American Board of Podiatric Surgery (ABPS) as found in the CPME 320 and ABPS 220 documents (and their successors) as

being required for graduate podiatric medical education and board certification at the time that an applicant's application for initial licensure or annual renewal is filed with the board.

F. Surgical procedures authorized under this Section shall only be performed in the following types of facilities:

1. a licensed and accredited hospital as defined in R.S. 40:2102(A) and R.S. 37:611(3)(a), if the podiatrist is granted privileges to do the procedures;

2. a licensed and accredited trauma center as defined in R.S. 40:2171(3) and R.S. 37:611(3)(a), if the podiatrist is granted privileges to do the procedures; or

3. a licensed and accredited ambulatory surgical center as defined in R.S. 40:2133(A) and R.S. 37:611(3)(a) if the podiatrist is granted privileges to do the same procedure in a hospital as described in §1307F.1 or a trauma center as described in §1307F.2 of this Subsection.

G. Patient history and examination. A podiatrist certified for advanced practice under this Section:

1. with two or more years of postgraduate training, may independently perform a complete history and physical (H and P) on his or her patients for the purpose of pre-operative evaluation and diagnosis before a podiatric procedure the podiatrist is authorized to perform under the scope of his or her license

2. may independently perform a complete H and P for Institutional Review Board approved research studies.

H. The burden of satisfying the board as to the qualifications and eligibility of the applicant for certification of practice prerogatives 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 and 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:241 (February 2009), amended by the Department of Health, Board of Medical Examiners, LR 42:1519 (September 2016), amended by the Department of Health, Board of Medical Examiners, LR 42:2197 (December 2016), LR 47:729 (June 2021).

§1309. Procedural Requirements [Reserved]

§1311. Waiver of Examination Requirements [Reserved]

Subchapter C. Board Approval of Podiatry Schools and Colleges

§1313. Scope of Subchapter [Reserved]

§1315. Applicability of Approval [Reserved]

§1317. List of Approved Schools [Reserved]

Subchapter D. Licensure by Reciprocity

§1319. Definitions

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

Reciprocity—the issuance of a license to practice podiatry in this state on the basis of podiatric licensure issued by another state podiatric licensing authority, pursuant to written examination and other requirements acceptable to the board as specified by §§1305 and 1307 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:241 (February 2009).

§1321. Qualifications for Podiatry Licensure by Reciprocity

A. An applicant who possesses and meets all of the qualifications and requirements specified by §§1305 and/or 1307 of this Chapter, except for the requirement of successfully passing the examination specified by §1305.A.5 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 podiatry issued by the podiatry 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 a specialty board recognized by the Council on Podiatric Medical Education of the American Podiatric Medical Association.

B. An applicant who possesses all of the qualifications for licensure by reciprocity specified by Subsection A of this Section, except for the requirement of having taken or passed a written certification or recertification 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 National Boards Part III or the podiatric medical licensure examination administered by the National Board of Podiatric Medical Examiners, or such other examination or competency testing, as may be designated and approved by the board following consultation with the board's Podiatry Advisory Committee.

C. An applicant who possess all of the qualifications for licensure by reciprocity specified by Subsections A and B of this Section who has not continuously practiced podiatry over the two years immediately prior to submission of an application to the board shall, as an additional requirement for eligibility for licensure by reciprocity, demonstrate competency by the successful passage of an examination or by such other testing as may be designated and approved by the board following consultation with the board's Podiatry Advisory Committee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:242 (February 2009).

Subchapter E. Application

§1323. Purpose and Scope

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:242 (February 2009).

§1325. Application for Licensure; Procedure

A. Application for licensure must 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 §§1305 and/or 1307 of this Chapter;

2. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

3. payment of the applicable fee as provided in Chapter I of these rules; and

4. such other information and documentation as the board may require.

B. 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. 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.

C. The board may reject or refuse to consider any application which is not complete in every detail. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:242 (February 2009).

§1327. Effect of Application

A. The submission of an application for licensure 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 podiatry, 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 licensure 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 licensure 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 this Section to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefore including, without limitation, the podiatric licensing authority of any state; the Federal Drug Enforcement Agency; the Louisiana Board of Pharmacy; the Department of Health and Hospitals; federal, state, county, parish and municipal health and law enforcement agencies; and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:242 (February 2009).

Subchapter F. Examination

- §1329. Designation of Examinations [Reserved]**
- §1331. Eligibility for Examination [Reserved]**
- §1333. Observance of Examination [Reserved]**
- §1335. Subversion of Examination Process [Reserved]**
- §1337. Finding of Subversion [Reserved]**
- §1339. Sanctions for Subversion of Examination [Reserved]**
- §1341. Passing Scores [Reserved]**
- §1343. Restriction, Limitations on Examinations [Reserved]**
- §1345. Examinations in or for Another State [Reserved]**

- §1347. Lost, Stolen or Destroyed Examinations [Reserved]**

Subchapter G. Temporary License

- §1349. Temporary License in General [Reserved]**
- §1351. License Pending Examination [Reserved]**
- §1353. Provisional Temporary Permit Pending Application for Visa [Reserved]**
- §1355. License Pending Reexamination [Reserved]**

Subchapter H. Licensure Issuance, Termination, Renewal, Reinstatement

- §1357. Issuance of Licensure**

A. If the qualifications, requirements, and procedures prescribed or incorporated by this Chapter are met to the satisfaction of the board, the board shall license the applicant to engage in the practice of podiatry in the state of Louisiana.

B. Licensure issued by the board under this Chapter, as evidenced by a certificate duly issued by the board shall reflect an applicant's practice prerogatives based upon the applicant's education and level of training in accordance with the qualifications specified by this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:243 (February 2009).

- §1359. Expiration of License or Permit**

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 expire, and thereby become null, void and to no effect, on the last day of the year in which such license or permit was issued.

B. Notwithstanding the provisions of §1359.A, every license, but not a permit, 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 licensee was born.

C. The timely submission of a properly completed application for renewal of a license, as provided in §1361, 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 37:621.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998).

§1361. Renewal of License

A. Every license or permit issued by the board 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 fee prescribed by the board and documentation of satisfaction of the continuing medical education requirement prescribed by Subchapter J 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and 37:621.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1501 (August 1998), amended LR 29:1089 (July 2003).

§1363. Reinstatement of Expired License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter set forth, provided that application for reinstatement is made within four years of the date of expiration. A podiatrist 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 these rules and/or the Podiatry Practice Act.

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 requirement of §1373 of Subchapter J 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 a recent photograph;
2. that the applicant possess a current, unrestricted license to practice podiatry 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 to practice podiatry issued by another state, that the applicant take and successfully pass:
 - a. all or a designated portion of the examination specified by R.S. 37:613; or
 - b. a written certification or recertification examination approved, offered or sponsored by the American Podiatric Medical Association or its successor association and acceptable to the board.

C. An applicant whose license to practice podiatry has been revoked, suspended or placed on probation by the

licensing authority of another state or who has voluntarily or involuntarily surrendered his license to practice podiatry in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges following the date on which his license to practice podiatry in Louisiana 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. 37:624.

E. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of character recommendation from reputable podiatrists of the former licensee's last professional location, together with the applicable fees and costs prescribed by the board, 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, 37:617, 37:621, 37:622 and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1089 (July 2003).

Subchapter I. Podiatry Advisory Committee

§1365. Constitution of Committee

A. To assist the board in the review of an applicant's qualifications for licensure and renewal of licensure under this Chapter, the board shall constitute and appoint a Podiatry Advisory Committee (advisory committee) which shall be organized and shall function in accordance with the provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:243 (February 2009).

§1367. Composition; Appointment

A. The advisory committee shall be comprised of six members five of whom shall be podiatrists and one of whom will be an orthopedic surgeon specializing in treatment of the foot. All members of the advisory committee will be licensed by the board and practice and reside in this state.

B. Insofar as possible or practical, in its appointment of members to the advisory committee the board shall maintain geographic diversity so as to provide representative membership on the advisory committee by podiatrists residing and practicing in north, central, southwestern, and southeastern Louisiana.

C. Of the board's initial appointment of members to the advisory committee following the effective date of these rules, three appointees shall be designated to serve terms expiring on the last day of the year of their appointment and three to serve terms expiring on the last day of the year succeeding the year of their appointment. Thereafter, each member of the advisory committee shall serve a term of two years, subject to removal at any time at the pleasure of the board. Members appointed to the advisory committee by the board to fill a vacancy occurring on the advisory committee, other than by expiration of the designated term, shall serve for the unexpired term. A member of the advisory committee may be appointed by the board for not more than three consecutive terms other than the initial appointments provided 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:243 (February 2009).

§1369. Delegated Duties and Responsibilities

A. The advisory committee is hereby authorized by the board to:

1. advise and assist the board in the ongoing evaluation of the podiatric licensing and other competency examinations required by the board;

2. assist the board in examining the qualifications and credentials of and interviewing applicants for podiatric licensure and making recommendations thereon to the board;

3. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules and regulations;

4. serve as a liaison between and among the board, podiatrists and podiatry professional associations;

5. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board; and

6. advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by Subchapter J of these rules, including the authority and responsibility to:

a. evaluate organizations and entities providing or offering to provide continuing professional education

programs for podiatrists and providing recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §1375 of this Chapter;

b. review documentation of continuing professional education by podiatrists, verify the accuracy of such documentation, and evaluate and make recommendations to the board with respect to whether programs and activities supplied by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and

c. request and obtain from applicants for renewal of licensure such additional information as the advisory committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

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 §§1369.A.2 and 1369.A.6 shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, 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, 37:611-37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:243 (February 2009).

Subchapter J. Continuing Medical Education

§1371. 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 §§1361 and 1363 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, 37:1270(A)(8), 37:621 and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1373. Continuing Medical Educational Requirement

A. Subject to the waiver of and exceptions to CME provided by §§1383 and 1385, respectively, every podiatrist seeking the renewal or reinstatement of licensure, to be effective on or after January 1, 2005, 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, 37:1270(A)(8), 37:621 and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1375. 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 requirement under this Subchapter, if approved, sponsored or offered by:

1. the American Podiatric Medical Association, or its successor association;
2. an organization or entity accredited by the Accreditation Council for Continuing Medical Education (ACCME);
3. a member board of the American Board of Medical Specialties;
4. 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) and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1377. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing medical education requirement prescribed by §1373 shall be included with each application for renewal or reinstatement of licensure form mailed by the board pursuant to §§1361 or 1363. Such form shall be completed and delivered to the board with the podiatrist's application.

B. Podiatrists will not be required to transmit documentation of compliance with the continuing medical education requirement for renewal or reinstatement of licensure, unless otherwise required by these rules or requested by the board pursuant to §1377.E.

C. A podiatrist 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. podiatrist'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 or other official proof acceptable to the board.

D. The board shall select for an audit of continuing medical education activities no fewer than two 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 requirement of this Subchapter shall be submitted to the board within 30 days of the date of mailing of notification of audit or such longer period as the board may designate in such notification. A podiatrist'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 not presumptively approved by the board pursuant to §1375 shall not be considered as qualifying for CME recognition by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), 37:621 and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1379. Failure to Satisfy Continuing Medical Education Requirement

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirement 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 suspension or revocation without further notice unless the applicant shall have furnished the board, within such 90 days, satisfactory evidence by affidavit, that:

1. the applicant has satisfied the applicable continuing medical education requirement;
2. the applicant's failure to satisfy the continuing medical education requirement was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §1383; or
3. the applicant is exempt from such requirement pursuant to §1385.

B. The license of a podiatrist which has expired for nonrenewal or has been suspended or revoked for failure to satisfy the CME requirement of these rules may be reinstated pursuant to §1363 upon written application to the board, accompanied by payment of the application fee prescribed by §1363, 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 cense was last issued or renewed, completed an aggregate of 20 hours of board approved CME.

C. The license of a podiatrist which has been suspended or revoked on more than one occasion for failure to satisfy the CME requirement of these rules shall be deemed in violation of R.S. 37:624(15), 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 podiatrist to practice podiatry in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), 37:621, 37:624 and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1090 (July 2003).

§1381. Falsification of Continuing Medical Education

A. Any licensee or applicant who falsely certifies attendance at and/or completion of the required continuing medical education requirement of §1373 shall be deemed in violation of R.S. 37:624(2) and/or (15), 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 podiatrist to practice podiatry in the state of Louisiana culpable of such violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8), 37:624 and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1091 (July 2003).

§1383. Waiver of Requirement

A. The board may, in its discretion, waive all or part of the CME required by these rules in favor of a podiatrist 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 the CME requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1091 (July 2003).

§1385. Exceptions to the Continuing Medical Education Requirement

A. The CME requirement prescribed by this Subchapter prerequisite to renewal or reinstatement of licensure shall not be applicable to a podiatrist:

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; or
3. who is in a postgraduate year one podiatric training program approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1270(A)(8) and 37:628.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1091 (July 2003).

Subchapter K. Postgraduate Year One (Internship) Registration

§1391. Necessity for Registration

A. As used in this Section, *postgraduate year one (PGY-1)* or *internship* means the first year of postgraduate podiatric training, following graduation from a school or college of podiatry, that is approved by the Council of Podiatric Medical Education of the American Podiatric Medical Association, or its successor, and the board. For purposes of this Section PGY-1 includes only the first year of any such training following graduation from a podiatry 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 podiatric 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 podiatric educational program, an internship, or any other program howsoever designated or whenever taken, which permits or requires such persons to exercise independent judgment, assume independent responsibility for patient care or otherwise to engage in the practice of podiatry.

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 podiatry license or permit under this Chapter; and/or
3. cause the institution of judicial proceedings against such person for injunctive relief pursuant to R.S. 37:625.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1091 (July 2003).

§1393. 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 R.S. 37:613 and §1305 and shall be a graduate of a podiatry school or college approved by the board.

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 and 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1092 (July 2003).

§1395. Procedural Requirements

A. In addition to the substantive qualifications specified in §1393, 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 PGY-1 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 §1393; provided, however, that an applicant who has completed his podiatric education but who does not yet possess a degree as required by R.S. 37:613(4) may be deemed eligible for registration upon submission to the board of a letter subscribed by the dean of an approved school or college of podiatry, certifying that the applicant has completed his academic and podiatric education at such school or college, that the applicant is a candidate for the degree of doctor of podiatric medicine or its equivalent at the next scheduled convocation of such school or college, and specifying the date on which such degree will be awarded; and

3. pay all applicable fees and costs prescribed by the board.

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, 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1092 (July 2003).

§1397. Issuance and Term of Registration

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§1393 and 1395 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 PGY-1 podiatric training 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 PGY-1 podiatric training program is to commence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:613.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 29:1092 (July 2003).

Chapter 15. Physician Assistants

§1501. Scope of Chapter

A. These rules govern the licensure of physician assistants in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:27 (January 1999).

§1503. Definitions

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

Advisory Committee—the Louisiana State Board of Medical Examiners Physician Assistants Advisory Committee constituted under R.S. 37:1270.1.

Applicant—a person on whose behalf the board has received an application for:

- a. licensure as a physician assistant;
- b. physician assistant registration for prescriptive authority; or
- c. registration by a physician to supervise a physician assistant and/or to delegate prescriptive authority to a physician assistant.

Approved Application—all of the information, representations, terms, restrictions, and documents contained in or submitted with an application upon which the board has issued: a physician assistant license; a physician assistant registration for prescriptive authority; or a supervising physician registration of delegation of prescriptive authority to a physician assistant.

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 usual and reasonable therapeutic dosage and provided at no cost to a physician or physician assistant for administration or dispensation at no cost to the patient.

Controlled Substance—for purposes of this definition, any substance designated or that may hereafter be designated as a schedule II, III, IV, or V controlled substance in R.S. 40:964.

Drug—a controlled substance or a legend drug.

Legend Drug—any drug or drug product 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 definition, legend drugs do not include controlled substances.

Locum Tenens Physician—a supervising physician approved and registered with the board under this Chapter, who assumes the obligations and responsibilities of a primary supervising physician.

Medical Device—any instrument, apparatus, implement, contrivance, or similar or related article, which is required under federal law to bear the label "Caution: Federal or State law requires dispensing by or on the order of a physician" and/or "Rx Only," or any other designation required under federal law. For purposes of this Chapter a *medical device* shall not include medical lasers, microwave, pulse light, radio frequency or any other such instrument, apparatus, implement or similar equipment used for therapeutic or cosmetic purposes.

Medication—except in these rules where its use may indicate otherwise, is synonymous with *drug*, as defined herein.

Multiple Supervising Physicians—two or more supervising physicians practicing in any professional or clinical setting.

NCCPA—National Commission on Certificate of Physician Assistants or its successors.

Physician—a person possessing a current license to practice medicine in the state of Louisiana.

Physician Assistant (PA)—a health care professional qualified by academic and clinical education and licensed by the board to provide health care services at the direction and under the supervision of a physician or a group of physicians approved by the board as a supervising physician(s).

Physician Assistant-Certified (PA-C)—a physician assistant who is currently certified by the National Commission on Certificate of Physician Assistants (NCCPA) or its successors.

Prescribe or Prescription—a request or order transmitted in writing, orally, electronically or by other means of telecommunication, for a drug or medical device issued in good faith, in the usual course of professional practice for a legitimate medical purpose, by a licensed physician, or a physician assistant registered to prescribe medication and/or medical devices under this Chapter, for the purpose of correcting a physical, mental, or bodily ailment.

Prescriptive Authority—the authority of a physician assistant duly registered and approved by the board to prescribe legend drugs and/or controlled substances and/or medical devices, to the extent delegated by a supervising physician, in accordance with the registration on file with the board and in compliance with the board's rules, §§1501-1529 and §§4501-4513.

Primary Practice Site—the practice location at which a supervising physician or physician assistant spends the

majority of time engaged in the performance of his profession.

Primary Supervising Physician—a supervising physician, approved and registered with the board as such under this Chapter.

Protocol or Clinical Practice Guidelines or Clinical Practice Guidelines or Protocols—a written set of directives or instructions regarding routine medical conditions, to be followed by a physician assistant in patient care activities. If prescriptive authority has been delegated to the physician assistant by the supervising physician the clinical practice guidelines or protocols shall contain each of the components specified by §1527. The Advisory Committee shall periodically publish and disseminate to supervising physicians and all physician assistants, model forms and examples of clinical practice guidelines and protocols. The supervising physician and physician assistant shall maintain a written copy of such clinical practice guidelines and protocols, which shall be made immediately available for inspection by authorized representatives of the board.

Supervising Group of Physicians or Supervising Group—a professional partnership, professional corporation, or other professional, physician-owned entity approved by and registered with the board under this Chapter to supervise one or more physician assistants. For the purposes of this definition the term *physician-owned entity* does not mean the type of entity defined in R.S. 37:1360.22(3).

Supervising Physician—a physician approved by and registered with the board under this Chapter, as a primary supervising physician or a locum tenens physician, to provide supervision to one or more physician assistants.

Supervision—responsible direction and control, with the supervising physician assuming responsibility for the services rendered by a physician assistant in the course and scope of the physician assistant's employment, with respect to patients for whose care, or aspect of care, the physician is responsible. Supervision shall not be construed in every case to require the physical presence of the supervising physician. However, the supervising physician and physician assistant must have the capability to be in contact with each other by either telephone or other telecommunications device. Supervision shall exist when the supervising physician responsible for the care, or aspect of care of the patient, gives informed concurrence of the actions of the physician assistant, whether given prior to or after the action, and when a medical treatment plan or action is made in accordance with written clinical practice guidelines or protocols set forth by the supervising physician. Such guidelines or protocols shall require that the physician assistant contact the supervising physician when there is a question or uncertainty as to what should be done in a given case or when an approved protocol does not address the clinical situation presented. The level and method of supervision shall be at the physician and physician assistant level, shall be documented and reviewed annually, and shall reflect the acuity of the patient care and nature of the procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:27 (January 1999), LR 31:73 (January 2005), LR 34:244 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1174 (June 2017), LR 45:552 (April 2019).

§1505. Necessity for License; Registration of Prescriptive Authority

A.1. No person may act as or undertake to perform the functions of a physician assistant unless he has in his personal possession a current physician assistant license issued to him under this Chapter.

2. A physician assistant currently licensed by the board shall not prescribe medication or medical devices unless his registration for prescriptive authority has been approved by the board in accordance with this Chapter.

B. Any person who acts or undertakes to perform the functions of a physician assistant without a current physician assistant license issued under this Chapter, or prescribes medication or medical devices without or beyond registration of such authority approved by the board, shall be deemed to be engaging in the practice of medicine; provided, however, that none of the provisions of this Chapter shall apply to:

1. any physician assistant employed by the federal government while performing duties incidental to that employment;

2. practitioners of allied health fields, duly licensed, certified, or registered under other laws of this state, when practicing within the scope of such license, certificate or registration;

3. any physician assistant student enrolled in a physician assistant educational program accredited by the Accreditation Review Commission on Education for the Physician Assistant, its predecessors or successor; provided, however, that a physician assistant student shall not prescribe legend drugs or medical devices or be eligible for registration of prescriptive authority; and

4. a physician assistant administering medical services in cases of emergency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:28 (January 1999), LR 31:74 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1175 (June 2017).

§1507. Qualifications for Licensure

A. To be eligible for licensure under this Chapter, an applicant shall:

1. be at least 20 years of age;
2. be of good moral character;
3. demonstrate his competence to provide patient services under the supervision and direction of a supervising physician by:

a. being a graduate of a physician assistant training program accredited by the Committee on Allied Health Education and Accreditation (CAHEA), or its predecessors or successors, including but not limited to the Accreditation Review Commission on Education for the Physician Assistant, and by presenting or causing to be presented to the board satisfactory evidence that the applicant has successfully passed the national certification examination administered by the National Commission on Certificate of Physician Assistants (NCCPA) or its successors, together with satisfactory documentation of current certification; or

b. presenting to the board a valid, current physician assistant license, certificate or permit issued by any other state of the United States; provided, however, that the board is satisfied that the certificate, license or permit presented was issued upon qualifications and other requirements substantially equivalent to the qualifications and other requirements set forth in this Chapter;

4. certify that he is mentally and physically able to engage in practice as a physician assistant;

5. not, as of the date of application or the date on which it is considered by the board, be subject to discipline, revocation, suspension, or probation of certification or licensure in any jurisdiction for cause resulting from the applicant's practice as a physician assistant; provided, however, that this qualification may be waived by the board in its sole discretion.

B. The burden of satisfying the board as to the eligibility of the applicant for licensure shall be upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:109 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1102 (November 1991), LR 22:201 (March 1996), LR 25:28 (January 1999), amended by the Department of Health, Board of Medical Examiners, LR 43:1175 (June 2017).

§1508. Qualifications for Registration as Supervising Physician

A. To be eligible for approval and registration under this Chapter, a proposed primary supervising physician or locum tenens physician shall, as of the date of the application:

1. be licensed to practice medicine in the state of Louisiana; and

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 and not currently be engaged in a medical residency or other post graduate training program. The board

may, in its discretion, grant an exception to the requirement for completion of all post graduate training on a case-by-case basis where the supervising physician applicant is enrolled in fellowship or other advanced training and it has been shown to the board's satisfaction that the applicant has completed all training relevant to his or her designated area of practice; and

3. not be employed by or serve as an independent contractor to a physician assistant 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, his exercise of independent medical judgment and satisfaction of the obligations and responsibilities imposed by law and the board's rules on a supervising physician.

B. The burden of satisfying the board as to the eligibility of the proposed supervising physician for approval and registration shall be upon the proposed supervising physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(b)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:202 (March 1996), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:29 (January 1999), LR 34:244 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1175 (June 2017).

§1509. Application for Licensure; Procedure

A. Application for licensure as a physician assistant must be made in a format approved by the board and must include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in §1507 of this Chapter;

2. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

3. payment of the applicable fee as provided in Chapter 1 of these rules; and

4. such other information and documentation as the board may require.

B. A personal interview of a physician assistant applicant by a member of the board or its designee may be required by the board, as a condition of licensure, with respect to:

1. an initial application for licensure where discrepancies exist in the application; or

2. an applicant who has been the subject of prior adverse licensure, certification or registration action in any jurisdiction.

C. The board may reject or refuse to consider any application which is not complete in every detail. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, R.S. 37:1281, R.S. 37:1360.23, R.S. 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:202 (March 1996), LR 25:29 (January 1999), LR 30:238 (February 2004), LR 34:244 (February 2008).

§1510. Application for Registration as Supervising Physician; Procedure

A. A physician seeking to supervise a physician assistant, as either primary supervising physician or as locum tenens physician, shall first register with and be approved by the board as a supervising physician for the physician assistant. Application for approval and registration as either a primary supervising physician or locum tenens physician must be made in a format approved by the board and must include:

1. a detailed description of the proposed supervising physician's professional background and specialty, if any; the nature and scope of his medical practice; the geographic and demographic characteristics of his medical practice; the address or location of the primary office where the physician assistant is to practice and be supervised;

2. a description of the way in which the physician assistant will be utilized as a physician assistant, and the methods to be used by the proposed supervising physician to insure responsible direction and control of the activities of the physician assistant;

3. a statement that the physician will exercise supervision over the physician assistant in accordance with any rules and regulations adopted by the board and that the physician will retain professional responsibility for the services provided by the physician assistant to any patient for whose care, or aspect of care, the physician is responsible;

4. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

5. payment of a one-time fee of \$75, of which the sum of \$20 will represent a nonrefundable processing fee; and

6. such other information and documentation as the board may require; provided, however, that criminal history record information is not required for registration as a supervising physician.

B. A physician seeking to supervise a physician assistant may be required to appear before the board upon his notification to the board of his intention to supervise a physician assistant:

1. upon a first notification to the board of the physician's intention to supervise a physician assistant if the board finds discrepancies in the physician's application; or

2. if the physician has been the subject of prior adverse licensure, certification or registration action in any jurisdiction.

C. The board may reject or refuse to consider any application which is not complete in every detail. 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.

D. Prerequisite to consideration of an application for locum tenens physician, the physician assistant sought to be supervised shall have at least one primary supervising physician registered with and approved by the board.

E. An application completed to the satisfaction of the board may be deemed approved as of the date received by the board, subject to final approval at the next board meeting.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:202 (March 1996), amended LR 25:29 (January 1999), LR 34:245 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1175 (June 2017).

§1511. Physician Assistant Advisory Committee

A. The advisory committee shall be authorized to advise the board on all matters specifically dealing with licensing or disciplining of physician assistants or the drafting and promulgating of regulations relating to physician assistants. The advisory committee shall also review and make recommendations to the board on applications for licensure as physician assistants. The board shall not act on any matter relating to physician assistants without first consulting with the advisory committee.

B. The advisory committee shall meet not less than twice each calendar year, or more frequently as may be deemed necessary or appropriate by its chairman or a majority of the members of the advisory committee, which meetings shall be at the call of and at such time and place as may be noticed by its chairman.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:203 (March 1996), LR 25:30 (January 1999).

§1513. Issuance of License; Registration of Prescriptive Authority; Working Permit; Updating Information

A.1. If the qualifications, requirements and procedures of §§1507 and 1509 are met to the satisfaction of the board, the board shall license the applicant as a physician assistant.

2. If the qualifications, requirements and procedures of §§1521 and 1525 are met to the satisfaction of the board, the board shall register the physician assistant's prescriptive

authority to the extent delegated by the supervising physician.

B. The board may grant a working permit (temporary license), valid and effective for one year but renewable for one additional year, to an applicant who otherwise meets the qualifications, requirements and procedures for licensure, except that the applicant has not yet taken or is awaiting the results of the national certification examination.

C. A working permit shall expire and become null and void on the date on which:

1. the results of the applicant's national certifying examination are available, and the applicant has failed to pass such examination; or

2. the board takes final action on the applicant's application for licensure.

D. Every license or permit issued under this Chapter is expressly subject to the terms, restrictions and limitations set forth in the approved application.

E. A working permit shall not qualify a physician assistant for registration of prescriptive authority.

F. A physician assistant is responsible for updating the board within 15 days should any of the information required and submitted pursuant to §§1507, 1509, 1521, or 1525 change after the physician assistant has been licensed as a physician assistant or his registration of prescriptive authority approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:110 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1103 (November 1991), LR 22:203 (March 1996), LR 25:30 (January 1999), LR 31:74 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1175 (June 2017).

§1514. Issuance of Approval as Supervising Physician; Registration of Delegation of Prescriptive Authority; Updating/Verification of Information

A.1. If all the qualifications, requirements and procedures of §§1508 and 1510 are met to the satisfaction of the board, the board shall approve and register a physician as a supervising physician.

2. If all the qualifications, requirements and procedures of §§1523 and 1527 are met to the satisfaction of the board, the board shall approve and register a supervising physician's delegation of prescriptive authority to a physician assistant.

B. Although a physician must notify the board each time the physician intends to undertake the supervision of a physician assistant, registration as a supervising physician with the board is only required once. Notification of supervision of a new physician assistant by a registered supervising physician shall be deemed given to the board upon the physician assistant's filing with the board a notice of intent to practice in accordance with §1517 of this

Chapter. The board shall maintain a list of physicians who are registered to supervise physician assistants and those who have registered delegation of prescriptive authority to a physician assistant.

C. Each registered physician is responsible for updating the board within 15 days in the event any of the information required and submitted in accordance with §§1508, 1510, 1523, and 1527 change after the physician has become registered as a supervising physician or registered his delegation of prescriptive authority to a physician assistant.

D. Registration of a supervising physician's delegation of prescriptive authority shall be filed with and approved by the board for each physician assistant that is to receive such authority. A supervising physician shall annually verify, on a form supplied by the board, the accuracy of such registration information on file with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:203 (March 1996), amended LR 25:30 (January 1999), LR 31:75 (January 2005).

§1515. Consent to Examination; Waiver of Privileges; Examining Committee of Physicians

A. An applicant or physician assistant shall, by applying for or accepting licensure under this Chapter, be deemed to have given his consent to submit to physical or mental examinations when so directed by the board and to waive all objections as to the disclosure or admissibility of findings, reports, or recommendations pertaining thereto on the grounds of privileged communication or other personal privileges provided by law.

B. The board may appoint or designate an examining committee of physicians, possessing appropriate qualifications, to conduct physical and mental examinations of a physician assistant, to otherwise inquire into the physician assistant's fitness and ability to provide services with reasonable skill and safety to patients, and to submit advisory reports and recommendations to the board, when the board has reasonable cause to believe that the fitness and ability of such physician assistant are affected by mental illness or deficiency or physical illness, including but not limited to deterioration through the aging process or the loss of motor skills, and/or excessive use or abuse of drugs, including alcohol.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 25:30 (January 1999).

§1517. Expiration of Licensure; Renewals; Continuing Education; Modification; Notification of Intent to Practice

A. Initial licensure shall expire as of the last day of the year in which such license was issued.

B. Every license issued by the board under this Chapter shall be renewed annually on or before the last day of the month in which the licensee was born, by submitting to the board an application for renewal in a format approved by the board, together with:

1. satisfactory verification of current certification by the National Commission on Certificate of Physician Assistants or its successors; and

2. the applicable fee as provided in Chapter 1 of these rules.

3. confirmation of the completion of such continuing education as is required to maintain current NCCPA certification. A physician assistant shall maintain a record of certification of attendance for at least four years from the date of completion of the continuing education activity. Such record shall be made available to the board within thirty days of its request.

C. A physician assistant licensed in this state, prior to initiating practice, shall submit in a format approved by the board notification of such intent to practice. Such notification may be deemed effective as of the date received by the board, subject to final approval by the board.

D. Licensure shall not terminate upon termination of a relationship between a physician assistant and a supervising physician provided that:

1. the physician assistant ceases to practice as a physician assistant until such time as he enters into a supervision relationship with another primary supervising physician registered with the board; and

2. the physician assistant notifies the board of any changes in or additions to his supervising physicians within 15 days of the date of such change or addition.

E. The board may, in its discretion, at the time of and upon application for renewal of licensure, require a review of the current accuracy of the information provided in the approved application and of the physician assistant's performance thereunder and may modify or restrict any licensure in accordance with the findings of such review.

F. A physician assistant may elect to have his license placed on inactive status by the board by giving notice to the board in writing, on forms prescribed by the board, of his election of inactive status. A physician assistant whose license is on inactive status shall be excused from payment of renewal fees and shall not practice as a physician assistant in the state of Louisiana. Any licensee who engages in practice while his or her license is on inactive status shall be deemed to be engaged in practice without a license and shall be subject to administrative sanction under R.S. 37:1360.34 or to judicial injunction pursuant to R.S. 37:1360.37. A physician assistant on inactive status may be reinstated to active status upon payment of the current renewal fees and satisfaction of other applicable qualifications for renewal prescribed by §1517.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1360.23, and 37:1360.24.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1104 (November 1991), LR 22:203 (March 1996), LR 24:1498 (August 1998), LR 25:31 (January 1999), LR 30:238 (February 2004), LR 34:245 (February 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1176 (June 2017), LR 45:552 (April 2019).

§1519. Reinstatement of Expired License

A. A license that has not been placed on in-active status pursuant to §1517 of these rules, which has expired as a result of non-renewal for less than two years from the date of expiration, may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;
2. a recent photograph of the applicant;
3. current NCCPA certification;
4. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure; and

5. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:

a. if the application is made less than one year from the date of expiration, the penalty shall be equal to the renewal fee of the license;

b. if the application is made more than one but less than two years from the date of expiration, the penalty shall be equal to twice the renewal fee of the license.

C. A physician assistant whose license has lapsed and expired for a period in excess of two years shall not be eligible for reinstatement consideration but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

D. A temporary license is not subject to reinstatement.

E. A request for reinstatement may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

F. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement of the license as a physician assistant shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281, 37:1360.23, 37:1360.24 and 37:1360.26.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:552 (April 2019).

§1521. Qualifications for Physician Assistant Registration of Prescriptive Authority

A. Legend Drugs, Medical Devices and Controlled Substances. To be eligible for registration of prescriptive authority, a physician assistant shall:

1. have completed a minimum of five hundred clinical training hours prior to graduation from an approved physician assistant education program;

2. hold an active, unrestricted license to practice as a physician assistant duly issued by the board;

3. have received authority to prescribe to the extent delegated by a supervising physician; and

4. apply for a controlled dangerous substance license from the Louisiana Board of Pharmacy and register with the United States Drug Enforcement Agency, if delegated authority to prescribe Schedule II, III, IV, or V controlled substances by the supervising physician.

B. The board may deny registration of prescriptive authority to an otherwise eligible physician assistant for any of the causes enumerated by R.S. 37:1360.33, or any other violation of the provisions of the Louisiana Physician Assistant Practice Act, R.S. 37:1361.21 et seq. or its rules applicable to physician assistants.

C. The burden of satisfying the board as to the eligibility of the applicant for approval of registration of prescriptive authority 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(B)(6), 1360.23(D) and (F), and 1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:75 (January 2005), amended LR 38:3174 (December 2012), LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:1176 (June 2017), LR 45:553 (April 2019).

§1523. Qualifications of Supervising Physician for Registration of Delegation of Prescriptive Authority

A. Legend Drugs and Medical Devices. To be eligible for approval of registration to delegate authority to prescribe legend drugs or medical devices, or both, to a physician assistant a supervising physician shall:

1. satisfy the requirements of §1508;

2. be actively engaged in clinical practice and the provision of patient care and provide supervision as defined in §1503.A; and

3. have prepared and signed clinical practice guidelines or protocols that comply with §1527 of these rules.

B. Controlled Substances. To be eligible for approval of registration to delegate authority to prescribe controlled

substances to a physician assistant a supervising physician shall:

1. satisfy the requirements of §1523.A; and
2. possess a current, unrestricted permit or license to prescribe controlled substances duly issued by the Office of Narcotics and Dangerous Drugs, Department of Health, state of Louisiana, and be currently registered to prescribe controlled substances, without restriction, with the Drug Enforcement Administration, United States Department of Justice (DEA);

C. A physician shall be deemed ineligible for registration to delegate authority to prescribe controlled substances to a physician assistant 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., or the board's rules.

D. The burden of satisfying the board as to the eligibility of a physician for registration to delegate prescriptive authority to a physician assistant shall be upon the proposed supervising physician. A physician shall not be deemed to possess such qualifications unless 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(B)(6), 37:1360.23(D)and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:76 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1176 (June 2017), LR 45:553 (April 2019).

§1525. Physician Assistant Application for Registration of Prescriptive Authority; Procedure

A. Physician assistant application for registration of prescriptive authority shall be made upon forms supplied by the board and shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications for registration of prescriptive authority set forth in §1521 of this Chapter;
2. confirmation that the supervising physician has delegated prescriptive authority to the physician assistant and the nature, extent, and limits thereof, including the Schedules of any controlled substances delegated, as documented in clinical practice guidelines or protocols conforming to §1527;
3. such other information and documentation as the board may require; and
4. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the application.

B. A personal interview of a physician assistant applicant for registration of prescriptive authority by a member of the board or its designee may be required as a condition of registration for any of the reasons specified in §1509.B or for other good cause as determined by the board.

C. The board may reject or refuse to consider any application for registration of prescriptive authority that is not complete in every detail required by the board. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D)and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:77 (January 2005), LR 45:553 (April 2019).

§1527. Supervising Physician Application for Registration of Delegation of Prescriptive Authority; Procedure

A. Physician application for approval and registration of delegation of prescriptive authority to a physician assistant shall be made upon forms supplied 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 §1523 and this Chapter;
2. confirmation that the physician has delegated prescriptive authority to the physician assistant and the nature, extent, and limits thereof as documented in clinical practice guidelines;
3. a description of the manner and circumstances in which the physician assistant has been authorized to utilize prescriptive authority and the geographical location(s) where such activities will be carried out as documented in clinical practice guidelines;
4. confirmation that clinical practice guidelines or protocols conforming to this Section have been signed by the supervising physician and physician assistant;
5. such other information and documentation as the board may require; and
6. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the application.

B. A personal interview of a physician applicant for registration of delegation of prescriptive authority by a member of the board or its designee may be required as a condition of registration for any of the reasons specified in §1510.B or for other good cause as determined by the board.

C. The board may reject or refuse to consider any application for registration of delegation of prescriptive authority that is not complete in every detail required by the board. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:77

(January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1177 (June 2017), LR 45:553 (April 2019).

§1529. Expiration of Registration of Prescriptive Authority; Renewal

A. Registration of prescriptive authority shall not be effective until the physician assistant receives notification of approval from the board. Such registration and the physician assistant's prescriptive authority shall terminate and become void, null and to no effect upon the earlier of:

1. termination of the relationship between the physician assistant and supervising physician;
2. notification to the board that the supervising physician has withdrawn, cancelled or otherwise modified the physician assistant's prescriptive authority;
3. a finding by the board of any of the causes that would render a physician assistant ineligible for registration of prescriptive authority set forth in §1521.B or a supervising physician ineligible to delegate such authority pursuant to §1523.C;
4. a finding by the board that the physician assistant has violated the Louisiana Physician Assistant Practice Act, R.S. 37:1360.21 et seq. or the board's rules;
5. a finding by the board that the supervising physician has violated the Louisiana Medical Practice Act, R.S. 37:1261 et seq. or the board's rules; or
6. expiration of a physician assistant's or supervising physician's license or registration of prescriptive authority for failure to timely renew/verify such license or registration.

B. A physician assistant's prescriptive authority is personal to the individual physician assistant and supervising physician who delegated such authority and shall not be transferred by notice of intent or otherwise, utilized by anyone other than the physician assistant to whom delegated, or placed on inactive status.

C. The PA, together with the SP, shall annually verify the accuracy of registration information on file with the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:77 (January 2005), amended by the Department of Health, Board of Medical Examiners, LR 43:1177 (June 2017), LR 45:553 (April 2019).

Chapter 19. Occupational Therapists and Occupational Therapy Assistants

Subchapter A. General Provisions

§1901. Scope of Chapter

A. The rules of this Chapter govern the licensing of occupational therapists and occupational therapy assistants to engage in the practice of occupational therapy in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§1903. Definitions

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

Applicant—a person who has applied to the board for a license to engage in the practice of occupational therapy in the state of Louisiana.

Application—a written request directed to and received by the board, upon forms supplied by the board, for a license to practice occupational therapy in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Association—the Louisiana Occupational Therapy Association, Inc. (LOTA).

Board—the Louisiana State Board of Medical Examiners.

Department—the Louisiana Department of Health and Hospitals.

Good Moral Character—as applied to an applicant means that 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. 37:3011 for the suspension or revocation of occupational therapy licensure; 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; and 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 required by this Chapter.

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

Louisiana Occupational Therapy Practice Act or the Act—R.S. 39:3001-3014 as hereafter amended or supplemented.

NBCOT—National Board for Certification in Occupational Therapy, Inc.

Occupational Therapist—a person who is licensed to practice occupational therapy, as defined in this Chapter, and whose license is in good standing.

Occupational Therapy—the application of any activity in which one engages for the purposes of evaluation, interpretation, treatment planning, and treatment of problems interfering with functional performance in persons impaired

by physical illness or injury, emotional disorders, congenital or developmental disabilities, or the aging process, in order to achieve optimum functioning and prevention and health maintenance. The occupational therapist may enter a case for the purposes of providing consultation and indirect services and evaluating an individual for the need of services. Prevention, wellness and education related services shall not require a referral; however, in workers' compensation injuries preauthorization shall be required by the employer or workers' compensation insurer or provider. Implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician, advanced practice registered nurse, dentist, podiatrist, or optometrist licensed to practice in the state of Louisiana. Practice shall be in accordance with current standards of practice established by the American Occupational Therapy Association, Inc., and the essentials of accreditation established by the agencies recognized to accredit specific facilities and programs. Specific occupational therapy services include, but are not limited to, activities of daily living (ADL); the design, fabrication, and application of prescribed temporary splints; sensorimotor activities; the use of specifically designed crafts; guidance in the selection and use of adaptive equipment; therapeutic activities to enhance functional performance; prevocational evaluation and training; and consultation concerning the adaptation of physical environments for the handicapped. These services are provided to individuals or groups through medical, health, educational, and social systems.

Occupational Therapy Assistant—a person who is licensed to assist in the practice of occupational therapy under the supervision of, and in activity programs with the consultation of, an occupational therapist licensed under this Chapter.

Person—any individual, partnership, incorporated association, or corporate body, except that only an individual may be licensed under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and R.S. 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004), LR 41:2136 (October 2015).

Subchapter B. Qualifications for License

§1905. Scope of Subchapter

A. The rules of this Subchapter govern the licensing of occupational therapists and occupational therapy assistants who in order to practice occupational therapy or hold themselves out as an occupational therapist or an occupational therapy assistant, or as being able to practice occupational therapy or to render occupational therapy services in the state of Louisiana must meet all of the criteria set forth in the Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§1907. Qualifications for License

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

1. be of good moral character as defined by §1903;
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 United States Citizenship and Immigration Services (USCIS) of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 stat. 163) and the commissioner's regulations thereunder (8 CFR);
3. have successfully completed the academic and supervised field work experience requirements to sit for the "Certification Examination for Occupational Therapist, Registered" or the "Certification Examination for Occupational Therapy Assistant" as administered for or by the NBCOT or such other certifying entity as may be approved by the board;
4. have taken and successfully passed the licensing examination required by the board in accordance with Subchapter D of this Chapter.
5. file an application for licensure in a format prescribed by the board;
6. present proof of current certification by the NBCOT in a manner as prescribed by the board.

B. 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.

C. In addition to the substantive qualifications specified in §1907.A, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§1911 to 1915 of this Chapter and the procedures and requirements for examination provided by §§1917 to 1935 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004), LR 41:2136 (October 2015).

§1909. Waiver of Examination Requirements for Licensure

A. The board may waive the examination and grant a license to any applicant who presents proof of current licensure as an occupational therapist or occupational therapy assistant in another state, the District of Columbia, or a territory of the United States which requires standards

for licensure considered by the board to be equivalent to the requirements for licensure of this Chapter, provided that such state, district, or territory accords similar privileges of licensure without examination to holders of a license under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

Subchapter C. Application

§1911. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensing as an occupational therapist or an occupational therapy assistant in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§1913. Application Procedure

A. Application for licensing shall be made in a format prescribed by the board.

B. Application and instructions may be obtained from the board's web page or by personal or written request to the board.

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. a recent photograph of the applicant; and
3. such other information and documentation as the board may require to evidence qualification for licensing.

D. All documents required to be presented to the board or its designee 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. 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 fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health

and Hospitals, Board of Medical Examiners, LR 30:237 (February 2004), LR 41:2137 (October 2015).

§1915. 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 occupational therapy, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization 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 §1915.A or B to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor, including, without limitation, the occupational therapy licensing authority of any state; the Federation of State Medical Boards of the United States; the AOTA; and any component state and county or parish medical society, including the Louisiana Occupational Therapy Association (LOTA); the Louisiana Department of Health and Human Resources; Federal, state, county or parish, and municipal health and law enforcement agencies and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

Subchapter D. Examination

§1917. Designation of Examination

A. For purposes of licensure, the board shall use the examination administered by or on behalf of the NBCOT or such other certifying entity as the board may subsequently approve.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004).

§1919. Eligibility for Examination

A. To be eligible for examination an applicant for licensure must make application to the NBCOT or its designated contract testing agency in accordance with procedures and requirements of NBCOT. Information on the examination process, including fee schedules and application deadlines, must be obtained by each applicant from the NBCOT. Application for licensure under §1913 does not constitute application for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004).

§1921. Dates, Places of Examination

A. The dates on which and places where the NBCOT certification examination for occupational therapists and occupational therapy assistants are given are scheduled by the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:422 (March 2004).

§1931. Passing Score

A. The board shall use the criteria for satisfactory performance on the exam adopted by the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004).

§1933. Reporting of Examination Score

A. Applicants for licensure shall be required to authorize the NBCOT to release their test scores to the board each time the applicant-examinee attempts the examination

according to the procedures for such notification established by NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004), LR 41:2137 (October 2015).

§1935. Restriction, Limitation on Examinations; Additional Requirements

A. An applicant who fails the examination four times shall not thereafter be considered for licensure until successfully completing such continuing education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine appropriate. For multiple failures beyond four attempts such education or training may include, without limitation, repeating all or a portion of any didactic and clinical training required for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3291 (December 2013).

Subchapter E. Temporary License

§1937. Temporary License 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 temporary licenses as are, in its judgment, necessary or appropriate to its responsibilities under law.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§1939. License Pending Examination; Reexamination; Renewal

A. The board shall issue a temporary license to practice occupational therapy to an applicant who has completed the academic and supervised field work experience requirements specified under §1907 of this Chapter and has applied for and is waiting examination. The temporary license shall be valid for three months or until the date on which results of the qualifying examination have been known to and acted upon by the board, whichever is the longer.

B. An occupational therapist or occupational therapy assistant holding a temporary license issued under this

Section may practice occupational therapy only under the direction of an occupational therapist licensed by the board, who shall provide such on premises, close supervision of and instruction to the temporary license holder as is adequate to ensure the safety and welfare of patients. The direction and supervision required with respect to:

1. an occupational therapist holding a temporary license under this Section shall be deemed to be satisfied by on-premises direction and immediate supervision by a licensed occupational therapist for not less than two hours each week;

2. an occupational therapy assistant holding a temporary license under this Section shall be deemed to be satisfied by on-premises direction and immediate supervision by a licensed occupational therapist for not less than 25 percent of the average weekly caseload.

C. A temporary license shall be renewable only once, subject to the same terms and conditions of this Section, if the applicant has not passed the examination or if the applicant has failed to take the examination. Exceptions to the one extension rule can be given at the discretion of the board upon a request identifying extenuating circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 14:351 (June 1988), LR 41:2137 (October 2015).

§1940. 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 USCIS.

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 USCIS 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 §1940.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 USCIS, but whose pending petition has not yet been acted on by the USCIS within 90 days from issuance of such provisional temporary permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:1144 (September 1993), amended LR 41:2138 (October 2015).

Subchapter F. License Issuance, Termination, Renewal and Reinstatement

§1943. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§1907 to 1915 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of occupational therapy in the state of Louisiana upon payment of the license fees set forth in Chapter 1 of the board's rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2138 (October 2015).

§1945. Expiration of License

A. Every license issued by the board under this Chapter shall expire and thereby become null, void, and to no effect each year on the last day of the month in which the licensee was born.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:1499 (August 1998), LR 41:2138 (October 2015).

§1947. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal in a format prescribed by the board, together with the renewal fee prescribed in Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter H of these rules.

B. Renewal application and instructions may be obtained from the board's web page or upon personal or written request to the board.

C. The renewal of a license which has expired for 60 days or less may be renewed by submitting to the board an

application for renewal a manner prescribed by the board together with the late renewal fee prescribed in Chapter 1 of these rules.

D. Current NBCOT registration or certification is not a prerequisite to renewal of a license to practice as an occupational therapist or occupational therapy assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 24:1499 (August 1998), LR 30:237 (February 2004), LR 30:423 (March 2004), LR 41:2138 (October 2015).

§1949. Reinstatement of License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made in a format prescribed by the board, together with the applicable late renewal and reinstatement fees prescribed in Chapter 1 of these rules.

C. Reinstatement of a license that has expired for two years or more may include additional fees and requirements as the board deems appropriate, including but not limited to reexamination in accordance with Subchapter D, satisfaction of the requirements of Subchapter H with respect to continuing professional education, and/or complying with all requirements and procedures for obtaining an original license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994), LR 30:423 (March 2004), LR 41:2139 (October 2015).

§1951. Titles of Licensees

A. Any person who is issued a license as an occupational therapist under the terms of this Chapter may use the words "occupational therapist," "licensed occupational therapist," or he may use the letters "OT" or "LOT," in connection with his name or place of business to denote his licensure. In addition, any person currently licensed by the board and certified or registered by and in good standing with the NBCOT, may use the words "licensed occupational therapist registered" or "occupational therapist registered" or "LOTR" or "OTR."

B. Any person who is issued a license as an occupational therapy assistant under the terms of this Chapter may use the words "occupational therapy assistant," "licensed occupational therapy assistant," or he may use the letters "OTA" or "LOTA" in connection with his name or place of business to denote his licensure. In addition, any person currently licensed by the board and certified as an assistant

by and in good standing with the NBCOT, may use the designation "licensed certified occupational therapy assistant" or "LCOTA" or "certified occupational therapy assistant" or "COTA."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:423 (March 2004), LR 41:2139 (October 2015).

Subchapter G. Occupational Therapy Advisory Committee

§1957. Constitution of Committee

A. To assist the board in the review of applicants' qualifications for licensure and renewal of licensure under this Chapter, the board shall constitute and appoint an Occupational Therapy Advisory Committee (advisory committee) which shall be organized and shall function in accordance with the provisions of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994).

§1959. Composition; Appointment

A. The advisory committee shall comprise nine members who shall be occupational therapists licensed by the board and practicing and residing within the state of Louisiana, consisting, more particularly, of one licensed occupational therapist proficient in and representing each of the following areas of occupational therapy practice:

1. administration and management;
2. developmental disabilities;
3. education;
4. gerontology;
5. mental health;
6. physical disabilities;
7. sensory integration;
8. technology; and
9. work programs.

B. Insofar as possible or practical, in its appointment of members to the advisory committee, the board shall maintain geographic diversity so as to provide membership on the advisory committee by occupational therapists residing and practicing in North, Central, Southwestern, and Southeastern Louisiana.

C. Of the board's initial appointment of members to the advisory committee following the effective date of these rules, four appointees shall be designated to serve terms

expiring on the last day of the year of appointment and five 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, subject to removal at any time at the pleasure of the board. Members appointed to the advisory committee by the board to fill a vacancy occurring on the advisory committee other than by expiration of the designated term shall serve for the unexpired term. A member of the advisory committee may be appointed by the board for not more than three consecutive terms. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1003 (September 1994).

§1961. Delegated Duties and Responsibilities

A. The advisory committee is authorized by the board to:

1. advise and assist the board in the ongoing evaluation of the occupational therapy licensing examination required by the board;

2. assist the board in examining the qualifications and credentials of and interviewing applicants for occupational therapy licensure and make recommendations thereon to the board;

3. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules and regulations, standards, policies, and procedures respecting occupational therapy licensure and practice;

4. serve as a liaison between and among the board, licensed occupational therapists and occupational therapy assistants, and occupational therapy professional associations;

5. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board; and

6. advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by Subchapter H of these rules, including the authority and responsibility to:

a. evaluate organizations and entities providing or offering to provide continuing professional education programs for occupational therapists and occupational therapy assistants and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying

continuing professional education programs and activities pursuant to §1969 of these rules;

b. review documentation of continuing professional education by occupational therapist and occupational therapy assistants, verify the accuracy of such documentation, and evaluation of and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and

c. request and obtain from applicants for renewal of licensure such additional information as the advisory committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

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 §1961.A.2 and 6 shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, 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. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994).

Subchapter H. Continuing Professional Education

§1963. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as an occupational therapist or occupational therapy assistant, as required by §§1947 and 1965 of these rules, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education in connection with application for renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994).

§1965. Continuing Professional Education Requirement

A. Subject to the exceptions specified in §1979 of this Subchapter, to be eligible for renewal of licensure an occupational therapist or occupational therapy assistant shall, within each year during which he or she holds licensure, evidence, and document in a manner prescribed by

the board, the successful completion of not less than 12 contact hours, or 1.2 continuing education units (CEUs).

B. One CEU constitutes 10 hours of participation in an organized continuing professional education program approved by the board and meeting the standards prescribed in this Subchapter; one continuing professional education hour is equal to one-tenth of a CEU. Twelve hours, or 1.2 CEUs, is required to meet the standards prescribed by this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994), amended LR 41:2139 (October 2015).

§1967. Qualifying Continuing Professional Education Programs

A. To be acceptable as qualified continuing professional education under these rules a program shall:

1. have significant and substantial theoretical and/or practical content directly related to the practice of occupational therapy, or the development, administration, and supervision of clinical practice;

2. have preestablished written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of occupational therapy;

3. be presented by persons whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation;

4. provide a system or method for verification of attendance or course completion; and

5. be a minimum of one continuous hour in length.

B. Self-study or independent study, to be acceptable as qualified continuing professional education under these rules, shall be sponsored or offered by the AOTA, by an AOTA approved provider, or the LOTA.

C. A licensee may earn hour for hour continuing education units (up to a maximum of 5 hours per year) for initial presentations, workshops and institutes presented by the licensee when documented by an official program, schedule or syllabus containing title, date, hours and type of audience.

D. A licensee may earn continuing education units (up to a maximum of 5 hours per year) for publications appearing in a peer-reviewed professional journal, a book on theory/practice of occupational therapy, or chapter(s) in a book. Documentation shall consist of the full reference of the publication including, title, author, editor and date of publication or, if not yet published, a copy of a letter of acceptance for publication.

E. None of the following programs, seminars, or activities shall be deemed to qualify as acceptable continuing professional education programs under these rules:

1. any program, seminar or activity not meeting the standards prescribed by §1967.A.-D;

2. any program, presentation, seminar, or course of instruction not providing the participant an opportunity to ask questions or seek clarification of specific matters presented;

3. mentoring, training, or supervisory activities;

4. holding office in professional or governmental organizations, agencies, or committees;

5. participation in case conferences or informal presentations;

6. writing articles for publications that are not peer-reviewed, writing grant applications, or developing or participating in research projects; or

7. reading books or journals, viewing videos, or similar activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1004 (September 1994), amended LR 31:3161 (December 2005).

§1969. Approval of Program Sponsors

A. Any program, course, seminar, workshop, self-study, independent study or other activity meeting the standards prescribed by §1967.A.-D sponsored or offered by the AOTA, by an AOTA approved provider, or the LOTA shall be presumptively deemed approved by the board for purposes of qualifying as an approved continuing professional education program under these rules.

B. Upon the recommendation of the advisory committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §1967.A.-D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994), amended LR 31:3162 (December 2005).

§1971. Approval of Programs

A. A continuing professional education program sponsored by an organization or entity not deemed approved by the board pursuant to §1969.A.-D may be preapproved by the board as a program qualifying and acceptable for satisfying continuing professional education requirements under this Subchapter upon written request to the board therefore, upon a form supplied by the board, providing a complete description of the nature, location, date, content, and purpose of such program and such other information as the board or the advisory committee may request to establish the compliance of such program with the standards prescribed by §1967.A.-D. Any such request for preapproval respecting a program which makes and collects a charge for

attendance shall be accompanied by a nonrefundable processing fee of \$30.

B. Any such written request shall be referred by the board to the advisory committee for its recommendation. If the advisory committee's recommendation is against approval, the board shall give notice of such recommendation to the person or organization requesting approval and such person or organization may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons and organizations requesting preapproval of continuing professional education programs should allow not less than 60 days for such requests to be processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994), amended LR 31:3162 (December 2005).

§1973. Documentation Procedure

A. Annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall accompany an applicant's annual renewal of licensure in a format prescribed by the board.

B. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or preapproved by the board in writing, shall be referred to the advisory committee for its evaluation and recommendations pursuant to §1961.A.6.b. If the advisory committee determines that a program or activity certified by an applicant for renewal in satisfaction of continuing professional education requirements does not qualify for recognition by the board or does not qualify for the number of CEUs claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994), amended LR 41:2139 (October 2015).

§1975. Failure to Satisfy Continuing Professional Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirements prescribed by these rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice, unless the

applicant shall have, within such 60 days furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing professional education requirements;
2. the applicant is exempt from such requirements pursuant to these rules; or
3. the applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness, or other good cause as may be determined by the board.

B. The license of an occupational therapist or occupational therapy assistant whose license has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirements of these rules may be reinstated by the board upon written application to the board, accompanied by payment of a reinstatement fee, in addition to all other applicable fees and costs, of \$50, together with documentation and certification that:

1. the applicant has, within the preceding 12 months, completed 12 contact hours (1.2 CEUs) of qualifying continuing professional education;
2. the applicant is currently certified by the NBCOT; or
3. the applicant has, within one year prior to making application for reinstatement, taken and successfully passed the recertification examination of the NBCOT.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1005 (September 1994), amended LR 24:1499 (August 1998), LR 30:424 (March 2004), LR 41:2139 (October 2015).

§1977. Waiver of Requirements

A. The board may, in its discretion and upon the recommendation of the advisory committee, waive all or part of the continuing professional education required by these rules in favor of an occupational therapist or occupational therapy assistant who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the individual's satisfaction of the continuing professional education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1006 (September 1994).

§1979. Exceptions to Continuing Professional Education Requirements

A. The continuing professional education requirements prescribed by this Subchapter as requisite to renewal of licensure shall not be applicable to:

1. an occupational therapist or occupational therapy assistant employed exclusively by, or at an institution operated by, any department or agency of the state of Louisiana; or

2. an occupational therapist or occupational therapy assistant who has held an initial Louisiana license on the basis of examination for a period of less than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3012(B) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1006 (September 1994).

Chapter 21. Acupuncturists and Acupuncture Detoxification Specialists

Subchapter A. General Provisions

§2101. Scope of Chapter

A. The rules of this Chapter govern the certification of physician acupuncturists and licensed acupuncturists to practice acupuncture and of acupuncture detoxification specialists to practice acupuncture detoxification in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993), amended LR 34:1615 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1362 (July 2017).

§2103. Definitions

A. As used in this Chapter and Chapter 51, the following terms shall have the meanings specified.

Acupuncture Practice Act or Act—R.S. 37:1356-1360, as hereafter amended or supplemented.

Acupuncture—treatment by means of mechanical, thermal, or electrical stimulation effected by the insertion of needles at a point or combination of points on the surface of the body predetermined on the basis of the theory of the physiological interrelationship of body organs with an associated point or combination of points, or the application of heat or electrical stimulation to such point or points, for the purpose of inducing anesthesia, relieving pain, or healing diseases, disorders, and dysfunctions of the body, or achieving a therapeutic or prophylactic effect with respect thereto.

Acupuncture Detoxification (acu detox)—the treatment by means of insertion of acupuncture needles in a combination of points on the ear in accordance with NADA protocol. The performance of acupuncture detoxification constitutes a subcategory of the practice of acupuncture.

Acupuncture Detoxification Specialist (ADS)—an individual who possesses current certification, duly issued

by the board, to practice acupuncture detoxification under the supervision of a physician or licensed acupuncturist.

Applicant—a person who has applied to the board for certification as a physician acupuncturist, licensed acupuncturist or acupuncture detoxification specialist in the state of Louisiana.

Application—a request directed to and received by the board, in a format approved by the board, for certification to perform or practice acupuncture or acupuncture detoxification in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Board—the Louisiana State Board of Medical Examiners.

Certification—the board's official recognition of an individual's current certificate, duly issued by the board, evidencing the board's certification of such individual under the law.

General Supervision—as used in this Chapter and Chapter 51, shall mean responsible oversight of the services rendered by an acupuncture detoxification specialist as specified in §5106.B of these rules.

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

a. the applicant, if a physician, 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 denial, suspension, or revocation of medical licensure;

b. the applicant has not, prior to or during the pendency of an application to the board, been culpable of any act, omission, condition, or circumstance which would provide cause under §5113 of these rules for the suspension or revocation of certification as a physician acupuncturist, licensed acupuncturist, or acupuncture detoxification specialist;

c. 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

d. 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 certification required by this Chapter.

Licensed Acupuncturist (LAc)—an individual, other than a physician possessing a current license, duly issued by the board to practice acupuncture in this state.

NADA—the National Acupuncture Detoxification Association.

Physician Acupuncturist—a physician possessing current certification, duly issued by the board, to practice acupuncture.

Primary Practice Site—the location at which a physician, licensed acupuncturist or acupuncture detoxification specialist spends the majority of time in the exercise of the privileges conferred by licensure or certification issued by the board.

Proposed Supervising Licensed Acupuncturist—a licensed acupuncturist who has submitted to the board an application for approval as a supervising acupuncturist.

Proposed Supervising Physician—a physician who has submitted to the board an application for approval as a supervising physician.

Supervising Licensed Acupuncturist—a licensed acupuncturist registered with the board under this Chapter to provide supervision to an acupuncture detoxification specialist.

Supervising Physician—a physician registered with the board under this Chapter to supervise an acupuncture detoxification specialist.

Universal Precautions—a set of precautions developed by the United States Center for Disease Control (CDC) that are designed to prevent transmission of human immunodeficiency virus (HIV), hepatitis B virus (HBV) and other blood borne pathogens when providing first aid or health care. Under universal precautions blood and certain bodily fluids of all patients are considered potentially infectious for HIV, HBV and other blood borne pathogens.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:334 (March 1993), amended LR 34:1615 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1362 (July 2017), LR 45:549 (April 2019).

Subchapter B. Physician Acupuncturist Certification

§2105. Scope of Subchapter

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to certification as a physician acupuncturist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1616 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1363 (July 2017).

§2107. Qualifications for Certification as Physician Acupuncturist

A. To be eligible for certification as a physician acupuncturist, an applicant shall:

1. be a physician possessing a current, unrestricted license to practice medicine in the state of Louisiana duly issued by the board;
2. be of good moral character as defined by §2103.A; and
3. have successfully completed:
 - a. not less than six months of training in acupuncture in a school or clinic approved by the board pursuant to §§2118-2121 of this Chapter; or
 - b. not less than 300 credit hours of continuing medical education in acupuncture designated as category one continuing medical education hours by the American Medical Association.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for certification 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. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1616 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1363 (July 2017).

§2109. Application Procedure for Physician Acupuncturist

A. Application for certification as a physician acupuncturist shall be made in a format approved by the board.

B. An application for certification 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; and
2. such other information and documentation as the board may require to evidence qualification for certification.

C. All documentation submitted in a language other than English shall be accompanied by a translation into English certified by a translator other than the applicant who shall attest to the accuracy of such translation under penalty of perjury.

D. 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.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1617 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1363 (July 2017).

**Subchapter C. Licensed
Acupuncturist and Acupuncture
Detoxification Specialist Certification;
Qualifications for Supervising
Physicians and Licensed
Acupuncturists**

§2111. Scope of Subchapter

A. The rules of this Subchapter prescribe the qualifications and procedures requisite to licensure as a licensed acupuncturist, certification as an acupuncture detoxification specialist, and those of a supervising physician and supervising licensed acupuncturist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34:1617 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1363 (July 2017), LR 45:549 (April 2019).

§2113. Qualifications for Licensure as a Licensed Acupuncturist

A. To be eligible for a license as a licensed acupuncturist, an applicant:

1. shall be at least 21 years of age;
2. shall be of good moral character as defined by §2103.A;
3. shall have successfully completed a four-year course of instruction in a high school or its equivalent;
4. shall 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 United States Citizenship and Immigration Services (USCIS) of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);
5. shall meet both of the following:
 - a. hold active status with the National Certification Commission for Acupuncture and Oriental Medicine; and

b. have successfully passed the certification examination, including the biomedicine portion of the examination, given by the National Certification Commission for Acupuncture and Oriental Medicine or its successor.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant shall be upon the applicant, who shall demonstrate and evidence such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:335 (March 1993), amended LR 34 1617 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1364 (July 2017), LR 45:549 (April 2019).

§2114. Qualifications for Certification as an Acupuncture Detoxification Specialist; Qualifications for Registration of Supervising Physician or Supervising Licensed Acupuncturist

A. To be eligible for certification as an acupuncture detoxification specialist, an applicant:

1. shall be at least 21 years of age;
2. shall be of good moral character as defined by §2103.A of this Chapter;
3. shall have successfully completed a four-year course of instruction in a high school or its equivalent;
4. shall 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 United States Citizenship and Immigration Services (USCIS) of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);
5. shall have:
 - a. successfully completed NADA training by a registered NADA trainer; and
 - b. current certification by the NADA to perform acupuncture detoxification; and
6. shall affirm that he or she shall only provide acu detox under the general supervision of a physician or a licensed acupuncturist, as defined in §5106.B of these rules.

B. Prior to undertaking the supervision of an acupuncture detoxification specialist a physician shall be registered with the board. To be eligible for registration to supervise an ADS a proposed supervising physician shall, as of the date of the application:

1. possess a current, unrestricted license to practice medicine in the state of Louisiana; and
2. not currently be enrolled in any postgraduate residency training.

C. Prior to undertaking the supervision of an acupuncture detoxification specialist a licensed acupuncturist shall be registered with the board. To be eligible for registration to supervise an ADS a proposed supervising LAc shall, as of the date of the application:

1. possess a current, unrestricted license to practice as a LAc; and
2. have held certification or licensure by the board to practice as a LAc in this state for at least two years immediately preceding the date of application.

D. The burden of satisfying the board as to the qualifications and eligibility of the applicant acupuncture detoxification specialist, proposed supervising physician or proposed supervising licensed acupuncturist shall be upon the applicant, proposed supervising physician or proposed supervising licensed acupuncturist, who shall demonstrate and evidence such qualifications in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1618 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1364 (July 2017).

§2115. Application Procedure for Licensed Acupuncturist

A. Application for certification as a licensed acupuncturist shall be made in a format approved by the board.

B. An application under this Subchapter shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter;
2. attestation by the applicant certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and
3. such other information and documentation as the board may require.

C. All documentation submitted in a language other than English shall be accompanied by a translation into English certified by a translator other than the applicant who shall attest to the accuracy of such translation under penalty of perjury.

D. The board may reject or 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.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

F. Upon submission of a completed application, together with the documents required thereby, and the payment of the application fee, the applicant shall be required to appear before the board or its designee if the board has questions concerning the applicant's qualifications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1618 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1364 (July 2017), LR 45:549 (April 2019).

§2116. Application Procedure for Acupuncture Detoxification Specialist

A. Application for certification as an ADS shall be made in a format approved by the board and shall include notification of intent to practice in a format approved by the board, signed by a proposed supervising physician or proposed supervising licensed acupuncturist who is registered with or has applied for registration to the board as a supervising physician or supervising licensed acupuncturist.

B. Application for certification and approval under this Subchapter shall include:

1. proof, documented in a form satisfactory to the board that the applicant possesses the qualifications set forth in of this Chapter;
2. attestation by the applicant certifying that the requirements of §5106.B of these rules shall be followed in the exercise of the privileges conferred by certification under this Part;
3. attestation by the applicant certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and
4. such other information and documentation as the board may require.

C. All documentation submitted in a language other than English shall be accompanied by a translation into English certified by a translator other than the applicant who shall attest to the accuracy of such translation under penalty of perjury.

D. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application. 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.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1619 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1364 (July 2017).

§2117. Application Procedure for Registration of Supervising Physician or Supervising Licensed Acupuncturist

A. Application for registration of a supervising physician or supervising LAc for an acupuncture detoxification specialist, shall be made in a format approved by the board, include proof satisfactory to the board that the applicant possesses the qualifications set forth in this Chapter, and contain such other information and documentation as the board may require.

B. The board may reject or refuse to consider any application which is not complete in every detail, including submission of every document required by the application. 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.

C. A separate fee shall not be assessed for registration or approval of a supervising physician or supervising LAc for an ADS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1619 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1365 (July 2017).

Subchapter D. Board Approval of Acupuncture Schools and Colleges

§2118. Scope of Subchapter

A. The rules of this Subchapter provide the method and procedures by which acupuncture schools and colleges are approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1619 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1365 (July 2017).

§2119. Applicability of Approval

A. As provided in this Chapter the successful completion of formal training in acupuncture from a school or college approved by the board is among the alternative qualifications requisite to certification as a physician acupuncturist or licensed acupuncturist. This qualification will be deemed to be satisfied if the school or college in which the applicant received training in acupuncture was approved by the board as of the date on which the applicant completed such training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1619 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1365 (July 2017).

§2121. Approval of Acupuncture Schools or Colleges

A. A school or college providing training in acupuncture which is currently accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM), or its predecessor, the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM), shall concurrently be deemed approved by the board.

B. A school or college providing training in acupuncture which has been accorded candidacy status by ACAOM, or its predecessor, NACSCAOM, shall concurrently be deemed conditionally approved by the board, provided that board approval shall be automatically withdrawn if accreditation is not awarded by ACAOM within three years of the date on which candidacy status was recognized.

C. The board may approve additional schools or programs providing training in acupuncture upon the request of an applicant or application by any such school or program and upon the submission to the board of documentation that such school or program provides training in acupuncture under standards substantially equivalent to those prescribed by ACAOM for accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:336 (March 1993), amended LR 34:1619 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1365 (July 2017).

Subchapter E. Certification, License Issuance, Approval of Registration of Supervising Physician or Supervising Licensed Acupuncturist, Termination, Renewal, Reinstatement

§2125. Issuance of Certification and Licensure, Approval of Registration

A. If the qualifications, requirements, and procedures specified by this Chapter for a physician acupuncturist are met to the satisfaction of the board, the board shall certify the applicant as a physician acupuncturist.

B. If the qualifications, requirements, and procedures specified by this Chapter for a licensed acupuncturist are met to the satisfaction of the board, the board shall certify the applicant as a licensed acupuncturist.

C. If the qualifications, requirements, and procedures specified by this Chapter for an acupuncture detoxification specialist are met to the satisfaction of the board, the board shall certify the applicant as an ADS. Issuance of certification to an applicant under this Chapter shall

constitute approval of registration of the proposed supervising physician or proposed supervising licensed acupuncturist.

D. Although a physician or licensed acupuncturist must notify the board each time he or she intends to undertake the general supervision of an acupuncture detoxification specialist, registration with the board is only required once. Notification of supervision of a new or additional ADSs by a registered supervising physician or LAc shall be deemed given to the board upon the ADS's filing with the board of a notice of intent to practice in accordance with §2127.E of this Chapter.

E. The board shall maintain a list of physicians and LAcS who are registered to supervise an ADS. Each registered physician, registered LAc and ADS is responsible for updating the board within 15 days should any of the information required and submitted change after a physician or LAc has been registered to supervise an ADS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1620 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1365 (July 2017).

§2127. Expiration and Termination of Certification and Licensure; Modification

A. Every certification and license issued by the board under this Chapter shall expire, and become null, void, and to no effect on the last day of the year in which it was issued.

B. The timely submission of an application for renewal of certification or licensure, as provided by §2129 of this Chapter, shall operate to continue the expiring certification or license in full force and effect pending issuance or denial of renewal.

C. Licensure as a licensed acupuncturist whether an initial license or renewal thereof, shall terminate and become void, null and to no effect on and as of any day that the licensed acupuncturist's license expires for failure to timely renew.

D. Except as provided in Subsection E of this Section, certification as an acupuncture detoxification specialist, whether an initial certificate or renewal thereof, shall terminate and become void, null and to no effect on and as of any day that:

1. the supervising physician or supervising licensed acupuncturist no longer possesses a current, unrestricted license to practice as a physician or as a LAc in the state of Louisiana;

2. the supervising physician or supervising acupuncturist, whether voluntarily or involuntarily, ceases the active practice of medicine or practice as a LAc;

3. the relationship between the ADS and the supervising physician or the supervising LAc is terminated; or

4. the ADS's certification expires for failure to timely renew.

E. Certification shall not terminate upon termination of a relationship between a supervising physician or supervising LAc and ADS provided that:

1. the ADS currently has a supervisory relationship with another supervising physician or supervising LAc; alternatively, the ADS ceases to practice until such time as notification is provided to the board, in a format approved by the board, that he or she has entered into a supervisory relationship with a new supervising physician or supervising LAc who satisfies the qualifications, requirements and procedures of this Chapter. Such notification shall be deemed effective as of the date received by the board, subject to final approval at the next board meeting; and

2. the ADS notifies the board of any changes in or additions to his supervising physicians or supervising LAcS within 15 days of the date of such change or addition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1621 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1366 (July 2017), LR 45:549 (April 2019).

§2129. Renewal of Certification and Licensure; Verification of Registration

A. Every certificate or license issued by the board under this Chapter shall be renewed annually on or before the last day of the year in which it was issued by submitting to the board a properly completed application for renewal, in a format specified by the board, together with evidence of the completion of 15 hours of accredited continuing professional education and the renewal fee prescribed in Chapter 1 of these rules.

B. Renewal applications and instructions may be obtained from the board's web page or upon personal or written request to the board.

C. Each registered supervising physician and supervising licensed acupuncturist shall annually verify the accuracy of registration information on file with the board in a format approved by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1621 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1366 (July 2017), LR 45:550 (April 2019).

§2130. Reinstatement of Expired License

A. A license that has expired as a result of non-renewal for less than two years from the date of expiration, may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;
2. a recent photograph of the applicant;
3. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure; and
4. the renewal fee and delinquent fee, set forth in Chapter 1 of these rules, for each year during which the license was expired.

a. if the application is made less than one year from the date of expiration, the penalty shall be equal to the renewal fee of the license;

b. if the application is made more than one but less than two years from the date of expiration, the penalty shall be equal to twice the renewal fee of the license.

C. An individual whose license has lapsed and expired for a period in excess of two years shall not be eligible for reinstatement consideration but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

D. A request for reinstatement may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

E. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement of the license as a licensed acupuncturist shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:550 (April 2019).

Subchapter F. Restricted Licensure, Permits

§2131. Emergency Temporary Permit

A. Acupuncture Detoxification Specialist. The board may issue an emergency temporary permit to an acupuncture detoxification specialist, valid for a period of not more than 60 days, to provide voluntary, gratuitous acu detox services in this state during a public health emergency and for such periods thereafter as the Louisiana Department of Health (“LDH”) shall deem the need for emergency services to continue to exist, at sites specified by LDH or approved by the board. Application for such permit shall be made in accordance with §412 of this Part and include notification of intent to practice under a supervising physician or supervising LAc in a manner approved by the board.

B. Services performed by an ADS issued a permit under this Section shall be limited to acu detox, approved by and performed under the general supervision of the supervising physician or supervising LAc. All services shall be documented by the ADS and available for review by the supervising physician or supervising LAc.

C. Licensed Acupuncturist. The board may issue an emergency temporary permit to a licensed acupuncturist to provide voluntary, gratuitous acupuncture services in this state during a public health emergency, and for such periods thereafter as LDH shall deem the need for emergency services to continue to exist, in accordance with §412 of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1275 and R.S. 37:1360.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 32:2057 (November 2006), amended LR 34:1621 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1366 (July 2017).

Subchapter G. Acupuncture Advisory Committee

§2139. Scope of Subchapter

A. To assist the board on matters relative to acupuncture, an acupuncture advisory committee is hereby constituted, to be composed and appointed and to have such duties and responsibilities as hereinafter provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 43:1367 (July 2017).

§2141. Constitution, Function and Responsibilities of Advisory Committee

A. The board shall constitute and appoint an acupuncture advisory committee which shall be organized and function in accordance with the provisions of this Subchapter.

B. Composition. The committee shall be comprised of five members selected by the board, four of whom shall be licensed acupuncturists and one of whom shall be a physician acupuncturist. All members of the advisory committee will be licensed by the board and practice and reside in this state.

C. Insofar as possible or practical, in its appointment of members to the advisory committee the board shall maintain geographic diversity so as to provide representative membership on the advisory committee by individuals residing in various areas of the state.

D. Term of Service. Each member of the committee shall serve for a term of four years, or until a successor is appointed and shall be eligible for reappointment. Committee members serve at the pleasure of the board. Committee members may be reappointed to two additional terms of four years.

E. Functions of the Committee. The committee will provide the board with recommendations relating to:

1. applications for licensure;
2. educational requirements for licensure;
3. changes in related statutes and rules;
4. perform such other functions and provide such additional advice and recommendations as may be requested by the board.

F. Committee Meetings. The committee shall meet at least once each calendar year, or more frequently as may be deemed necessary by a quorum of the committee or by the board. Three members of the committee constitute a quorum. The committee shall elect from among its members a chair. The chair shall call, designate the date, time, and place of, and preside at all meetings of the committee. The chair shall record or cause to be recorded accurate and complete written minutes of all meetings of the committee and shall cause copies of the same to be provided to the board.

G. Confidentiality. In discharging the functions authorized under this Section, the committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. Committee members are prohibited from communicating, disclosing, or in any way releasing to anyone other than the board, any confidential information or documents obtained when acting as the agents of the board without first obtaining the written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 43:1367 (July 2017), LR 45:550 (April 2019).

Subchapter H. Continuing Education

§2149. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education required for annual renewal of a license to practice as a licensed acupuncturist, and prescribe procedures applicable to satisfaction and documentation thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:550 (April 2019).

§2151. Continuing Education Requirement

A. To be eligible for annual license renewal a licensed acupuncturist shall evidence and document in a format specified by the board the successful completion of 15 hours of approved continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:550 (April 2019).

§2153. Qualifying Programs and Activities

A. To be acceptable as qualified continuing professional education under these rules, an activity or program must have significant intellectual or practical content, dealing primarily with matters related to acupuncture, and its primary objective must be to maintain or increase the participant's competence as an acupuncturist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:550 (April 2019).

§2155. Approval of Program Sponsors

A. Any education program, course, seminar or activity accredited by the National Certification Commission for Acupuncture and Oriental Medicine or its successor or recognized by the United States Department of Education shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:550 (April 2019).

§2157. Documentation Procedure

A. A format or method specified by the board for documenting and certifying completion of continuing professional education shall be completed by licensees and returned with or as part of an annual renewal application.

B. Any continuing professional education activities not approved by the board pursuant to these rules shall be referred to the advisory committee for its evaluation and recommendations. If the committee determines that a continuing education activity does not qualify for recognition by the board or does not qualify for the number of continuing education units claimed by the applicant, the board shall give notice of such determination to the applicant for renewal. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:551 (April 2019).

§2159. Failure to Satisfy Continuing Education Requirements

A. An applicant for license renewal who fails to evidence satisfaction of the continuing professional education requirements shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

1. applicant has satisfied the applicable continuing professional education requirements; or

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

B. The license of a licensed acupuncturist whose license has expired by nonrenewal or been revoked for failure to satisfy the continuing education requirements of these rules may be reinstated by the board within the time and in accordance with the procedures for reinstatement provided by these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:551 (April 2019).

§2161. Waiver of Requirements

A. The board may, in its discretion, waive all or part of the continuing professional education required by these rules in favor of a licensed acupuncturist who makes written request for such waiver and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the satisfaction of the continuing professional education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:551 (April 2019).

Chapter 23. Licensed Midwives

Subchapter A. General Provisions

§2301. Scope of Chapter

A. The rules of this Chapter govern the licensing of midwife practitioners to engage in the practice of midwifery in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991).

§2303. Definitions

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

Applicant—a person who has applied to the board for a license to engage in the practice of midwifery or for a permit as an apprentice midwife in the state of Louisiana.

Application—a request directed to and received by the board, in a manner specified by the board, for a license or permit to practice midwifery in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such request.

Apprentice Midwife—any person who is granted a permit to obtain the educational and clinical experience required to apply for a license.

Board—the Louisiana State Board of Medical Examiners.

Certified Nurse-Midwife—a registered nurse who has been certified by the American College of Nurse-Midwives.

Certified Professional Midwife or (*CPM*)—an individual certified by the North American Registry of Midwives (NARM).

Department—the Louisiana Department of Health and Hospitals.

Licensed Midwife Practitioner—an individual who has completed all the requirements of R.S. 37:3247, 3253, and 3255, has successfully completed the examination process, is certified as a midwife by the North American Registry of Midwives (NARM), and is licensed by the board.

Louisiana Advisory Committee on Midwifery—Repealed.

Low Risk Patient—an individual who is at low or normal risk of developing complications during pregnancy and childbirth as evidenced by the absence of any preexisting maternal disease or disease arising during pregnancy or such other conditions as the board may identify in rules.

Midwife—an individual who gives care and advice to a woman during pregnancy, labor, and the postnatal period who is not a physician or a certified nurse midwife.

Midwifery Instructor—a physician licensed to practice medicine in the state of Louisiana, certified nurse-midwife, or licensed midwife who has a formal training and supervisory relationship with an apprentice midwife.

Midwife Practitioners Act or the *Act*—R.S. 37:3240-3259, as may from time to time be amended.

Physician—an individual licensed to practice medicine in this state who is actively engaged in a clinical obstetrical practice and has hospital privileges in obstetrics in a hospital accredited by the Joint Commission.

Physician Evaluation and Examination—physician evaluation and examination as provided in R.S. 37:3244 to determine whether, at the time of such evaluation and examination, the individual is at low or normal risk of developing complications during pregnancy and childbirth.

Practice of Midwifery—holding oneself out to the public as being engaged in the business of attending, assisting, or advising a woman during the various phases of the interconceptional and childbearing periods.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1284 (August 2016).

Subchapter B. Qualifications for Licensure

§2305. Scope of Subchapter

A. The rules of this Subchapter govern the licensing of midwives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1284 (August 2016).

§2307. Qualifications for License

A. To be eligible for licensure as a licensed midwife, an applicant shall:

1. be at least 21 years of age and shall have graduated from high school or possess a graduate education diploma (GED);

2. be a citizen of or lawfully authorized to reside and be employed in the United States;

3. be currently certified in cardiopulmonary resuscitation (CPR) of the adult and newborn;

4. have demonstrated competence in the basic sciences of human anatomy, human physiology, biology, psychology, and nutrition in the manner prescribed by §2353 of this Chapter;

5. have completed a course of study in the theory of pregnancy and childbirth as provided by §2355;

6. have met, within four years prior to the date of application, the requirements for practical clinical experience prescribed by §2357 of this Chapter; provided, however, that exceptions to the four year limit may be made at the discretion of the board upon a request submitted in writing identifying a medical or other extenuating circumstance deemed acceptable to the board. The length of any such exception may be conditioned upon any terms that the board may deem appropriate.

7. have demonstrated professional competence in the practice of midwifery by passing an examination approved by the board; and

8. cause to be submitted to the board four written recommendations of the applicant for licensure, one by a physician or certified nurse-midwife, one by a licensed midwife, one by a consumer of midwifery services, and one by a member of the community in which the applicant resides.

B. 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 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:513 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1284 (August 2016).

§2309. Procedural Requirements

A. In addition to the substantive qualifications specified in §2307, to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided by §§2311 to 2315 of this Chapter and successfully complete the examination identified in §2317 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1285 (August 2016).

Subchapter C. Application

§2311. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensure as a licensed midwife practitioner in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991).

§2313. Application Procedure

A. Application for licensing shall be made in a format prescribed by the board. Applications and instructions may be obtained from the board's web page or by personal or written request to the board.

B. 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. a recent photograph of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

C. 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.

D. 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.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3240-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), LR 30:236 (February 2004), amended by the Department of Health, Board of Medical Examiners, LR 42:1285 (August 2016).

§2315. 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 license, permit, certificate, or registration, each physician or certified nurse-midwife who has supervised the applicant's clinical experience, each person, firm, corporation, trainer, education service, or institution from whom the applicant has received instruction in the basic sciences or the theory of pregnancy and childbirth, 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 application 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 the 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 or her 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 §2315.A or B of this Chapter to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefore, including, without limitation, the midwife licensing authority of any state; the Federal Drug Enforcement Agency; the Louisiana Board of Pharmacy, the North American Registry of Midwives, the Louisiana

Department of Health; and federal, state, county or parish, and municipal health and law enforcement agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1285 (August 2016).

Subchapter D. Examination

§2317. Designation of Examination

A. The CPM examination administered by NARM, or such other certifying examination as the board may subsequently approve, shall be accepted by the board as a qualifying examination for purposes of midwifery licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1285 (August 2016).

§2319. Eligibility for Examination

A. To be eligible for examination an applicant shall make application to NARM in accordance with its procedures and requirements including verification of the applicant's clinical experience and skills essential to the practice of midwifery. Information on the examination process, including fee schedules and application deadlines, must be obtained by each applicant from NARM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:514 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1285 (August 2016).

§2323. Administration of Examination

A. The dates and places where the examination for licensure as a midwife are given are scheduled by NARM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1286 (August 2016).

§2331. Passing Score

A. The board shall use the criteria for satisfactory passage of the examination adopted by NARM.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1286 (August 2016).

§2333. Restriction, Limitation on Examinations

A. An applicant who fails the examination on two occasions shall not be considered for licensure until the applicant has completed not less than three months of additional educational or clinical instruction, courses, or programs as prescribed and approved by the board and thereafter successfully passed the examination. For failures beyond three attempts such education or instruction may include, without limitation, repeating all or a portion of any didactic and clinical training required for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:515 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1286 (August 2016).

Subchapter E. Restricted Licensure, Apprentice Permits

§2337. Restricted Licensure in General

A. With respect to applicants who do not meet or possess the practical experience requirements necessary for licensure, the board shall issue an apprentice permit which would authorize the applicant to obtain, under supervision, the required practical experience.

B. Receipt of an apprentice permit shall not be construed to provide any right or entitlement whatsoever to licensure as a licensed midwife practitioner or to engage in the independent practice of midwifery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991).

§2339. Apprentice Permits

A. An apprentice permit authorizes the permit holder to obtain the practical experience required for licensure under the supervision of a physician, certified nurse-midwife, or licensed midwife.

B. An apprentice permit shall be issued by the board to an applicant who possesses all of the qualifications for licensure as a licensed midwife specified by §2307.A.1-3 of these rules and who submits to the board, on a form furnished or approved by the board, written verification of a contractual relationship with a physician, certified nurse-midwife, or licensed midwife who shall assume responsibility for instructing and supervising the apprentice in accordance with the rules and regulations of this Chapter and of Chapter 53 of these rules.

C. A senior apprentice permit shall be issued by the board to an applicant who:

1. possesses an apprentice permit;
2. provides documentation satisfactory to the board that he or she has clinical experience equivalent to not less

than one-half of the experience prescribed by §2357 of these rules; and

3. causes to be submitted to the board the written certification and opinion of the applicant's supervising physician, certified nurse-midwife, or licensed midwife that the applicant has obtained sufficient theory and supervised clinical experience under the supervision of the midwifery instructor to permit general, rather than direct, supervision of the applicant's continuing clinical experience.

D. An apprentice permit shall expire and become null and void on any date that the apprentice's relationship with his or her supervising physician, certified nurse-midwife, or licensed midwife is terminated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1286 (August 2016).

Subchapter F. License Issuance, Termination, Renewal, Reinstatement

§2341. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§2307 to 2309 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of midwifery in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1286 (August 2016).

§2343. 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 expire, and thereby become null, void, and to no effect, on the last day of March of the second calendar year following the year in which such license or permit was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1286 (August 2016).

§2345. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed biannually on or before its expiration by renewing on-line or by submitting to the board an application for renewal, together with the renewal fee prescribed in Chapter 1 of these rules.

B. The renewal application and instructions may be obtained from the board's web page or upon personal or written request to the board.

C. Any person who files for renewal of licensure shall present a current certification in cardiopulmonary resuscitation (CPR) of the adult and newborn and document or certify, in a manner prescribed by the board, the completion of 30 contact hours of continuing education as approved by the board, in accordance with §§2361-2364 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3240-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended 17:779 (August 1991), LR 30:236 (February 2004), amended by the Department of Health, Board of Medical Examiners, LR 42:1286 (August 2016).

§2347. License Non-Renewal

A. Any license not renewed on or before its expiration date shall be deemed expired for non-renewal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1287 (August 2016).

§2349. Reinstatement of License

A. A license which has expired due to non-renewal may be reinstated by submitting an application for reinstatement in a manner prescribed by the board, together with the renewal fee prescribed by Chapter 1 of these rules.

B. Any person who applies for license reinstatement within 30 days of the date of expiration shall be required to pay a late fee of \$50.

C. Any person who has not filed for renewal or applies for reinstatement more than 30 days but less than one year following the date of expiration shall be required to pay a late fee of \$100 or a fee of \$200 if application for reinstatement is made within two years of the date of expiration, provided that the applicant demonstrates satisfaction of the continuing education requirements prescribed by §§2361-2364 of these rules. A midwife whose license has lapsed and expired for a period in excess of two years may apply to the board for an initial original license pursuant to the applicable rules of this Chapter.

D. Upon application to the board made within the time prescribed for renewal of licensure, a midwife practitioner's license may be placed on inactive status for a maximum of four years. During the period that a midwife practitioner's license is on inactive status, the midwife practitioner may not engage in the practice of midwifery in this state. The license of a midwife practitioner whose license is on inactive status may be reinstated to active status upon application to the board, provided that the applicant demonstrates satisfaction of the continuing education requirements prescribed by §§2361-2364 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1287 (August 2016).

Subchapter G. Education

§2351. Courses of Study

A. Every applicant seeking licensure must successfully demonstrate competency in the basic sciences of human anatomy, human physiology, biology, psychology, and nutrition, as prescribed by §2353, and complete a course on the theory of pregnancy and childbirth, in clinical instructions in midwifery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991).

§2353. Basic Sciences

A. Every applicant seeking licensure must, as a condition of eligibility for licensure, demonstrate cognitive competence in the basic sciences of human anatomy, human physiology, biology, psychology, and nutrition by evidencing successful completion of:

1. one college-level course in each of such subjects in an accredited college or university; or
2. such other educational instruction, courses, or programs in such subjects as may be approved by the board; or
3. satisfaction of the education requirements prerequisite to CPM certification by NARM will be deemed to satisfy the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1287 (August 2016).

§2355. Theory of Pregnancy and Childbirth

A. The board shall maintain and periodically revise a list of approved courses, texts, and trainers covering the subject matters which shall comprise a course of study in the theory of pregnancy and childbirth. The board may use the list as a guideline in determining the acceptability of a non-listed educational source which an applicant submits as complying with any required subject matter. All or part of the course may be obtained through self-study. Satisfaction of the education requirements prerequisite to CPM certification by NARM will be deemed to satisfy the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:516 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1287 (August 2016).

§2357. Clinical Experience

A. Clinical experience in midwifery is required of every applicant for licensure and may be obtained in a variety of settings, including medical offices, clinics, hospitals, maternity centers, and in the home. Clinical experience must include instruction in basic nursing skills, including vital signs, perineal preparation, enema, urethral catheterization, aseptic techniques, administration of medication orally and by injection, local infiltration for anesthesia, administration of intravenous fluids, venipuncture, infant and adult resuscitation, fetal heart tones, edema, routine urinalysis, and curetting and repair of episiotomy.

B. The clinical experience requisite to licensure shall include care of women in the antepartum, intrapartum, and postpartum periods. Clinical practice must include at least the following types of numbers of experiences (with out-of-hospital births making up at least one-half of the clinical experience):

1. 75 prenatal visits on at least 25 different women, including 20 initial examinations;
2. attendance at the labor and delivery of at least 10 live births as an observer and 20 births as an assistant attendant;
3. management of the labor and delivery of newborn and placenta for at least 25 births as the primary birth attendant;
4. 25 newborn examinations;
5. 40 postpartum evaluations of mother and baby in home or hospital within 72 hours of delivery;
6. a minimum of five repairs of lacerations or such greater number as necessary to be deemed competent by the clinical supervisor, in addition to any practice on non-human subjects;
7. five observations of in-house hospitalized births involving high-risk obstetric care, provided, however, that this requirement may be waived by the board upon demonstration and documentation by the applicant that opportunity for such observations was not reasonably available to the applicant notwithstanding the applicant's diligent, good faith efforts to obtain opportunity for such observations;
8. observation of one complete series of at least 6 prepared childbirth classes offered by an approved provider; and
9. five continuity of care births, all as primary under supervision, which are to include:
 - a. five prenatal visits spanning at least two trimesters;

- b. the birth (assumed delivery of placenta and immediate postpartum);
- c. one newborn examination; and
- d. two postpartum examinations (after 24 hours).

C. Satisfaction of the clinical experience requirements requisite to CPM certification by NARM will be deemed to satisfy the requirements of §2357.B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1287 (August 2016).

§2359. Supervision of Clinical Experience

A. Apprentice midwife practitioners must obtain their clinical experience under the immediate personal supervision of a physician, certified nurse-midwife, or a licensed midwife.

B. Senior apprentice midwives may obtain the clinical experience requisite to licensure under the general direction, rather than direct supervision, of a physician, certified nurse-midwife, or licensed midwife.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1288 (August 2016).

Subchapter H. Continuing Education

§2361. Scope of Subchapter; Continuing Education Requirement

A. The rules of this Subchapter provide standards for the continuing education requisite to renewal of any license or permit issued under this Chapter.

B. To be eligible for renewal of licensure or apprentice permit, a licensed midwife or apprentice midwife shall document, in a manner prescribed by the board, the successful completion of not less than 30 contact hours of continuing education obtained since such license or permit was last issued, reinstated, or renewed. As used in this Subchapter, "contact hour" means 60 minutes of participation in an organized learning experience under responsible sponsorship, capable direction, and qualified instruction, as approved by the board.

C. To be acceptable as qualified continuing education under these rules, an activity or program must have significant intellectual, practical, or clinical content, dealing primarily with matters related to midwifery, and its primary objective must be to maintain or increase the participant's competence as a midwife.

D. The following programs and activities are illustrative of the types of programs and activities which shall be

deemed to be qualifying continuing education activities and programs for purposes of this Subchapter:

1. attendance at or participation in meetings, conferences, workshops, seminars, or courses, such as programs conducted, sponsored, or approved for continuing education credit by the American Medical Association, the American Congress of Obstetricians and Gynecologists, the American Nurse Association, the Association of Certified Nurse Midwives, the Midwives Alliance of North America and the North American Registry of Midwives;

2. presentation or conduct of a course, seminar, or workshop sponsored by an organization or entity approved by the board, provided that such presentation is accompanied by thorough written materials or a comprehensive outline relating to the course, seminar, or workshop;

3. teaching of a course in or directly related to midwifery at an accredited educational institution, provided that such teaching is not performed in the ordinary course of the licensed midwife's or apprentice midwife's usual and ordinary employment;

4. publication, in a national, regional, or statewide scientific journal or other publication of a related profession, of an original written work, related to the maintenance or improvement of midwifery knowledge or skills;

5. completion of a course of postsecondary, graduate, or postgraduate study undertaken and completed at an accredited educational institution;

6. assuming responsibility for and discharging supervision of an apprentice for not less than six months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1288 (August 2016).

§2362. Documentation Procedure

A. Documentation and/or certification of satisfaction of the continuing professional education requirements prescribed by these rules shall be made in a manner prescribed by the board's renewal application.

B. Certification of continuing education activities that are not presumptively approved under §2361 of these rules shall be referred to the board. If the board determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition or does not qualify for the number of continuing education contact hours claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may file a written appeal with the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1288 (August 2016).

§2363. Failure to Satisfy Continuing Education Requirements

A. An applicant for renewal of a license or permit who fails to evidence satisfaction of the continuing education requirements prescribed by these rules shall be given written notice of such failure by the board. The license or permit of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

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

2. the applicant is exempt from such requirements pursuant to these rules; or

3. the applicant's failure to satisfy the continuing education requirements was occasioned by disability, illness, or other good cause as may be determined by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3257.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991).

§2364. Waiver of Requirements

A. The board may, in its discretion, waive all or part of the continuing education required by these rules in favor of a licensed midwife or apprentice midwife who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding satisfaction of the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1288 (August 2016).

Chapter 25. Respiratory Therapists

Subchapter A. General Provisions

§2501. Scope of Chapter

A. The rules of this Chapter govern the licensing of respiratory therapists in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2212 (November 1999), LR 38:52 (January 2012).

§2503. Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified.

Advisory Committee or Committee—the Respiratory Therapy Advisory Committee, as established, appointed and organized pursuant to R.S. 37:3356 of the Act.

American Association for Respiratory Care or AARC—a professional society associated with the respiratory care profession or its successor.

Applicant—a person who has applied to the board for a license or permit to practice respiratory therapy in this state.

Board—the Louisiana State Board of Medical Examiners.

Certified Respiratory Therapist—also known as a Certified Respiratory Therapy Technician prior to July 1, 1999, means one who is in good standing with, and has successfully completed the entry level credentialing examination or its successor administered by the National Board for Respiratory Care.

Chest Pulmonary Therapy (CPT)—chest percussion, postural drainage, chest clapping, chest vibrations, bronchopulmonary hygiene and cupping, positive expiratory therapy (PEP), deep breathing/cough exercise, and inspiratory muscle training.

CoARC—the Commission on Accreditation for Respiratory Care, or its successor or predecessor organizations.

Good Moral Character—as applied to an applicant, means that an 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. 37:3358 for the denial, suspension or revocation of respiratory care licensure; 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 material fact or omits to state any fact or matter that is material to the application; and 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 required by this Chapter.

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

Licensed Respiratory Therapist or LRT—a person who is licensed by the board to practice respiratory therapy in Louisiana under the qualified medical direction and supervision of a licensed physician. The term *licensed respiratory therapist* shall be used to signify either a certified or registered respiratory therapist, or a person who

was licensed by the board to practice respiratory care prior to 1991.

Medical Gases—gases commonly used in a respiratory care department in the calibration of respiratory care equipment and in the diagnostic evaluation and therapeutic management of diseases, including but not restricted to carbon monoxide, carbon dioxide, compressed air, helium, nitric oxide, nitrogen, and oxygen.

National Board for Respiratory Care or NBRC—the official national credentialing board of the profession, or its successor.

Nontraditional Respiratory Care Education Program—a program of studies primarily through correspondence with tutorial assistance and with a clinical component comparable to a traditional program.

Physician—a person who is currently licensed by the board to practice medicine in the state of Louisiana.

Registered Respiratory Therapist—one who is currently in good standing with, and has successfully completed the advanced practitioner registry credentialing examination or its successor administered by the National Board for Respiratory Care.

Respiratory Care—is synonymous with the term *respiratory therapy* as defined in this Chapter.

Respiratory Care Education Program—a program of respiratory therapy studies accredited by the Commission on the Accreditation for Respiratory Care (CoARC), or its predecessor or successor organizations, including programs formerly accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) in collaboration with CoARC.

Respiratory Therapy—the allied health specialty practiced under the direction and supervision of a physician involving the assessment, treatment, testing, monitoring, and care of persons with deficiencies and abnormalities of the cardiopulmonary system. Such therapy includes, but is not limited to, the following activities conducted upon the prescription or other order of a physician, advanced practice registered nurse, or physician assistant howsoever communicated and duly recorded:

- a. application and monitoring of oxygen therapy, invasive and non-invasive ventilatory therapy, mechanical ventilation, bronchial hygiene therapy and cardiopulmonary rehabilitation and resuscitation;
- b. insertion and care of natural and artificial airways;
- c. institution of any type of physiologic monitoring applicable to respiratory care, including but not limited to cardiopulmonary and neurological processes related to such diseases;
- d. insertion and care of peripheral arterial lines;
- e. administration of non-controlled drugs and medications commonly used in respiratory care that have

been dispensed by a pharmacist and prescribed by a physician, advanced practice registered nurse, or physician assistant to be administered by a licensed respiratory therapist as defined in this Chapter. Nothing in this Chapter shall be construed to authorize the administration of sedatives, hypnotics, anesthetics or paralytic agents, or intravenous administration of medications, with the exception of the administration of medications necessary during cardiopulmonary arrest by a licensed respiratory therapist certified in advanced cardiac life support (ACLS), pediatric advanced life support (PALS), or in a neonatal resuscitation program (NRP);

f. pulmonary assessment, testing techniques, and therapy modification required for the implementation of physician-approved respiratory care protocols;

g. administration of medical gases and environmental control systems and their apparatus, including hyperbaric oxygen therapy;

h. administration of humidity and aerosol therapy;

i. application of chest pulmonary therapy and associated broncho-pulmonary hygiene techniques;

j. institution of physician-approved, patient-driven respiratory therapy protocols in emergency situations in the absence of a physician;

k. supervision of students;

l. performance of specific procedures and diagnostic testing relative to respiratory therapy that are ordered by a physician, advanced practice registered nurse, or physician assistant to assist in diagnosis, monitoring, treatment, and research, including:

i. drawing of arterial, venous, and capillary blood samples and other body fluids for analysis to determine laboratory values to be performed on blood gas instrumentation;

ii. collection of sputum and other body fluids for analysis;

iii. procedures involved in patient preparation and assisting a physician who is in attendance with invasive procedures related to respiratory therapy, including but not limited to bronchoscopy, chest tube insertion, and tracheotomy;

iv. measurement of expired gases in the performance of cardiopulmonary function tests common to respiratory therapy; and

v. starting of intravenous lines for the purpose of administering fluids pertinent to the practice of respiratory therapy in a special procedure area under the order of a physician, advanced practice registered nurse, or a physician assistant;

m. transcription and implementation of physician, advanced practice registered nurse, or physician assistant orders pertinent to the practice of respiratory therapy to be provided by a licensed respiratory therapist; and

n. instruction of patient, family, and caregivers in the prevention, management, and therapeutic modalities related to respiratory therapy for patients in any setting.

Respiratory Therapy Practice Act or the Act—R.S. 37:3351-3361, as amended.

United States Government—any department, agency or bureau of the United States Armed Forces or Veterans Administration.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:744 (June 1993), LR 25:2212 (November 1999), LR 38:52 (January 2012).

Subchapter B. Requirements and Qualifications for Licensure

§2505. Scope of Subchapter

A. The rules of this Subchapter govern and prescribe the requirements, qualifications and conditions requisite to eligibility for licensure as a licensed respiratory therapist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2213 (November 1999), LR 38:54 (January 2012).

§2507. Requirements for Licensure of Respiratory Therapists

A. To be eligible and qualified to obtain a respiratory therapist license, an applicant shall:

1. be at least 18 years of age;
2. be of good moral character;
3. be a high school graduate or have the equivalent of a high school diploma;
4. be a graduate of a respiratory care education program, or have successfully completed all program requirements established by the NBRC for entry level respiratory therapy credentialing;
5. possess current credentials as a certified or registered respiratory therapist granted by the National Board of Respiratory Care or its predecessor or successor organization;

6. 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 United States Citizenship and Immigration Services of the United States, Department of Homeland Security, under and pursuant to the Immigration

and Nationality Act (66 Stat. 163) and the regulations thereunder (8 C.F.R.);

7. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

8. satisfy the procedures and requirements for application provided by Subchapter C of this Chapter; and

9. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these rules.

B. An applicant previously licensed to practice respiratory therapy in any other state, who has not held such a license or been engaged in the practice of respiratory therapy for more than four years immediately prior to the date of the application shall, within such four year period, have been re-credentialed with the NBRC by the successful passage of the entry level credentialing examination.

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 qualification in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:479 (May 1991), LR 25:2213 (November 1999), LR 38:54 (January 2012).

§2510. Recognition of Respiratory Care Education Programs

A. Graduation from a respiratory care education program, or the successful completion of all program requirements established by the NBRC for entry level respiratory therapy credentialing, is among the required qualifications for respiratory therapy licensure. This qualification shall be deemed to be satisfied if, as of the date of the applicant's graduation, or successful completion of all program requirements established by the NBRC for entry level respiratory therapy credentialing, the respiratory therapy care education program is accredited by CoARC, including programs formerly accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) in collaboration with CoARC.

B. A respiratory care education program that is not accredited, or whose accreditation has been revoked or suspended by CoARC, shall be deemed unacceptable to qualify applicants for licensure in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:746 (June 1993), amended LR 25:2214 (November 1999), LR 38:54 (January 2012).

§2511. License by Reciprocity

A. A person who possesses a current, unrestricted license to practice respiratory therapy issued by the medical licensing authority of another state, the District of Columbia, or a territory of the United States, shall only be eligible for licensure in this state if the applicant meets all of the qualifications for licensure specified in §2507 of this Subchapter, and satisfies the procedural and other requirements specified in Subchapters C and D of this Chapter, including but not limited to the restriction and limitation on examination set forth in §2536 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2214 (November 1999), LR 38:55 (January 2012).

Subchapter C. Application

§2515. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensure of a licensed respiratory therapist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended, Department of Health and Hospitals, Board of Medical Examiners, LR 25:2215 (November 1999), LR 38:55 (January 2012).

§2517. Application Procedure

A. Application for licensure shall be made in a format approved by the board.

B. Applications and instructions may be obtained from the board's web page or by personal or written request to the board.

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

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for licensure set forth in this Chapter;
2. one recent photograph of the applicant;
3. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;
4. criminal history record information;
5. payment of the applicable fee as provided in Chapter 1 of these rules; and
6. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2215 (November 1999), LR 38:55 (January 2012).

§2519. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate or registration, each person, firm, corporation, organization or association by whom or with whom the applicant has been employed as a respiratory therapist, each physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization 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 licensure to the board shall equally constitute and operate as a consent by the applicant to the disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure 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 if the board has reasonable grounds to believe that the applicant's capacity to act as a respiratory therapist with reasonable skill or safety may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports or recommendations pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose 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 this Section, to any person,

firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the respiratory care licensing authority of any state, the National Board for Respiratory Care, the Louisiana Department of Health and Hospitals, state, county or parish and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2215 (November 1999), LR 38:55 (January 2012).

Subchapter D. Examination

§2521. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to the examination for the licensure of respiratory therapists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999), LR 38:56 (January 2012).

§2523. Designation of Examination

A. The examinations accepted by the board pursuant to R.S. 37:3354 are the National Board for Respiratory Care entry level credentialing examination and the advanced practitioner registry credentialing examination or their successor(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2216 (November 1999), LR 38:56 (January 2012).

§2536. Restriction, Limitation on Examination

A. An applicant who failed to obtain a passing score upon taking the entry level credentialing examination offered by the NBRC four times shall be ineligible for licensure under this Chapter.

B. An applicant who is ineligible for licensure pursuant to Subsection A of this Section, shall regain licensure eligibility upon the successful completion of the advanced practitioner registry credentialing examination offered by the NBRC; provided, however, that an applicant who fails to achieve a passing score upon four attempts of either part of such examination shall not thereafter be considered eligible for licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended LR 14:87 (February 1988),

amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:479 (May 1991), LR 25:2217 (November 1999), LR 38:56 (January 2012).

§2537. Passing Score

A. An applicant will be deemed to have successfully passed a credentialing examination if he attains a score equivalent to that required by the National Board for Respiratory Care as a passing score.

B. Applicants for licensure shall be required to authorize the National Board for Respiratory Care to release their test scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by the National Board for Respiratory Care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2217 (November 1999), LR 38:56 (January 2012).

Subchapter E. Licensure Issuance, Termination, Renewal, and Reinstatement

§2540. Issuance of License

A. If the qualifications, requirements and procedures prescribed or incorporated in Subchapter B this Chapter are met to the satisfaction of the board, the board shall issue a license to the applicant to practice respiratory therapy in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2218 (November 1999), LR 38:57 (January 2012).

§2541. Expiration of License

A. Every license issued by the board under this Chapter shall expire, and thereby become null, void and to no effect each year on the last day of the month in which the licensee was born.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:1502 (August 1998), LR 25:2218 (November 1999), LR 38:57 (January 2012).

§2543. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before the last day of the month in which the licensee was born by submitting to the board:

1. a renewal application in a format prescribed by the board;

2. the renewal fee prescribed in Chapter 1 of these rules; and

3. documentation of not less than ten contact hours of approved continuing professional education within the past twelve months as prescribed by Subchapter G of these rules.

B. Renewal applications and instructions may be obtained from the board's web page or upon personal or written request to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 24:1502 (August 1998), LR 25:2218 (November 1999), LR 38:57 (January 2012).

§2545. Reinstatement of License

A. A license which has expired may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;
2. a recent photograph;
3. proof of ten hours of approved continuing professional education for each year that the license lapsed, up to a total of thirty hours, as set forth in Subchapter G of this Chapter;

4. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure; and

5. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:

- a. 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;
- b. if the application for reinstatement is made more than two years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

C. An applicant who has not been licensed to practice respiratory therapy or engaged in the practice of respiratory therapy in any state for more than four years immediately prior to the date of the application shall, within such four year period, have been re-credentialed with the NBRC by the successful passage of the entry level credentialing examination. Such an applicant shall not be required to furnish evidence of continuing professional education as otherwise required by §2545.B.3.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health

and Hospitals, Board of Medical Examiners, LR 22:1218 (December 1996), LR 25:2218 (November 1999), LR 38:57 (January 2012).

§2547. Temporary License

A. The board may issue a 6-month temporary license, also known and designated as an "examination permit," to an individual who has made application to the board for a license as a respiratory therapist under the following terms and conditions.

1. To be eligible for a 6-month examination permit an applicant shall:

a. be qualified for respiratory therapy licensure under §2507.A, except for having taken and passed the required NBRC credentialing examination;

b. have taken, or made application to take, the required NBRC credentialing examination and be awaiting the administration and/or reporting of scores thereon; and

c. have applied within one year of the applicant's date of graduation from a respiratory care education program or the successful completion of all program requirements established by the NBRC for entry level respiratory therapy credentialing. Exceptions may be made at the discretion of the board.

2. An examination permit shall be effective for 6 months and shall expire and become null and void on the earlier of:

a. six months from the date of issuance;

b. the date on which the board takes action on the application following notice of:

i. the applicant's successful completion of the NBRC credentialing examination; or

ii. the applicant's fourth unsuccessful attempt to pass the NBRC entry level credentialing examination.

3. An examination permit shall not be renewed but may be extended only once for a maximum period of 3 months based on an appeal identifying extenuating circumstances. Such an appeal shall be submitted to the board in writing at least thirty days prior to the expiration of the examination permit. Requests for an extension may be referred to the advisory committee for review and recommendation to the board. The advisory committee or the board may require additional documents from the licensee including, but not limited to:

a. licensing examination results for all attempts;

b. evidence of having attended entry level examination review courses; and/or

c. proof of extenuating circumstances preventing the licensee from attempting the licensing examination.

4. An examination permit that is extended under this Subsection shall be effective for not more than 3 months and shall, in any event, expire and become null and void on the earlier of:

a. three months from the date of issuance;

b. the date on which the board takes action on the application following notice of:

i. the applicant's successful completion of the NBRC credentialing examination; or

ii. the applicant's fourth unsuccessful attempt to pass the NBRC entry level credentialing examination.

B. The maximum term of an examination permit shall be reduced by any amount of time that an applicant held a temporary work permit issued under this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 15:271 (April 1989), LR 17:480 (May 1991), LR 19:746 (June 1993), LR 25:2218 (November 1999), LR 38:57 (January 2012).

§2548. Temporary Work Permit

A. The board may grant a temporary work permit to practice, effective for a period of 60 days, to an applicant who has made application to the board for a license as a respiratory therapist, who:

1. is currently credentialed in respiratory therapy by the NBRC, and who is not otherwise demonstrably ineligible for licensure under §2507.A of these rules; or

2. satisfies the criteria for a temporary license (examination permit) specified by §2547 of these rules.

B. A work permit issued under this Subsection may not be extended or renewed beyond its initial term.

C. An applicant who is granted a 6-month temporary license (examination permit) under this Subchapter shall be ineligible for subsequent consideration for a temporary work permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 38:58 (January 2012).

Subchapter F. Advisory Committee on Respiratory Care

§2549. Organization; Authority

A. The Advisory Committee on Respiratory Care (the "committee"), as established, appointed and organized pursuant to R.S. 37:3356 of the Act is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded to it by the Act;

2. function and meet as prescribed by the Act;

3. monitor respiratory care education and training programs conducted in the state of Louisiana;

4. advise the board on issues affecting the licensing of respiratory therapists and regulation of respiratory care in the state of Louisiana;

5. provide advice and recommendations to the board respecting the modification, amendment and supplementation of rules and regulations, standards, policies and procedures respecting respiratory care licensure and practice;

6. serve as liaison between and among the board, licensed respiratory therapists, and professional organizations;

7. have authority to review and advise the board on requests for extension of temporary licenses (examination permits) and applications for license reinstatement;

8. conduct audits on applications to ensure satisfactory completion of continuing education and competency as specified by the board's rules;

9. perform such other functions and provide such additional advice and recommendations as may be requested by the board; and

10. receive reimbursement in the amount of fifty dollars per day for attendance at meetings of the advisory committee and other activities and expenses specifically authorized by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), amended LR 25:2219 (November 1999), LR 38:58 (January 2012).

§2551. Delegation of Authority

A. Authority is hereby delegated to the Advisory Committee on Respiratory Care to:

1. monitor all respiratory care education programs located in this state for the purpose of reporting and making recommendations to the board. To facilitate its responsibility committee may, among other items:

a. survey, by site visit or otherwise, programs and their affiliated hospitals, other institutions and associated clinical training sites;

b. request and obtain information from students, instructors, administrators or others associated with any hospital or clinical affiliate involved in such programs;

c. track enrollment, attrition, and retention statistics;

d. trend NBRC examination passage rates and scores; and

e. request information regarding examination passage and scores from the NBRC.

2. assist the board in the review of applicants' satisfaction of continuing professional education requirements for renewal of licensure under this Chapter.

B. To carry out its duties of §2551.A.2, the Advisory Committee is authorized to advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by Subchapter G of this Chapter, including the authority and responsibility to:

1. evaluate organizations and entities providing continuing professional education programs for all licensed respiratory therapists and provide recommendations to the board on approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §2559 of these rules;

2. request and obtain from continuing professional education sponsoring organizations any information necessary to properly evaluate and make informed recommendations to the board relative to the appropriateness of the educational program;

3. review renewal applications selected for audit of continuing professional education or referred by the board to verify the accuracy of documentation and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards prescribed by these rules; and

4. request and obtain from applicants for renewal of licensure, as well as those referred by the board, such additional information as the advisory committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

C. 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 Subchapter shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing or in any way releasing to anyone, other than the board, any information or documents obtained when acting as agents of the board without first obtaining written authorization from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3351-3361, 37:1270(B)(6) and 37:3357.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), amended LR 22:1219 (December 1996), LR 25:2219 (November 1999), LR 38:58 (January 2012).

Subchapter G. Continuing Professional Education

§2553. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as a licensed respiratory therapist, as required by §2543 and §2555 of these rules, and prescribe

the procedures applicable to satisfaction and documentation of continuing professional education in connection with application for renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1219 (December 1996), amended LR 25:2220 (November 1999), LR 38:59 (January 2012).

§2555. Continuing Professional Educational Requirement

A. Subject to the exceptions specified in §2569 of this Subchapter, to be eligible for renewal of licensure a respiratory therapists shall, within each year during which he holds a license, evidence and document, upon forms or in another format acceptable to the board, the successful completion of not less than 10 contact hours of continuing professional education sanctioned by the American Association of Respiratory Care, the organizations identified in §2559 of these rules, or their successors, or the advisory committee.

B. For purposes of this Section, one contact hour of continuing professional education credit is equivalent to 50 minutes of qualifying lecture, laboratory practice, on-line course or workshop instruction on topics pertaining to the respiratory care profession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1219 (December 1996), amended LR 25:2220 (November 1999), LR 38:59 (January 2012).

§2557. Qualifying Continuing Professional Education Programs

A. To be acceptable as qualifying continuing professional education under these rules, a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of respiratory care;
2. have pre-established written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of respiratory care;
3. be presented by persons whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation and is up to date;
4. provide a system or method for verification of attendance or course completion;
5. be a minimum of 50 continuous minutes in length for each contact hour of credit; and
6. allow participants an opportunity to ask questions on the content presented.

B. Other approved continuing professional education activities include:

1. earning a grade of "C" or better in a college or university science course required to earn a degree in cardiopulmonary science or respiratory care, or a grade of "pass" in a pass/fail course. One credited semester hour will be deemed to equal 15 contact hours;

2. programs on advanced cardiac life support (ACLS), pediatric advanced life support (PALS) or neonatal advanced resuscitation program (NRP), or their successors, each of which will equal 5 contact hours;

3. any initial instructor course taken in preparation for teaching ACLS, PALS, NRP, or asthma educator (AE-C) or any other future instructor course sanctioned by the AARC, each of which will equal to 5 contact hours;

4. initial credentialing with the NBRC as a certified or registered respiratory therapist or another specialty examination administered by the NBRC, with each credential equal to 10 contact hours;

5. initial credentialing as a certified or registered cardiovascular technologist, asthma educator or other specialty credential granted by the NBRC, with each credential equal to 10 contact hours;

6. successful completion of any NBRC re-credentialing examination, with each such examination equal to 10 contact hours;

7. respiratory care-related lecture, seminar, workshop, home study, on-line, or correspondence courses approved by either the AARC or the advisory committee, pursuant to the criteria set forth in §2561 of these rules.

C. None of the following programs, seminars or activities shall be deemed to qualify as acceptable continuing professional education programs under these rules:

1. any program not meeting the standards prescribed by this Section;
2. any independent/home study correspondence, on-line, lecture, workshop, program or seminar that is not approved or sponsored by the AARC or the advisory committee pursuant to the criteria set forth in §2561 of these rules;
3. in-service education provided by a sales representative unless approved by AARC;
4. teaching, training or supervisory activities not specifically included in §2557.B;
5. holding office in professional or governmental organizations, agencies or committees;
6. participation in case conferences, informal presentations, or in service activities;
7. giving or authoring verbal or written presentations, seminars or articles or grant applications;
8. passing basic life support (BCLS); and
9. any program, presentation, seminar, or course not providing the participant an opportunity to ask questions or

seek clarification of matters pertaining to the content presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1220 (December 1996), amended LR 25:2220 (November 1999), LR 38:59 (January 2012).

§2559. Approval of Program Sponsors

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by §2557 shall be deemed approved for purposes of satisfying continuing education requirements under this Subchapter, if sponsored or offered by one of the following organizations: the American Association for Respiratory Care (AARC), the Louisiana Society for Respiratory Care (LSRC), the American Lung Association (ALA), the American Heart Association (AHA), the American Academy of Pediatrics (AAP), the American College of Chest Physicians (ACCP), the American Thoracic Society (ATS), the Louisiana Department of Health and Hospitals (DHH), the Louisiana Hospital Association (LHA), or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

B. Upon the recommendation of the advisory committee, or on its own motion, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §2557 or §2559.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1220 (December 1996), amended LR 25:2221 (November 1999), LR 38:60 (January 2012).

§2561. Approval of Program

A. A continuing professional education program or activity sponsored by an organization or entity that is not approved by the board pursuant to §2557 or 2559 must be evaluated and approved by the advisory committee in order to be accepted for purposes of meeting the continuing professional education requirement for annual renewal of licensure. To be considered for approval the sponsoring organization or entity shall submit a written request to the board. For each continuing professional educational program presented for consideration the following shall be provided:

1. a list of course goals and objectives for each topic;
2. a course agenda displaying the lecture time for each topic;
3. a curriculum vitae for each speaker;
4. information on the location, date(s), and target audience;
5. a copy of the evaluation form used for the overall program topics and speakers; and

6. such other information as the advisory committee may request to establish the compliance of such program with the standards prescribed by §2557 or 2559.

B. A request for pre-approval of a continuing professional education program shall be submitted in a format approved by the board not less than 60 days in advance of the event. Any such request for pre-approval respecting a program which makes and collects a charge for attendance shall be accompanied by a nonrefundable processing fee of \$30.

C. Any such written request shall be referred by the board to the advisory committee for evaluation and approval.

D. If the recommendation is against the approval, the board or the advisory committee shall give notice of such recommendation to the person or organization requesting approval. An appeal may be submitted to the board by written request, accompanied by all information required by Subsection A of this Section within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 25:2221 (November 1999), LR 38:60 January 2012).

§2563. Documentation Procedure

A. Annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall accompany a licensed respiratory therapist's application for renewal of licensure pursuant to §2543 of these rules.

B. A licensed respiratory therapist shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing professional education program.

C. The board or advisory committee shall randomly select for audit no fewer than 3 percent of the licensees each year for an audit of continuing education activities. In addition, the board or advisory committee has the right to audit any questionable documentation of activities. Verification shall be submitted within 30 days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any certification of continuing professional education not presumptively approved in writing by the board, pursuant to §2557 or 2559 of these rules, or pre-approved by the advisory committee, pursuant to §2561, shall be referred to the advisory committee for its evaluation and recommendations prior to licensure denial or renewal.

E. If the advisory committee determines that a continuing professional education program or activity listed by an applicant for renewal does not qualify for recognition by the board or does not qualify for the number of contact hours claimed by the applicant, the board shall give notice of

such determination to the applicant. An applicant may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 25:2222 (November 1999), LR 38:60 (January 2012).

§2565. Failure to Satisfy Continuing Professional Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirements prescribed by these rules shall be given written notice of such failure by 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 it shall be deemed expired, unrenewed and subject to suspension or 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 professional education requirements;
2. the applicant is exempt from such requirements pursuant to these rules; or
3. the applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §2567.

B. The license of a licensed respiratory therapist whose license has expired by nonrenewal or has been suspended or revoked for failure to satisfy the continuing professional education requirements of this Subchapter may be reinstated by the board upon application to the board pursuant to §2545 of this Chapter, accompanied by payment of a reinstatement fee, together with documentation and certification that the applicant has, for each calendar year since the date on which the applicant's license lapsed, expired, or was suspended or revoked, completed an aggregate of 10 contact hours of qualifying continuing professional education.

C. Any licensee who falsely certifies attendance and/or completion of the required continuing education requirement will be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1221 (December 1996), amended LR 24:1502 (August 1998), LR 25:2222 (November 1999), LR 38:61 (January 2012).

§2567. Waiver of Requirements

A. The board may, in its discretion upon the recommendation of the advisory committee, waive all or part of the continuing professional education required by these rules in favor of a respiratory therapist who makes a written

request for such waiver 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 the continuing professional education requirement. Any licensed respiratory therapist submitting a continuing professional education waiver request is required to do so on or before the date specified for the renewal of the licensee's license by §2543. Any request received by the board past the date for licensure renewal will not be considered for waiver but, rather, in accordance with the provisions of §2565.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1222 (December 1996), amended LR 25:2222 (November 1999), LR 38:61 (January 2012).

§2569. Exceptions to the Continuing Professional Education Requirements

A. The continuing professional education requirements prescribed by this Subchapter for renewal of licensure shall not be applicable to:

1. a respiratory therapist employed exclusively by, or at an institution operated by the United States Government; or
2. a respiratory therapist who has within the twelve months prior to the date of renewal, been credentialed or recertified by the NBRC on the basis of examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3357(D) and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:1222 (December 1996), amended LR 25:2222 (November 1999), 38:61 (January 2012).

Subchapter H. Supervision of Students

§2571. Scope of Subchapter [Formerly §5511]

A. The rules of this Subchapter prescribe certain restrictions on and requirements for supervision of students enrolled in a respiratory care education program as that term is defined in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), repromulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2224 (November 1999), LR 38:61 (January 2012).

§2573. Student Participation in Clinical Training

A. A student or trainee providing respiratory care to patients as permitted by R.S. 37:3361(3) in the course of a student's clinical training shall:

1. be supervised in accordance with the provisions of §2575 of this Subchapter;

2. be identified to patients and licensed practitioners by title or otherwise which clearly designates the student's status as a student or trainee; and

3. not be compensated monetarily for services rendered during their education processes for cardiopulmonary clinical experiences.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 38:61 (January 2012).

§2575. Supervision of Student [Formerly §5515]

A. A person pursuing a course of study leading to certification or registry in respiratory care shall engage in the practice of respiratory care only under the supervision of a licensed respiratory therapist or a physician who actively practices respiratory care, as provided in this Section.

B. A licensed respiratory therapist or a physician who undertakes to supervise a student shall:

1. undertake to concurrently supervise not more than four students;

2. personally evaluate every patient prior to the provision of any respiratory care treatment or procedure by a student;

3. assign to a student only such respiratory care measures, treatments, procedures and functions as such licensed respiratory therapist or physician has documented that the student by education and training is capable of performing safely and effectively;

4. provide continuous and immediate on-premises direction to and supervision of a student and be readily available at all times to provide advice, instruction, and assistance to the student and to the patient during respiratory care treatment given by a student;

5. not permit a student to perform any invasive procedure or any life-sustaining or critical respiratory care, including therapeutic, diagnostic or palliative procedures, except under the direct and immediate supervision, and in the physical presence of, the supervising therapist and/or physician; and

6. provide and perform periodic evaluation of every patient administered to by a student and make modifications and adjustments in the patient's respiratory care treatment plan, including those portions of the treatment plan assigned to the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:748 (June 1993), LR 25:2224 (November 1999), LR 38:62 (January 2012).

Chapter 27. Perfusionists

Subchapter A. General Provisions

§2701. Scope of Chapter

A. The rules of this Chapter govern the licensing of perfusionists in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1371 (July 2014).

§2703. Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified.

Advisory Committee on Perfusion or Committee—the committee established in R.S. 37:1339.

American Board of Cardiovascular Perfusion or ABCP—the national credentialing entity for the perfusionist profession, or its successor.

Applicant—a person who has applied to the board for a license or provisional license to practice perfusion.

Board—the Louisiana State Board of Medical Examiners.

Extracorporeal Circulation—the diversion of a patient's blood through a heart-lung machine or similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs.

Good Moral Character—as applied to an applicant, means that an 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 for the denial, suspension or revocation of a perfusionist's license; 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 material fact or omits to state any fact or matter that is material to the application; and 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 required by this Chapter.

License—the lawful authority to engage in the practice of perfusion in this state, as evidenced by a certificate duly issued by and under the official seal of the board as a licensed perfusionist or provisional licensed perfusionist.

Licensed Perfusionist—a perfusionist who is currently licensed by the board to practice perfusion in this state.

Perfusion—the functions necessary for the support, treatment, measurement, or supplementation of the cardiovascular, circulatory, respiratory systems or other organs, or a combination of those activities, and to ensure

the safe management of physiologic functions by monitoring and analyzing the parameters including, but not limited to, the following activities conducted upon the written prescription or verbal order of a physician and/or provided in accordance with *perfusion* protocols:

a. the use of extracorporeal circulation, long-term cardiopulmonary support techniques, including extracorporeal carbon dioxide removal and extracorporeal membrane oxygenation, and associated therapeutic and diagnostic techniques;

b. counterpulsation, ventricular assistance, autotransfusion, blood conservation techniques, myocardial and organ preservation, extracorporeal life support, and isolated limb *perfusion*;

c. blood management techniques, advanced life support, and other related functions;

d. in the performance of the acts described in this Subparagraph:

i. the administration of pharmacological agents, therapeutic agents, blood products or anesthetic agents through the extracorporeal circuit as ordered by a physician;

ii. the performance and use of:

(a). anticoagulation monitoring and analysis;

(b). physiologic monitoring and analysis;

(c). blood gas and chemistry monitoring and analysis;

(d). hematologic monitoring and analysis;

(e). hypothermia;

(f). hyperthermia;

(g). hemoconcentration and hemodilution; and

(h). hemodialysis;

iii. the observation of signs and symptoms related to perfusion services, the determination of whether the signs and symptoms exhibit abnormal characteristics and the implementation of appropriate reporting, *perfusion* protocols or changes in or the initiation of an emergency.

Perfusionist—an individual who is qualified by academic and clinical education, to operate the extracorporeal circulation equipment during any medical situation where it is necessary to support or replace a person's cardiopulmonary, circulatory or respiratory function. A *perfusionist* is responsible for the selection of appropriate equipment and techniques necessary for support, treatment, measurement, or supplementation of the cardiopulmonary and circulatory system of a patient, including the safe monitoring, analysis, and treatment of physiologic conditions.

Perfusion Licensure Act or Act—R.S. 37:1331-1343, as may be amended or supplemented.

Perfusion Protocols—perfusion related policies and protocols developed or approved by a licensed health facility

or a physician through collaboration with administrators, licensed perfusionists, and other health care professionals. Such protocols shall be in writing, kept current, maintained at the health facility or by the physician and produced at the board's request.

Physician—an individual who is currently licensed by the board to practice medicine in the state of Louisiana.

Provisional Licensed Perfusionist—an individual who is provisionally licensed under this Chapter to engage in perfusion under the supervision and direction of a licensed perfusionist. A provisional license is of determinate, limited duration and implies no right or entitlement to the issuance of a license as a licensed perfusionist.

Supervision and Direction—responsible direction and control by a licensed perfusionist for the proper performance of perfusion services by a provisional licensed perfusionist. Such supervision shall not be construed to require the immediate physical presence of the licensed perfusionist; however, the licensed perfusionist shall be accessible on-site or immediately available by telephone, telecommunications or other electronic means to furnish assistance and direction at all times that a provisional licensed perfusionist performs perfusion.

Supervising Perfusionist—an individual who is currently licensed by the board under this Chapter as a licensed perfusionist, who provides supervision and direction to a provisional licensed perfusionist.

United States Government—any department, agency or bureau of the United States Armed Forces or Veterans Administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1371 (July 2014).

Subchapter B. Requirements and Qualifications for Licensure

§2705. Scope of Subchapter

A. The rules of this Subchapter govern and prescribe the requirements, qualifications and conditions requisite to eligibility for licensure as a licensed perfusionist and provisional licensed perfusionist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1372 (July 2014).

§2707. Licensed Perfusionist

A. The board may issue a license to practice as a licensed perfusionist to an individual who has made application to the board. To be eligible for licensure as a licensed perfusionist an applicant shall:

1. be at least 18 years of age;

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2. be of good moral character;
3. be a high school graduate or have the equivalent of a high school diploma;
4. be a graduate of a perfusion education program, the educational standards of which have been established by the Accreditation Committee for Perfusion Education, and accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP), or their successors or such other accrediting organization as the board may subsequently approve;
5. have passed the clinical perfusion certification examination offered by the American Board of Cardiovascular Perfusion, or its successor organization;
6. 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 United States Citizenship and Immigration Services of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the regulations thereunder (8 C.F.R.);
7. satisfy the applicable fees as prescribed by Chapter 1 of these rules;
8. satisfy the procedures and requirements for application provided by Subchapter C of this Chapter; and
9. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the Act or in Chapter 58 of these rules.

B. An individual who meets all of the requirements set forth in Subsection A of this Section, save for §2707.A.4 and 5, may nevertheless be licensed by the board provided the applicant:

1. as of July 1, 2003, was operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility in this state as the applicant's primary function; and
2. is actively engaged in the practice of perfusion consistent with applicable law.

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. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1372 (July 2014).

§2709. Recognition of Perfusion Education Programs

A. Graduation from an accredited perfusion education program is among the required qualifications for licensure as a perfusionist. This qualification shall be deemed to be satisfied if, as of the date of the applicant's graduation, such

program is accredited by the Commission on Accreditation of Allied Health Education Programs (CAAHEP).

B. A perfusion education program that is not accredited, or whose accreditation has been revoked or suspended by CAAHEP, shall be deemed unacceptable to qualify applicants for licensure in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1372 (July 2014).

§2711. License by Reciprocity

A. The board may issue a license to practice as a licensed perfusionist to an applicant who holds a current, unrestricted license to practice as a perfusionist duly issued by the licensing authority of another state, the District of Columbia, or a territory of the United States, and meets and satisfies all of the qualifications, procedures and requirements specified by Section 2707 of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1372 (July 2014).

§2713. Provisional License

A. The board may issue a license to practice as a provisional licensed perfusionist to an individual who has made application to the board. To be eligible for a provisional license an applicant shall:

1. meet and satisfy all of the qualifications, procedures and requirements specified by Section 2707 of this Subchapter, save for passage of the certification examination in clinical perfusion offered by the American Board of Cardiovascular Perfusion; and

2. identify a supervising licensed perfusionist who has agreed to provide supervision and direction at all times during which the applicant provides perfusion services as a provisional licensed perfusionist. A provisional licensed perfusionist may have multiple supervising perfusionists provided; however, the individual identified in an application to the board as the supervising perfusionist shall be deemed to be the primary supervising perfusionist.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1372 (July 2014).

Subchapter C. Application

§2715. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements for application to the board for a license to practice as a licensed perfusionist or provisional licensed perfusionist in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1373 (July 2014).

§2717. Application Procedure

A. Application for licensure or provisional licensure shall be made in a format approved by the board.

B. Applications and instructions may be obtained from the board's web page or by personal or written request to the board.

C. An application 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. one recent photograph of the applicant;

3. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

4. criminal history record information;

5. payment of the applicable fee as provided in Chapter 1 of these rules; and

6. such other information and documentation as the board may require.

D. An applicant for a provisional license shall, in addition, cause written verification of a supervising licensed perfusionist's agreement to provide supervision and direction to be submitted in a format and manner prescribed by the board.

E. 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.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1373 (July 2014).

§2719. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate or registration, each person, firm, corporation, organization or association by whom or with whom the applicant has been employed as a perfusionist, each physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization 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 licensure to the board shall equally constitute and operate as a consent by the applicant to the disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure 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 if the board has reasonable grounds to believe that the applicant's capacity to act as a perfusionist with reasonable skill or safety may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports or recommendations pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose 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 this Section, to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the perfusion licensing authority of any state, the American Board of Cardiovascular Perfusion, the Louisiana Department of Health and Hospitals, federal, state, county or parish and municipal health and law enforcement agencies and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1373 (July 2014).

Subchapter D. Examination

§2721. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to the examination for licensure as a licensed perfusionist in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1374 (July 2014).

§2723. Designation of Examination

A. The examination accepted by the board for licensure as a licensed perfusionist is the certification examination for clinical perfusion administered by the American Board of Cardiovascular Perfusion or its successor, or such other certifying entity as the board may subsequently approve.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1374 (July 2014).

§2725. Restriction, Limitation on Examinations

A. An applicant who fails to obtain a passing score upon taking any part of the American Board of Cardiovascular Perfusion's certification examination four times shall not thereafter be considered for licensure until successfully completing such continuing education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine appropriate. For multiple failures beyond four attempts such education or training may include, without limitation, repeating all or a portion of any didactic and/or clinical training required for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1374 (July 2014).

§2727. Passing Score

A. An applicant will be deemed to have successfully passed the examination accepted by the board if he or she attains a score equivalent to that required by American Board of Cardiovascular Perfusion (ABCP) as a passing score.

B. Applicants shall be required to authorize the ABCP to release their test scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by the ABCP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1374 (July 2014).

Subchapter E. Licensure Issuance, Termination, Renewal, Reinstatement and Inactive Status

§2729. Issuance of License

A. If the qualifications, requirements and procedures prescribed or incorporated in this Chapter are met to the satisfaction of the board, the board shall license the applicant to practice perfusion in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1374 (July 2014).

§2731. Expiration of Licenses

A. Every license issued by the board to a licensed perfusionist shall expire, and thereby become null, void and to no effect two years following its issuance on the last day of the month in which the licensee was born.

B. Every provisional license issued by the board shall be effective for two years and shall expire and become null and void on the earlier of:

1. two years from the date of issuance;
2. the date on which the board takes action following notice of:
 - a. the applicant's certification in clinical perfusion by virtue of the successful completion of the ABCP examination; or
 - b. the applicant's fourth unsuccessful attempt to pass any part of the ABCP examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1374 (July 2014).

§2733. Renewal of License, Extension of Provisional License

A. Every license issued by the board to a licensed perfusionist shall be renewed every two years on or before the last day of the month in which the licensee was born by submitting to the board:

1. a renewal application in a format prescribed by the board;
2. documentation of satisfaction of the continuing requirement prescribed by Subchapter G of this Chapter;
3. the renewal fee prescribed in Chapter 1 of these rules; and
4. such other information or documentation as the board may require.

B. An applicant previously licensed by the board in accordance with §2707.B of this Chapter shall, in addition to satisfying the requirements of Subsection A of this Section,

provide written documentation in a form and manner deemed acceptable to the board from one or more physicians, supervisors and/or hospital administrators, affirming that since his or her last renewal the applicant has been actively engaged in the practice of perfusion and has been primarily responsible for providing perfusion services in a licensed health care facility in this state.

C. Renewal applications and instructions may be obtained from the board's web page or upon personal or written request to the board.

D. Provisional License. A provisional license is not subject to renewal but may be extended at the discretion of the board upon a request which:

1. is submitted in writing;
2. is signed by the provisional licensed perfusionist and by the licensed perfusionist on file with the board as the applicant's supervising licensed perfusionist;
3. is received by the board at least 30 days prior to the expiration of the provisional license; and
4. identifies a life-threatening or significant medical condition or another extenuating circumstance deemed acceptable to the board.

E. The duration of any such extension shall be set by the board in its discretion but shall in no instance exceed the original term of the provisional license. Such an extension may be conditioned upon any terms or conditions that the board may deem appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1374 (July 2014).

§2735. Reinstatement of License

A. A perfusionist's license which has expired for less than five years from the date of expiration may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;
2. a recent photograph;
3. documentation of at least 15 hours of continuing education, not less than 5 of which shall be in category I activities meeting the standards prescribed by the ABCP or such other organization as the board may subsequently approve, for each year that the license was expired;
4. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure; and
5. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:

a. 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;

b. if the application for reinstatement is made more than two years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

C. A perfusionist whose license has lapsed and expired for a period in excess of two years, during which the applicant has not been licensed or engaged in the practice of perfusion in any state shall, in addition, be required to perform such continuing education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine to be appropriate.

D. A perfusionist whose license has lapsed and expired for a period in excess of five years is not eligible for reinstatement consideration but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

E. A provisional license is not subject to reinstatement.

F. A request for reinstatement may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

G. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement of the license as a licensed perfusionist shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1375 (July 2014).

§2737. Inactive License Status

A. A perfusionist's license may be placed on inactive status by giving notice to the board in writing, at least thirty days prior to the time prescribed for license renewal, on forms prescribed by the board. A perfusionist whose license is on inactive status shall be excused from payment of renewal fees and shall not practice perfusion in this state. Any individual who engages in practice while on inactive status shall be subject to administrative action under R.S. 37:1341.

B. A license on inactive status may be reinstated to active status upon application to the board, upon:

1. payment of the current renewal fee;
2. documentation of at least 15 hours of continuing education, not less than 5 of which shall be in category I activities meeting the standards prescribed by the ABCP or such other organization that the board may subsequently approve, for each year that the license was placed on inactive status; and

3. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure.

C. A perfusionist whose license has been inactive for a period in excess of two years, during which the applicant has not been licensed or engaged in the practice of perfusion in any state shall, in addition, be required to perform such continuing education or additional training as may be recommended by the advisory committee and approved by the board or as the board may determine to be appropriate.

D. A perfusionist whose license has been inactive in excess of five years is not eligible for reinstatement to active status but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

E. A request for reinstatement to active status may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

F. A provision license is not subject to placement on inactive license status.

G. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement to active status as a licensed perfusionist shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1375 (July 2014).

Subchapter F. Advisory Committee

§2739. Organization; Authority

A. The Advisory Committee on Perfusion (the "committee") as established, appointed and organized pursuant to R.S. 37:1339 of the Act, is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded to it by the Act;
2. function as prescribed by the Act;
3. advise the board on issues affecting the licensing of perfusionists and on the regulation of perfusion in this state;
4. perform such other functions and provide such additional advice as the board may request; and
5. receive reimbursement for travel expenses incurred during attendance at committee meetings and other business of the committee when authorized by the board.

C. Committee Meetings, Officers. The advisory committee shall meet at least once each calendar year, or more frequently as may be deemed necessary by a quorum of the committee or by the board. The presence of four members shall constitute a quorum of the committee. The

committee shall elect from among its members a chair and a vice-chair. The chair, or in the chair's absence or unavailability, the vice-chair, shall call, designate the date, time and place and preside at all meetings of the committee and record, or cause to be recorded, accurate and complete minutes of all meetings of the committee and shall cause copies of the same to be provided to the board.

D. Confidentiality. In discharging the functions authorized under this Section the 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 committee members relative to individual applicants or licensees pursuant to this Section shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone other than the board any confidential 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. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1375 (July 2014).

Subchapter G. Continuing Education

§2741. Scope of Subchapter

A. The rules of this Subchapter provide the continuing education requirement necessary for licensure renewal as a licensed perfusionist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1376 (July 2014).

§2743. Continuing Educational Requirement

A. A licensed perfusionist shall, within each two-year period in which he or she holds a license, successfully complete a minimum of thirty units of continuing education, not less than ten of which shall be in category I courses meeting the standards prescribed by the ABCP.

B. For purposes of this Chapter, one continuing education unit is equivalent to 50 minutes of participation in an organized continuing education program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1376 (July 2014).

§2745. Approval of Program Sponsors

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by the ABCP, the American Medical Association ("AMA"), any AMA recognized medical specialty certification organization, the Louisiana State Medical Society or the Louisiana Hospital Association, shall be deemed approved for purposes of

satisfying the continuing education requirement of this Subchapter.

B. Upon the recommendation of the advisory committee, or on its own motion, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as approved continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1376 (July 2014).

§2747. Documentation Procedure

A. Documentation of satisfaction of the continuing education requirement prescribed by this Subchapter need not accompany an application for licensure renewal; however, an applicant shall certify the satisfaction of such requirements.

B. A record or certificate of attendance shall be maintained for at least four years from the date of completion of a continuing education program.

C. The board shall randomly select for audit no fewer than 3 percent of the licensees each year for an audit of continuing education activities. In addition, the board or advisory committee has the right to audit any questionable documentation of activities. Verification shall be submitted within thirty days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any continuing education not presumptively approved pursuant to §2745 of this Chapter, shall be referred to the advisory committee for its evaluation and recommendations prior to licensure denial or renewal.

E. If the advisory committee determines that a continuing education program does not qualify for recognition by the board or does not qualify for the number of units claimed by the applicant, the board shall give notice of such determination to the applicant. An applicant may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1376 (July 2014).

§2749. Failure to Satisfy Continuing Education Requirement; Falsification

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing education requirement prescribed by these rules shall be given written notice of such failure by 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 it shall be deemed expired, unrenewed and subject to suspension or 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 education requirement; or

2. the applicant's failure to satisfy the continuing education requirement was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §2751 of this Chapter.

B. A license which has expired by nonrenewal or has been suspended or revoked for failure to satisfy the continuing education requirement of this Subchapter may be reinstated by the board upon application to the board pursuant to §2735 of this Chapter, accompanied by payment of the applicable fees, together with documentation and certification that the applicant has, for each year since the date on which the applicant's license lapsed, expired, or was suspended or revoked, completed 15 units of approved continuing education, no less than 5 of which shall be in category I courses meeting the standards prescribed by the ABCP.

C. Any licensee who falsely certifies compliance with the continuing education requirement will be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1376 (July 2014).

§2751. Waiver of Requirement

A. The board may, in its discretion, waive all or part of the continuing education required by these rules in favor of a licensed perfusionist who makes written request for waiver 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 the requirement.

B. Any licensed perfusionist submitting a continuing education waiver request is required to do so on or before the date specified for licensure renewal by these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1377 (July 2014).

Chapter 29. Private Radiologic Technologists

Subchapter A. General Provisions

§2901. Scope

A. The rules of this Chapter govern the certification as to proficiency of private radiologic technologists to perform

diagnostic or therapeutic radiological examinations or both in the private office of a physician or in clinics in which a physician practices as provided under R.S. 37:1292, as hereafter amended or supplemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

§2903. General Definitions

Applicant—a person who has applied to the board for a certificate to perform diagnostic or therapeutic radiological examinations or treatments or both in the private office of a physician or in clinics in which a physician practices and under the direct supervision of a physician licensed to practice medicine by the board.

Application—a written request directed to and received by the board upon forms supplied by the board, for a certificate to perform radiological examinations or treatments in the private office of a physician or in clinics in which a physician practices in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board.

Board—the Louisiana State Board of Medical Examiners created pursuant to R.S. 37:1261-1291, as hereafter amended or supplemented,

Certificate—the lawful authority of a person to use radioactive materials or equipment emitting or detecting ionizing radiation on humans to perform a diagnostic or therapeutic examination or treatment or both in the private office of a physician or in a clinic in which a physician practices and under the direct supervision of a physician licensed to practice medicine by the board, said authority being evidenced by a certificate of proficiency duly issued by and under the official seal of the board.

Clinic—a facility where patients are studied or treated on an outpatient basis by physicians specializing in various or particular ailments and practicing as a group.

Direct Supervision of a Physician—pursuant to specific instructions, oral or in writing, or otherwise according to prescription given directly by the physician to the private radiologic technologist.

Education Program—a set of formally structured activities designed to provide students with the knowledge and skills necessary to perform diagnostic or therapeutic radiological examinations or treatments or both, with evaluation of student performance according to predetermined objectives.

Formal Training—training or education, including either didactic or clinical practicum or both, which has a specified objective, planned activities for students, and suitable methods for measuring student attainment, and which is offered, sponsored, or approved by an organization or institution able to meet or enforce these criteria.

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 certification;

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; and

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 certification required by this Chapter.

Ionizing Radiation—any electromagnetic or particulate radiation (X-rays, gamma rays, alpha and beta particles, high speed electrons, neutrons, and other nuclear particles) which interacts to produce ion pairs in matter.

Physician—a person possessing a current license to practice medicine in the state of Louisiana.

Private Nuclear Medicine Technologist—a private radiologic technologist who conducts in vivo or in vitro detection and measurement of radioactivity for medical purposes or administers radiopharmaceuticals to human beings.

Private Radiologic Technologist—a person who is authorized to perform radiological examinations or treatment or both in the private office of a physician or in clinics in which a physician practices and under the direct supervision of a physician.

Private Radiation Therapy Technologist—a private radiologic technologist who utilizes radiation-generating equipment for therapeutic purposes on human beings.

Private Radiographer—a private radiologic technologist who performs a comprehensive scope of diagnostic radiological procedures employing equipment which emits ionizing radiation and is responsible for operation of radiation generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, or other procedures which contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

Radiologic Technology Board of Examiners—agency created pursuant to R.S. 37:3200-3219, as hereafter amended or supplemented.

Radiological Examination or Treatment—the use of radioactive materials or of equipment emitting or detecting ionizing radiation on humans for diagnostic or therapeutic purposes under direct prescription and supervision of a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:574 (October 1987).

§2905. Necessity of Certificate; Exemptions; Information Required

A. No person may perform or attempt to perform a diagnostic or therapeutic radiological examination or treatment in the private office of a physician or in a clinic in which a physician practices unless he has in his personal possession a certificate issued to him under this Chapter or is otherwise exempted from the provisions of this Chapter pursuant to §2905.B and C.

B. The following persons are exempt from the requirements of this Chapter:

1. any physician licensed by the board to practice medicine in the state of Louisiana; or
2. any person licensed by the Radiologic Technology Board of Examiners.

C. Any person who performs the functions of a private radiologic technologist but has been employed by the supervising physician for less than six months shall be exempt from the requirements of this Chapter only for the first six months of such employment. This temporary exemption shall not apply to anyone who has been employed previously as a private radiologic technologist or who has otherwise performed any radiological examination or treatment in the course of any previous employment.

D. Each physician who employs any person to perform diagnostic or therapeutic radiological examinations or treatments or both in his private office or in the clinic in which that physician practices shall report to the board annually as a condition of or issuance or renewal of that physician's licensure to practice medicine in the state of Louisiana the following information for each person so employed:

1. name of the employee;
2. address at which that person performs diagnostic or therapeutic radiological examinations or treatments or both;
3. initial date of employment as a private radiologic technologist;
4. any exemption claimed for any person under this Chapter; and
5. certification by the physician that the person employed as a private radiologic technologist is proficient in, and is competent to perform, the functions of a private radiologic technologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:575 (October 1987).

Subchapter B. Certification

§2907. Qualifications for Certification and Approval

A. To be eligible for certification under this Chapter, an applicant shall:

1. be at least 18 years of age;
2. be of good moral character;
3. have successfully completed a four-year course of study in a secondary school approved by the State Board of Elementary and Secondary Education, passed an approved equivalency test, or have graduated from a secondary school outside Louisiana having comparable approval;
4. have attended and successfully completed a course of radiological study and safety which meets the requirements of §2909 of this Chapter, or have been employed by a physician continuously since September 1, 1983 to perform diagnostic or therapeutic radiological examinations or treatments or both in the private office or clinic of that physician and under said physician's direct supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:575 October 1987).

§2909. Educational Requirements

A. An applicant shall have attended and successfully completed an educational program and formal training meeting either of the following standards in preparation for the position of radiologic technologist prior to making application for certification.

1. An educational program and formal training that meets the essentials and guidelines of an accredited educational program for the radiographer, radiation therapy technologist, and the nuclear medicine technologists as adopted by the American College of Radiology, American Medical Association, and the American Society of Radiologic Technologists and is accredited by the Committee on Allied Health Education and Accreditation and the Joint Review Committee on Education in Radiologic Technology shall be deemed adequate under the requirements of this Section. The adequacy of such program shall exist only during the term within which it remains accredited by the aforesaid accrediting entities.

2. A specific course of radiological study and safety approved by the board, pursuant to §2911 of this Chapter and attended and completed by a potential applicant within the six months prior to making application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:575 (October 1987).

§2911. Application for Approval of Course of Study

A. Any employing physician may petition the board to approve an individualized and specific course of study to be attended and successfully completed by said physician's employee as a condition precedent to making application for certification of that employee as a private radiologic technologist under this Chapter.

B. To obtain board approval, the proposed course of study must include, as a minimum:

1. specific curriculum content, including the following courses at an accredited institution of higher learning, through which the employee must complete at least 12 semester credit hours:

- a. introduction to radiologic technology;
- b. medical ethics;
- c. radiation safety and protection; and
- d. patient care and patient positioning;

2. a clinical practicum taken concurrent with, or following completion of, the curriculum identified in §2911.B.1. Such practicum shall involve direct training of the employee by a physician or licensed radiologic technologist for at least five hours per week for not less than eight weeks;

3. the board may impose additional course requirements or require additional curriculum and/or practicum in its discretion;

4. no petition for approval of a course of study will be considered by the board until the applicable processing fee established under Chapter 81 has been paid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:576 (October 1987).

§2913. Application for Certification; Procedure

A. Application for certification as a private radiologic technologist must be made upon forms supplied by the board and must be submitted by the proposed supervising physician, and shall be required as a condition precedent to the issuance or renewal of said physician's license to practice medicine in the state of Louisiana.

B. Application for certification and approval under this Chapter must include:

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications set forth in §2907 of this Chapter;

2. affidavits, notarized and properly executed by the applicant and the proposed supervising physician, certifying the truthfulness and authenticity of all information, representations, and documents contained in or submitted with the completed application; and

3. such other information and documentation as the board may require.

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

D. The board may reject or 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.

E. Each application submitted to the board by a proposed supervising physician shall be accompanied by a fee of \$35 of which the sum of \$25 will represent a nonrefundable processing fee, as established under Chapter 81.

F. Upon submission of a completed application form, together with the documents required thereby, and the payment of the application fee established under Chapter 81, the board may require the applicant and the proposed supervising physician to make a personal appearance before a member of the board or a physician designated for this purpose, to be interviewed regarding the applicant's qualifications for certification and their understanding of the authority, limitations, obligations, and responsibilities imposed on private radiologic technologists and supervising physicians by laws and regulations applicable thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:576 (October 1987).

§2915. Issuance of Certificate; Rating

A. If the qualifications, requirements, and procedures of §§2907 and 2913 are met to the satisfaction of the board, the board shall certify the applicant as a private radiologic technologist.

B. Each private radiologic technologist certificate issued under this Chapter shall be endorsed as follows:

1. private radiologic technologist-nuclear medicine;
2. private radiologic technologist-radiation therapy; or
3. private radiologic technologist-radiographer.

C. Every certificate issued under this Chapter, of whatever rating, is expressly subject to the terms, restrictions, and limitations set forth in the approved application. A radiologic technologist shall be restricted to the use of the ionizing radiation by the category specified by the endorsement on his certificate and at the address or location specified in the job description submitted with his application.

D. A certificate of proficiency issued under this Chapter is valid as of the date of issuance. No representation is made, nor should such certificate be construed as an

acknowledgment of continued competence or proficiency beyond the date of issuance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:576 (October 1987).

§2917. Obligations and Responsibilities

A. The private radiologic technologist shall:

1. at all times retain in his personal possession a copy of the certificate issued under this Chapter; and

2. comply with the reasonable request by the board for personal appearances and/or information relative to the functions, activities, and performance of the private radiologic technologist.

B. Each physician who employs any person to perform diagnostic or therapeutic radiological examinations or treatments or both in his private office or in the clinic in which that physician practices shall report to the board annually as a condition of or issuance or renewal of that physician's licensure to practice medicine in the state of Louisiana the following information for each person so employed:

1. name of the employee;
2. address at which that person performs diagnostic or therapeutic radiological examinations or treatments or both;
3. initial date of employment as a private radiologic technologist;
4. any exemption claimed for any person under this Chapter; and
5. certification by the physician that the person employed as a private radiologic technologist is proficient in, and is competent to perform, the functions of a private radiologic technologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:576 (October 1987).

§2919. Causes for Nonissuance, Suspension, Revocation; or Restrictions; Fines; Reinstatement

A. The board may refuse to issue, or may suspend, revoke, or impose probationary or other restrictions on, any certificate issued under this Chapter for the following causes:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge;
2. fraud, deceit, or perjury in obtaining any certificate issued under this Chapter;
3. providing false testimony before the board;
4. habitual or recurring drunkenness;

5. habitual or recurring use of morphine, opium, cocaine, drugs having a similar effect, or other substances which may induce physiological or psychological dependence;

6. aiding, abetting, or assisting any physician in any act or course of conduct enumerated in R.S. 37:1285;

7. efforts to deceive or defraud the public;

8. incompetency;

9. immoral conduct in exercising the privileges provided for by certification under this part;

10. persistent violation of federal or state laws relative to control of social diseases;

11. interdiction or commitment by due process of law;

12. inability to perform or function as a private radiologic technologist with reasonable skill or safety to patients because of mental illness or deficiency, physical illness, including but not limited to deterioration through the aging process or loss of motor skills, and/or excessive use or abuse of drugs, including alcohol;

13. refusing to submit to the examination and inquiry of an examining committee of physicians appointed or designated by the board to inquire into the private radiologic technologist's physical and mental fitness and ability to perform diagnostic or therapeutic radiological examinations or treatments or both with reasonable skill and safety;

14. violation of any provision of this Chapter, or of any rules and regulations of the board or statute pertaining to private radiologic technologists;

15. misuse of any radiological equipment or materials;

16. violation of any federal or state regulation controlling the use or application of radiological materials or ionizing radiation, including, but not limited to, those regulations promulgated by the U.S. Environmental Protection Agency, the U.S. Occupational Safety and Health Administration, and the Louisiana Department of Environmental Quality.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any certificate suspended or revoked hereunder, require the private radiologic technologist and/or the supervising physician to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees, and to pay a fine not to exceed the sum of \$5,000.

C. Any certificate suspended, revoked, or otherwise restricted by the board may be reinstated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:576 (October 1987).

§2921. 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. 37:1270(B)(6) and 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:576 (October 1987).

Chapter 31. Athletic Trainers**Subchapter A. General Provisions****§3101. Scope of Chapter**

A. The rules of this Chapter govern the licensure of athletic trainers in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:522 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1370 (July 2017).

§3103. Definitions

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

Advisory Committee—the Athletic Training Advisory Committee to the Board, constituted under and pursuant to §3104.

Applicant—a person who has applied to the board for licensure as an athletic trainer.

Application—a request received by the board, in a manner prescribed by the board, for licensure as an athletic trainer in the state of Louisiana.

Athlete—an individual designated as such by the board, an educational institution, a professional athletic organization, or other board-approved organization who participates in an athletic activity sponsored by such institution or organization.

Athletic Trainer—an individual licensed by the board as an athletic trainer with the specific qualifications set forth in R.S. 37:3306.1 who, under the general supervision of a physician, carries out the practice of prevention, emergency management, and physical rehabilitation of injuries and sports-related conditions incurred by athletes. In carrying out these functions, the athletic trainer shall use whatever physical modalities are prescribed by a team physician or consulting physician, or both.

BOC—Board of Certification for the athletic trainer or its successor.

Board—the Louisiana State Board of Medical Examiners.

Board-Approved Organization—one of the following:

a. approved organization, including but not limited to the Amateur Athletic Union, the International Olympic Committee and its affiliates including but not limited to the U.S. Olympic Committee, the Pan American Sports Organization, the National Collegiate Athletic Association, the National Association of Intercollegiate Athletics, college and university intramural sports, and sports events of the National Federation of State High School Associations;

b. an organization, whose athletic activity meets one or more of the following:

i. has an officially-designated coach or individual who has the responsibility for athletic activities of the organization;

ii. has a regular schedule of practices or workouts that are supervised by an officially-designated coach or individual;

iii. is an activity generally recognized as having an established schedule of competitive events or exhibitions;

iv. has a policy that requires documentation of having a signed medical clearance by a licensed physician or other board authorized health care provider as a condition for participation for the athletic activities of the organization.

CAATE—the Commission on Accreditation of Athletic Training Education or its successor.

Educational Institution—a university, college, junior college, high school, junior high school, or grammar school, whether public or private.

LATA—the Louisiana Athletic Trainer's Association.

Licensure or *License*—the board's official recognition of a person's lawful authority to act and serve as an *athletic trainer* as such term is defined by the law, R.S. 37:3302.

Louisiana Athletic Trainers Law or the Law—Acts 1985, number 288, as amended, R.S. 37:3301-3313.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3312 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:937 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:1370 (July 2017).

§3104. Athletic Training Advisory Committee

A. Constitution. An Athletic Training Advisory Committee ("the advisory committee") to the board is hereby constituted, to be composed and appointed, to have such functions, and to discharge such responsibilities as hereinafter provided.

B. Composition and Qualifications. The advisory committee shall comprise seven members, including five athletic trainers and two physicians, each of whom shall, to

be eligible for and prior to appointment to the committee, be licensed as an athletic trainer or licensed as a physician by and in good standing with the board, have maintained residency and practice in the state of Louisiana for not less than one year and have not less than three years of experience in their respective fields. In addition to such general qualifications, the athletic trainer and physician members of the advisory committee shall satisfy the following qualifications.

1. **Athletic Trainer Members.** The athletic trainer members of the committee shall be appointed and apportioned as follows:

a. one of such members shall be employed or appointed as an athletic trainer by and for a high school;

b. one of such members shall be employed or appointed as an athletic trainer by and for a college or university; and

c. insofar as practical or possible, in its appointment of members to the advisory committee, the board shall maintain geographic diversity so as to provide membership on the advisory committee by licensed athletic trainers residing and practicing throughout Louisiana, with at least one member from the Alexandria, Louisiana area or north, and at least one member from south of such area.

2. **Physician Members.** The physician members of the committee shall each:

a. hold the title of team physician or its equivalent, employed or appointed by a Louisiana high school, college, university, or professional athletic team; and

b. have responsibility for and an active role in the direct supervision of athletic trainers.

C. **Appointment; Term of Service.** Each member of the advisory committee shall be appointed by the board. Each member of the advisory committee shall serve on the committee for a term of three years, or until his or her successor is appointed, and shall be eligible for reappointment.

D. **Functions and Responsibilities of the Committee.** The advisory committee is responsible and authorized by the board to:

1. assist the board in examining the qualifications and credentials of applicants for athletic trainer licensure and make recommendations thereon to the board;

2. advise and assist the board, as the board may request, with respect to investigative and disciplinary proceedings affecting licensed athletic trainers;

3. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules and regulations, standards, policies, and procedures respecting athletic trainer licensure and practice; and

4. establish and appoint a continuing education subcommittee, comprising no fewer than three athletic

trainer members of the advisory committee, to discharge the responsibilities prescribed by §3169.

E. **Committee Meetings, Officers.** The advisory committee shall meet at least once each calendar year, or more frequently as may be deemed necessary by a quorum of the committee or as requested by the board. The presence of four members including at least one physician member, shall constitute a quorum of the advisory committee. The advisory committee shall elect, from among its members, a chairman, a vice-chair, and a secretary. The chairman, or in his absence or unavailability, the vice-chair, shall call, designate the date, time, and place of, and preside at all meetings of the 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.

F. **Confidentiality.** In discharging the functions authorized by the board under §3104, 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 committee members pursuant to §3104.D, or pursuant to Subchapter H of this Chapter, shall be considered confidential. As such, advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, 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. 37:3301-3313 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:937 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:1371 (July 2017).

Subchapter B. Requirements and Qualifications for Licensure

§3105. Scope of Subchapter

A. The rules of this Subchapter govern and prescribe the requirements, qualifications, and conditions requisite to eligibility for licensure as an athletic trainer in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:522 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1371 (July 2017).

§3107. Requirements for Licensure

A. To be eligible and qualified for licensure, an applicant shall:

1. be at least 18 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 United States Citizenship and Immigration Services (USCIS) of the United States,

Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the commissioner's regulations thereunder (8 CFR);

3. possess a degree in athletic training from a CAATE accredited program, or a comparable degree accepted by the BOC and approved by the board:

a. an athletic training program accredited by CAATE on the date the applicant's degree was awarded or the program or curriculum was completed shall be considered a CAATE accredited program;

b. a degree that is accepted by the BOC as a comparable degree to a CAATE accredited athletic training program, shall be concurrently considered approved by the board for purposes of this Section;

4. possess BOC certification evidencing the successful passage of the certification examination administered by the BOC or its successor;

5. satisfy the applicable fees as prescribed by Chapter 1 of these rules;

6. satisfy the procedures and requirements for application and examination provided by this Chapter; and

7. not be otherwise disqualified for licensure by virtue of the existence of any grounds for denial of licensure as provided by the law or in these rules.

B. 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, 37:1281 and 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:522 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004), LR 35:1886 (September 2009), amended by the Department of Health, Board of Medical Examiners, LR 43:1371 (July 2017).

§3109. License by Reciprocity

A. An individual who possesses a current, unrestricted license to practice as an athletic trainer issued by the medical licensing authority of another state, the District of Columbia, or a territory of the United States, shall be eligible for licensure in this state if the applicant meets all of the qualifications for licensure specified in §3107 of this Subchapter, and satisfies the procedural and other requirements specified in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 43:1372 (July 2017).

Subchapter C. Reserved.

Subchapter D. Application

§3127. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for licensure as an athletic trainer in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1372 (July 2017).

§3129. Application Procedure

A. Application for licensure shall be made in a manner prescribed by the board.

B. Application and instructions may be obtained from the board's website.

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

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

2. such other information and documentation as are referred to or specified in this Chapter, or as the board may require, to evidence qualification for licensure.

D. The board may refuse to consider any application which is not complete in every detail, including submission of every document required by the application. 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.

E. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), LR 30:235 (February 2004), LR 35:1887 (September 2009), amended by the Department of Health, Board of Medical Examiners, LR 43:1372 (July 2017).

§3131. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate, or registration, each person, firm, corporation, organization, or association by whom or with whom the applicant has been employed as an athletic trainer, each

physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization 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 licensure to the board shall equally constitute and operate as a consent by the applicant to disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure 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 if the board has reasonable grounds to believe that the applicant's capability to act as an athletic trainer with reasonable skill or safety to athletes may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose 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 §3131, to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor, including, without limitation, the athletic trainer licensure or licensing authority of any state, the National Athletic Trainer's Association, the Louisiana Athletic Trainer's Association, the Board of Certification, the Louisiana Department of Health, state, county or parish, and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 24:938 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:1373 (July 2017).

Subchapter F. Examination

§3133. Designation of Examination

A. The examination administered and accepted by the board pursuant to R.S. 37:3306.1.A is the Board of Certification or its successor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:524 (August 1986), amended by the Department of Health and Hospitals, Board of Medical

Examiners, LR 35:1887 (September 2009), amended by the Department of Health, Board of Medical Examiners, LR 43:1373 (July 2017).

§3147. Passing Score

A. An applicant will be deemed to have successfully passed the examination if he attains a score equivalent to that required by the BOC as a passing score.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1887 (September 2009), amended by the Department of Health, Board of Medical Examiners, LR 43:1373 (July 2017).

§3149. Reexamination

A. An applicant having failed to attain a passing score upon taking the licensure examination may take a subsequent examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:525 (August 1986), amended by House Concurrent Resolution 69 of the 2012 Regular Legislative Session, LR 38:1460 (June 2012), amended by the Department of Health, Board of Medical Examiners, LR 43:1373 (July 2017).

Subchapter G. License Issuance, Expiration, Renewal, Reinstatement, Temporary Permit

§3153. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §3107 and §3129 are met to the satisfaction of the board, the board shall issue to the applicant a license to practice athletic training in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1888 (September 2009), amended by the Department of Health, Board of Medical Examiners, LR 43:1373 (July 2017).

§3155. Expiration of Licenses

A. Every license issued by the board under this Chapter shall expire, and thereby become null, void, and to no effect, on the 30th day of June next following the date on which license was issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1373 (July 2017).

§3157. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before its date of expiration by submitting to the board an application for renewal, in a format prescribed by the board, together with the applicable renewal fee prescribed in Chapter 1 of these rules.

B. A notice for renewal of license shall be sent by the board to each person holding a license issued under this Chapter on or before the first day of June of each year. Such notice shall be sent to the most recent address of each licensed athletic trainer as reflected in the official records of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1281 and 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:526 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:235 (February 2004), amended by the Department of Health, Board of Medical Examiners, LR 43:1374 (July 2017).

§3159. Qualifications for Renewal; Continuing Education

A. To be eligible for annual renewal, a licensed athletic trainer shall successfully complete 12 credits/hours of continuing education recognized by the BOC and shall evidence such continuing education as prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1374 (July 2017).

§3161. Reinstatement of License

A. A license which has expired without renewal may be reinstated by the board if application for reinstatement is made not more than two years from the date of expiration and subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made in a manner prescribed by the board, together with the applicable renewal fee plus a penalty equal to twice the renewal fee.

C. With respect to an application for reinstatement made more than one year from the date on which the license expired, as a condition of reinstatement the board may require that the applicant complete a statistical affidavit in a manner prescribed by the board, and/or possess current, unrestricted certification or licensure issued by another state.

D. A license issued by the board pursuant to R.S. 37:3306.1(B) is subject to reinstatement provided the application is made within the two year time limit specified in §3161.A of these rules and in accordance with all other requirements specified by this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1374 (July 2017).

§3162. Temporary Permit

A. General. The board may, in its discretion, issue such temporary licenses as are in its judgment necessary or appropriate to its responsibilities under law. A temporary license shall be designated and known as a permit.

B. Effect of Permit. A permit entitles the holder to engage in the practice of athletic training in the state of Louisiana only for the period of time specified by such permit and creates no right or entitlement to licensure or renewal of the permit after its expiration.

C. Permit Pending Application. The board may issue a permit to practice athletic training, effective for a period of 30 days, to an applicant who has made application to the board for licensure as an athletic trainer, who provides satisfactory evidence of current BOC certification and who is not otherwise demonstrably ineligible for certification under R.S. 37:3307.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292, 37:1270, 37:3301-3313 and 37:3303.A(4).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:830 (April 2002), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 35:1888 (September 2009), amended by the Department of Health, Board of Medical Examiners, LR 43:1374 (July 2017).

Subchapter H. Continuing Education**§3163. Scope of Subchapter**

A. The rules of this Subchapter provide standards for the continuing education requisite to renewal of licensure as an athletic trainer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990), amended by the Department of Health, Board of Medical Examiners, LR 43:1374 (July 2017).

§3165. Continuing Education Requirement

A. To be eligible for annual renewal an athletic trainer shall evidence, in a manner prescribed by the board, the successful completion of not less than 12 hours of BOC approved continuing education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990), amended by the Department of Health, Board of Medical Examiners, LR 43:1374 (July 2017).

§3167. Qualifying Programs and Activities

A. To be acceptable as qualified continuing education under these rules, an activity or program must have significant intellectual or practical content, dealing primarily

with matters related to athletic training, and its primary objective must be to maintain or increase the participant's competence as an athletic trainer.

B. Upon application to the board pursuant to §3171 of these rules, the board may approve additional programs and activities as qualifying for continuing education and specify the hours which shall be recognized with respect to such program or activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990), amended by the Department of Health, Board of Medical Examiners, LR 43:1374 (July 2017).

§3169. Continuing Education Subcommittee

A. The continuing education subcommittee of the advisory committee (“the CE subcommittee”), constituted under authority of §3104, shall have the authority and responsibility to:

1. evaluate organizations and entities providing or offering to provide continuing education programs for athletic trainers and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing education programs and activities pursuant to §§3171 and 3173;

2. review documentation of continuing education by licensed athletic trainers, verify the accuracy of such information, and evaluate and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules;

3. request and obtain from applicants for renewal of licensure such additional information as the committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the CE subcommittee is responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:511 (June 1990), amended LR 24:938 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:1374 (July 2017).

§3171. Approval of Program Sponsors

A. Any program, course, seminar, workshop, or other activity meeting the standards prescribed by §3167.A sponsored or offered by the BOC or LATA shall presumptively be deemed approved by the board for purposes of qualifying as an approved continuing education activity.

B. Upon the recommendation of the CE subcommittee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for

purposes of qualifying as an approved continuing education activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:511 (June 1990), amended LR 24:939 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:1375 (July 2017).

§3173. Approval of Activities

A. A continuing education activity of any type defined by §3167 sponsored by an organization or entity not deemed approved by the board pursuant to §3171 or an activity of a type specified by §3167 may be pre-approved by the board prior to participation in such activity or application for renewal of licensure upon written request to the board therefor accompanied by a complete description of the nature, location, date, content, and purpose of such activity and such other information as the board may request to establish compliance of such activity with the standards prescribed by §3167.A.

B. Any such written request shall be referred by the board to the CE subcommittee for its recommendation. If the CE subcommittee's recommendation is against approval, the board shall give notice of such recommendation to the person requesting approval and the person requesting approval may appeal the CE subcommittee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons requesting board preapproval of continuing education activities should allow not less than 90 days for such requests to be processed.

C. Prior approval of a continuing education activity by the board is not necessary for recognition of such activity by the board for purposes of meeting the continuing education requirements requisite to renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:1375 (July 2017).

§3175. Documentation Procedure

A. Licensed athletic trainers shall maintain a record or certificate of attendance for at least four years from the date of completion of the acceptable continuing education activity.

B. Any certification of continuing education activities not presumptively approved or preapproved in writing by the board pursuant to these rules shall be referred to the CE subcommittee for its evaluation and recommendations pursuant to §3169.A.2. If the CE subcommittee determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for

the number of continuing education hours claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the CE subcommittee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:1375 (July 2017).

§3177. Failure to Satisfy Continuing Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing education requirements prescribed by the rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, un-renewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

1. applicant has satisfied the applicable continuing education requirements;
2. applicant's failure to satisfy the continuing education requirements was occasioned by disability, illness, acts of God, fire, or other good cause as may be determined by the board.

B. The license of an athletic trainer which has expired by nonrenewal or been revoked for failure to satisfy the continuing education requirements of these rules may be reinstated by the board upon application to the board filed within two years of the effective date of expiration, nonrenewal, or revocation accompanied by satisfactory documentation of the completion of not less than 30 continuing education hours within the prior two years and payment of a reinstatement fee, in addition to all other applicable fees and costs, of \$50. Any continuing education activities recognized for purposes of reinstatement shall not be recognized for purposes of any subsequent renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:512 (June 1990), amended LR 24:939 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:1375 (July 2017).

§3179. Waiver of Requirements

A. The board may, in its discretion and upon the recommendation of the CE subcommittee, waive all or part of the continuing education required by these rules in favor of an athletic trainer who makes written request for such

waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the athletic trainer's satisfaction of the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:3303.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:513 (June 1990), amended LR 24:939 (May 1998), amended by the Department of Health, Board of Medical Examiners, LR 43:1376 (July 2017).

Chapter 33. Polysomnographic Technologists and Technicians

Subchapter A. General Provisions

§3301. Scope of Chapter

A. The rules of this Chapter provide for and govern the issuance of licenses and permits to practice polysomnographic technology in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3278 (December 2013).

§3303. Definitions

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

Advisory Committee on Polysomnography or the committee—the committee established in R.S. 37:2864.

Applicant—an individual who has applied to the board for a license or permit to practice polysomnographic technology in the state of Louisiana.

Application—a request directed to and received by the board, in a format approved by the board, for a license or permit to practice polysomnographic technology in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted therewith.

American Academy of Sleep Medicine or AASM—the national organization that establishes accreditation standards for sleep centers and sleep labs.

American Board of Sleep Medicine or ABSM—the national organization developed for the purpose of establishing and maintaining standards for sleep disorders medicine, which also offers the sleep technologist registry examination and issues the registered sleep technologist credential.

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

Board of Registered Polysomnographic Technologists or BRPT—the national credentialing agency for polysomnographic technologists, or its successor organization.

Commission on Accreditation of Allied Health Education Programs or *CAAHEP*—the national agency that reviews and accredits educational programs of allied health sciences for the purpose of establishing and maintaining national standards.

Direction and Supervision of a Physician—responsible direction and control by a physician for the proper performance of polysomnographic technology. Such direction and supervision shall not be construed to require the physical presence of the supervising physician provided that the physician is immediately available to furnish assistance and direction, either in person or by telephone or by electronic means, throughout the performance of the polysomnographic procedure or service.

Direct Supervision—supervision by a physician or a qualified health care provider currently licensed by the board, whose scope of practice includes polysomnography, who is present in the area where the procedure or service is being performed and is available to furnish assistance and direction throughout the procedure or service.

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. 37:2867 or Chapter 63 of these rules for the denial, suspension, or revocation of a license or permit to practice polysomnographic technology;
- b. the applicant has not, prior to or in connection with his or her 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 or *Licensure*—the lawful authority to engage in the practice of polysomnographic technology in this state, as evidenced by a certificate duly issued by and under the official seal of the board.

Louisiana Polysomnographic Practice Act or *the Act*—R.S. 37:2861-2870 as may be amended.

Permit—the lawful authority to engage in the practice of polysomnographic technology in the state of Louisiana for a designated period of time, 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 the issuance of a license or to permit renewal except as provided in these rules.

Physician—an individual licensed by the board to practice medicine in this state as evidenced by a current license duly issued by the board.

Polysomnography—the performance of sleep diagnostics in any setting or location under the direction and supervision of a physician who has performed a comprehensive clinical evaluation and on the basis of this evaluation has ordered the sleep diagnostic study.

Polysomnographic Technician or *Technician* or *Permit Technician*—an allied health professional who possesses a current permit duly issued by the board under this Chapter to practice *polysomnographic* technology under the direct supervision of a physician or a qualified allied health professional currently licensed by the board whose scope of practice includes *polysomnography*.

Polysomnographic Technologist or *Technologist*—an allied health professional who possesses a current license to practice polysomnographic technology issued by the board to perform both diagnostic and therapeutic polysomnograms under the direction and supervision of a physician.

Polysomnographic Technology—the allied health specialty practiced under the direction and supervision of a physician involving the attended monitoring and testing of individuals suffering from any sleep disorder as classified in the international classification of sleep disorders. Such procedures include but are not limited to the following, conducted only upon the written prescription or verbal order of a physician and under his or her direction and supervision:

- a. application of electrodes and apparatus necessary to monitor and evaluate sleep disturbances, including positive airway pressure on spontaneously breathing patients and the application of devices which allow a physician to diagnose sleep disorders, which disorders include sleep breathing disorders, movement disorders, disorders of excessive somnolence, and physiologic impotence;
- b. institution of any type of physiologic monitoring applicable to polysomnography;
- c. initiation of treatment changes and testing techniques required for the implementation of polysomnographic protocols under the supervision and direction of a physician;
- d. set-up of the positive air pressure equipment in the patient's home, instructions including use of the equipment and adjustment of the settings, exclusive of delivery and directions on turning the equipment on and off;
- e. education of patients and their families about their sleep disorders and monitoring their progress in treatment of such disorders; and
- f. provided, however, that:
 - i. other than an esophageal pressure monitoring probe, *polysomnographic technology* does not include the application or insertion of any device or appliance that extends into the trachea or esophagus or that attaches to an artificial airway; and

ii. if invasive ventilation is used during a titration study, a respiratory therapist or a physician shall be physically present.

Supervising Physician—a qualified physician who provides direction and supervision to an individual who is licensed, or direct supervision to one who holds a permit, to practice polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3278 (December 2013).

Subchapter B. Requirements and Qualifications for Licensure

§3305. Scope of Chapter

A. The rules of this Subchapter govern the qualifications and requirements prerequisite to issuance of a license or permit to practice polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3279 (December 2013).

§3307. Qualifications for Polysomnographic Technologist License

A. To be eligible for a polysomnographic technologist license on or before July 17, 2017, an applicant shall:

1. be at least 18 years of age;
2. be of good moral character as defined by this Chapter;
3. be a high school graduate or have the equivalent of a high school diploma;
4. have a current credential as a polysomnographic technologist which is granted on the basis of written examination by one of the entities identified in §3319 of this Chapter;
5. hold current certification in basic cardiac life support or cardiopulmonary resuscitation from a nationally recognized and accredited training organization;
6. 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 Citizenship and Immigration Services of the United States, Office of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the regulations thereunder (8 C.F.R.);
7. satisfy the procedures and requirements for application and examination specified in Subchapters C and D of this Chapter; and
8. not otherwise be disqualified due to any ground for licensure denial provided by the Act or these rules.

B. To be eligible for a polysomnographic technologist license after July 17, 2017, an applicant shall in addition to meeting the qualifications set forth in §3307.A:

1. be a graduate of a CAAHEP accredited education program in polysomnography; and
2. have passed a polysomnographic technology examination that is administered as a component of a certificate program approved by the board, which is accredited by the National Commission for Certifying Agencies, the American National Standards Institute or another national accrediting organization approved by the board.

C. The requirements of §3307.B apply only to new applicants after July 17, 2017. An applicant who was licensed before that date is eligible for license renewal or reinstatement based upon meeting the eligibility requirements in effect at the time the applicant's initial license was issued.

D. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure shall be on 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. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3279 (December 2013).

§3309. Qualifications for Licensure by Reciprocity

A. The board may issue a polysomnographic technologist license to an applicant who has relocated to this state and filed an application for licensure with the board provided the applicant holds a current, unrestricted license to practice as a polysomnographic technologist duly issued by the licensing authority of another state, the District of Columbia, or a territory of the United States, and meets and satisfies all of the qualifications, procedures and requirements for licensure specified by §3307 of this Subchapter.

B. The burden of satisfying the board as to the qualifications and eligibility of the applicant for licensure on the basis of reciprocity shall be on 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. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3279 (December 2013).

Subchapter C. Application

§3311. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to application to the board for a license or permit to practice polysomnographic technology in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3280 (December 2013).

§3313. Application for License or Permit; Procedure

A. Application for license or a permit must be made in a format approved by the board.

B. Applications and instructions may be obtained from the board's web page or by personal or written request to the board.

C. An application for a license or a permit shall include:

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

2. one recent photograph of the applicant;

3. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

4. criminal background record information;

5. the name and contact information of each current employer, intended employer and supervising physician, if known;

6. payment of the applicable fee provided in Chapter 1 of these rules; and

7. such other information and documentation as the board may require.

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 reject or refuse to consider any application which is not complete in every detail. 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1277.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3280 (December 2013).

§3315. Effect of Application

A. The submission of an application for a license or a permit 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 polysomnographic technology, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization 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 to the board shall equally constitute and operate as a consent by the applicant to the 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 a license or a permit 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 a license or a permit 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 this Section to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor, including, without limitation, the polysomnography licensing authority of any state, a national credentialing agency(s) accepted by the board for polysomnographic technologists; the Federal Drug Enforcement Agency; the Department of Health and Hospitals; federal, state, county, parish and municipal health and law enforcement agencies; and the Armed Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3280 (December 2013).

Subchapter D. Examination

§3317. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to the examination for licensure as a polysomnographic technologist in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3280 (December 2013).

§3319. Designation of Examination

A. The examinations accepted by the board for licensing a polysomnographic technologist are the credentialing examination for certification as a registered polysomnographic technologist administered by the BRPT, the registered sleep technologist examination administered by the ABSM, or such other certifying entity as the board may subsequently approve.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3280 (December 2013).

§3321. Restriction, Limitation on Examinations

A. An applicant who fails the examination four times shall not thereafter be considered for licensure until successfully completing such continuing education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine appropriate. For multiple failures beyond four attempts such education or training may include, without limitation, repeating all or a portion of any didactic and/or clinical training required for licensure

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

§3323. Passing Score; Reporting of Examination Score

A. An applicant will be deemed to have successfully passed an examination accepted by the board if he or she attains a score equivalent to that required by the testing organization as a passing score.

B. Applicants for licensure shall request the testing organization to notify the board of the number of examination attempts and results according to the procedures for such notification established by the organization.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

Subchapter E. Licensure Issuance, Termination, Renewal, Reinstatement and Permits

§3325. Scope of Chapter

A. The rules of this Subchapter govern the issuance, expiration, renewal and reinstatement of a license or permit to practice polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

§3327. Issuance of Licensure

A. If the qualifications, requirements, and procedures prescribed or incorporated by this Chapter are met to the satisfaction of the board, the board shall license the applicant to engage in the practice of polysomnographic technology in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

§3329. Expiration of License

A. A license, but not a permit, issued by the board under this Chapter shall expire and thereby become null, void and to no effect each year on the last day of the month in which the licensee was born.

B. A permit is not subject to renewal, except as expressly provided in these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

§3331. Renewal of License

A. Every license issued by the board under this Chapter shall be renewed annually on or before the last day of the month in which the licensee was born by submitting to the board:

1. a renewal application in a format specified by the board;
2. evidence of current certification as a registered polysomnographic technologist by the BRPT or registered sleep technologist by the ABSM, or certification or registration by such other organization as the board may subsequently approve;
3. evidence of current certification in basic cardiac life support or cardiopulmonary resuscitation from a nationally recognized and accredited training organization;
4. documentation of not less than ten hours of approved continuing professional education within the past twelve months as prescribed by Subchapter G of these rules;
5. the renewal fee prescribed in Chapter 1 of these rules;
6. the name and contact information of each current employer and supervising physician; and
7. such other information or documentation as the board may require.

B. Renewal applications and instructions may be obtained from the board's web page or upon personal or written request to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

§3333. Reinstatement of License

A. A license which is expired may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made in a format specified by the board and be accompanied by:

1. a biographical affidavit in a format provided by the board;
2. a recent photograph of the applicant;
3. evidence of current certification as a polysomnographic technologist by the BRPT or as a sleep technologist by the ABSM or such other certifying entity as the board may subsequently approve;
4. evidence of current certification in basic cardiac life support or cardiopulmonary resuscitation from a nationally recognized and accredited training organization;
5. proof of ten hours of approved continuing professional education for each year that the license has lapsed or expired, as set forth in Subchapter G of this Chapter;
6. such other information and documentation as the board may require to evidence qualification for licensure; and
7. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:
 - a. 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;
 - b. if the application for reinstatement is made more than two years from the date of license expiration, the penalty shall be equal to twice the renewal fee.

C. An applicant who has not been licensed to practice as a polysomnographic technologist or engaged in such practice in any state for more than five years immediately prior to the date of the application shall, within such five year period, have been re-credentialed by the successful passage of the examination required for initial licensure, or the examination for re-certification, in accordance with requirements for examination specified in Subchapter D of this Chapter, including but not limited to the restriction and limitation on examinations set forth in §3321 of these rules. Such an applicant shall not be required to furnish evidence of continuing professional education as otherwise required by §3333.B.

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 an original license may be refused by the

board as specified in R.S. 37:2867 or in Chapter 63 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870, 37:1270(B)(6) and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3281 (December 2013).

§3335. Polysomnographic Technician Permit

A. The board may issue a polysomnographic technician permit to an individual who has made application to the board for such permit. To be eligible for a polysomnographic technician permit an applicant shall:

1. meet and satisfy all of the qualifications, procedures and requirements for licensure specified by §3307.A.1-6 of this Chapter, save for current certification as a registered polysomnographic technologist by the BRPT or registered sleep technologist by the ABSM on the basis of written examination;
2. have:
 - a. passed the (entry-level) certification examination offered by the BRPT; or
 - b. completed an accredited CAAHEP education program in polysomnography;
3. satisfy the procedures and requirements for application specified in Subchapter C of this Chapter; and
4. not otherwise be disqualified due to any ground for licensure denial provided by the Act or these rules.

B. Permit Term. A permit issued under this Section shall be effective for twelve months and shall expire and become null and void on the earlier:

1. twelve months from the date of issuance; or
2. the date on which the applicant meets and satisfies the qualifications, procedures and requirements of §3307 of this Chapter.

C. Renewal. A permit issued under this Section shall not be renewed beyond its original term unless the applicant failed to take or failed to pass the BRPT or ABSM examination with the original permit term. A permit that is renewed under this Section shall be effective for twelve months and shall expire and become null and void on the earlier of:

1. twelve months from the date of issuance; or
2. the date on which the applicant meets and satisfies the qualifications, procedures and requirements of §3307 of this Chapter.

D. A permit that is renewed under §3335.C of this Section is not renewable. Exceptions may be made at the sole discretion of the board upon a request submitted in writing at least thirty days prior to the expiration of the permit, identifying a life-threatening or another significant medical condition or other extenuating circumstance deemed acceptable to the board. The maximum term of any such

exception shall not exceed 12 months and its issuance may be conditioned upon any terms that the board may deem appropriate.

E. The burden of satisfying the board as to the qualifications and eligibility of the applicant for a permit shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3282 (December 2013).

§3337. Reserved.

Subchapter F. Advisory Committee on Polysomnography

§3339. Organization and Authority

A. The Advisory Committee on Polysomnography (the "committee"), as established, appointed and organized pursuant to R.S. 37:2864 of the Act is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded to it by the Act;
2. function and meet as prescribed by the Act;
3. upon request, assist the board in examining the qualifications and credentials of applicants for polysomnographic technology licensure and make recommendations thereon to the board;
4. monitor and report to the board on the status and development of CAAHEP accredited polysomnography training programs in this state;
5. advise the board on issues affecting the licensing and regulation of polysomnographic technology in this state;
6. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules, regulations and policies respecting polysomnography licensure and practice;
7. serve as a liaison between and among the board, individuals engaged in the practice of polysomnographic technology in this state and professional organizations;
8. perform such other functions and provide such additional advice and recommendations as may be requested by the board;
9. advise and assist the board in the review and approval of continuing professional education programs and licensee satisfaction of continuing professional education requirements for renewal of licensure, as prescribed by this Subchapter G of this Chapter, including the authority and responsibility to:

a. provide recommendations to the board on approval of any additional organizations or entities as sponsors of qualifying continuing professional education programs pursuant to §3347.B of these rules;

b. request and obtain from continuing professional education sponsoring organizations any information necessary to properly evaluate and make informed recommendations to the board relative to the appropriateness of the educational program;

c. request and obtain from applicants for renewal of licensure referred by the board, such additional information as the committee may deem necessary or appropriate to enable it to make the evaluations and provide recommendations for which the committee is responsible; and

10. receive reimbursement for travel expenses incurred during attendance at committee meetings and for other expenses when specifically authorized by the board.

C. In discharging the functions authorized under this Section the 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 committee members relative to individual applicants, licensees or permit holders pursuant to this Section shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone, other than the board, 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. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3282 (December 2013).

Subchapter G. Continuing Professional Education

§3341. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education required for the annual renewal or reinstatement of licensure as a polysomnographic technologist and prescribe the procedures applicable to satisfaction and documentation thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3283 (December 2013).

§3343. Continuing Professional Education Requirement

A. Subject to the exceptions and waiver specified in this Subchapter, to be eligible for the renewal of a polysomnographic technologist license an applicant shall, within each year that he or she holds a license, evidence and document, in a manner specified by the board, the successful completion of not less than ten hours of continuing

education credits ("CEC") sanctioned by the organizations identified in this Subchapter, or their successors.

B. To be eligible for the reinstatement of a polysomnographic technologist license an applicant shall evidence and document, in a manner specified by the board, the successful completion of not less than ten hours of approved CEC for each year that the license has lapsed or expired.

C. For purposes of this Section, one CEC is the equivalent to one hour of participation in an organized continuing professional education program approved by the board and meeting the standards prescribed in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3283 (December 2013).

§3345. Qualifying Continuing Professional Education

A. To be acceptable as qualified continuing professional education under these rules a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of polysomnographic technology;

2. have pre-established written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of polysomnographic technology;

3. be presented by individuals whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation. Copies of credentials shall be available to the committee or the board upon request;

4. provide a system or method for verification of attendance or course completion;

5. be a minimum of one continuous hour in length;

6. allow participants an opportunity to ask questions on the content presented; and

7. include assessment and evaluation mechanisms to insure that participants have achieved a specified level of performance and to provide for evaluation of instructional methods, facilities and resources used.

B. None of the following programs, seminars, or activities shall be deemed to qualify as acceptable continuing education credits under these rules:

1. any program not meeting the standards prescribed by this Section;

2. any independent/home study, correspondence, on-line, lecture, workshop, program or seminar that is not approved or sponsored by the AASM, the American Association of Sleep Technologists (AASST) or the American Association of Respiratory Care (AARC);

3. holding office in professional or governmental organizations, agencies, or committees;

4. participation in case conferences, informal presentations, or in-service activities;

5. giving or authorizing verbal or written presentations, seminars, articles, or grant applications;

6. certification in basic cardiac life support or cardiopulmonary resuscitation; and

7. any program, presentation, seminar, or course not providing the participant an opportunity to ask questions or seek clarification of matters pertaining to the content presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3283 (December 2013).

§3347. Approval of Program Sponsors

A. Any program, course, seminar, workshop, or other activity meeting the standards prescribed by §3345.A of this Subchapter shall be deemed approved for purposes of satisfying the continuing education requirement under this Subchapter, if sponsored or offered by the AASM, AAST, BRPT or the AARC.

B. Upon the recommendation of the committee or on its own motion, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as approved continuing education under §3345 or §3347 of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3284 (December 2013).

§3349. Documentation Procedure

A. Annual documentation and certification of satisfaction of the continuing education requirement prescribed by these rules shall accompany a polysomnographic technologist's renewal application in a format specified by the board.

B. A polysomnographic technologist shall maintain a record of certification and satisfaction of attendance for at least five years from the date of completion of the continuing professional education program.

C. The board shall randomly select for audit no fewer than three percent of licensees each year for an audit of continuing education activities. In addition, the board may audit any questionable documentation of activities. Verification shall be submitted within 30 days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or pre-approved by the board in writing, may be referred to the committee for its evaluation and recommendations.

E. If the committee or the board determines that a continuing professional education program or activity certified by an applicant for renewal does not qualify for recognition by the board or does not qualify for the number of continuing education credits claimed by the applicant, the board shall give notice of such determination to the applicant. An applicant may appeal the recommendation by written request delivered to the board within ten days of such notice. The board's decision with respect to approval and recognition of any such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3284 (December 2013).

§3351. Failure to Satisfy Continuing Professional Education Requirement

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirement prescribed by this Subchapter shall be given written notice of such failure by the board, mailed to the applicant's mailing address on file with the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence by affidavit that:

1. the applicant has satisfied the applicable continuing professional education requirement;
2. the applicant is exempt from such requirement pursuant to these rules; or
3. the applicant's failure to satisfy the continuing professional education requirement was occasioned by disability, illness, or other good cause as may be determined by the board.

B. Any licensee or applicant who falsely certifies attendance and/or completion of the required continuing professional education requirement will be subject to disciplinary action by the board.

C. The license of a polysomnographic technologist which has expired by nonrenewal or has been revoked for failure to satisfy the continuing professional education requirement of these rules may be reinstated by the board upon the applicant's satisfaction of the requirements and procedures for reinstatement of licensure, set forth in §3333 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3284 (December 2013).

§3353. Exceptions to Continuing Professional Education Requirement

A. The continuing professional education requirement prescribed by this Subchapter for renewal of licensure shall not be applicable to a polysomnographic technologist:

1. employed exclusively by, or at an institution operated by the United States Government; or
2. who has within the twelve months prior to the date of renewal, been credentialed or re-credentialed as a polysomnographic technologist on the basis of examination as specified in §3319 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3284 (December 2013).

§3355. Waiver of Requirement

A. The board may, in its discretion, waive all or part of the continuing professional education required by these rules in favor of a polysomnographic technologist who makes a written request for such waiver 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 the continuing professional education requirement. Any licensed polysomnographic technologist submitting a continuing professional education waiver request is required to do so on or before the date specified by this Chapter for the renewal of the licensee's license. Any request received by the board past the date for licensure renewal will not be considered for waiver but, rather, in accordance with the provisions of §3351 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3284 (December 2013).

Chapter 35. Clinical Laboratory Personnel

Subchapter A. Scope and Definitions

§3501. Scope and Purpose of Chapter

A. Scope of Chapter. The rules of this Chapter provide for and govern the licensure and certification of clinical laboratory personnel to practice clinical laboratory science in the state of Louisiana.

B. Declaration of Purpose. The purpose of these rules and the law they implement is to protect the public health, safety, and welfare of the people of Louisiana from improper performance of laboratory tests by clinical laboratory personnel. Clinical laboratories provide essential services to health care practitioners by furnishing information vital to

determination of the nature, cause, and extent of the condition involved. Licensure of laboratory personnel protects against the improper performance of laboratory tests by establishing and enforcing minimum requirements for safe practice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1284 (November 1994).

§3503. Definitions

A. As used in this Chapter, the following terms are given the following meanings.

Approved Nationally Recognized Certification Examination—an examination prepared and administered by a certifying organization approved by the board as satisfying the minimum examination qualifications for licensure or certification for each of the classifications of clinical laboratory personnel for which successful completion of a certifying examination is required as provided by the law and these rules.

Approved Professional Organizations—an organization approved by the board to offer continuing education and/or training programs, and includes the following organizations:

- a. American Society for Clinical Laboratory Science;
- b. American Medical Technologists;
- c. International Society for Clinical Laboratory Technology;
- d. American Society of Clinical Pathologists;
- e. American Society of Cytology;
- f. American Society for Microbiology;
- g. American Association of Blood Banks;
- h. American Association of Clinical Chemistry;
- i. Clinical Laboratory Management Association;
- j. Association of Territorial and Public Health Laboratory Directors;
- k. Centers for Disease Control;
- l. National Accrediting Agency for Clinical Laboratory Sciences;
- m. Gamma Biologicals Referred Immunoematology Self Evaluation System and Tutorial Program for Continuing Education of Blood Bankers;
- n. affiliates of an organization identified by the board, upon recommendation of the committee, as an approved professional organization;
- o. accredited colleges and universities;
- p. American Society for Cytotechnology;
- q. American Academy of Forensic Sciences;

r. Society of Forensic Testing; and

s. other organizations as may be approved by the board upon recommendation of the committee.

Approved School or Training Program—a school or training program accredited by the Council on Medical Education of the American Medical Association, the National Accrediting Agency for Clinical Laboratory Sciences, or the Council on Allied Health Education Programs and approved by the committee and the board.

Board—the Louisiana State Board of Medical Examiners.

CLIA—the Clinical Laboratory Improvement Amendments of 1988, Public Law Number 100-578, and the rules and regulations promulgated pursuant thereto.

Clinical Cytotechnology—the microscopic study or examination of body fluids, tissues, or cells desquamated from a body surface or lesion for the practice of clinical laboratory science including, but not limited to, detecting malignancy and microbiologic changes and the measurement of hormonal levels.

Clinical Laboratory—any building, place, or facility in which an operation and procedure for the biological, microbiological, serological, immunological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examinations of materials derived from the human body is performed to provide information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of, the health of human beings, or for forensic testing.

Clinical Laboratory Personnel—any and all individuals engaged in the practice of clinical laboratory science.

Clinical Laboratory Scientist-Generalist or CLS-G—an individual who performs clinical laboratory tests and procedures in all specialty areas of a clinical laboratory which require the exercise of independent judgment and responsibility, including but not limited to, the performance of all laboratory tests as stated in CLIA. The clinical laboratory scientist-generalist may perform the functions of all categories of all clinical laboratory personnel licensed or certified in accordance with the law, except those of the cytotechnologist, without additional licensure or certification.

Clinical Laboratory Scientist-Specialist or CLS-S—an individual performing clinical laboratory science in one or more laboratory specialties and who performs functions directly related to such particular laboratory specialty or specialties. A clinical laboratory scientist-specialist may perform the functions of the laboratory assistant and the phlebotomist without additional licensure or certification.

Clinical Laboratory Scientist-Technician or CLS-T—an individual who performs medical laboratory tests and procedures of high and moderate complexity as defined in 42 Code of Federal Regulations, Part 493, within any area of clinical laboratory science, which do not require the exercise of independent judgment or responsibility. The clinical

laboratory scientist-technician shall perform tests and procedures of high complexity under supervision as defined in CLIA. The clinical laboratory scientist-technician may perform the functions of the laboratory assistant and the phlebotomist without additional licensure or certification.

Committee—the Clinical Laboratory Personnel Committee to the Louisiana State Board of Medical Examiners, as established and constituted under R.S. 37:1314.

Cytotechnologist—an individual engaged in the practice of clinical cytotechnology which requires the exercise of independent judgment and responsibility.

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

Independent Judgment—the performance or conduct of clinical laboratory tests and assumption of responsibility for determination of the validity and interpretation of clinical laboratory test results without intervention by or the supervision of another health care provider authorized by law to assume responsibility for the conduct and validity of clinical laboratory tests. As respects clinical laboratory personnel, the authorized exercise of independent judgment shall not be deemed to include or permit the exercise of independent medical judgment in the diagnosis of or treatment of, or reporting of clinical laboratory test results or their interpretation to, patients except as authorized in accordance with CLIA.

Laboratory Assistant or *LA*—an individual who performs medical laboratory tests and procedures under supervision by a licensed health care provider or laboratory director as defined in 42 Code of Federal Regulations, Part 493. Laboratory tests and procedures performed by the laboratory assistant do not require the exercise of independent judgment or responsibility within any area of clinical laboratory science. The laboratory assistant may perform high complexity tests under supervision as stated in CLIA.

Laboratory Specialty—any category or subcategory recognized as a specialty by a certifying agency for the category of clinical laboratory scientist-specialist, including, but not limited to, the categories of hematology, microbiology, chemistry and blood bank, and the subcategories thereunder.

Louisiana Clinical Laboratory Personnel Law or the Law—R.S. 37:1311-1329, as the same may be amended hereafter.

Phlebotomist—an individual performing invasive procedures to withdraw blood samples from the human body for the practice of clinical laboratory science, including but not limited to, clinical laboratory testing for analysis and typing and cross-matching of blood for medical examination and human transfusion. A phlebotomist may perform and report results of any waived tests.

Practice of Clinical Laboratory Science—the performance by any individual, other than a physician licensed by the board, of laboratory testing, analysis, or examination of human specimens.

Temporary License or *Temporary Certificate*—a license or certificate issued to an individual that qualifies by education, experience, or training that will allow that individual to engage in the practice of clinical laboratory science at the appropriate level (CLS-G, CLS-S, CLS-T, laboratory assistant, cytotechnologist, or phlebotomist).

Trainee—an individual who has not fulfilled the educational requirements to take an approved nationally recognized certification examination or who needs to obtain full-time comprehensive experience under supervision.

Waived Test—those routine technical procedures performed under or eligible for a certificate of waiver under CLIA. An illustrative list of such routine technical procedures includes:

- a. dipstick or tablet reagent urinalysis (nonautomated) for the following determination levels: bilirubin, glucose, hemoglobin, ketone, leukocytes, nitrite, pH, protein, specific gravity, or urobilinogen;
- b. fecal occult blood;
- c. ovulation tests-visual color tests for human luteinizing hormone;
- d. urine pregnancy tests-visual color comparison tests;
- e. erythrocyte sedimentation rate, nonautomated;
- f. hemoglobin-copper sulfate, nonautomated;
- g. blood glucose as determined by monitoring device approved by the Federal Drug Administration specifically for home use;
- h. spun microhematocrit;
- i. hemoglobin by single analyte instrument with self-contained or component features to perform specimen/reagent interaction providing direct measurement or readout.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1284 (November 1994).

Subchapter B. Licensure and Certification Requirements

§3505. Licensure or Certification Generally

A. On and after January 1, 1995, no individual shall act as, or perform the duties of a clinical laboratory scientist-generalist, clinical laboratory scientist-specialist, clinical laboratory scientist-technician, laboratory assistant, cytotechnologist, or phlebotomist unless such individual possesses a current license or certification issued by the

board pursuant to this Chapter or is exempt from such licensure or certification as provided by §3507.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1285 (November 1994).

§3507. Exceptions to Licensure or Certification Requirements

A. The licensure and certification requirements of this Chapter shall not apply to:

1. clinical laboratory personnel practicing exclusively in, and in the course and scope of their employment by, a clinical laboratory operated by the United States government;

2. clinical laboratory personnel practicing exclusively in, and in the course and scope of their employment by, a nonprofit laboratory operated and maintained exclusively for instruction or research involving no individual patient or public health care service, provided the results of any examination performed in such laboratory are not used directly in the diagnosis, evaluation, or treatment of human disease or disorder;

3. any physician licensed by the board to practice medicine;

4. any individual working under the direction and supervision of a physician licensed by the board in an operating room, theater, emergency room, or intensive care unit;

5. any pulmonary function technician acting within the scope of performance of the practice of respiratory therapy;

6. any clinical perfusionist acting within the scope of practice of perfusion in the support, treatment, measurement, or supplementation of the cardiopulmonary and circulatory system of an individual patient;

7. any health care provider when acting within the scope of practice authorized by his or her licensure, certification, or registration;

8. any individual whose duties include only the performance of waived tests, whether performed in a physician's office laboratory, a hospital clinical laboratory, or at the point of care, and which do not require the exercise of independent judgment;

9. any individual performing phlebotomy or acting as a phlebotomist employed by or acting under the direction and supervision of a physician licensed by the board, a clinic operated by a health care provider authorized by license to perform clinical laboratory testing, a hospital, a nursing home, or other licensed health care facility authorized by licensure to perform clinical laboratory testing;

10. any individual whose duties may include demonstrating or instructing, or both, the use of any automated or digital instrument, device, machine, or similar

mechanical equipment and related procedures utilized to assist in the practice of clinical laboratory science, provided the results furnished by such equipment during demonstration or instruction are not used in the diagnosis, evaluation, or treatment of human disease or disorder; or

11. individuals performing forensic testing and examinations of body fluids, tissues, cells, or blood solely for the purpose of law enforcement and the state's criminal justice system.

B. Any individual who is exempt from the requirement of licensure or certification under this Chapter, but who meets the qualifications for licensure or certification under this Chapter, including any individual performing clinical procedures for analysis of nonhuman specimens, shall be considered actively engaged in the practice of clinical laboratory science and may apply for licensure or certification as provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1286 (November 1994).

§3509. Qualifications for Licensure and Certification

A. Clinical Laboratory Scientist-Generalist. To be eligible for licensure as a clinical laboratory scientist-generalist an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification as developed and administered by one of the following organizations or their successor organizations:

1. American Society of Clinical Pathologists (ASCP);
2. American Medical Technologists (AMT); or
3. American Association of Bioanalysts (AAB)

provided, however, that an applicant for licensure as a CLS-G who has, prior to January 1, 1995, successfully completed the certification examination for such clinical laboratory personnel classification developed and administered by the United States Department of Health, Education, and Welfare (HEW) (predecessor to the Department of Health and Human Services) shall also be eligible for licensure as a clinical laboratory scientist-generalist.

B. Clinical Laboratory Scientist-Specialist. To be eligible for licensure as a clinical laboratory scientist-specialist, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall:

1. possess a baccalaureate or more advanced degree from an accredited college or university with a major in one of the chemical, physical, or biological sciences; and

2. have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

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- a. American Society of Clinical Pathologists (ASCP);
- b. National Certification Agency (NCA);
- c. American Society of Microbiology (ASM);
- d. American Association of Clinical Chemistry (AACC);
- e. American Board of Immunology (ABI);
- f. American Board of Bioanalysts (ABB); or
- g. American Board of Forensic Toxicology (ABFT).

C. Clinical Laboratory Scientist-Technician. To be eligible for licensure as a clinical laboratory scientist-technician, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations or their successor organizations:

1. American Society of Clinical Pathologists (ASCP);
2. American Medical Technologists (AMT); or
3. American Association of Bioanalysts (AAB).

D. Cytotechnologist. To be eligible for licensure as a cytotechnologist, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall:

1. possess a baccalaureate degree from an accredited college or university, fulfill the educational requirements necessary to enroll in a school of cytotechnology, complete one full year of full-time cytotechnology experience or its equivalent in an approved school of cytotechnology, and successfully complete an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

- a. American Society of Clinical Pathologists (ASCP); or
- b. International Academy of Cytology (IAC);

2. have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

- a. American Society of Clinical Pathologists (ASCP); or
- b. International Academy of Cytology (IAC).

E. Laboratory Assistant. To be eligible for licensure as a laboratory assistant, an applicant, in addition to satisfaction of the procedural requirements for licensure under this Chapter, shall:

1. possess a high school diploma or its equivalent;

2. document to the board, in a form sufficient to and upon the recommendation of the committee, training as evidence of competency in the basic practice of clinical laboratory science. For this purpose, successful completion of the certification examinations for laboratory assistants offered by the International Society of Clinical Laboratory Technology and the American Society of Clinical Pathologists shall be deemed a conclusive, but not the exclusive, means of documenting competency in the basic practice of clinical laboratory science;

3. prior to the performance of moderate complexity testing as provided in 42 CFR Part 493, have provided to the applicant's employer or laboratory director documentation of training appropriate for the testing performed. Such documentation shall ensure that the applicant has all of the following:

a. the skills required for proper specimen collection, including patient preparation, if applicable, labeling, handling, preservation or fixation, processing or preparation, transportation, and storage of specimens;

b. the skills required for implementing all standard laboratory procedures;

c. the skills required for performing each test method and for proper instrument use;

d. the skills required for performing preventive maintenance, troubleshooting, and calibration procedures related to each test performed;

e. a working knowledge of reagent stability and storage;

f. the skills required to implement the quality control policies and procedures of the laboratory;

g. an awareness of the factors that influence test results; and

h. the skills required to assess and verify the validity of patient test results through the evaluation of quality control sample values prior to reporting patient test results; and

4. have provided to the committee or board, upon good cause shown, the documentation of training appropriate for the moderate complexity testing to be performed as provided in §3509.E.3.

F. Phlebotomist. To be eligible for certification as a phlebotomist, an applicant, in addition to satisfaction of the procedural requirements for certification under this Chapter, shall:

1. have successfully completed a certification examination approved or written and administered by the board and the committee following completion of a training program for phlebotomists satisfactory to the board, upon recommendation of the committee, consisting of a minimum of 20 lecture hours or adequate practical hours to ensure that the applicant possesses:

- a. the skills required for proper specimen collection, including patient identification and preparation, labeling, handling, preservation, processing, transportation, and storage of specimens;
- b. the skills required for selecting the appropriate type of tube to collect for each test;
- c. the skills required for performing preventive maintenance, troubleshooting, and calibration procedures related to each test performed;
- d. a working knowledge of reagent stability and storage;
- e. the skills required to perform quality control procedures;
- f. an awareness of the factors that influence test results;
- g. a working knowledge of the actions of various anticoagulants;
- h. a working knowledge of the anatomy and physiology of blood vessels and the circulatory system and blood;
- i. a working knowledge of the components and functions of those components of blood to include, RBC, WBC, platelets, and plasma or serum;
- j. a working knowledge of primary hemostasis;
- k. a working knowledge of laboratory safety to include OSHA standards for handling bloodborne pathogens;
- l. a working knowledge of the various isolation procedures and infection control;
- m. a working knowledge of various medical terms and laboratory tests;
- n. a working knowledge of the requirements of special laboratory tests;
- o. a working knowledge of the clinical laboratory;
- p. a working knowledge of the major tests performed in the clinical laboratory and specimen requirements;
- q. a working knowledge of aseptic techniques and methods of sterilization; and
- r. completion of 100 successful venipunctures and 25 successful capillary collections; or

2. have successfully completed an approved nationally recognized certification examination for such clinical laboratory personnel classification, as developed and administered by one of the following organizations:

- a. American Society of Clinical Pathologists (ASCP);
- b. National Certification Agency (NCA);
- c. American Society of Phlebotomy Technicians (ASPT);

- d. National Phlebotomy Association (NPA);
 - e. American Medical Technologists (AMT);
 - f. American Association of Blood Banks;
 - g. National Allied Health Test Registry (NAHTR);
- or
- h. International Academy of Phlebotomy Science (IAPS).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and R.S. 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1286 (November 1994), amended, LR 37:597 (February 2011), LR 37:2401 (August 2011), LR 38: 1026 (April 2012).

§3511. Licensure or Certification without Examination

A. Notwithstanding the examination requirements prescribed and required by §3509, provided that application is made within 12 months of the effective date of these rules, any individual who desires to be licensed as a CLS-G, CLS-S, CLS-T, cytotechnologist, or laboratory assistant may qualify for licensure and shall be issued the appropriate license without having to successfully complete an approved nationally recognized certification examination, upon application on a form provided by the board, payment of the required license fee, and submission of evidence of competency, which may include but does not require successful completion of an approved nationally recognized certifying examination, prior to the effective date of this Chapter, satisfactory to the committee and the board that the applicant:

1. has been actively engaged in the category for which the license is requested for at least two full years within the three years immediately prior to the effective date of these rules;
2. has ceased to engage in the practice of clinical laboratory science, but was actively engaged in such practice in the category for which license is requested for at least two full years immediately prior to inactivity, provided the applicant has not been inactive more than five years; or
3. was eligible for licensure without examination in accordance with either §3511.A.1 or 2 on the effective date of these rules and at that time was in the military forces of the United States.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1288 (November 1994).

§3513. Reciprocity

A. The board, upon recommendation of the committee, shall license, without examination, and upon payment of the prescribed license fee, an applicant for licensure who is duly licensed in the same or comparable category for which he or she is applying for licensure in this state under the laws of another state, territory, commonwealth, or the District of Columbia, if the qualifications for licensure of such

applicant in such category are at least equal to the qualifications provided in this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1288 (November 1994).

§3515. Trainee License

A. Generally. A trainee who engages in the practice of clinical laboratory science in any category for which a license is required shall be required to apply for and obtain a trainee license in the category corresponding to the work performed. All work performed by a trainee under a trainee license shall be under the direct supervision of clinical laboratory personnel licensed as either CLS-G, CLS-S, or cytotechnologist.

B. Exception. §3515.A shall not apply to a trainee who engages in the practice of clinical laboratory science exclusively through an approved school or training program.

C. Licensure Period; Renewal. A trainee license issued in accordance with these regulations shall be effective for the calendar year beginning January 1 and ending December 31 in which it is issued, and may be renewed for up to three additional years provided the trainee remains enrolled in an approved school or training program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1288 (November 1994).

§3517. Returning Practitioners

A. Generally. An applicant who has been certified in the practice of clinical laboratory science by passing an approved nationally recognized certification examination, but who has not engaged in the practice of clinical laboratory science within the 10 years preceding application and who has not fulfilled the continuing education requirements of this Chapter, shall be granted a trainee license in the category for which the applicant is otherwise qualified.

B. Eligibility for Full Licensure. A returning practitioner who has been granted a trainee license in accordance with §3517.A shall be eligible and may apply for full licensure upon completion of 12 continuing education hours as provided in §3533 of these rules and documentation of competency by the director of the retraining facility or his or her designee. Supervised retraining must be under the direct supervision of clinical laboratory personnel licensed as either CLS-G, CLS-S, or cytotechnologist.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1288 (November 1994).

§3519. Temporary License or Certificate

A. Generally. Applicants that qualify by education, experience, or training but have not taken or passed an approved nationally recognized certification examination may be granted a temporary license or temporary certificate that will allow that individual to engage in the practice of clinical laboratory science at the appropriate level (CLS-G, CLS-S, CLS-T, cytotechnologist, or phlebotomist). The temporary license or certificate will be valid for three months.

B. Failure to Pass Examination; Renewal. A temporary license or temporary certificate issued pursuant to this Section may be renewed one time upon failure to pass an approved nationally recognized certification examination. Such renewal shall be effective for three months. Applicants who fail to pass the appropriate approved nationally recognized certification examination a second time may not renew their temporary license or temporary certificate. Such applicants shall:

1. refrain from the practice of clinical laboratory science until successful completion of an appropriate approved nationally recognized certification examination;

2. complete a supervised retraining program and, upon submitting evidence satisfactory to the board of completion of such program, apply for a new temporary license or temporary certificate in the same category; or

3. apply for a temporary license or temporary certificate for the practice of clinical laboratory science at a lower level of complexity.

C. Failure to Appear. Applicants who do not appear to take an approved nationally recognized certification examination for which they are registered shall not receive a second temporary license or temporary certificate and the temporary license or temporary certificate held shall be invalid as of that date (unless extension is approved by the board, upon recommendation of the committee, due to mitigating circumstances). Such applicants may, however:

1. reapply for full licensure upon successful completion of an approved nationally recognized certification examination; or

2. apply for a temporary license or temporary certificate for the practice of clinical laboratory science at a lower level of complexity.

D. Foreign-Trained Applicants. An applicant basing eligibility for a temporary license or temporary certificate upon a degree from a foreign university must have his or her transcript validated and evaluated by an acceptable foreign transcript evaluation agency listed as an Appendix to this Chapter (§3545). That evaluation must be submitted to the national certifying agency offering the approved nationally recognized certification examination for which the applicant wishes to sit. The committee will not evaluate or validate foreign transcripts. Upon notification of acceptance to sit for such examination, the applicant may apply for a temporary license or temporary certificate in the corresponding

category. A copy of the letter stating that the applicant is eligible to sit for an approved nationally recognized certification examination must accompany the application for temporary license or temporary certificate. Agencies approved by and acceptable to the board and the committee for purposes of validating and evaluating transcripts from foreign universities are listed in an Appendix to these rules (§3545).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1289 (November 1994), amended LR 42:752 (May 2016).

§3521. Reinstatement of Lapsed License or Certificate

A. An individual whose license has lapsed and who has not been actively engaged in the practice of clinical laboratory science during the preceding period of not more than seven years may have his or her license or certificate reinstated upon payment of the renewal fee and the delinquent fee provided in §3529 and submission of evidence satisfactory to the board that during the lapsed period he or she fulfilled the continuing education requirements of this Chapter. An individual whose license has lapsed and who has not been actively engaged in the practice of clinical laboratory science for a period of more than seven years, but not more than 10 years, shall be subject to the provisions in §3517 provided that any such individual may petition the committee, for good cause shown, for a reduction or waiver of the continuing education and/or supervised retraining requirements of §3517.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1289 (November 1994).

Subchapter C. Procedures for Obtaining Licensure or Certification

§3523. Issuance

A. If an applicant meets the qualification requirements of this Chapter for the category in which the license or certificate is requested and otherwise complies with the requirements of this Chapter, the board shall issue the applicant a license or certificate for the practice of clinical laboratory science within the specific category of licensure or certification for which the applicant qualifies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1289 (November 1994).

§3525. Application

A. General Requirements. Application for licensure or certification under this Chapter shall be made on a form supplied by the committee. Such form, and any supporting documentation required to be submitted therewith, shall provide information sufficient to assure the applicant

satisfies the minimum qualifications for the category of licensure or certification applied for.

B. Applicant for Licensure as CLS-G, CLS-S, CLS-T, or Cytotechnologist. Each application for licensure as a CLS-G, CLS-S, CLS-T, or cytotechnologist shall be accompanied by all of the following:

1. a recent photograph for identification;
2. the appropriate fee;
3. a copy of the registration or certification card indicating successful completion of an approved nationally recognized certification examination;
4. for non-U.S. citizen applicants, proof of lawful entry into the country; and
5. if the requested licensure or certification is based on reciprocity as provided in §3513, a statement from the licensing authority of the other state attesting to the licensure status of the applicant in the other state. Such statement shall be issued directly to the committee from the licensing authority of the other state.

C. Application for Licensure as a Laboratory Assistant. Each application for licensure as a laboratory assistant shall be accompanied by all of the following:

1. a recent photograph for identification;
2. the appropriate fee;
3. evidence of completion of a satisfactory training program;
4. copy of a high school diploma or equivalent; and
5. if moderate complexity testing is to be performed, documentation of competency in the area of testing to be performed.

D. Application for Certification as a Phlebotomist. Each application for certification as a phlebotomist shall be accompanied by all of the following:

1. a recent photograph for identification;
2. the appropriate fee; and
3. evidence of completion of a satisfactory training program and successful completion of a board-approved or administered certifying examination or successful completion of an approved nationally recognized certification examination.

E. Multiple Licensure. An applicant may be licensed or certified in each category for which he or she is qualified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1289 (November 1994).

§3527. Expiration and Renewal of Licenses and Certificates

A. Expiration. Every license or certificate issued by the board under this Chapter, the expiration date of which is not stated thereon or otherwise provided by these rules, shall expire, and thereby become null, void, and to no effect, on the last day of the year in which such license or certificate was issued.

B. Continuation Pending Renewal. The timely submission of a properly completed application for renewal of a license or certificate, as provided by §3527.C, shall operate to continue the expiring license or certificate in full force and effect pending the board's issuance or refusal to issue the renewal license or certificate. The committee may recommend and the board may continue a license or certificate in effect, without application for renewal or payment of the renewal fee for any clinical laboratory personnel licensed or certified under this Chapter while the individual is in active military service of the United States or any of its allies, upon notification by the licensee to the committee of such service.

C. Renewal. Every license and certificate issued by the board under this Chapter shall be renewed annually on or before the date of its expiration by submitting to the board a properly completed application for renewal, upon forms supplied by the board, together with the renewal fee prescribed by §3529 of this Chapter. An application for renewal of license or certificate form shall be mailed by the board to each person holding a license or certificate issued under this Chapter on or before November 15 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1290 (November 1994).

§3529. Fees

A. General Provisions. Except as provided in §3529.B, the fee for obtaining or renewing a license or certificate as provided in this Chapter shall be as follows.

- 1. clinical laboratory scientist (all categories) \$65
- 2. cytotechnologist \$65
- 3. laboratory assistant \$40
- 4. phlebotomist \$40

B. Exceptions

1. Delinquent Fee. In addition to the fee prescribed by §3529.A, any individual who fails to renew his or her license or certificate by January 1 shall be charged a delinquent fee of \$50.

2. Duplicate Fee. The fee for obtaining a duplicate license or certificate shall be \$10.

3. Temporary License or Certificate. The fee for obtaining a temporary license or temporary certificate shall

be the amount of the fee prescribed by §3529.A for the category for which such license or certificate is to be issued.

4. Trainee License. If an individual is required to obtain or renew a trainee license in accordance with this Chapter, the fees for obtaining or renewing such trainee license shall be the fee prescribed by §3529.A for the category under which such trainee license is issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1290 (November 1994), amended LR 35:2182 (October 2009).

Subchapter D. Continuing Education

§3531. General Requirement

A. All clinical laboratory personnel licensed or certified under this Chapter shall satisfy the continuing education requirements of this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1290 (November 1994).

§3533. Minimum Hours

A. Effective January 1, 1995, every person licensed or certified under this Chapter shall complete a minimum of 12 contact hours of continuing education (1.2 Continuing Education Units, or CEUs) each calendar year. No carryover credit shall be allowed for excess credit earned in one calendar year to the next calendar year. One CEU equals 10 contact hours of participation in an organized education experience, under responsible sponsorship, capable direction, and qualified instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1291 (November 1994).

§3535. Credit Hours Awarded

A. Except as otherwise provided, one hour of continuing education credit shall be awarded for the first contact hour of a continuing education program. Thereafter, for programs lasting longer than one hour, one continuing education hour shall be awarded for every 50 contact minutes. No credit shall be awarded for partial completion of a program (i.e., no credit shall be awarded for one hour attendance at a three-hour continuing education program).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1291 (November 1994).

§3537. Sources of Continuing Education

A. Deemed Approved. The following sources of continuing education shall be deemed approved for purposes

of satisfying the continuing education requirements of this Chapter without prior submission to the committee or board:

1. professional meetings sponsored by approved professional organizations;
2. audio conferences sponsored by approved professional organizations;
3. teleconferences and videoconferences sponsored by approved professional organizations;
4. self-study courses sponsored by approved professional organizations;
5. training programs sponsored by medical technology instrument manufacturers;
6. coursework relevant to the practice of clinical laboratory science at an accredited college or university. A completed full-credit course shall qualify for six Category 2 continuing education hours. A course qualifying for less than full-credit shall be pro-rated and continuing education credit awarded appropriately;
7. publication of an article in a professional journal. A published article shall qualify for six continuing education hours;
8. presentation of a poster or program at a local, state, regional, national, or international meeting or program, with a poster presentation qualifying for two continuing education hours and other presentations qualifying for twice the credit for attendees of the presentation, but without credit for repeat poster sessions or presentations;
9. laboratory sessions such as role playing, buzz sessions, product preparation, or a "wet workshop" that have been approved by the board, upon recommendation of the committee, for continuing education credit, with participants in such sessions credited with one hour of continuing education credit in accordance with §3535; and
10. continuing education programs sponsored and presented by the committee.

B. Other Continuing Education Sources. In addition to the sources of continuing education deemed approved for continuing education credit without prior submission to the committee or board, such other programs or events that satisfy the standards set forth in §3539 and have been submitted to the board for approval in accordance with the procedures provided in §3541 shall, upon recommendation of the committee, be approved for continuing education credit as a continuing education source.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1291 (November 1994).

§3539. Standards for Continuing Education

A. Any continuing education offering submitted to the board for consideration as an approved source of continuing education credit shall meet the following standards:

1. provide a structured learning experience;
2. provide appropriate subject matter reflecting the professional educational needs for continuing competency in the practice of clinical laboratory science from one or more of the following subject areas:
 - a. clinical laboratory practice areas;
 - b. legal aspects of laboratory medicine;
 - c. educational methodology as utilized in the clinical laboratory; or
 - d. laboratory safety, bloodborne pathogens, and chemical hygiene;
3. have written learning objectives, stated in terms of actions, conditions, and degree related to level of audience (Basic, Intermediate, Advanced);
4. have a set time schedule and be at least one hour in length;
5. have qualified faculty with background and experience necessary to teach the subject. Copies of credentials shall be available to the board upon request;
6. include assessment and evaluation mechanisms to ensure that participants have achieved a specified level of performance and to provide for evaluation of instructional methods, facilities, and resources used;
7. make available a brochure or flyer containing the following information:
 - a. the program objectives stated in terms of what the participant will learn or be able to do as a result of the program;
 - b. the program level:
 - i. basic: entry level; no prior knowledge of subject necessary;
 - ii. intermediate: refresher course; some basic knowledge required; for the bench technologist with several years of experience;
 - iii. advanced: highly technical: for those with current skills/ knowledge; for those with at least two years experience in specialty area;
 - c. program schedule;
 - d. fee for the program if applicable;
 - e. number of CEUs or continuing education hours granted;
 - f. faculty credentials;
 - g. include the following statement:

"[Provider Name] is approved as a Provider of continuing education programs in the clinical laboratory sciences by the Clinical Laboratory Personnel Committee to the Louisiana State Board of Medical Examiners."

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1291 (November 1994).

§3541. Procedures for Obtaining Approval as a Continuing Education Source

A. Single Program Approval. A program sponsor may be approved for a single program pursuant to the following procedures.

1. Not less than 120 days prior to the scheduled date of the proposed program, the program sponsor shall request approval of the program as a source of continuing education credit from the committee. Such request shall be submitted on a form recommended by the committee and approved by the board.

2. The committee shall review and evaluate the request for compliance with the standards for continuing education provided in §3539.

3. The committee shall determine whether the proposed program complies with the standards for continuing education in all material respects. If the committee determines that the program does not comply with the standards for continuing education, the program sponsor shall be so notified in writing within 60 days of the committee's receipt of the form requesting approval. If the committee determines that the program complies with the standards for continuing education, then committee shall recommend to the board that the program be approved as a source of continuing education credit.

4. The program sponsor shall be notified in writing of the board's approval or nonapproval of the program as a source of continuing education credit within 60 days of the committee's receipt of the form requesting approval. If the program is not approved, the notice shall include the reason or reasons for nonapproval.

5. Upon approval, the program shall be assigned a program identification number. The program sponsor shall be notified of the identification number and reference such number on all correspondence with the committee or board concerning that program.

6. The program sponsor shall provide each participant in the program with an authenticated certificate or letter of attendance.

7. The program sponsor shall maintain records of the program, including content, faculty, attendance, assessment, and evaluation for a period of not less than two years.

8. The program sponsor shall provide satisfactory proof of any individual's attendance at the program upon the committee's request.

B. Multiple Program Approval. A program sponsor may be approved for multiple program offerings. An approved sponsor need not submit each program offered for approval, but each program shall be considered an approved source of continuing education credit. The following procedures shall be applicable for approval of a sponsor as a sponsor or multiple programs for continuing education credit.

1. The sponsor shall request approval as a sponsor of multiple continuing education programs from the committee. Such request shall be submitted on a form recommended by the committee and approved by the board.

2. The sponsor shall certify that each continuing education program offered shall comply with the standards for continuing education provided in §3539.

3. The sponsor shall designate an individual who shall be responsible for continuing education programs for clinical laboratory personnel.

4. The sponsor shall establish a comprehensive plan for ongoing evaluation of the content, faculty, and assessment tools used for each program and for compliance of all continuing education offerings with the standards for continuing education provided in §3539. Such plan shall be submitted to the committee for review with the sponsor's request for approval.

5. The sponsor shall certify that each participant in each program will be provided with an authenticated certificate or letter of attendance.

6. The sponsor shall certify that records of each continuing education program offered, including content, faculty, attendance, assessment, and evaluation shall be maintained for a period of not less than two years.

7. The sponsor shall certify that satisfactory proof of any individual's attendance at a program shall be maintained for not less than two years and shall be available to the committee on request.

8. The committee shall determine whether the sponsor has complied with the requirements for approval as a sponsor of multiple programs for continuing education credit. If the committee determines that the sponsor has not complied with such requirements, the sponsor shall be so notified within 60 days of receipt of the form requesting approval. If the committee determines that the sponsor has complied with such requirements, the committee shall recommend to the board that the sponsor be approved as a sponsor for multiple continuing education programs.

9. The sponsor shall be notified in writing of the board's approval or nonapproval of the sponsor as a sponsor for multiple continuing education programs within 90 days of the committee's receipt of the form requesting approval. If the sponsor is not approved, the written notice shall include the reasons for nonapproval.

10. Upon approval, the sponsor shall be assigned a sponsor identification number. The sponsor shall be notified of the identification number and reference such number on all correspondence with the committee or the board.

11. Approval of a sponsor for multiple continuing education programs may be for a period not to exceed 36 months.

12. Approval of a sponsor for multiple continuing education programs shall be subject to periodic review. At the committee's request, the sponsor shall submit records

and materials from its continuing education programs to assure compliance with these requirements. Approval of the sponsor may be withdrawn upon a finding by the committee of noncompliance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1292 (November 1994).

§3543. Proof of Compliance with Continuing Education Requirements

A. Form. Each applicant for renewal of licensure or certification shall certify his or her compliance with the continuing education requirements of this Chapter on a form recommended by the committee and approved by the board. Such form shall provide for submission of documentation supporting the applicant's statement of compliance.

B. Audits. Random audits of applications for license or certificate renewals shall be conducted by the committee or the board, at their discretion, to verify compliance with the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1293 (November 1994).

§3545. Appendix—Approved Foreign Transcript Evaluation Agencies

As Approved by the Louisiana State Board of Medical Examiners as of November 20, 1994

Center of Applied Research, Evaluation, and Education, Inc.
P.O. Box 20348
Long Beach, CA 90801
Telephone: (310) 430-1105

Education Evaluators International, Inc.
P.O. Box 5397
Los Alamitos, CA 90721
Telephone: (310) 431-2187; Facsimile: (310) 493-5021

Education International
29 Denton Road
Wellesley, MA 02181
Telephone: (617) 235-7425; Facsimile: (617) 235-6831

Educational Credential Evaluators, Inc.
P.O. Box 92970
Milwaukee, WI 53202-0970
Telephone: (414) 289-3400; Facsimile: (414) 289-3411

Foreign Academic Credentials Service, Inc.
P.O. Box 307
Glen Carbon, IL 62034
Telephone: (618) 288-5892

Foundation for International Services, Inc.
3123 Eastlake Avenue East
Seattle, WA 98102-3875
Telephone: (206) 328-0260; Facsimile: (206) 726-0528

International Consultants of Delaware, Inc.
109 Barksdale Professional Center
Newark, DE 19711
Telephone: (302) 737-8715; Facsimile: (302) 737-8756

International Education Research Foundation, Inc.
P.O. Box 66940
Los Angeles, CA 90066
Telephone: (310) 390-6276; Facsimile: (310) 397-7686

Josef Silny and Associates, Inc.
P.O. Box 248233
Coral Gables, FL 33124
Telephone: (305) 666-0233; Facsimile: (305) 666-4133

World Education Services, Inc.
P.O. Box 745
Old Chelsea Station; New York, NY 10013-0745
Telephone: (212) 966-6311; Facsimile: (212) 966-6395

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(A)(5) and 37:1311-1329.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 20:1293 (November 1994).

Chapter 37. Clinical Exercise Physiologists

Subchapter A. General Provisions

§3701. Scope of Chapter

A. The rules of this Chapter govern the licensing of clinical exercise physiologists to engage in the practice of clinical exercise physiology in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:405 (April 1997).

§3703. Definitions

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

Applicant—a person who has applied to the board for a license to engage in the practice of clinical exercise physiology in the state of Louisiana.

Application—a written request directed to and received by the board upon forms supplied by the board, for a license to practice clinical exercise physiology in the state of Louisiana, together with all information, certificates, documents, and other materials required by the board to be submitted with such forms.

Board—the Louisiana State Board of Medical Examiners.

Clinical Exercise Physiologist—a person who, under the direction, approval, and supervision of a licensed physician, engages in the practice of exercise physiology.

Exercise Physiology—the formulation, development, and implementation of exercise protocols and programs, administration of graded exercise tests, and providing education regarding such exercise programs and tests, in a cardiopulmonary rehabilitation program to individuals with deficiencies of the cardiovascular system, diabetes, lipid disorders, hypertension, cancer, chronic obstructive pulmonary disease, arthritis, renal disease, organ transplant, peripheral vascular disease, and obesity.

Exercise Protocols and Programs—the intensity, duration, frequency, and mode of activity to improve the cardiovascular system.

Good Moral Character—as applied to an applicant, means that an 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. 37:3429 for the suspension or revocation of exercise physiology licensure; 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 material fact or omits to state any fact or matter that is material to the application; and 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 required by this Chapter.

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

Licensed Physician—a person who is licensed by the board to practice medicine in the state.

Louisiana Clinical Exercise Physiologists Licensing Act or the Act—R.S. 37:3421-3433, as hereafter amended or supplemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:405 (April 1997).

Subchapter B. Qualifications for License

§3705. Scope of Chapter

A. The rules of this Subchapter govern the licensing of clinical exercise physiologists who, in order to practice clinical exercise physiology or hold themselves out as a clinical exercise physiologist, or as being able to practice clinical exercise physiology or to render clinical exercise physiology services in the state of Louisiana must meet all of the criteria set forth in this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997).

§3707. Qualification 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 §3703 of this Chapter;
3. be a citizen of the United States or possess a valid and current legal authority to reside and work in the United States, duly issued by the commissioner of Immigration and Naturalization 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. have successfully completed a Masters of Science degree or a Master of Education degree in an exercise studies curriculum at an accredited school, which school at the time of the applicant's graduation, was approved by the American College of Sports Medicine or the board;

5. be certified by as an exercise specialist by the American College of Sports Medicine (ACSM), having taken and successfully passed the ACSM certifying examination, as administered by ACSM or by the board pursuant to Subchapter D of these rules; and

6. have successfully completed an internship of 300 hours in exercise physiology under the supervision of a licensed exercise physiologist.

B. 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.

C. In addition to the substantive qualifications specified in §3707.A to be eligible for a license, an applicant shall satisfy the procedures and requirements for application provided in §§3711-3715 of Subchapter C of this Chapter and the procedures and requirements for examination provided by §§3717-3337 of Subchapter D of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997).

§3709. Exemptions from Licensure

A. The following persons and their activities are exempt from the licensing requirements of this Chapter:

1. any person employed or supervised by a licensed physician whose primary duty is to provide graded exercise testing within the confines of the physician's office. The supervisor shall not represent himself to the public as a licensed clinical exercise physiologist;

2. any student in an accredited educational institution, while carrying out activities that are part of the prescribed course of study, provided such activities are supervised by a licensed clinical exercise physiologist. Such student shall hold himself out to the public only by clearly indicating his student status and the profession in which he is being trained;

3. any person employed as a clinical exercise physiologist by any federal or state agency provided such person's activities constitute part of the duties for which they are employed or solely within the confines or under the jurisdiction of the organization by which they are employed; and

4. any natural person licensed as a health care provider under any other law while acting within the scope of such licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997).

Subchapter C. Application

§3711. Purpose and Scope

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997).

§3713. Application Procedure

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

B. If application is made for licensing on the basis of examination to be administered by the board an initial application must be received by the board not less than 90 days prior to the scheduled date of the examination for which the applicant desires to sit. A completed application must be received by the board not less than 60 days prior to the scheduled date of such examination.

C. Application forms and instructions pertaining thereto may be obtained upon written request directed to the office of the board. Application forms will be mailed by the board within 30 days of the board's receipt of request, therefore, to ensure timely filing and completion of application, forms must be requested not later than 40 days prior to the deadlines for initial applications specified in §3713.B.

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

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

2. three recent photographs of the applicant; and

3. such other information and documentation as the board may require to evidence qualification for licensing.

E. All documents required to be presented to the board or its designee must be the original thereof. For good cause shown, the board may waive or modify this requirement.

F. 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 application.

G. Each application submitted to the board shall be accompanied by the applicable fee, as provided in Chapter 1 of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:406 (April 1997), amended LR 30:236 (February 2004).

§3715. 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 clinical exercise physiology or exercise physiology, each physician or other health care practitioner whom the applicant has consulted or seen for diagnosis or treatment and each professional organization 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 admissibility or disclosure of findings, reports, or recommendations pertaining thereto on the grounds of privilege 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 §3715.A or B to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:407 (April 1997).

Subchapter D. Examination

§3717. Purpose and Scope

A. For purposes of licensure, the board shall use the examination administered by and under contract with the American College of Sports Medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:407 (April 1997).

§3719. Eligibility for Examination

A. To be eligible for examination an applicant for licensure must make application to the American College of Sports Medicine or its designated contract testing agency in accordance with procedures and requirements of the American College of Sports Medicine. Information on the examination process, including fee schedules and application deadlines, must be obtained by each applicant from the American College of Sports Medicine. Application for licensure under §3713 does not constitute application for examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:407 (April 1997).

§3721. Dates, Places of Examination

A. The American College of Sports Medicine certification examination for clinical exercise physiologists is given annually (examination dates are subject to change by the American College of Sports Medicine). In Louisiana, examination centers are located in New Orleans and Monroe.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:407 (April 1997).

§3723. Observance of Examination

A. The American College of Sports Medicine Examination may be observed by a representative appointed by the board. The representative is authorized and directed by the board to obtain positive photographic identification from all applicants for licensure appearing and properly registered for the examination and to observe that all applicants for licensure abide by the rules of conduct established by the American College of Sports Medicine.

B. An applicant for licensure who appears for examination shall:

1. present to the board's representative proof of registration for the examination and positive personal photographic and other identification in the form prescribed by the board; and

2. fully and promptly comply with any and all rules, procedures, instructions, directions, or requests made or prescribed by the American College of Sports Medicine or its contract testing agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:407 (April 1997).

§3725. Subversion of Examination Process

A. An applicant-examinee who engages or attempts to engage in conduct which subverts or undermines the integrity of the examination process shall be subject to the sanctions specified in §3729 of this Subchapter.

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

1. refusing or failing to fully and promptly comply with any rules, procedures, instructions, directions, or requests made by the American College of Sports Medicine or its contract testing agency, or the board's representative;

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

3. reproducing or reconstruction by copying, 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 person during the administration of 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 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, or recorded materials or data of any kind;

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

9. permitting another person to appear for and take the examination on one's behalf and 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. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:408 (April 1997).

§3727. Finding of Subversion

A. When, during the administration of the examination the board's representative has reasonable cause 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 board's representative shall take such action as he deems necessary or appropriate to terminate such conduct and shall report such conduct in writing to the board and the American College of Sports Medicine.

B. In the event of suspected conduct as described in above §3725.B.5 or 6, the subject applicant-examinee shall be permitted to complete the examination, but shall be removed at the earliest practical opportunity to a location precluding such conduct.

C. When the board, upon information provided by the board's representative, the American College of Sports Medicine or its contract testing agency, an applicant-examinee or any 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 findings of probable cause specifying the sanctions which are mandated or permitted by such conduct by §3729 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 findings of fact, conclusions of law under these rules and its decisions as to sanctions, if any, to be imposed shall be made in writing and served upon the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:408 (April 1997).

§3729. 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 from 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 §3729.A and 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 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 for purposes of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:408 (April 1997).

§3731. Passing Score

A. The board shall use the criteria for satisfactory performance of the examination adopted by the American College of Sports Medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997).

§3733. Reporting of Examination Score

A. Applicants for licensure shall request the American College of Sports Medicine to notify the board of the applicant's scores upon each taking of the examination according to the procedures for such notification established by the American College of Sports Medicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997).

§3735. Restriction, Limitation on Examinations

A. With respect to any written examination the successful passage of which is a condition to any license or permit issued under the Chapter, an applicant having failed to obtain a passing score upon taking any such examination four or more times shall not thereafter be considered eligible for licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997).

§3737. Lost, Stolen, or Destroyed Examination

A. The submission of an application for examination by the board shall constitute and operate as an acknowledgment and agreement by the applicant that the liability of the board, its members, committees, 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 scores, thereon by the

board shall be limited exclusively to the refund of the fees paid for examination by the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997).

Subchapter E. Licensure Issuance, Expiration, Renewal and Termination

§3739. Issuance of License

A. If the qualifications, requirements, and procedures prescribed or incorporated by §§3705-3715 are met to the satisfaction of the board, the board shall issue to the applicant a license to engage in the practice of exercise physiology in the state of Louisiana.

B. A license issued by the board on the basis of examination by the board shall be issued by the board within 30 days following the reporting of the applicant's licensing examination scores to the board. A license issued under any other Section of this Chapter to an applicant not required to be examined by the board 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. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997).

§3741. Expiration of License

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

B. Notwithstanding the provisions of §3741.A, every license 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 licensee was born.

C. The timely submission of an application for renewal of license shall operate to continue the expiring license in full force and effect pending the board's issuance or denial of issuance, of the renewal license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997), amended LR 24:1498 (August 1998).

§3743. Renewal of License

A. Every license issued by the board 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 renewal fee as prescribed by Chapter 1 of these rules and documentation of satisfaction of the continuing professional education requirements prescribed by Subchapter G of these rules.

B. Notwithstanding the provisions of §3743.A, every license 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 licensee was born. Renewal fees shall be prorated if the license is to be effective for more than one year.

C. An application for renewal of license shall be mailed by the board to each person holding a license 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.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997), amended 24:1498 (August 1998), LR 30:236 (February 2004).

§3745. Reinstatement of License

A. A license which is expired without renewal may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be made upon forms supplied by the board and accompanied by two letters of recommendation, one from a reputable physician and one from a reputable clinical exercise physiologist of the former licensee's last professional location, together with applicable renewal fee, plus a penalty equal to the renewal fee.

C. With respect to an application for reinstatement made more than one year after the date on which the license expired, as a condition of reinstatement, the board may require that the applicant complete a statistical affidavit upon a form provided by the board, provide the board with a recent photograph, and evidence satisfaction of the requirements of Subchapter G with respect to continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:409 (April 1997).

Subchapter F. Advisory Committee on Clinical Exercise Physiology

§3747. Organization; Authority and Responsibilities

A. The advisory committee on clinical exercise physiology (the "committee"), as established, appointed, and organized pursuant to R.S. 37:3427 of the Act is hereby recognized by the board.

B. The committee shall:

1. have such authority as is accorded it by the Act;

2. function as prescribed by the Act;
3. advise the board on issues affecting the licensing of clinical exercise physiologists and on the regulation of clinical exercise physiology in the state of Louisiana; and
4. perform such other functions and provide such additional advice and recommendations as may be requested by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:410 (April 1997).

§3749. Delegated Duties and Responsibilities

A. The advisory committee is authorized by the board to:

1. advise and assist the board in the ongoing evaluation of the clinical exercise physiology licensing examination required by the board;
2. provide advice and recommendations to the board respecting the modification, amendment, and supplementation of rules and regulations, standards, policies and procedures respecting clinical exercise physiology licensure and practice;
3. serve as a liaison between and among the board, licensed clinical exercise physiologists, and exercise physiology professional associations;
4. receive reimbursement for attendance at board meetings and for other expenses when specifically authorized by the board;
5. evaluate organizations and entities providing or offering to provide continuing professional education programs for clinical exercise physiologists and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to §3759 of these rules;
6. review documentation of continuing professional education by clinical exercise physiologists, verify the accuracy of such documentation, and evaluation of and make recommendations to the board with respect to whether programs and activities evidenced by applicants for renewal of licensure comply with and satisfy the standards for such programs and activities prescribed by these rules; and
7. request and obtain from applicants for renewal of licensure such additional information as the advisory committee may deem necessary or appropriate to enable it to make the evaluations and provide the recommendations for which the committee is responsible.

B. In discharging the functions authorized under this Section, the committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone other than the board, any information or documents obtained when acting as the

agents of the board without first obtaining written authorization of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:410 (April 1997).

Subchapter G. Continuing Professional Education

§3751. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as a clinical exercise physiologist, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education in connection with application for renewal of licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:410 (April 1997).

§3753. Requirements

A. To be eligible for renewal of licensure for 1998 and thereafter, a clinical exercise physiologist shall, within each year during which he holds licensure, evidence and document, upon forms supplied by the board, successful completion of not less than 10 contact hours, 1.0 Continuing Education Units (CEUs).

B. One Continuing Education Unit (CEU) constitutes and is equivalent to 10 hours of participation in an organized continuing professional education program approved by the board and meeting the standards prescribed in this Subchapter. One continuing professional education hour is equal to 0.1 of a CEU. Ten hours, or 1.0 CEUs, are required to meet the standards prescribed by this Subchapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:410 (April 1997).

§3755. Qualifying Continuing Professional Education Programs

A. To be acceptable as qualified continuing professional education under these rules a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of clinical exercise physiology;
2. have pre-established written goals and objectives, with its primary objective being to maintain the participant's competence in the practice of clinical exercise physiology;
3. be presented by persons whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation;

4. provide a system or method for verification of attendance or course completion; and

5. be a minimum of one continuous hour in length.

B. None of the following programs, seminars, or activities shall be deemed to qualify as acceptable continuing professional education programs under these rules:

1. any program not meeting the standards prescribed above;

2. independent study not approved or sponsored by the Louisiana Association of Exercise Physiologists;

3. any program, presentation, seminar, or course of instruction not providing the participant an opportunity to ask questions or seek clarification of specific matters presented;

4. teaching, training, or supervisory activities;

5. holding office in professional or governmental organizations, agencies, or committees;

6. participation in case conferences, informal presentations, or in-service activities;

7. giving or authorizing verbal or written presentations, seminars, articles, or grant applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:410 (April 1997).

§3757. Approval of Program Sponsors

A. Any program, course, seminar, workshop, or other activity meeting the standards prescribed by §3755 sponsored, offered, or approved by the American College of Sports Medicine or by the Louisiana Association of Exercise Physiologists shall be presumptively approved by the board for purposes of qualifying as an approved continuing education program under these rules.

B. Upon the recommendation of the advisory committee, the board may designate additional organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under this proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:411 (April 1997).

§3759. Approval of Programs

A. A continuing professional education program sponsored by an organization or entity not deemed approved by the board pursuant to the information above may be pre-approved by the board as a program qualifying and acceptable for satisfying continuing professional education requirements under this Subchapter upon written request to

the board therefor, upon a form supplied by the board, providing a complete description of the nature, location, date, content, and purpose of such program and such other information as the board or the advisory committee may request to establish the compliance of such program with the standards prescribed by §3755. Any such request for pre-approval respecting a program which makes and collects a charge for attendance shall be accompanied by a nonrefundable processing fee of \$30.

B. Any such written request shall be referred by the board to the advisory committee for its recommendation. If the advisory committee's recommendation is against approval, the board shall give notice of such recommendation to the person or organization requesting approval and such person or organization may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final. Persons and organizations requesting pre-approval of continuing professional education programs should allow not less than 60 days for such requests to be processed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:411 (April 1997).

§3761. Documentation Procedure

A. A form for annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall be mailed by the board to each clinical exercise physiologist subject to such requirements with the application for renewal of licensure form mailed by the board. Such form shall be completed and delivered to the board with the licensee's renewal application.

B. Any certification of continuing professional education not presumptively approved by the board pursuant to these rules, or pre-approved by the board in writing, shall be referred to the advisory committee for its evaluation and recommendations. If the advisory committee determines that a program or activity certified by an applicant for renewal in satisfaction of continuing professional education requirements does not qualify for recognition by the board or does not qualify for the number of CEUs claimed by the applicant, the board shall give notice of such determination to the applicant for renewal and the applicant may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of any such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:411 (April 1997).

§3763. Failure to Satisfy Continuing Professional Education Requirements

A. An applicant for renewal of licensure who fails to evidence satisfaction of the continuing professional education requirements prescribed by these rules shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days furnished the board satisfactory evidence, by affidavit, that:

1. the applicant has satisfied the applicable continuing professional education requirements;
2. the applicant is exempt from such requirements pursuant to these rules; or
3. the applicant's failure to satisfy the continuing professional education requirements was occasioned by disability, illness, or other good cause as may be determined by the board.

B. The license of a clinical exercise physiologist which has expired by nonrenewal or has been revoked for failure to satisfy continuing professional education requirements of these rules may be reinstated by the board upon written application to the board, accompanied by payment of the reinstatement fee prescribed by §3745.B hereof, together with documentation and certification that the applicant has, for each year since the date on which the applicant's license lapsed, expired or was revoked, completed an aggregate of 10 contact hours (1.0 CEU) of qualifying continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:411 (April 1997), amended LR 24:1498 (August 1998).

§3765. Waiver of Requirements

A. The board may, in its discretion and upon the recommendation of the advisory committee, waive all or part of continuing professional education required by these rules in favor of a clinical exercise physiologist who makes written request for such waiver to the board and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the individual's satisfaction of the continuing professional education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:412 (April 1997).

§3767. Exception to Continuing Professional Education Requirements

A. The continuing professional education requirements prescribed by this Subchapter as requisite to renewal of

licensure shall not be applicable to a clinical exercise physiologist who has held an initial license on the basis of examination for a period of less than one year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3421-3433 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 23:412 (April 1997).

Chapter 38. Genetic Counselors

Subchapter A. General Provisions

§3801. Scope of Chapter

A. The rules of this Chapter govern the licensing of genetic counselors in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1070 (August 2019).

§3803. Definitions

A. As used in this Chapter, unless the context clearly states otherwise, the following terms and phrases shall have the meanings specified.

ABGC—American Board of Genetic Counseling, or its successor.

ABMGG—American Board of Medical Genetics and Genomics, or its successor.

Act—the Genetic Counselor Practice Act, R.S. 37:1360.101 et seq., as may be amended.

Active Candidate Status—an individual who has met the requirements established by the ABGC or the ABMGG to take the certification examination in genetic counseling or medical genetics and has been granted this designation by the ABGC or the ABMGG.

Advisory Committee or Committee—the Louisiana Genetic Counselor Advisory Committee, as established, appointed and organized pursuant to R.S. 37:1360.102 of the Act.

Applicant—an individual who has applied to the board for a license or temporary license to practice genetic counseling in this state.

Board—the Louisiana State Board of Medical Examiners.

Collaborating Physician or CP—a physician who has entered into a collaborative practice agreement with a genetic counselor.

Collaborative Practice Agreement or CPA—a document established by a genetic counselor, who engages in any of the functions listed in §6021 of these rules, and a physician which governs the professional relationship between the genetic counselor and the physician.

Direct Supervision—supervision provided by a licensed genetic counselor or a physician who has the overall

responsibility to assess the work of the holder of a temporary license, including regular meetings and chart review, provided pursuant to a supervision contract. The genetic supervisor shall not be required to be physically present where such licensee provides genetic counseling services; however, the supervisor shall be readily accessible during the performance of services by telephone or other means of telecommunication, to answer questions, provide oversight and furnish assistance and direction.

Genetic Counseling—means any of the following actions by a genetic counselor that occur through and as a result of communication between the genetic counselor and a patient:

- a. obtaining and evaluating individual, family, and medical histories to determine genetic risk for genetic or medical conditions and diseases in a patient, his offspring, and other family members;
- b. discussing the features, natural history, means of diagnosis, genetic and environmental factors, and management of risk for genetic and medical conditions and diseases;
- c. identifying and coordinating genetic laboratory tests and other diagnostic studies as appropriate for the genetic assessment;
- d. integrating genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate risk factors for genetic and medical conditions and diseases;
- e. explaining the clinical implications of genetic laboratory tests and other diagnostic studies and their results;
- f. evaluating the client's or family's responses to the condition or risk of recurrence and providing client-centered counseling and anticipatory guidance;
- g. identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy;
- h. providing written documentation of medical, genetic, and counseling information for families and healthcare professionals.

Genetic Counselor—an individual who is licensed pursuant to this Part to provide genetic counseling.

Genetic Supervision—the assessment of the holder of a temporary license by a genetic counselor or a physician based on direct supervision.

Good Moral Character—as applied to an applicant, means that an 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. 37:1360.108 for the denial, suspension or revocation of genetic counselor licensure; 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 material fact or omits to state any fact or

matter that is material to the application; and 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 required by this Chapter.

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

Licensed Genetic Counselor or LGC—an individual who is licensed by the board to practice genetic counseling in Louisiana.

NSGC—the National Society of Genetic Counselors, or its successor.

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.

State—any state of the United States, the District of Columbia, or any of its territories.

Supervision Contract or Genetic Supervision Contract—a contract between the holder of a temporary license and a licensed genetic counselor or physician, that sets forth the manner in which the genetic supervisor will provide direct supervision. The supervision contract shall provide for:

- a. assessment and documentation of the professional competence, skill, and experience of the supervisee;
- b. the nature and level of the supervision required by the supervisee;
- c. regular meetings to review clinical services and administrative practices;
- d. monthly chart or case reviews;
- e. coverage during the absence, incapacity, infirmity, or emergency by the genetic supervisor; and
- f. such other items as may be deemed appropriate by the parties.

True Consultation—an informal consultation or second opinion, provided by an individual practicing genetic counseling in a state other than Louisiana, who is certified by the American Board of Genetic Counseling or the American Board of Medical Genetics; provided, however, that the Louisiana licensed physician or genetic counselor receiving the consultation or opinion is personally responsible to the patient for any evaluation, testing or treatment provided.

United States Government—any department, agency or bureau of the United States Armed Forces or Veterans Administration.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1070 (August 2019).

Subchapter B. Requirements and Qualifications for Licensure

§3809. Scope of Subchapter

A. The rules of this Subchapter govern and prescribe the requirements, qualifications and conditions requisite to eligibility for licensure as a licensed genetic counselor in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1071 (August 2019).

§3811. Requirements and Qualifications for Licensure

A. To be eligible and qualified to obtain a genetic counselor license, an applicant shall:

1. possess one of the following degrees:
 - a. a master's degree from a genetic counseling training program accredited by the Accreditation Council for Genetic Counseling; or
 - b. a doctoral degree from a medical genetics training program accredited by the American Board of Medical Genetics and Genomics; and
2. possess current certification, based on examination:
 - a. as a genetic counselor by:
 - i. the American Board of Genetic Counseling; or
 - ii. the American Board of Medical Genetics; or
 - b. as a medical geneticist by the American Board of Medical Genetics;
3. be of good moral character;
4. 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 United States Citizenship and Immigration Services of the United States, Department of Homeland Security, under and pursuant to the Immigration and Nationality Act (66 Stat. 163) and the regulations thereunder (8 CFR);
5. satisfy the applicable fees as prescribed by Chapter 1 of these rules;
6. satisfy the procedures and requirements for application provided by Subchapters C and D of this Chapter; and
7. not be otherwise disqualified by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

B. 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 qualification in the manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1071 (August 2019).

§3813. License by Reciprocity

A. An individual who possesses a current, unrestricted license, certificate or registration to practice genetic counseling, issued by the medical licensing authority of another state, shall be eligible for a license in this state if the applicant:

1. possesses the requirements and qualifications for licensure specified in this Subchapter;
2. satisfies the procedural and other requirements specified in Subchapters C and D of this Chapter; and
3. is in good standing in the state in which he or she is licensed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1072 (August 2019).

Subchapter C. Application

§3819. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements for application to the board for licensure as a genetic counselor in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1072 (August 2019).

§3821. Application Procedure

A. Application for licensure shall be made in a format approved by the board.

B. Applications and instructions may be obtained from the board's web page or by personal or written request to the board.

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

1. proof, documented in a form satisfactory to the board, that the applicant possesses the qualifications for licensure set forth in this Chapter;
2. a recent photograph of the applicant;
3. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;
4. criminal history record information, pursuant to R.S. 37:1270B(7) and 1277;
5. payment of the applicable fee as provided in Chapter 1 of these rules;

6. the name, primary practice location and contact information of a collaborating physician;

7. attestation by the applicant certifying that he or she will not order or select laboratory tests or other evaluations regarding hereditary or carrier conditions (or other testing related to the practice of genetic counseling) in this state in the absence of a collaborative practice agreement conforming to the requirements of §6021 of these rules; and

8. such other information and documentation as the board may require to evidence qualification for licensure.

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

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270, 37:1277 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1072 (August 2019).

§3823. Effect of Application

A. The submission of an application for licensure to the board shall constitute and operate as an authorization by the applicant to each educational institution at which the applicant has matriculated, each governmental agency to which the applicant has applied for any license, permit, certificate or registration, each person, firm, corporation, organization or association by whom or with whom the applicant has been employed as a genetic counselor, each physician whom the applicant has consulted or seen for diagnosis or treatment, and each professional or trade organization 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 licensure to the board shall equally constitute and operate as a consent by the applicant to the disclosure and release of such information and documentation as a waiver by the applicant of any privileges or right of confidentiality which the applicant would otherwise possess with respect thereto.

B. By submission of an application for licensure 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 if the board has reasonable grounds to believe that the applicant's capacity to act as a genetic counselor with reasonable skill or safety may be compromised by physical or mental condition, disease or infirmity, and the applicant shall be deemed to have waived all objections as to the admissibility or disclosure of findings, reports or recommendations

pertaining thereto on the grounds of privileges provided by law.

C. The submission of an application for licensure to the board shall constitute and operate as an authorization and consent by the applicant to the board to disclose 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 this Section, to any person, firm, corporation, association or governmental entity having a lawful, legitimate and reasonable need therefor, including, without limitation, the genetic counselor licensing authority of any state, the American Board of Genetic Counseling or the American Board of Medical Genetics, or their successors, the Louisiana Department of Health, federal, state, county or parish and municipal health and law enforcement agencies and the armed services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1072 (August 2019).

Subchapter D. Examination

§3829. Purpose and Scope

A. The rules of this Subchapter govern the procedures and requirements applicable to the examination for licensure of genetic counselors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

§3831. Designation of Examination

A. The examinations accepted by the board for licensure are the certification examinations for:

1. a genetic counselor offered by:
 - a. the American Board of Genetic Counseling; and
 - b. the American Board of Medical Genetics; or
2. a medical geneticist offered by the American Board of Medical Genetics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

§3833. Restriction, Limitation on Examination

A. An applicant who fails an examination four times shall not thereafter be considered for licensure until successfully completing such continuing professional education or additional training as may be recommended by the advisory committee and approved by the board or as the board may otherwise determine appropriate. For multiple failures beyond four attempts such education or training may include, without limitation, repeating all or a portion of any didactic and clinical training required for licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

§3835. Passing Score

A. An applicant will be deemed to have successfully passed the examination if he or she attains a score equivalent to that required by the American Board of Genetic Counseling or the American Board of Medical Genetics and Genomics as a passing score for the examination taken by the applicant-examinee.

B. Each time an applicant-examinee attempts a certification examination the applicant shall inform the board of the examination results and shall authorize the ABGC or the ABMGG to release their test scores to the board according to the organization’s procedures for such notification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

Subchapter E. Licensure Issuance, Termination, Renewal, and Reinstatement

§3841. Issuance of License

A. If the qualifications, requirements and procedures prescribed or incorporated in Subchapters B and C of this Chapter are met to the satisfaction of the board, the board shall issue a license to the applicant to practice genetic counseling in this state.

B. A license issued under this Chapter shall designate whether an applicant's practice includes those functions listed in §6021.B.1 of these rules and may be verified on the board’s web page.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

§3843. Expiration of License

A. Every license issued by the board under this Chapter shall expire, and thereby become null, void and to no effect the following year on the last day of the month in which the licensee was born.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

§3845. Renewal of License

A. Every license issued by the board under this Subchapter shall be renewed annually on or before the last day of the month in which the licensee was born by submitting to the board:

1. a renewal application in a format prescribed by the board;
2. the renewal fee prescribed in Chapter 1 of these rules; and
3. certification that the applicant has:
 - a. complied with the continuing professional education requirement as prescribed by Subchapter G of these rules; or
 - b. not complied with the continuing professional education requirement but is seeking a waiver of such requirement, as provided by Subchapter G of these rules.

B. Renewal applications and instructions may be obtained from the board's web page or upon personal or written request to the board.

C. If an individual fails to comply with the requirements of this Section on or before the expiration of a license, the license shall expire and become null and void without further action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1073 (August 2019).

§3847. Reinstatement of License

A. A license which has expired as a result of non-renewal, for less than two years from the date of expiration, may be reinstated by the board subject to the conditions and procedures hereinafter provided.

B. An application for reinstatement shall be submitted in a format approved by the board and be accompanied by:

1. a statistical affidavit in a form provided by the board;
2. a recent photograph of the applicant;
3. proof of satisfaction of the continuing professional education for each year that the license lapsed, as set forth in Subchapter G of this Chapter;
4. such other information and documentation as is referred to or specified in this Chapter or as the board may require to evidence qualification for licensure; and

5. the renewal fee set forth in Chapter 1 of these rules, plus a penalty computed as follows:

- a. if the application is made less than one year from the date of expiration, the penalty shall be equal to the renewal fee of the license;
- b. if the application is made more than one but less than two years from the date of expiration, the penalty shall be equal to twice the renewal fee of the license.

C. A genetic counselor whose license has lapsed and expired for a period in excess of two years shall not eligible for reinstatement consideration but may apply to the board for an initial license pursuant to the applicable rules of this Chapter.

D. A temporary license is not subject to reinstatement.

E. A request for reinstatement may be denied by virtue of the existence of any grounds for denial of licensure as provided by the Act or these rules.

F. The burden of satisfying the board as to the qualifications and eligibility of the applicant for reinstatement of the license as a genetic counselor shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1074 (August 2019).

§3849. Temporary License

A. The board may issue a temporary license, also known and designated as an "examination permit," to an individual who meets and satisfies all of the requirements and qualifications for genetic counselor licensure set forth in this Chapter, except for having taken and passed the examination for certification offered for his or her associated masters or doctoral degree, as prescribed in Subchapter B of this Chapter.

B. Eligibility. To be eligible for an examination permit an applicant shall:

1. satisfy the procedures, qualifications and requirements for application specified in Subchapters B and C of this Chapter;

2. hold active candidate status for the certification;

3. not have failed the certification examination associated with his or her active candidate status more than one time;

4. certify to the board that he or she shall:

a. make application to take and take the certification examination associated with his or her active candidate status on the next available date the examination is offered;

b. only practice genetic counseling under direct supervision of a licensed genetic counselor or a physician, and only in accordance with a genetic supervision contract;

5. not otherwise be disqualified due to any ground for licensure denial provided by the Act or these rules.

C. Permit Term. An examination permit shall expire and become null and void upon the earlier of:

1. six months from the date of issuance;

2. the date on which the applicant successfully passes the examination for certification and is issued a genetic counselor license;

3. thirty days after the applicant fails the examination for certification;

4. thirty days after the date the permit holder fails to appear and take the certification examination for which he or she was registered. An exception may be granted at the sole discretion of the board upon a request submitted in writing, which is deemed acceptable to the board, identifying a life-threatening or significant medical condition or other extenuating circumstance that prevented the applicant's appearance for the examination;

5. the expiration date printed on the examination permit.

D. Number of Permits. An individual who holds an examination permit but fails to pass or appear for the examination for certification may apply to the board for a second examination permit; provided, however, the board shall not issue an examination permit to an individual who has failed to pass, or failed to appear and take the examination for certification, more than one time.

E. An individual who holds an examination permit shall, without delay, inform the board in writing of the results of his or her certification examination or of the individual's failure to appear for the examination for which he or she was scheduled.

F. The burden of satisfying the board as to the qualifications and eligibility of the applicant for an examination permit shall be on the applicant. An applicant shall not be deemed to possess such qualifications unless the applicant demonstrates and evidences such qualifications in a manner prescribed by and to the satisfaction of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1074 (August 2019).

Subchapter F. Genetic Counselor Advisory Committee

§3855. Organization; Authority

A. The Louisiana Genetic Counselor Advisory Committee (the "advisory committee"), as established, appointed and organized pursuant to R.S. 37:1360.102 of the Act, is hereby recognized by the board.

B. The purpose of the committee is to advise and make recommendations to the board regarding the practice of genetic counseling, including collaborative agreements and genetic counselor licensure.

C. The committee shall:

1. have such authority as is accorded to it by the Act;

2. function and meet as prescribed by the Act;

3. advise the board on issues affecting the licensing of genetic counselors and regulation of genetic counseling in this state;

4. make recommendations to the board regarding model forms and examples of collaborative practice agreements;

5. evaluate continuing professional education programs for genetic counselors and provide recommendations to the board with respect to the board's recognition and approval of such organizations and entities as sponsors of qualifying continuing professional education programs and activities pursuant to Subchapter G of these rules;

6. serve as liaison between and among the board, licensed genetic counselors, and professional organizations;

7. perform such other functions and provide such additional advice as the board may request; and

8. receive reimbursement for actual and reasonable expenses incurred in the performance of their duties with respect to attendance at committee meetings and for other expenses when specifically authorized by the board.

D. **Committee Meetings, Officers.** The advisory committee shall meet at least twice each calendar year, or more frequently as may be deemed necessary at the call of the chair, a quorum of the committee or the board. The presence of three of the five member committee shall constitute a quorum of the committee. At its initial meeting the committee shall elect from among its members a chair, a vice-chair and a secretary, who shall serve until their successors are elected and qualified. The chair, or in the chair's absence or unavailability, the vice-chair, shall designate the date, time and place and preside at all meetings of the committee and record, or cause to be recorded, accurate and complete minutes of all of meetings of the committee and shall cause copies of the same to be provided to the board.

E. **Confidentiality.** In discharging the functions authorized under this Section the 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 committee members relative to individual applicants or licensees pursuant to this Section shall be considered confidential. Advisory committee members are prohibited from communicating, disclosing, or in any way releasing to anyone other than the board any confidential 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. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1075 (August 2019).

Subchapter G. Continuing Professional Education

§3861. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education requisite to the annual renewal of licensure as a licensed genetic counselor, and prescribe the procedures applicable to satisfaction and documentation of continuing professional education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1075 (August 2019).

§3863. Continuing Professional Educational Requirement

A. Subject to the waiver of requirements and exceptions specified in §3875 and §3877 of this Subchapter, to be eligible for renewal of licensure a genetic counselor shall evidence and document, in a format specified by the board, the successful completion of:

1. within each year during which he holds a license:

a. not less than twenty-five contact hours of continuing professional education sanctioned by the National Society of Genetic Counselors or its successor; or

b. a reading assignment and proctored examination in medical genetics provided by the American Board of Genetics and Genomics or its successor; or

2. the completion of such other qualifying continuing professional education as may be offered by an approved sponsor, recommended by the advisory committee and approved by the board, that satisfies the requirements specified by §3865 and §3867 of this Subchapter.

B. For purposes of this Section, one contact hour of continuing professional education credit is equivalent to 50 minutes of qualifying lecture, clinical practice, on-line course or workshop instruction on topics pertaining to the genetic counseling profession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1075 (August 2019).

§3865. Qualifying Continuing Professional Education Programs

A. To be acceptable as qualifying continuing professional education under these rules, a program shall:

1. have significant and substantial intellectual or practical content dealing principally with matters germane and relevant to the practice of genetic counseling;

2. have pre-established written goals and objectives, with its primary objective being to maintain or increase the participant's competence in the practice of genetic counseling;

3. be presented by individuals whose knowledge and/or professional experience is appropriate and sufficient to the subject matter of the presentation and is up to date;

4. provide a system or method for verification of attendance or course completion;

5. be a minimum of 50 continuous minutes in length for each contact hour of credit; and

6. allow participants an opportunity to ask questions on the content presented.

B. Other approved continuing professional education activities include:

1. earning a grade of "C" or better in a college or university course required to earn a degree in genetic counseling or medical genetics, or a grade of "pass" in a pass/fail course. One credited semester hour will be deemed to equal 25 contact hours;

2. a genetic counseling seminar, workshop, home study, on-line, or correspondence course approved by the advisory committee or the board, pursuant to the criteria set forth in §3869 of these rules.

C. None of the following programs, seminars or activities shall be deemed to qualify as acceptable continuing professional education programs under these rules:

1. any program not meeting the standards prescribed by this Section;

2. any independent, home study, correspondence course, on-line lecture, workshop, program or seminar that is not approved or sponsored by the National Society of Genetic Counselors, the American Board of Medical Genetics and Genomics, or the advisory committee pursuant to the criteria set forth in §3869 of these rules;

3. in-service education provided by a sales representative unless approved by NSGC or the ABMGG;

4. teaching, training or supervisory activities not specifically included in §3865.B;

5. holding office in professional or governmental organizations, agencies or committees;

6. participation in case conferences, informal presentations, or in service activities;

7. giving or authoring verbal or written presentations, seminars or articles or grant applications; and

8. any program, presentation, seminar, or course not providing the participant an opportunity to ask questions or seek clarification of matters pertaining to the content presented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1075 (August 2019).

§3867. Approval of Program Sponsors

A. Any program, course, seminar, workshop or other activity meeting the standards prescribed by §3865 shall be deemed approved for purposes of satisfying continuing professional education requirement under this Subchapter, if sponsored or offered by one of the following organizations: the NSGC, the ABMGG, the Louisiana Department of Health (LDH), the Louisiana Hospital Association (LHA), or the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

B. Upon the recommendation of the advisory committee, or on its own motion, the board may designate additional

organizations and entities whose programs, courses, seminars, workshops, or other activities shall be deemed approved by the board for purposes of qualifying as an approved continuing professional education program under §3865 or §3867.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1076 (August 2019).

§3869. Approval of Program

A. A continuing professional education program or activity sponsored by an organization or entity that is not approved by the board pursuant to §3865 or §3867 must be evaluated and approved by the advisory committee in order to be accepted for purposes of meeting the continuing professional education requirement for annual renewal of licensure. To be considered for approval the sponsoring organization or entity shall submit a written request to the board. For each continuing professional educational program presented for consideration the following shall be provided:

1. a list of course goals and objectives for each topic;
2. a course agenda displaying the lecture time for each topic;
3. a curriculum vitae for each speaker;
4. information on the location, date(s), and target audience;
5. a copy of the evaluation form used for the overall program topics and speakers; and
6. such other information as the advisory committee may request to establish the compliance of such program with the standards prescribed by §3865 or §3867.

B. A request for pre-approval of a continuing professional education program shall be submitted in a format approved by the board not less than 120 days in advance of the event.

C. Any such written request shall be referred by the board to the advisory committee for evaluation and approval.

D. If the recommendation is against the approval, the board or the advisory committee shall give notice of such recommendation to the person or organization requesting approval. An appeal may be submitted to the board by written request, accompanied by all information required by Subsection A of this Section within 10 days of such notice. The board's decision with respect to approval of any such activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1076 (August 2019).

§3871. Documentation Procedure

A. Annual documentation and certification of satisfaction of the continuing professional education requirements prescribed by these rules shall accompany a

licensed genetic counselor's application for renewal of licensure pursuant to §3845 of these rules.

B. A licensed genetic counselor shall maintain a record or certificate of attendance for at least four years from the date of completion of the continuing professional education program.

C. The board or advisory committee shall randomly select for audit no fewer than 3 percent of the licensees each year for an audit of continuing professional education activities. In addition, the board or advisory committee has the right to audit any questionable documentation of activities. Verification shall be submitted within 30 days of the notification of audit. A licensee's failure to notify the board of a change of mailing address will not absolve the licensee from the audit requirement.

D. Any certification of continuing professional education not presumptively approved in writing by the board, pursuant to §3865 or §3867 of these rules, or pre-approved by the advisory committee, pursuant to §3869, shall be referred to the advisory committee for its evaluation and recommendations prior to licensure denial or renewal.

E. If the advisory committee determines that a continuing professional education program or activity listed by an applicant for renewal does not qualify for recognition by the board or does not qualify for the number of contact hours claimed by the applicant, the board shall give notice of such determination to the applicant. An applicant may appeal the advisory committee's recommendation to the board by written request delivered to the board within 10 days of such notice. The board's decision with respect to approval and recognition of such program or activity shall be final.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1076 (August 2019).

§3873. Failure to Satisfy Continuing Professional Education Requirements

A. An applicant for renewal of licensure who fails to satisfy the continuing professional education requirement prescribed by these rules shall be given written notice of such failure by 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 it shall be deemed expired, unrenewed and subject to suspension or 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 professional education requirement;
2. the applicant is exempt from such requirement pursuant to these rules; or
3. the applicant's failure to satisfy the continuing professional education requirement was occasioned by disability, illness or other good cause as may be determined by the board pursuant to §3875.

B. The license of a genetic counselor whose license has expired by nonrenewal or has been suspended or revoked for failure to satisfy the continuing professional education requirement of this Subchapter may be reinstated by the board upon application to the board pursuant to §3847 of this Chapter, accompanied by payment of a reinstatement fee, together with documentation and certification that the applicant has, for each calendar year since the date on which the applicant's license lapsed, expired, or was suspended or revoked, satisfied the continuing professional education requirement prescribed by this Subchapter.

C. Any licensee who falsely certifies attendance and/or completion of the required continuing professional education requirement will be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111, 37:1270 and 37:1281.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1077 (August 2019).

§3875. Waiver of Requirements

A. The board may, in its discretion and upon the recommendation of the advisory committee, waive all or part of the continuing professional education required by these rules in favor of a genetic counselor who makes a written request for such waiver to the board and evidences to its satisfaction:

1. services in the armed forces of the United States during a substantial part of the renewal period;
2. an incapacitating illness or injury;
3. a permanent financial hardship or other extenuating circumstances precluding the individual's satisfaction of the continuing professional education requirement. Any licensed genetic counselor submitting a continuing professional education waiver request is required to do so on or before the date specified for the renewal of the licensee's license by §3845. Any request received by the board past the date for licensure renewal will not be considered for waiver but, rather, in accordance with the provisions of §3847.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1077 (August 2019).

§3877. Exceptions to the Continuing Professional Education Requirements

A. The continuing professional education requirement prescribed by this Subchapter for renewal of licensure shall not be applicable to a genetic counselor employed exclusively by, or at an institution operated by the United States government.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1077 (August 2019).

Chapter 39. Medical Psychologists

Subchapter A. General Provisions

§3901. Scope of Chapter and Definitions

A. The rules of this Chapter govern the licensing and certification of medical psychologists in the state of Louisiana.

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 37:888 (March 2011).

§3903. Definitions

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

Applicant—an individual who has applied to the board for a license as a medical psychologist or a certificate of advanced practice.

Approved—as applied to an examination, school, college, university, institution, organization, program, curriculum, course of study or continuing professional education, shall mean affirmatively recognized and sanctioned by the board in accordance with this Chapter.

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

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 medical psychologist for administration or distribution to a patient at no cost to the patient.

Certificate of Advanced Practice or Certificate or Certification—the board's official recognition of a medical psychologist's lawful authority to engage in advanced practice of medical psychology as provided by R.S. 37:1360.57 and Subpart 3 of these rules.

Collaborating Physician—a physician who consults and/or collaborates with a medical psychologist.

Concurrence or Concur—a physician's agreement to a plan for psychopharmacological management of a patient based on prior discussion with a medical psychologist.

Consultation and Collaboration with a MP or Consult and/or Collaborate—that practice in which a physician discusses and, if deemed appropriate, concurs in a medical psychologist'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 or management of mental, nervous, emotional, behavioral, substance abuse or cognitive disorders.

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. 37:1360.67 for the suspension or revocation of a license or certificate;

b. the applicant has not, prior to or in connection with the 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 certificate required by this Chapter.

LAMP—the Louisiana Academy of Medical Psychologists.

LSBEP—the Louisiana State Board of Examiners of Psychologists, as constituted in R.S. 37:2353.

Medication—is synonymous with *drug*, as defined herein.

Medical Psychologist or MP—a psychological practitioner who has undergone specialized training in clinical psychopharmacology and has passed a national proficiency examination in psychopharmacology approved by the board. Such practice includes the authority to administer and prescribe drugs and distribute *bona-fide* medication samples, as defined in this Section.

Medical Psychology—that profession of the health sciences which deals with the examination, diagnosis, psychological, pharmacologic and other somatic treatment and/or management of mental, nervous, emotional, behavioral, substance abuse or cognitive disorders, and specifically includes the authority to administer, and prescribe drugs and distribute *bona-fide* medication samples as defined in this Section. In addition, the practice of medical psychology includes those practices as defined in R.S. 37:2352(5).

Medical Psychology Advisory Committee or Committee—a committee to the board constituted under R.S. 37:1360.63.

Medical Psychology Practice Act or MP Act—Acts 2009, No. 251, R.S. 37:1360.51-1360.72.

Mental, Nervous, Emotional, Behavioral, Substance Abuse and Cognitive Disorders—those disorders, illnesses or diseases listed in either the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or the mental, nervous, emotional, behavioral, substance abuse and cognitive disorders listed in the International Classification of Diseases published by the World Health Organization.

Narcotics—natural and synthetic opioid analgesics and their derivatives used to relieve pain.

Physician—an individual licensed by the board to engage in the practice of medicine in the state of Louisiana 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 the mental, nervous, emotional, behavioral, substance abuse and cognitive disorders with medication.

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

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 37:888 (March 2011), repromulgated LR 37:1151 (April 2011).

Subchapter B. Requirements and Qualifications for License

§3905. Scope of Subchapter

A. The rules of this Subchapter prescribe the requirements, qualifications and conditions for licensure as a medical psychologist in this state.

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 37:889 (March 2011).

§3907. Qualifications for License

A. To be eligible for a license to practice as a medical psychologist an applicant shall:

1. possess a current, unrestricted license in good standing to practice psychology duly issued by the LSBEP;
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 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);

3. be of good moral character as defined by Section 3903A of these rules;

4. possess approved certification in Basic Life Support (BLS);

5. possess:

a. a post-doctoral master's degree in clinical psychopharmacology conferred by a regionally accredited institution approved by the board; or

b. equivalent training to a post-doctoral master's degree in clinical psychopharmacology approved by the board;

6. have within the past 3 years, in conformity with the restrictions and limitations prescribed by this Chapter, taken and passed a national examination in psychopharmacology approved by the board; and

7. not be otherwise disqualified by any ground for denying a license provided by the MP Act or these rules.

B. The burden of satisfying the board as to the qualifications and eligibility of an 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, 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:889 (March 2011).

§3909. Alternative Qualifications for License

A. Provided application is made within 12 months of the effective date of these rules, an individual who desires to be licensed as a MP may qualify for licensure pursuant to R.S. 37:1360.55A without compliance with the requirements prescribed by Section 3907, upon submission of evidence satisfactory to the board that the applicant possessed all of the following as of January 1, 2010:

1. an unrestricted license in good standing to practice psychology issued by the LSBEP;

2. an unrestricted certificate of prescriptive authority issued by the LSBEP;

3. a controlled substance permit duly issued by the Louisiana State Board of Pharmacy;

4. a controlled substance registration duly issued by the United States Drug Enforcement Administration; and

5. as of the date of application, not be otherwise disqualified by any ground for denying a license provided by the MP Act or these rules.

B. The alternative qualification provided by this Section shall expire and become null, void and to no effect 12 months and 1 day following the effective date of these rules.

C. The burden of satisfying the board as to the qualifications and eligibility of an 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, 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:890 (March 2011).

§3911. Qualifications for Certificate of Advanced Practice

A. To be eligible for a certificate of advanced practice an applicant shall, as of the date of application to the board, have:

1. a current, unrestricted license as a MP duly issued by the board and not be the subject of an investigation or pending disciplinary proceeding by the board;

2. practiced as a MP for at least three of the past four years. With respect to individuals licensed under the alternative qualification provided in Section 3909 of this Chapter, such experience shall be deemed to have commenced on the date that the applicant's initial certificate of prescriptive authority was issued by the LSBPE;

3. as a MP, treated at least one hundred patients which demonstrate the competence of the medical psychologist. Of this number at least 25 shall have involved the use of major psychotropics and at least 25 shall have involved the use of major antidepressants;

4. received the written recommendation of two collaborating physicians who hold a current, unrestricted license to practice medicine in this state duly issued by the board, who are familiar with the applicant's competence to practice medical psychology;

5. received a favorable recommendation from the committee; and

6. completed a minimum of one hundred hours of continuing medical education relating to the use of medications in the management of patients with psychiatric illnesses, commencing with:

a. initial issuance of a certificate of prescriptive authority by the LSBPE if prior to January 1, 2010; or

b. the date the MP is licensed by the board after January 1, 2010.

B. The burden of satisfying the board as to the qualifications and eligibility of an applicant for certification 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, 37:1360.51-1360.72.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 37:890 (March 2011).

Subchapter C. Application

§3913. Scope of Subchapter

A. The rules of this Subchapter govern the procedures and requirements for application to the board for a license to practice medical psychology.

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 37:890 (March 2011).

§3915. Application Procedure

A. Application must be made and submitted 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 Chapter, along with a recent photograph;

2. certification of the truthfulness and authenticity of all information, representations and documents contained in or submitted with the completed application;

3. criminal history record information;

4. payment of the fee provided in Chapter 1 of these rules; and

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

B. Upon submission of a completed application a personal interview with a member of the board or a designee may be required as a condition of licensure when:

1. discrepancies exist in an initial application;

2. an applicant has been the subject of prior adverse action in any jurisdiction; or

3. the board has questions respecting an application response.

C. The recommendation of the board member or designee as to the applicant's fitness for licensure shall be made a part of the applicant's file.

D. The board may reject or refuse to consider an application which is not complete in every detail. The board may in its discretion require a more detailed or complete response to any request for information set forth in the application as a condition to application consideration.

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 37:890 (March 2011).

§3917. Effect of Application

A. The submission of an application for licensure 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 psychology or medical psychology, 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 licensure 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 licensure 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 this Section to any person, firm, corporation, association, or governmental entity having a lawful, legitimate, and reasonable need therefore including, without limitation, the psychology or medical psychology licensing authority of any state; the Federal Drug Enforcement Administration; the Louisiana Board of Pharmacy; 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 any directive or order to carry out the provisions of Subsection B of this Section.

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 37:891 (March 2011).

Subchapter D. Board Approval of Schools, Colleges, Universities, or Institutions

§3919. Scope of Subchapter

A. The rules of this Subchapter prescribe the requirements for board approval of a school, college,

university or institution for the purpose of assessing qualifications for medical psychology licensure.

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 37:891 (March 2011).

§3921. Applicability of Approval

A. Successful completion of a post-doctoral master's degree in clinical psychopharmacology from a regional accredited institution approved by the board is among the educational qualifications required for MP licensure.

B. The completion of training approved by the board that is equivalent to a post-doctoral master's degree in clinical psychopharmacology is an alternative educational qualification for MP licensure.

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 37:891 (March 2011).

§3923. Approval of Schools and Colleges

A. A school, college, university or institution shall be concurrently considered approved by the board for purposes of qualification under this Chapter provided it:

1. is accredited by one of the six regional bodies recognized by the United States Department of Education's Council on Postsecondary Accreditation;

2. has achieved the highest level of accreditation or approval awarded by statutory authorities of the state in which the school or college is located;

3. offers a full-time post-doctoral master's program in clinical psychopharmacology that:

- a. includes curriculum instruction in each of the following areas:

- i. anatomy and physiology;

- ii. biochemistry;

- iii. neurosciences to include neuroanatomy, neuropathology, neurophysiology, neurochemistry and neuroimaging;

- iv. pharmacology;

- v. psychopharmacology;

- vi. clinical medicine/pathophysiology; and

- vii. health assessment, including relevant physical and laboratory assessment; and

- b. provides opportunity to review, present and discuss each of the following:

- i. case examples representing a broad range of clinical psychopathologies;

- ii. medical conditions presenting as psychiatric illness;
- iii. treatment complexities, including complicating medical conditions, diagnostic questions, choice of medications, and untoward side effects;
- iv. compliance problems; and
- v. alternative treatments and treatment failures.

B. Board approval of a school, college, university or institution shall be deemed to be effective as to an applicant if such school, college, university or institution was approved as of the date on which the applicant's post-doctoral master's degree in clinical psychopharmacology was awarded.

C. Subject to Section 3925 of these rules, a school, college, university or institution accepted by the LSBPE for MP prescriptive authority on or before January 1, 2010, shall be considered approved by the board for purposes of qualification under this Chapter.

D. For the purposes of this Chapter, equivalent training to the post-doctoral master's degree provided in R.S. 37:1360.55B.(2) is defined as the successful completion of the Department of Defense Psychopharmacology Demonstration Project (DOD-PDP), or a similar program developed and operated under the auspices of any branch of the United States armed services and approved by the board.

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 37:891 (March 2011).

§3925. Withdrawal of Approval

A. Notwithstanding current or prior approval pursuant to this Subchapter or by individual determination, the board's approval of any school, college, university or institution may be withdrawn at any time upon its affirmative finding that such school, college, university or institution does not possess the qualifications for approval specified by this Subchapter or by the MP Act.

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 37:892 (March 2011).

Subchapter E. Examination

§3927. Scope of Subchapter

A. The rules of this Subchapter designate the examination, passing score, restrictions, limitations and exceptions applicable to medical psychologist licensure in this state.

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 37:892 (March 2011).

§3929. Designation of Examination

A. The MP licensing examination approved and accepted by the board, pursuant to R.S. 37:1360.55B(3), is the Psychopharmacology Examination for Psychologists (PEP), developed by the American Psychological Association practice organization's College of Professional Psychology and its contractor, the Professional Examination Service, or their successor(s) organizations.

B. The PEP or such other examination as the board may approve shall:

- 1. be taken after the successful completion of the post-doctoral master's program in clinical psychopharmacology; and
- 2. not less than three years prior to the date of MP application.

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 37:892 (March 2011).

§3931. Passing Score

A. An applicant will be deemed to have successfully passed the examination upon attaining a score equivalent to the passing score required by the PEP and its contractor, the Professional Examination Service, or their successor(s) organizations.

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 37:892 (March 2011).

§3933. Restriction, Limitations on Examinations

A. Applicants shall be required to authorize the PEP and the Professional Examination Service to release their testing scores to the board each time the applicant-examinee attempts the examination according to the procedures for such notification established by the PEP.

B. An applicant having failed to attain a passing score upon taking the examination four times shall not thereafter be considered for licensure.

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 37:892 (March 2011).

Subchapter F. Licensure Issuance, Termination, Renewal, Reinstatement

§3935. Scope of Subchapter

A. The rules of this Subchapter prescribe the requirements applicable to issuance, termination, renewal and reinstatement of a license to practice medical psychology in this state.

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 37:892 (March 2011).

§3937. Issuance of Licensure; Certificate of Advanced Practice

A. If the qualifications, requirements, and procedures set forth in this Chapter are met to its satisfaction the board shall issue a license to the applicant to engage in the practice of medical psychology in this state.

B. If the qualifications, requirements, and procedures set forth in this Chapter are met to its satisfaction the board shall issue a certificate of advanced practice to the applicant to engage in the advanced practice of medical psychology in this state.

C. A license or certificate issued under this Chapter shall designate the applicant's status with respect to advanced practice.

D. Every MP is responsible for updating the board within 15 days should any of the required contact information submitted with an application change after license or certificate issuance.

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 37:892 (March 2011).

§3939. Expiration of License, Certificate

A. Every license or certificate issued under this Chapter shall expire and thereby become null, void and to no effect the following year on the last day of June B. The timely submission of a properly completed application for renewal of a license shall operate to continue an expiring license, and if applicable a certificate of advanced practice, in full force and effect pending renewal.

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 37:893 (March 2011).

§3941. Renewal of License, Certificate

A. Every license or certificate issued by the board shall be renewed annually on or before the last day of June by submitting to the board a properly completed renewal application, in a format specified by the board, together with the renewal fee prescribed by Chapter 1 of these rules and documentation of:

1. satisfaction of the continuing professional education requirement prescribed by this Chapter; and
2. maintenance of basic life support.

B. Possession of a current, unrestricted license to practice psychology duly issued by the LSBPE is a requirement for initial licensure as a medical psychologist

under this Chapter but shall not be required by the board for license renewal.

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 37:893 (March 2011).

§3943. Reinstatement of Expired License or Certificate

A. A license or certificate that has expired without renewal may be reinstated by the board provided that application is made within two years of the date of expiration.

B. A MP whose license and/or certificate has expired for a period in excess of two years or who is otherwise ineligible for reinstatement under this Section may apply to the board for an initial original license or certificate pursuant to these rules.

C. An applicant seeking reinstatement more than one but less than two years from the date on which his or her license or certificate expired shall demonstrate, as a condition of reinstatement, satisfaction of the continuing professional education required by these rules for each year since the date of the license expiration. As additional conditions of reinstatement the board may require that the applicant:

1. complete a statistical affidavit and provide a recent photograph;
2. take and successfully pass:
 - a. all or a designated portion of the national examination required for licensure under this Chapter;
 - b. a written certification or recertification examination acceptable to the board; and/or
 - c. demonstrate clinical competency by successfully completing a program designated by the board, following consultation with the committee, and any recommended remediation.

D. An applicant whose license to practice psychology or medical psychology has been revoked, suspended or placed on probation by the licensing authority of any state or who has voluntarily or involuntarily surrendered his or her license to practice psychology or medical psychology in consideration of the dismissal or discontinuance of pending or threatened administrative or criminal charges following the date on which his or her license to practice as a MP in Louisiana expired, shall be deemed ineligible for license reinstatement.

E. An application for reinstatement of a license or certificate meeting the requirements and conditions of this Chapter may nonetheless be denied for any of the causes for which an application for original licensure or certification may be refused by the board pursuant to R.S. 37:1360.67 or for violation of these rules.

F. An application for reinstatement shall be made in a format supplied by the board together with the applicable

fees and costs for license and/or certificate renewal under Chapter 1 of these rules, plus a penalty computed as follows.

1. If the application is made less than one year from the date of expiration, the penalty shall be equal to the renewal fee of the license and, if applicable, the certificate.

2. If the application is made more than one but less than two years from the date of expiration, the penalty shall be equal to twice the renewal fee of the license and, if applicable, the certificate.

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 37:893 (March 2011).

Subchapter G. Medical Psychology Advisory Committee

§3945. Scope of Subchapter

A. The rules of this Subchapter identify the constitution, functions and responsibilities of the medical psychology advisory committee to the board.

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 37:893 (March 2011).

§3947. Constitution, Function and Responsibilities of Advisory Committee

A. The board shall constitute and appoint a Medical Psychology Advisory Committee which shall be organized and function in accordance with the MP Act and these rules.

B. Composition. The committee shall be comprised of five members, consisting of:

1. one physician selected from a list of names submitted by the Louisiana State Medical Society, and recommended by Louisiana Psychiatric Medical Association and LAMP, who is certified in the specialty of psychiatry by a member board of the American Board of Medical Specialties or the American Osteopathic Association; and

2. four medical psychologists selected by the board from a list of names recommended by LAMP.

C. Appointment. Each member, to be eligible for and prior to appointment to the committee, shall have maintained residency and a current and unrestricted license or certificate to practice their respective professions in the state of Louisiana for not less than two years.

D. Term of Service. Each member of the committee shall serve for a term of four years, or until a successor is appointed and shall be eligible for reappointment. Committee members serve at the pleasure of the board. Committee members may be reappointed to two additional terms of four years with the length of the terms to be staggered after the first term.

E. Functions of the Committee. The Committee will provide the Board with recommendations relating to the following matters:

1. applications for licensure and for certificates of advanced practice (initial and renewal);

2. educational requirements for licensure and for certificates of advanced practice (initial and renewal);

3. changes in related statutes and rules; and

4. other activities as might be requested by the board.

F. Committee Meetings, Officers. The committee shall meet at least twice each calendar year, or more frequently as may be deemed necessary by a quorum of the committee or by the board. Three members of the committee constitute a quorum. The committee shall elect from among its members a chair, a vice-chair, 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 all meetings of the committee. The secretary shall record or cause to be recorded accurate and complete written minutes of all meetings of the committee and shall cause copies of the same to be provided to the board.

G. Confidentiality. In discharging the functions authorized under this Section, the committee and the individual members thereof shall, when acting within the scope of such authority, be deemed agents of the board. Committee members are prohibited from communicating, disclosing, or in any way releasing to anyone other than the board, any confidential information or documents obtained when acting as the agents of the board without first obtaining the written authorization of the board.

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 37:893 (March 2011).

Subchapter H. Continuing Education

§3949. Scope of Subchapter

A. The rules of this Subchapter provide standards for the continuing professional education required for annual renewal of a license to practice as a medical psychologist, and prescribe procedures applicable to satisfaction and documentation thereof.

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 37:894 (March 2011).

§3951. Continuing Education Requirement

A. To be eligible for license renewal a MP shall evidence and document in a format specified by the board the successful completion of 35 hours of approved continuing professional education that includes:

1. not less than 20 hours of continuing medical education relevant to the practice of medical psychology; and

2. not less than fifteen hours of continuing education in psychology.

B. A minimum of 25 percent of the continuing medical education required by this Section shall be provided by LAMP.

C. At least two hours required by this Section shall be devoted to ethics relevant to the practice of medical psychology.

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 37:894 (March 2011).

§3953. Qualifying Programs and Activities

A. To be acceptable as qualified continuing professional education under these rules, an activity or program must have significant intellectual or practical content, dealing primarily with matters related to medical psychology or psychology, and its primary objective must be to maintain or increase the participant's competence as a MP.

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 37:894 (March 2011).

§3955. Approval of Program Sponsors

A. Any category 1 education program, course, seminar or activity offered or sponsored by the organizations set forth in this Section shall presumptively be deemed approved by the board for purposes of qualifying as an approved continuing professional education.

B. Approved sponsors of continuing medical education for practitioners licensed under this Part shall include the Louisiana Academy of Medical Psychologists, the Louisiana State Medical Society, the Louisiana Psychiatric Medical Association, the State of Louisiana Department of Health and Hospitals Office of Behavioral Health or its successor, sponsors accredited by the Accreditation Council for Continuing Medical Education approved to offer category 1 educational activities, and other sponsors as may be approved by the board.

C. Approved sponsors for continuing education in psychology shall include the Louisiana Psychological Association, the American Psychological Association, the Louisiana Academy of Medical Psychologists, the state of Louisiana Department of Health and Hospitals, Office of Behavioral Health or its successor, and other sponsors as may be approved by the board.

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 37:894 (March 2011).

§3957. Documentation Procedure

A. A format or method specified by the board for documenting and certifying completion of continuing professional education shall be completed by licensees and returned with an annual renewal application.

B. Any certification of continuing professional education activities not presumptively approved or preapproved in writing by the board pursuant to these rules shall be referred to the committee for its evaluation and recommendations. If the committee determines that an activity certified by an applicant for renewal in satisfaction of continuing education requirements does not qualify for recognition by the board or does not qualify for the number of continuing education units claimed by the applicant, the board shall give notice of such determination to the applicant for renewal. The board's decision with respect to approval and recognition of any such activity shall be final.

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 37:895 (March 2011).

§3959. Failure to Satisfy Continuing Education Requirements

A. An applicant for license renewal who fails to evidence satisfaction of the continuing professional education requirements shall be given written notice of such failure by the board. The license of the applicant shall remain in full force and effect for a period of 60 days following the mailing of such notice, following which it shall be deemed expired, unrenewed, and subject to revocation without further notice, unless the applicant shall have, within such 60 days, furnished the board satisfactory evidence, by affidavit, that:

1. applicant has satisfied the applicable continuing professional education requirements; or

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

B. The license of a MP whose license has expired by nonrenewal or been revoked for failure to satisfy the continuing education requirements of these rules may be reinstated by the board within the time and in accordance with the procedures for reinstatement provided by these rules.

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 37:895 (March 2011).

§3961. Waiver of Requirements

A. The board may, in its discretion, waive all or part of the continuing professional education required by these rules in favor of a MP who makes written request for such waiver

and evidences to the satisfaction of the board a permanent physical disability, illness, financial hardship, or other similar extenuating circumstances precluding the MP's satisfaction of the continuing professional education requirements.

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 37:895 (March 2011).

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.

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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

PROFESSIONAL AND OCCUPATIONAL STANDARDS

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 Conditions—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 45. Physician Assistants

§4501. Supervision by Multiple Supervising Physicians

A. A physician assistant may be supervised by two or more supervising physicians practicing in any professional or clinical setting provided that:

1. any physician providing supervision meets and satisfies all of the qualifications, procedures and other requirements of Chapter 15 of this Part and is registered with the board as either a primary supervising physician or locum tenens physician for such physician assistant; and

2. all supervising physicians are identified in the physician assistant's notice of intent to practice as provided in §1517 of this Part.

B. If the physician assistant to be supervised is registered with the board to prescribe medication or medical devices a supervising physician shall:

1. meet the qualifications prescribed by §1523 of this Part and shall be registered with the board pursuant to §1527 for delegation of prescriptive authority; or

2. not supervise a physician assistant with respect to the exercise of prescriptive authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:31 (January 1999), LR 31:78 (January 2005), LR 34:246 (February 2008).

§4503. Compensation

A. A physician assistant may receive compensation, salary or wages only from his or her employer and may neither render a statement for service directly to any patient nor receive any payment, compensation or fee for services directly from any patient.

B. Nothing in this Section shall prohibit charges from being submitted to any governmental or private payer for services rendered by a physician assistant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:31 (January 1999).

§4505. Services Performed by Physician Assistants

A. The practice of a physician assistant shall include the performance of medical services that are delegated by the supervising physician and are within the scope of the physician assistant's education, training, and licensure. A physician assistant is considered to be and is deemed the agent of his supervising physician in the performance of all practice-related activities, including but not limited to assisting in surgery and ordering and interpretation of diagnostic and other medical services with appropriate supervision provided. The level and method of supervision shall be at the supervising physician and physician assistant level, shall be documented in clinical practice guidelines, reviewed annually and shall reflect the acuity of patient care and the nature of a procedure.

B. In accordance with a written clinical practice guideline or protocol medical services rendered by a physician assistant may include: screening patients to determine need for medical attention; eliciting patient histories; reviewing patient records to determine health status; performing physical examinations; recording pertinent patient data; performing developmental screening examinations on children; making preliminary decisions regarding data gathering and appropriate management and treatment of patients being seen for initial evaluation of a problem or follow-up evaluation of a previously diagnosed and stabilized condition; making appropriate referrals; preparing patient summaries; requesting initial laboratory studies; collecting specimens for blood, urine and stool analyses; performing urine analyses, blood counts and other laboratory procedures; identifying normal and abnormal findings on history, physical examinations and laboratory studies; initiating appropriate evaluation and emergency management for emergency situations such as cardiac arrest, respiratory distress, burns and hemorrhage; performing clinical procedures such as venipuncture, intradermal testing, electrocardiography, care and suturing of wounds and lacerations, casting and splinting, control of external hemorrhage, application of dressings and bandages, administration of medications, intravenous fluids, and transfusion of blood or blood components, removal of superficial foreign bodies, cardio-pulmonary resuscitation, audiometry screening, visual screening, aseptic and isolation

techniques; providing counseling and instruction regarding common patient problems; monitoring the effectiveness of therapeutic intervention; assisting in surgery; signing for receipt of medical supplies or devices that are delivered to the supervising physician or supervising physician group; and, to the extent delegated by the supervising physician, prescribing legend drugs and controlled substances listed in R.S. 40:964 as schedule II, III, IV and V substances and prescribing medical devices. A physician assistant may inject local anesthetic agents subcutaneously, including digital blocks or apply topical anesthetic agents when delegated to so by a supervising physician. This list is illustrative only, and does not constitute the limits or parameters of the physician assistant's practice.

C. A physician assistant may prescribe, order and administer drugs to the extent delegated by the SP, except as provided pursuant to R.S. 37:930 relative to anesthetics. Drugs which may be prescribed, ordered, and administered by a PA are those listed in schedules II, III, IV and V of R.S. 40:964 and legend drugs.

D. The activities listed in this Section may be performed in any setting authorized by the supervising physician including but not limited to clinics, hospitals, ambulatory surgical centers, patient homes, nursing homes, other institutional settings, and health manpower shortage areas.

E. A physician assistant shall not:

1. practice without supervision, as defined by §1503, except in life-threatening emergencies;
2. complete and issue prescription blanks previously signed by a physician;
3. except to the extent delegated by a supervising physician, issue prescriptions for any medication;
4. act as or engage in the functions of a physician assistant other than on the direction and under the direction and supervision of his supervising physician at the location or locations specified in physician assistant's notice of practice location to the board, except in the following situations:
 - a. if the physician assistant is acting as assistant in life-threatening emergencies and in situations such as man-made and natural disaster or a physician emergency relief efforts;
 - b. if the physician assistant is volunteering his services to a non-profit charitable organization, receives no compensation for such services, and is performing such services under the supervision and in the presence of a licensed physician;
5. act as or engage in the functions of a physician assistant when the supervising physician and the physician assistant do not have the capability to be in contact with each other by telephone or other telecommunication device;
6. identify himself, hold himself out to the public, or permit any other person to identify him, as "doctor," "medical doctor," "doctor of medicine" or "physician" or render any service to a patient unless the physician assistant

has clearly identified himself as a physician assistant by any method reasonably calculated to advise the patient that the physician assistant is not a physician licensed to practice medicine; or

7. administer local anesthetics perineurally, pericurally, epidurally, intrathecally, or intravenously unless such physician assistant is a certified registered nurse anesthetist and meets the requirements in R.S. 37:930.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:111 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1105 (November 1991), LR 22:204 (March 1996), LR 25:32 (January 1999), LR 31:78 (January 2005), LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:1177 (June 2017).

§4506. Services Performed by Physician Assistants Registered to Prescribe Medication or Medical Devices; Prescription Forms; Prohibitions

A.1. A physician assistant who is registered with the board pursuant to §§1521 and 1525 of these rules to prescribe medication and/or medical devices may, to the extent delegated by a supervising physician:

- a. issue prescriptions for medication or medical devices to a patient of the supervising physician;
 - b. transmit orally, electronically, or in writing on a patient's record a prescription or order to an individual who may lawfully furnish such medication or medical device; and
 - c. request, receive, sign for and deliver to a patient a bona fide medication sample.
2. The medical record of any patient for whom the physician assistant has prescribed medication or a medical device, or delivered a bona fide medication sample, shall be properly documented by the physician assistant.

B. All prescriptions issued by a physician assistant shall include:

1. the preprinted name, address, prescriptive authority registration number (license number), and telephone number of the physician assistant;
2. the patient's name and the date the prescription is written;
3. whether generic substitution is authorized, and if not:
 - a. the physician assistant shall check a box labeled "Dispense as Written" or "DAW" or both; and
 - b. for prescriptions reimbursable by Medicare and Medicaid, the physician assistant may only inhibit equivalent drug product interchange by handwriting the words "brand necessary" or "brand medically necessary" on the face of the prescription order or on a separate sheet attached to the prescription order;

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4. the number of refills, if any; and
5. for a controlled substance, a space in which the physician assistant shall legibly print his DEA number.

C. A physician assistant who has been delegated prescriptive authority shall not:

1. utilize prescriptive authority without supervision, as defined by §1503, or at any location other than specified in the supervising physician's registration of delegation of prescriptive authority filed with the board, except in life-threatening emergencies;

2. prescribe medication or medical devices:

- a. except to the extent delegated by a supervising physician, as evidenced by approval of registration on file with the board in accordance with §§1507-1527 of these rules;

- b. beyond the physician assistant's education, training and experience;

- c. outside of his specialty or that of the supervising physician;

- d. in the absence of clinical practice guidelines or protocols specified by §1527;

- e. except in compliance with all applicable state and federal laws and regulations;

- f. when the supervising physician, or in his absence an approved locum tenens physician, and physician assistant do not have the capability to be in contact with each other by telephone or other telecommunication.

3. treat and/or utilize controlled substances in connection with 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 immediate family member except in a life-threatening emergency;

4. sell or dispense medication, as set forth in §§6501-6561 of the board's rules;

5. issue a prescription or order for any schedule I controlled substance contained or hereinafter included in R.S. 40:964; or

6. dispense or deliver any controlled substance sample.

D. A PA who has been delegated controlled substance prescriptive authority shall enroll in and periodically accesses the Prescription Monitoring Program (PMP) established by R.S. 40:1001 et seq.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 31:79 (January 2005), amended LR 41:925 (May 2015), amended by the

Department of Health, Board of Medical Examiners, LR 43:1178 (June 2017), LR 45:554 (April 2019).

§4507. Authority and Limitations of Supervising Physician

A. The supervising physician (SP) is responsible for the supervision, control, and direction of the physician assistant (PA) and retains responsibility to the patient for the competence and performance of the PA.

B. An SP may delegate medical services identified as core competencies by the National Commission on Certification of Physician Assistants or its successors ("core competencies"), under general *supervision* as defined in §1503.A of this Part.

C. An SP may delegate certain medical services beyond core competencies to a PA provided:

1. the SP is trained and qualified in and performs the service in the course and scope of his or her practice. If the service is provided in a hospital the SP and the PA shall be credentialed to provide the service. PA credentialing shall be in the manner specified in Subparagraph C.5.a of this Section;

2. the SP delegates the service to a PA who has obtained additional training and has documented the ability to perform the service safely and effectively; and

3. the SP provides a level of supervision appropriate to the risk to the patient and the potential for complications requiring the physician's personal attention;

4. credentials file. A primary SP ("PSP") shall maintain a credentials file for each PA for whom he or she serves as a PSP and at least annually assess and document therein the PA's performance as evidenced by the PSP's dated signature. The credentials file shall include a list of services beyond core competencies that the PA may perform and with respect to each shall also document:

- a. the PA's training in the service;

- b. the PA's ability to provide or perform the service safely and effectively; and

- c. the protocols to be followed for the service;

5. a PSP who is employed or under contract with a hospital is not required to maintain a credentials file for a PA, who is also employed or under contract with the same hospital provided:

- a. that the PA is individually credentialed by the medical staff organization of the hospital, based on established criteria similar to those utilized for physicians, which takes into consideration the PA's training and qualifications to provide or perform a service beyond core competencies safely and effectively; and

- b. the PSP annually reviews, dates and signs the PA's credentials file.

D. An SP may not serve as a PSP for more than eight PAs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F), and R.S. 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended LR 17:1106 (November 1991), LR 22:205 (March 1996), LR 25:32 (January 1999), LR 34:246 (February 2008), LR 38:1233 (May 2012), amended by the Department of Health, Board of Medical Examiners, LR 43:1178 (June 2017), LR 45:554 (April 2019).

§4509. Designation of Locum Tenens Physician

A. A physician qualified, registered and approved under this Part, who is not registered as a physician assistant's primary supervising physician, shall be designated as locum tenens physician for such physician assistant.

B. If the physician assistant to be supervised is registered with the board to prescribe medication or medical devices, a locum tenens physician shall:

1. meet the qualifications prescribed by §1523 of this Part and be registered with the board pursuant to §1527 for delegation of prescriptive authority; or

2. shall not supervise a physician assistant with respect to the exercise of prescriptive authority.

C. The board may, in its discretion, refuse to approve the use of a locum tenens, or it may restrict or otherwise modify the specified circumstances under which the locum tenens would be authorized to act.

D. While acting under the direction and supervision of an approved locum tenens physician a physician assistant may attend or otherwise provide any services for or with respect to any patient for whose care, or aspect of care, the locum tenens physician is responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), R.S. 37:1360.23(D) and (F).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:205 (March 1996), LR 25:33 (January 1999), LR 34:246 (February 2008).

§4511. Mutual Obligations and Responsibilities

A. The physician assistant and supervising physician shall:

1. within 15 days notify the board, in writing, of:

a. the termination of the physician assistant's supervision relationship with a supervising physician or supervising group of physicians;

b. the retirement or withdrawal from active practice by the supervising physician; and

c. any other change in the employment, functions, activities, services or the nature or extent of delegation of prescriptive authority of the physician assistant or the manner or location of their performance;

2. comply with reasonable requests by the board for personal appearances and/or information relative to the

functions, activities and performance of the physician assistant and supervising physician;

3. insure that each individual to whom the physician assistant provides patient services is expressly advised and understands that the physician assistant is not a licensed physician;

4. insure that with respect to patient encounters, all activities, functions, services, treatment measures, medical devices or medication prescribed or delivered to the patient by the physician assistant are properly documented in written form in the patient's record by the physician assistant as evidenced by compliance with the clinical practice guidelines established by the supervising physician and physician assistant;

5. insure that in those instances where a physician assistant with prescriptive authority has a primary practice site that is different from that of the supervising physician, that the supervising physician:

a. visits the physician assistant's primary practice site at least weekly during regular office hours and provides consultation to the physician assistant on any issues, complications or other matters relating to the physician assistant's prescriptions for medication or medical devices;

b. personally sees any patient requiring physician follow-up; and

c. verifies that the prescriptive authority delegated to the physician assistant is being utilized in accordance with the clinical practice guidelines or protocols that are in place;

6. maintains a written agreement in compliance with R.S. 37:1360.22(8), that includes a statement that the physician shall exercise supervision over the physician assistant in accordance with R.S. 37:1360.21 et seq.

B. The physician assistant and supervising physician shall bear equal and mutual responsibility for producing the following documentation upon an official inspection conducted by a duly authorized representative of the board:

1. a copy of the physician assistant's notice of intent to practice, listing all physicians authorized and designated to supervise the physician assistant; and

2. any written practice agreement defining the scope of practice of the physician assistant including:

a. any clinical practice guidelines prescribed by the supervising physician;

b. the medical procedures which the supervising physician has authorized the physician assistant to perform;

c. any group practice arrangements; and

d. a list of the locations where the physician assistant may be working at any given time;

3. clinical practice guidelines or protocols and any written practice agreement shall be annually reviewed, updated as appropriate, and signed by the physician assistant and supervising physician.

C. The physician assistant and supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in the rules of this Chapter, and to immediately report any violation or noncompliance thereof to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), and 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1106 (November 1991), LR 22:206 (March 1996), LR 25:33 (January 1999), LR 31:79 (January 2005), LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:1178 (June 2017).

§4512. Performance Plan

A. For each practice setting, a PA and SP shall develop and implement a meaningful performance plan for evaluating whether the PA has performed medical services delegated by the SP with professional competence and with reasonable skill and safety to patients. At a minimum, the plan shall include:

1. for new graduates/major shift in practice:

a. *different primary practice sites*—if the PA's primary practice site (as defined in §1503.A of these rules e.g., the location at which a PA spends the majority of time engaged in the performance of his or her profession) is different from the SP's primary practice site then, during the first 12 months of supervised practice after passing the credentialing examination, and the first 6 months after entering into an entirely new field of practice, such as from primary care or one of its sub-specialties to a surgical specialty or sub-specialty, monthly chart review conducted by a SP of no less than 50 percent of the PA's patient encounters, as documented in the patient records;

b. *same primary practice site*—where the SP and PA work together, have the same primary practice site, routinely confer with respect to patient care, and the PA and SP document their services in the charts and records maintained at the primary practice site, the requirements of §4512.A.1.a shall be considered satisfied;

2. for all other PAs not falling within §4512.A.1: a review of such number of charts and records of the PA on a monthly basis as the SP deems appropriate to meet the purposes of §4512.A. If the PA has prescriptive authority the plan shall include a review of a representative sample of the PA's prescriptions. The plan should also include any other items that the SP and PA deem appropriate to insure that the purposes of this Section are met (e.g., documented conferences between the PA and SP concerning specific patients, a sample of medical orders, referrals or consultations issued by the PA, observation of the PA's performance, the SP's examination of a patient when he or she deems such indicated, etc.).

B. The plan shall be a component of the clinical practice guidelines. The SP responsible for compliance with the plan shall be designated in the PA's clinical practice guidelines.

Questions respecting the applicability of this paragraph in specific cases shall be determined at the discretion of the board.

C. Accurate records and documentation regarding the plan for each PA, including a list of the charts and any other items reviewed, shall be maintained for three years and made available to board representatives upon request.

D. For joint commission-accredited practice sites, the performance plan requirements of §4512.A.2 and §4512.B-C of these rules shall be considered satisfied if the practice site requires chart review as part of its joint commission ongoing professional practice evaluation (OPPE) process for PAs. For a hospital practice site that is joint commission-accredited, but does not require chart review as part of its OPPE process, or that is not joint commission accredited, the PA and his or her SP shall be responsible for meeting the requirements of §4512.A-C of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23, and 37:1360.28.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:925 (May 2015), amended by the Department of Health, Board of Medical Examiners, LR 43:1178 (June 2017).

§4513. Causes for Nonissuance, Suspension, Revocation or Restrictions; Fines, Reinstatement

A. The board may refuse to issue, or may suspend, revoke or impose probationary or other restrictions on, any license issued under this Chapter, or issue a private or public reprimand, for the following causes:

1. conviction of or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of the United States or of any state;

2. conviction of or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with practice as a physician assistant;

3. fraud, deceit, or perjury in obtaining any license or permit issued under this Chapter;

4. providing false testimony before the board;

5. habitual or recurring drunkenness;

6. habitual or recurring use of morphine, opium, cocaine, drugs having a similar effect, or other substances which may induce physiological or psychological dependence;

7. aiding, abetting, or assisting any physician in any act or course of conduct enumerated in Louisiana Revised Statutes, Title 37, Section 1285;

8. efforts to deceive or defraud the public;

9. incompetency;

10. immoral conduct in exercising the privileges provided for by licensure under this Chapter;

11. persistent violation of federal or state laws relative to control of social diseases;

12. interdiction or commitment by due process of law;
13. inability to perform or function as a physician assistant with reasonable skill or safety to patients because of medical illness or deficiency; physical illness, including but not limited to deterioration through the aging process or loss of motor skills; and/or excessive use or abuse of drugs, including alcohol;
14. refusing to submit to the examination and inquiry of an examining committee of physicians appointed or designated by the board to inquire into the physician assistant's physical and mental fitness and ability to provide patient services with reasonable skill and safety;
15. the refusal of the licensing authority of another state to issue or renew a license, permit or certificate to act as a physician assistant in that state, or the revocation, suspension or other restriction imposed on a license, permit or certificate issued by such licensing authority which prevents or restricts the functions, activities or services of the physician assistant in that state; or
16. violation of any provision of this Chapter, or of rules or regulations of the board or statute pertaining to physician assistants;
17. conviction or entry of a plea of guilty or nolo contendere to any crime an element of which is the manufacture, production, distribution, sale or exchange of any controlled substance;
18. prescribing legally controlled substances or any dependency-inducing medication without legitimate medical justification therefor or in other than a legal or legitimate manner; or
19. utilizing prescriptive authority in violation of any of the provisions of §§1501-1529 or 4501-4513 of the board's rules.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any license suspended or revoked hereunder, require the physician assistant and/or the supervising physician group to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees, and to pay a fine not to exceed the sum of \$5,000.

C. Any license suspended, revoked or otherwise restricted by the board may be reinstated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6), 37:1360.23(D) and (F), 37:1360.31(B)(8).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 4:112 (April 1978), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:1107 (November 1991), LR 22:206 (March 1996), LR 25:33 (January 1999), LR 31:80 (January 2005).

Chapter 49. Occupational Therapists and Occupational Therapy Assistants

Subchapter A. General Provisions

§4901. Scope of Chapter

A. The rules of this Chapter govern the practice of occupational therapy in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§4903. Definitions

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

Activities of Daily Living—the components of everyday activity.

Activity Limitation—the exclusion of certain activities, or restrictions in method of duration of performance.

Assistive/Adaptive Equipment—a special device which assists in the performance of occupations.

Board—the Louisiana State Board of Medical Examiners.

Client—a person, group, program, organization or community for whom the occupational therapy practitioner is providing service (American Occupational Therapy Association).

Client Care Conference—a meeting between the supervising occupational therapist, who must have previously evaluated and/or treated the client, and an occupational therapy assistant to discuss client progress or lack thereof, client issues, revision of goals, initiation, modification or termination of an individual program plan, assessment of utilization of additional resources, discharge and any other information which may affect a client's plan of care. Except when specifically required in this Chapter to be conducted by face to face conference, such meeting may be undertaken by telephone or other means of telecommunication which allows for simultaneous interactive discussion between the supervising occupational therapist and occupational therapy assistant.

Close Client Care Supervision—face to face observation of an occupational therapy assistant administering occupational therapy to a client, accompanied or followed in a timely fashion by verbal discussion of client goals, the individual program plan and other matters which may affect the client's plan of care.

Cognitive Skills—actions or behaviors a client uses to plan and manage the performance of an activity.

Community Services, Programs, or Resources—vocational, social, religious, recreational, health, education, and transportation services or programs that may be available in the community.

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Coordination—the ability to perform motions in a smooth concerted way.

Consultation—process of assisting a client, agency, or other provider by identifying and analyzing issues, providing information and advice and developing strategies for current and future actions.

Context—a variety of interrelated conditions within and surrounding the client that influences performance including, but not limited to, cultural, personal, temporal, virtual, physical and social.

Coping Skills—the ability to sublimate drives, find sources of need gratification, tolerate frustration and anxiety, experience gratification, and control impulses.

Documents—the written recording of information in the client's overall record/chart and/or in the occupational therapy record/chart.

Dyadic Interaction Skills—the ability in relationships to peers, subordinates, and authority figures to demonstrate trust, respect, and warmth; to perceive and respond to needs and feelings of others; to engage in and sustain interdependent relationships; and to communicate feelings.

Early Intervention Setting—a natural environment, such as a child's home, child care or other community setting in which children through 3 years of age (36 months) participate.

Education—an intervention process that involves the imparting of knowledge and information about occupation and activity. This does not include school based occupational therapy.

Evaluate/Evaluation—the process of collecting and interpreting data through direct observation, interview, record review, or testing of a client.

Environmental Adaptations—structural or positional changes designed to facilitate independent living and/or increase safety in the home, work, or treatment setting: i.e., the installation of ramps, bars; change in furniture heights; adjustments of traffic patterns.

Face to Face—direct communication between the occupational therapist supervising client care and an occupational therapy assistant, which is conducted in the physical presence of one another.

Facilitation Techniques—selection, grading, and modification of sensory input which attempts to encourage motion in a non-functioning muscle or muscle group.

Group Interaction Skills—abilities in performing tasks in the presence of others; sharing tasks with others; cooperating and competing with others; fulfilling a variety of group membership roles; exercising leadership skills; perceiving and responding to needs of group members.

Inhibition Techniques—selection, grading, and modification of sensory input which attempts to decrease muscle tone or excess motion that interferes with function.

Joint Protection/Preservation—the principles or techniques of minimizing stress on joints. It includes the use

of proper body mechanics; avoidance of excessive weight-bearing, static, or deforming postures.

Kinetic Activities—those activities requiring motion. It can include activities of daily living and isometric, assistive, resistive exercises.

Louisiana Occupational Therapy Practice Act or the Act—R.S. 39:3001-3014 as hereafter amended or supplemented.

Mobility—moving from one place to another during the performance of everyday activities, including skills such as getting in/or out of bed, chair, wheelchair, vehicles, using transportation, functional ambulation and transporting objects.

Motor Skills—the level, quality, and/or degree of range of motion, gross muscle strength, muscle tone, endurance, fine motor skills, and functional use.

Object Manipulation—skills such as the handling of common objects such as telephone, keys, money, light switches, doorknobs.

Occupational Performance—the act of engaging in any occupation including activities of daily living (ADL), instrumental ADLs (IADL), rest and sleep, education, work, play, leisure, and social participation.

Occupational Therapist—a person who is licensed to practice occupational therapy, as defined in this Chapter, and whose license is in good standing.

Occupational Therapy—the application of any activity in which one engages for the purposes of evaluation, interpretation, treatment planning, and treatment of problems interfering with functional performance in persons impaired by physical illness or injury, emotional disorders, congenital or developmental disabilities, or the aging process, in order to achieve optimum functioning and prevention and health maintenance. The occupational therapist may enter a case for the purposes of providing consultation and indirect services and evaluating an individual for the need of services. Prevention, wellness and education related services shall not require referral, however, in workers' compensation injuries preauthorization shall be required by the employer or workers' compensation insurer or provider. Implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician, dentist, podiatrist, advanced practice registered nurse, or optometrist licensed to practice in the state of Louisiana. Practice shall be in accordance with current standards of practice established by the American Occupational Therapy Association, Inc., and the essentials of accreditation established by the agencies recognized to accredit specific facilities and programs. Specific occupational therapy services include, but are not limited to, activities of daily living (ADL); the design, fabrication, and application of prescribed temporary splints; sensorimotor activities; the use of specifically designed crafts; guidance in the selection and use of adaptive equipment; therapeutic activities to enhance functional performance; pre-vocational evaluation and training and consultation concerning the adaptation of physical

environments for the handicapped. These services are provided to individuals or groups through medical, health, educational, and social systems.

Occupational Therapy Assistant—a person who is licensed to assist in the practice of occupational therapy under the supervision of, and in activity programs with the consultation of, an occupational therapist licensed under this Chapter.

Performance Skills—the abilities clients demonstrate in the actions they perform. The learned and developmental patterns of behavior which are the prerequisite foundations of occupation. The performance skills components include: motor skills, sensory perceptual skills, praxis skills, emotional regulation, communication and social/skills.

Periodically—occurring at regular intervals of time not less than every two weeks or the sixth visit, whichever comes first.

Play/Leisure Skills—those skills necessary to perform and engage in activities such as games, sports, and hobbies.

Positioning—the placing of body parts in proper alignment.

Practice-Experience—1600 hours of documented work as an occupational therapy practitioner is equivalent of one year of practice experience.

Psychological/Intrapersonal Skills—the level, quality, and/or degree of self-identity, self-concept, and coping skills.

Reality Orientation—the treatment approach aimed at reinforcement of reality; i.e., the use of simple structured activities for orientation to time, place, and person.

Re-Evaluate/Re-Evaluation—the process of periodically and systematically reviewing and interpreting the effectiveness and efficiency of client goals, the treatment plan, intervention and any other aspect of an individual's occupational therapy program.

Self-Care Skills—activities that are oriented toward taking care of one's own body, including, but not limited to, skills such as bathing, showering, bowel and bladder management, dressing, eating, feeding, functional mobility, personal device care, hygiene/grooming, sexual activity, and toilet hygiene.

Self-Identity and *Self-Concept*—the ability to perceive self needs and expectations from those of others; identify areas of self-competency and limitations; accept responsibility for self; perceive sexuality of self; have self-respect; have appropriate body image; view self as being able to influence events.

Sensation—reception of stimuli, includes touch, pain, temperature, stereognosis, proprioception/kinesthesia, vestibular, taste, smell, vision, hearing.

Sensory Integration—the level, quality, or degree of development and integration of somatosensory functions, reflected in reflex and sensory status, posture, motor activity

and praxis, form and space perception, body schema, and self-concept.

Service Competency—with respect to an occupational therapy assistant, means one who is appropriately trained and qualified to perform occupational therapy in accordance with the current standards of practice, as identified by the American Occupational Therapy Association.

Significant Others—persons who have an important relationship to the client. This could include the client's family, friends, employer, teacher, or other health care providers.

Social/Interpersonal Skills—the level, quality, and/or degree of dyadic and group interaction skills.

Splinting—the provision of temporary dynamic and/or static splints for the purpose of: relieving pain, maintaining joint alignment, protecting joint integrity, improving function, and/or decreasing deformity.

Structuring Environment—the organization of the client's time, activities, and/or physical environment in order to enhance performance (see *environmental adaptations*).

Supervising Occupational Therapist—an occupational therapist responsible to the client for occupational therapy who observes, directs, consults with and retains responsibility for the service competence and performance of an occupational therapy assistant in the administration of occupational therapy to such client.

Wellness—an active process through which individuals become aware of and make choices toward a more successful existence. Wellness is more than a lack of disease symptoms. It is a state of mental and physical balance and fitness.

Work Simplification—the streamlining of the performance of an activity in order to minimize energy output.

Work Skills—skills such as habits, workmanship, actual skills related to specific job tasks. The skills may refer to the work of the student, paid employee, retiree or volunteer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1976 (September 2002), LR 30:424 (March 2004), LR 41:2140 (October 2015).

Subchapter B. Standards of Practice

§4905. Scope of Subchapter

A. This Subchapter provides the minimum standards for occupational therapy practice applicable to all persons licensed to practice occupational therapy in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

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HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§4907. Screening

A. Occupational therapists have the responsibility to identify clients who may present problems in occupational performance that would require an evaluation.

B. Occupational therapists may screen independently or as members of a team.

C. Screening methods shall be appropriate to the client's age, education, cultural background, medical status, and functional ability.

D. Screening methods may include interview, observation, testing, and record review.

E. Occupational therapists shall communicate the screening results and recommendations only to appropriate individuals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2141 (October 2015).

§4909. Referral

A. A client is appropriately referred to occupational therapy for remediation, maintenance, or prevention when the client has, or appears to have, a dysfunction or potential for dysfunction in occupational performance or performance skills.

B. Clients shall be referred to occupational therapy for evaluation, design construction of, or training in therapeutic adaptations that include, but are not limited to, the physical environment, orthotics, prosthetics, and assistive and adaptive equipment.

C. The occupational therapist enters a case at the request of a Louisiana licensed physician, dentist, podiatrist, optometrist or advanced practice nurse practitioner; assumes full responsibility for the occupational therapy evaluation and; and, in consultation with the referring physician, dentist, podiatrist, optometrist or advanced practice nurse practitioner, establishes the appropriate type, nature, and mode of service.

D. Occupational therapists shall refer clients back to the physician, dentist, podiatrist, optometrist or advanced practice nurse practitioner when, in the judgment of the occupational therapists, the knowledge and expertise of another professional is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2141 (October 2015).

§4911. Evaluation

A. Occupational therapists shall evaluate the client's performance according to the current AOTA guidelines.

B. Initial occupational therapy evaluations shall consider the client's medical, vocational, educational, activity, context, environment, social history, and personal/family goals.

C. The occupational therapy evaluation shall include assessment of the functional abilities and deficits as related to the client's needs in the following areas:

1. occupational performance: activities of daily living, instrumental activities of daily living, rest and sleep, education, work, play, leisure, and social participation;

2. performance components: sensory perceptual skills, motor, praxis skills, emotional regulation, communication, social skills, cognitive, and psychosocial;

3. therapeutic adaptations and prevention, context and environment.

D. All evaluation methods shall be appropriate to the client's age, education, cultural and ethnic background, medical status, and functional ability.

E. The evaluation methods may include observation, interview, record review, and the use of evaluation techniques or tools.

F. When standardized evaluation tools are used, the tests should have normative data for the client characteristics. If normative data are not available, the results should be expressed in a descriptive report.

G. Collected evaluation data shall be analyzed and summarized to indicate the client's current status.

H. Occupational therapists shall document evaluation results in the client's record and indicate the specific evaluation tools and methods used.

I. Occupational therapists shall communicate evaluation results to the referring physician, dentist, podiatrist, optometrist or advanced practice registered nurse and/or appropriate persons in the facility.

J. If the results of the evaluation indicate areas that require intervention by other professionals, the occupational therapist should refer the client back to the physician, dentist, podiatrist, optometrist or advanced practice registered nurse or appropriate persons in the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2141 (October 2015).

§4913. Individual Program Planning

A. Occupational therapists shall use the results of the evaluation to develop an individual occupational therapy program that is:

1. stated in measurable and reasonable terms appropriate to the client's needs and goals and expected prognosis;

2. consistent with current principles and concepts of occupational therapy theory and practice.

B. The planning process shall include:

1. identifying short and long-term goals;
2. collaborating with client, family, other professionals, and community resources;
3. selecting the media, methods, environment, and personnel needed to accomplish goals;
4. determining the frequency and duration of occupational therapy services.

C. This initial program plan shall be prepared and documented promptly.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986).

§4915. Individual Program Implementation

A. Implementation of direct occupational therapy to individuals for their specific medical condition or conditions shall be based on a referral or order from a physician, dentist, podiatrist, optometrist or advanced practice registered nurse licensed to practice in the state of Louisiana.

B. Occupational therapists shall implement the program according to the program plan. Occupational therapy assistants may assist in program implementation under the supervision of and in consultation with a supervising occupational therapist, as prescribed by §§4919 and 4925.

C. Occupational therapists shall formulate and implement program modifications consistent with changes in the client's occupational performance and performance skills.

D. Occupational therapists shall periodically re-evaluate and document the client's occupational performance and performance skills.

E. Occupational therapists shall promptly document the occupational therapy services provided and the frequency of the services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1977 (September 2002), LR 41:2141 (October 2015).

§4917. Discontinuation of Services

A. Occupational therapists shall discontinue services when the client has achieved the goals or has achieved maximum benefit from occupational therapy.

B. Occupational therapists shall document the comparison of the initial and current state of functional abilities and deficits in occupational performance and performance skills.

C. Occupational therapists shall prepare a discharge plan that is consistent with the occupational therapy, client, interdisciplinary team, family and goals, and the expected prognosis. Consideration should be given to appropriate community resources for referral and environmental factors or barriers that may need modification.

D. Occupational therapists shall allow sufficient time for the coordination and the effective implementation of the discharge plan.

E. Occupational therapists shall document recommendations for follow-up or re-evaluation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended, by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2141 (October 2015).

§4919. Quality Assurance and Service Competency

A. The occupational therapist shall periodically and systematically review all aspects of individual occupational therapy programs for effectiveness and efficiency.

B. Occupational therapists shall periodically and systematically review the quality and appropriateness of total services delivered, using predetermined criteria that reflect professional consensus and recent development in research and theory.

C. Any occupational therapist supervising an occupational therapy assistant must have performed and documented a service competency on the occupational therapy assistant. The occupational therapist must have previously evaluated and/or treated any client being seen by an occupational therapy assistant he or she is supervising. In addition:

1. initial service competency. Following acceptance of responsibility to supervise an occupational therapy assistant, but prior to utilization of such assistant in the implementation of any client program plan or other administration of occupational therapy to a client, the supervising occupational therapist shall initially evaluate and document the occupational therapy assistant's service competency to administer all occupational therapy services which are to be performed under his or her supervision and direction. The service competency is designed to document the occupational therapy assistant's skill set;

2. annual service competency. Following such an initial evaluation the supervising occupational therapist shall thereafter annually conduct and document a service competency to determine the occupational therapy assistant's skill set;

3. documentation of service competency. Documentation of initial and annual competency shall

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include the date the evaluation was performed, a description of the tasks evaluated, and the name, signature and Louisiana license number of the supervising occupational therapist conducting the service competency evaluation;

4. in practice settings where an occupational therapy assistant is supervised by more than one occupational therapist, service competencies (initial and/or annual) performed by one supervising occupational therapist will satisfy the requirements of this Section for all occupational therapists supervising the occupational therapy assistant in the performance of the same services, provided that their name, signature and Louisiana license number appears on the evaluation;

5. a supervising occupational therapist shall insure such documentation is maintained by the occupational therapy assistant and at each clinic, facility or home health agency where the occupational therapy assistant practices under his or her supervision.

D. A supervising occupational therapist is responsible for and must be capable of demonstrating compliance with the requirements of this Chapter and AOTA supervision guidelines respecting supervision of occupational therapy assistants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 28:1977 (September 2002), LR 41:2142 (October 2015).

§4923. Reserved.

§4925. Supervision of Occupational Therapy Assistants

A. The rules of this Section, together with those specified in §4915 and §4919, govern supervision of an occupational therapy assistant by a supervising occupational therapist in any clinical setting.

B. An occupational therapy assistant may assist in implementation of a client program plan in consultation with and under the supervision of an occupational therapist. Such supervision shall not be construed in every case to require the continuous physical presence of the supervising occupational therapist provided, however, that the supervising occupational therapist and the occupational therapy assistant must have the capability to be in contact with each other by telephone or other telecommunication which allows for simultaneous interactive discussion between the supervising occupational therapist and occupational therapy assistant. Supervision shall exist when the occupational therapist responsible for the client gives informed concurrence of the actions of the occupational therapy assistant and adheres to all requirements set forth in this Chapter.

C. Prior to Implementation of Program Plan. Prior to the administration of occupational therapy by an occupational therapy assistant, the supervising occupational therapist shall, in accordance with AOTA standards of practice as may from time to time be amended:

1. perform an evaluation;
2. identify and establish occupational therapy needs, goals and an individual program plan;
3. ensure that the documents created pursuant to §4925.C.1 and §4925.C.2 are made part of the client's record and accessible to the occupational therapy assistant prior to his or her the first treatment session with the client; and
4. be available for a client care conference.

D. Throughout the Duration of Program Plan. Following implementation and throughout the duration of the program plan:

1. a supervising occupational therapist shall periodically and systematically re-evaluate the appropriateness of all services delivered. Such information shall be documented in the client's record, which shall be made available to the occupational therapy assistant. The supervising occupational therapist preparing such revisions shall communicate any critical aspect or significant change in the program plan to the occupational therapy assistant by means of a client care conference prior to the occupational therapy assistant's next treatment session with the client;

2. at all times during which an occupational therapy assistant assists in program plan implementation, the supervising occupational therapist shall be immediately accessible for a client care conference; and

3. an occupational therapy assistant shall not administer occupational therapy to any client whose physical, cognitive, functional or mental status differs substantially from that identified by the supervising occupational therapist's individual program plan in the absence of re-evaluation by, or an immediate prior client care conference with, the supervising occupational therapist.

E. In addition to the terms and conditions specified in §4919 and §4925.A-D, the following additional requirements are applicable to an occupational therapy assistant's administration of occupational therapy under the supervision of an occupational therapist.

1. In any clinical setting, other than specified by §4925.E.3:

a. an occupational therapy assistant with less than one year of practice experience:

i. shall receive close client care supervision in each clinical setting for not less than one of every four, or 25+ percent, of those clients to whom he or she has administered occupational therapy during an average weekly case load;

ii. in addition, a client care conference shall be held with respect to each client to whom the occupational therapy assistant administers occupational therapy;

b. an occupational therapy assistant with more than one but less than two years of practice experience:

i. shall receive close client care supervision in each clinical setting for not less than one of every 10, or 10

percent, of those clients seen during an average weekly case load;

ii. in addition, a client care conference shall be held with respect to each client to whom the occupational therapy assistant administers occupational therapy;

c. an occupational therapy assistant with more than two years of practice experience:

i. shall receive a client care conference with respect to each client to whom the occupational therapy assistant administers occupational therapy.

2. School System, Long-Term Psychiatric and-Nursing Home Facility Settings. In addition to the requirements prescribed in §4925.E.1, clients in school system, long-term psychiatric or nursing home facility settings shall be re-evaluated or treated by the supervising occupational therapist not less frequently than the earlier of once a month or every sixth treatment session.

3. Home Health Setting. The terms and conditions prescribed by §4925.E.1 shall not be applicable to a home health setting. An occupational therapy assistant may assist in implementation of a client program plan in a home health setting under the supervision of an occupational therapist provided all the following terms, conditions and restrictions of this Chapter, except §4925.E.1, are strictly observed:

a. an occupational therapy assistant shall have had not less than two years practice experience in providing occupational therapy prior to administering occupational therapy in a home health environment;

b. each client in a home health setting to whom an occupational therapy assistant administers occupational therapy shall be re-evaluated or treated by the supervising occupational therapist not less frequently than the earlier of once every two weeks or every sixth treatment session; and

c. a face-to-face client care conference shall occur not less frequently than once every two weeks to discuss all clients to whom the occupational therapy assistant has administered occupational therapy in a home health setting. Such conference shall be documented by the supervising occupational therapist in a supervisory log and maintained by or at the home health entity.

4. Early Intervention Setting. The terms and conditions prescribed by §4925.E.1 shall not be applicable to an early intervention setting. An occupational therapy assistant may assist in implementation of a client program plan in an early intervention setting under the supervision of an occupational therapist provided all the following terms, conditions and restrictions of this Chapter, except §4925.E.1, are strictly observed:

a. an occupational therapy assistant shall have had not less than two years practice experience in providing occupational therapy prior to administering occupational therapy in an early intervention setting;

b. each client in an early intervention setting to whom an occupational therapy assistant administers occupational therapy shall be re-evaluated or treated by the

supervising occupational therapist not less frequently than the earlier of once a month or every sixth treatment session; and

c. a client care conference shall occur not less frequently than the earlier of once every month or every sixth treatment session to discuss all clients to whom the occupational therapy assistant has administered occupational therapy in an early intervention setting. Such conference shall be documented and maintained by the supervising occupational therapist in a supervisory log.

F. Mutual Obligations and Responsibilities. A supervising occupational therapist and occupational therapy assistant shall bear equal reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in this Chapter.

G. The administration of occupational therapy other than in accordance with the provisions of this Section and §4919 shall be deemed a violation of these rules, subjecting the occupational therapist and/or an occupational therapy assistant to suspension or revocation of licensure pursuant to §4921.B.18.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:340 (March 1993), amended LR 28:1977 (September 2002), LR 41:2142 (October 2015).

Subchapter C. Unauthorized Practice, Prohibitions and Causes for Administrative Action

§4927. Unauthorized Practice

A. No individual shall engage in the practice of occupational therapy in this state in the absence of a current license or permit duly issued by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2143 (October 2015).

§4929. False Representation of Licensure Prohibited [Formerly §1955]

A. No person who is not licensed under this Chapter as an occupational therapist or an occupational therapy assistant, or whose license has been suspended or revoked, shall use, in connection with his name or place of business, the words "occupational therapist," "licensed occupational therapist," "occupational therapy assistant," "licensed occupational therapy assistant," or the letters, "OT," "LOT," "OTA," "LOTA," or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist or an occupational therapy assistant, or in any way, orally, in writing, in print, or by sign, directly or by implication, represent himself as an occupational therapist or an occupational therapy assistant.

B. No person who is not licensed under this Chapter as an occupational therapist or an occupational therapy

assistant, or whose license has been suspended or revoked, who is not currently certified or registered by and in good standing with the NBCOT shall use, in connection with his name or place of business, the words "occupational therapist registered," "licensed occupational therapist registered," "certified occupational therapy assistant," or "licensed certified occupational therapy assistant" or the letters, "OTR," "LOTR," or "COTA," or "LCOTA" or any other words, letters, abbreviations, or insignia indicating or implying that he is an occupational therapist registered or a certified occupational therapy assistant, or in any way, orally, in writing, in print, or by sign, directly or by implication, represent himself as such.

C. Whoever violates the provisions of this Section shall be fined not more than \$500 or be imprisoned for not more than six months, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3001-3014 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 30:424 (March 2004), repromulgated LR 41:2143 (October 2015).

§4931. Suspension and Revocation of License; Refusal to Issue or Renew; Unprofessional Conduct [Formerly §4921]

A. The board may refuse to issue or renew, may suspend or revoke, or may impose probationary conditions on any occupational therapy or occupational therapy assistant license, if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or likely to endanger the health, welfare, or safety of the public.

B. As used herein and R.S. 37:3011, *unprofessional conduct* by an occupational therapist or occupational therapy assistant shall mean:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, of the United States, or of the state in which such conviction or plea was entered;
2. conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of occupational therapy;
3. perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a license to practice occupational therapy;
4. providing false testimony before the board or providing false sworn information to the board;
5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;
6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;
7. making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient,

insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. cognitive or clinical incompetency;
9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of occupational therapy practice in this state;
10. knowingly performing any act which in any way assists an unlicensed person to practice occupational therapy, or having professional connection with or lending one's name to an illegal practitioner;
11. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients to the occupational therapist or occupational therapy assistant;
12. interdiction by due process of law;
13. inability to practice occupational therapy with reasonable competence, skill, or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process and excessive use or abuse of drugs, including alcohol;
14. refusal to submit to examination an inquiry by an examining committee of physicians appointed by the board to inquire into the licensee's physical and/or mental fitness and ability to practice occupational therapy with reasonable skill or safety to patients;
15. practicing or otherwise engaging in any conduct or functions beyond the scope of occupational therapy as defined by the Act or these rules;
16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice occupational therapy in that state, or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate;
17. violation of the code of ethics adopted and published by the American Occupational Therapy Association, Inc. (AOTA); or
18. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:3001-3014.

C. Denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a licensee may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act and the applicable rules and regulations of the board. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3011.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:885 (September 1991), repromulgated LR 41:2143 (October 2015).

Chapter 51. Physician Acupuncturists, Licensed Acupuncturists and Acupuncture Detoxification Specialist

§5101. Scope of Chapter

A. The rules of this Chapter govern the practice of acupuncture by physician acupuncturists, licensed acupuncturist and of acupuncture detoxification by acupuncture detoxification specialists in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:337 (March 1993), amended LR 34:1622 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1367 (July 2017).

§5105. Necessity of Certification or Licensure; Exemptions

A. No person may act as or undertake to perform or practice acupuncture or acupuncture detoxification unless he or she holds a current license, certificate or permit issued by the board. While any physician may practice acupuncture, and may apply to the board for registration to supervise an ADS, only a physician certified by the board under this Part may hold himself or herself out as a physician acupuncturist.

B. None of the provisions of this Chapter shall apply to any person employed by, and acting under the supervision and direction of, any commissioned physician of any of the United States Armed Services, Public Health Service or Veterans' Administration, practicing in the discharge of his or her official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1622 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1367 (July 2017), LR 45:551 (April 2019).

§5106. Supervision of Acupuncture Detoxification Specialist

A. Acupuncture Detoxification Specialist. General supervision of an ADS shall not be construed to require the physical presence of a supervising physician or supervising licensed acupuncturist. General supervision shall exist when the services of an ADS:

1. are provided when the supervising physician or supervising LAc and the ADS shall have the capability to be in contact with each other by either telephone or other telecommunications device on a regular basis to address any questions or concerns that may arise from the provision of

acu detox; provided, however, that should the ADS have need to contact the supervising physician or supervising LAc for any reason regarding the administration of acu detox to a particular individual, and the supervising physician or supervising LAc is not immediately available, then the acu detox service shall not be provided until the supervising physician or supervising LAc has been contacted;

2. adhere to procedures that shall require the use of disposable needles, proper handling and disposal of needles and the provisions of universal precautions; and

3. are documented in written form by an ADS and made available for review by the supervising physician or supervising LAc. Such documentation shall, at a minimum, include:

a. signed informed consent for the services by the patient; and

b. written authority signed by the patient authorizing the supervising physician or supervising LAc to review the patient's medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1356-37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:1622 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1368 (July 2017), LR 45:551 (April 2019).

§5107. Authority and Limitations of Licensed Acupuncturist and Acupuncture Detoxification Specialist

A. A licensed acupuncturist shall not:

1. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function required by law to be performed or provided by one possessing a certificate, registration or license other than as a LAc, in the absence of such certificate, registration or license; or

2. identify himself, or permit any other person to identify him, as "doctor" unless he designates the degree entitling such use or render any service to a patient unless the LAc has clearly identified himself as a LAc by any method reasonably calculated to advise the patient that the licensed acupuncturist is not a licensed physician.

B. An acupuncture detoxification specialist shall not:

1. practice without general supervision, as defined or provided in this Chapter;

2. perform or provide acu detox other than at the addresses, locations or types of locations identified in his or her current application;

3. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function other than acu detox as defined in this Part. The types of services that an ADS shall not provide include, but are not limited to, counseling, nutritional assessments, biofeedback

or any other acupuncture, medical or psychological service;
or

4. identify himself or herself, or permit any other person to identify him or her, as “doctor” or as “licensed acupuncturist” or render any service to a patient unless the acupuncture detoxification specialist has clearly identified himself as an acupuncture detoxification specialist by any method reasonably calculated to advise the patient that he or she is not a physician or LAc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1623 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1368 (July 2017), LR 45:551 (April 2019).

§5111. Obligations and Responsibilities

A. An LAc shall:

1. report directly to the board, in writing, of the retirement or withdrawal from active practice by the LAc;

2. comply with reasonable requests by the board for personal appearances, information and documentation required by this Part relative to the functions, activities, and performance of the licensed acupuncturist;

3. insure that each individual to whom the LAc provides patient services is expressly advised and understands that the LAc is not a physician; and

4. insure that, with respect to each patient, all activities, functions, services, and treatment measures of the LAc are immediately and properly documented in written form.

B. The licensed acupuncturist shall insure strict compliance with his or her obligations and responsibilities set forth in the rules of this Part.

C. The ADS, supervising physician or supervising LAc shall:

1. immediately notify the board, in writing, of:

a. the retirement or withdrawal from active practice by the supervising physician or supervising LAc; and

b. any other change in the activities, or services of the ADS or the location or types of locations of their performance;

2. comply with reasonable requests by the board for personal appearances and/or information and documentation required by this Part relative to the functions, activities, and performance of the ADS and supervising physician or supervising LAc;

3. insure that each individual to whom an ADS provides patient services is expressly advised and understands that the ADS is not a physician or a LAc; and

4. insure that, with respect to each patient, all activities, functions and services of the ADS are immediately and properly documented in written form by the ADS.

D. The ADS and the supervising physician or supervising LAc shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities, and provisions set forth in the rules of this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:338 (March 1993), amended LR 34:1624 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1369 (July 2017), LR 45:551 (April 2019).

§5113. Causes for Action; Suspension, Revocation, Imposition of Restrictions

A. The board may suspend, revoke, or impose probationary conditions and restrictions on any certification or license issued under this Part, upon a finding, following hearing, that such individual is culpable of:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of the Louisiana, of the United States, or of the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of acupuncture or acupuncture detoxification;

3. perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a certificate or license to practice acupuncture or acupuncture detoxification;

4. providing false testimony before the board or providing false sworn information to the board;

5. habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;

7. making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. cognitive or clinical incompetency;

9. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of acupuncture or acupuncture detoxification practice in this state;

10. knowingly performing any act which in any way assists a person who is not certified or licensed to practice acupuncture or acupuncture detoxification, or having professional connection with or lending one's name to an illegal practitioner;

11. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients;

12. interdiction by due process of law;

13. inability to practice acupuncture or acupuncture detoxification with reasonable competence, skill, or safety to patients because of mental or physical illness, condition, or deficiency, including but not limited to deterioration through the aging process or excessive use or abuse of drugs, including alcohol;

14. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the certificate or license holder's physical and/or mental fitness and ability to practice acupuncture or acupuncture detoxification with reasonable skill or safety to patients;

15. practicing or otherwise engaging in any conduct or functions beyond the scope of acupuncture or acupuncture detoxification as defined by the Acupuncture Practice Act or these rules;

16. the refusal of the licensing authority of another state to issue or renew a license, permit, or certificate to practice acupuncture or acupuncture detoxification in that state, or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate; or

17. violation of any rules and regulations of the board, or any provisions of the Act, as amended, R.S. 37:1356-1360.

B. The board may, as a probationary condition, or as a condition of the reinstatement of any certificate or license suspended or revoked hereunder, require the physician acupuncturist, licensed acupuncturist or acupuncture detoxification specialist to pay all costs of the board proceedings, including investigators', stenographers', and attorneys' fees and, with respect to a physician acupuncturist or licensed acupuncturist, to pay a fine not to exceed the sum of \$5,000.

C. Any certificate or license suspended, revoked, or otherwise restricted by the board may be reinstated by the board, provided, however, that no application may be made to the board for reinstatement of a revoked certificate or license until not less than one year has elapsed from the date of the revocation. The board shall have discretion to accept or reject any application for reinstatement.

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), amended LR 34:1625 (August 2008), amended by the Department of Health, Board of Medical Examiners, LR 43:1369 (July 2017).

Chapter 53. Licensed Midwives

Subchapter A. Standards of Practice

§5301. Scope of Practice

A. Licensed midwife practitioners may provide care only to low risk clients determined by physician evaluation and examination to be normal for pregnancy and childbirth, and at low risk for the development of medical complications. Such care includes prenatal supervision and counseling; preparation for childbirth; and supervision and care during labor and delivery and care of the mother and the newborn in the immediate postpartum period if progress meets criteria generally accepted as normal as defined by the board. Licensed midwives shall refer or consult with a physician when a client's medical condition deviates from normal. Licensed midwives may provide care in hospitals, birth centers, clinics, offices and home birth settings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1289 (August 2016).

§5303. Definitions

A. The definitions set forth in Chapter 23 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 42:1289 (August 2016).

§5305. Skills

[Formerly §5303]

A. All licensed midwives shall have the skills necessary for safe practice, including the ability to assess, monitor, and manage on an ongoing basis, normal antepartum, intrapartum, and postpartum situations; perform newborn evaluations; identify and assess maternal, fetal, and infant deviations from normal; provide effective lifesaving measures, including CPR; manage emergency situations appropriately; establish and maintain aseptic techniques and master basic observational skills and those special observational skills required for out-of-hospital deliveries.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1289 (August 2016).

§5307. Screening

[Formerly §5309]

A. All midwives will use risk factor assessments of their clients as identified in §5315 in order to establish their initial

and continuing eligibility for midwifery services. Clients will be informed of their risk status. All midwives have the right and responsibility to refuse and discontinue services to clients based on these risk factors and to make appropriate referrals when indicated for the protection of the mother and baby.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1289 (August 2016).

§5309. Disclosures; Acceptance of Clients
[Formerly §5315]

A. Prior to the acceptance of a client for care, a licensed midwife practitioner shall inform the client orally and in writing of the following disclosures:

1. certain risks and benefits exist for home birth and certain risks and benefits exist for other childbirth alternatives, (including hospital, physician-assisted birth). The midwife is responsible for informing the client of the risks and benefits of all childbirth options to ensure informed consent;

2. regular documented antepartum care by the licensed midwife or another licensed health care provider is required if the midwife is to attend the birth;

3. certain medical conditions and/or client noncompliance with midwife or physician recommendations, as described in §§5315, 5339 and 5353 of this Chapter, may preclude midwife attendance at birth or continued midwife care during any phase of the pregnancy;

4. emergency transport may be required in certain situations; the midwife shall explain what situations warrant emergency transport and the hazards involved;

5. a specific written consent for out-of-hospital birth with the licensed midwife practitioner must be obtained prior to the onset of labor;

6. the client will be provided with a copy of the labor, birth, and newborn record by the midwife;

7. the midwife's agreement can be terminated at any time that the midwife deems it necessary for maintenance of the client's mental and physical safety or for compliance with these rules. When termination occurs, the reasons for termination will be given in writing and an alternative source of care recommended; and

8. the client may terminate the agreement at any time.

B. Prior to accepting care for a client, the midwife shall consult with the physician who performed the physician evaluation and examination to ensure that the client is at low or normal risk for pregnancy.

C. After accepting care, the midwife shall obtain a detailed obstetric and medical history of the client; including

the results of all tests conducted during the physician evaluation and examination once available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1289 (August 2016).

§5311. Advance Preparation for Need
[Formerly §5321]

A. The licensed midwife shall, prior to the onset of labor, prepare a written plan or protocol for the transport of mother and infant to a hospital and know the client's contingency arrangements for hospitalization should these needs arise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1290 (August 2016).

§5313. Informed Consent

A. Prior to providing any services, a licensed midwife shall obtain the written informed consent, in writing, of the client, which shall include but not be limited to the following:

1. the name and license number of the licensed midwife;

2. the client's name, address, telephone number, and the name of the client's primary care provider if the client has one;

3. a statement that the licensed midwife is not an advanced practice registered nurse midwife or physician;

4. a description of the education, training, continuing education, and experience of the licensed midwife;

5. a description of the licensed midwife's philosophy of practice;

6. a statement recognizing the obligation of the licensed midwife to provide the client, upon request, separate documents describing the law and regulations governing the practice of midwifery, including the requirement for an evaluation and examination by a physician, the protocol for transfer or mandatory transfer, and the licensed midwife's personal written practice guidelines;

7. a description of the plan or protocol for transfer to a hospital;

8. a complete and accurate description of the services to be provided to the client;

9. whether the licensed midwife maintains a professional liability policy and if insurance is maintained, a

description of the liability conditions and limits of such insurance; and

10. any additional information or requirement which the board deems necessary to protect the health, safety, or welfare of the client.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 42:1290 (August 2016).

§5315. Unapproved Practice
[Formerly §5361]

A. The licensed midwife practitioner shall provide care only to clients determined by physician evaluation and examination to be at low or normal risk of developing complications during pregnancy and child birth.

B. The midwife shall not knowingly accept or thereafter maintain responsibility for the prenatal or intrapartum care of a woman who:

1. has had a previous cesarean section or other known uterine surgery such as hysterotomy or myomectomy. This prohibition shall not apply to a midwife's continued perinatal care of a woman who has had no more than one prior cesarean section, provided that arrangements have been made with a physician for a planned hospital delivery at the onset of labor. The midwife shall contact the physician and confirm and document the arrangements for a planned hospital delivery in the client's chart. Within ten days of delivery, a midwife shall report to the board in writing any instance where midwifery services were provided under §5315.B.1 of this Chapter to a client who delivered outside of a planned hospital delivery;

2. has a history of difficult to control hemorrhage with previous deliveries;

3. has a history of thromboembolus, deep vein thromboembolus, or pulmonary embolism;

4. is prescribed medication for diabetes, or has hypertension, Rh disease isoimmunization with positive titer, active tuberculosis, active syphilis, active gonorrhea, HIV positive or is otherwise immunocompromised, epilepsy, hepatitis, heart disease, kidney disease, or blood dyscrasia;

5. contracts primary genital herpes simplex during the pregnancy or manifests active genital herpes during the last four weeks of pregnancy;

6. has a contracted pelvis;

7. has severe psychiatric illness or a history of severe psychiatric illness in the six month period prior to pregnancy;

8. has been prescribed narcotics in excess of three months or is addicted to narcotics or other drugs;

9. ingests more than 2 ounces of alcohol or 24 ounces of beer a day on a regular day or participates in binge drinking;

10. smokes 20 cigarettes or more per day, and is not likely to cease in pregnancy;

11. has a multiple gestation;

12. has a fetus of less than 37 weeks gestation at the onset of labor;

13. has a gestation beyond 42 weeks by dates and examination;

14. has a fetus in any presentation other than vertex at the onset of labor;

15. is a primigravida with an unengaged fetal head in active labor, or any woman who has rupture of membranes with unengaged fetal head, with or without labor;

16. has a fetus with suspected or diagnosed congenital anomalies that may require immediate medical intervention;

17. has preeclampsia;

18. has a parity greater than five with poor obstetrical history; or

19. is younger than 16 or a primipara older than 40.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:521 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1290 (August 2016).

§5317. Initial Physician Evaluation and Examination
[Formerly §5311]

A. The licensed midwife practitioner must require that the client have a physician evaluation and examination and be found to be essentially normal or at low risk of developing complications during pregnancy and childbirth before her care can be assumed. The initial physician evaluation and examination shall include the physical assessment procedures which meet current standards of care set forth by the American Congress of Obstetricians and Gynecologists (ACOG).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1291 (August 2016).

§5319. Required Components of Initial Physician Evaluation and Examination
[Formerly §5313]

A. Laboratory and diagnostic testing and screening obtained in connection with the physician evaluation and examination shall include clinical pelvimetry, and any other laboratory and diagnostic testing and screening which the physician considers appropriate. Due consideration shall be given to the then-current recommendations of ACOG.

B. The midwife shall ensure that all women she plans to deliver have received required testing and screening and shall secure and review a copy of all such results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1291 (August 2016).

§5321. Community Resources
[Formerly §5305]

A. The licensed midwife practitioner must be familiar with community resources for pregnant women such as prenatal classes, the parish health unit and supplemental food programs. The client shall be referred to such resources as appropriate and encouraged to take a prepared childbirth class, preferably one oriented toward home birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1291 (August 2016).

§5323. Appropriate Equipment
[Formerly §5307]

A. All licensed midwife practitioners shall have available, for their immediate use, appropriate birthing equipment, including equipment to assess maternal, fetal, and newborn well-being, maintain aseptic technique and to perform emergency adult and new born resuscitation, and accomplish all permitted emergency procedures. All equipment used in the practice of midwifery shall be maintained in an aseptic manner, and be in good working order.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1291 (August 2016).

§5325. Medications
[Formerly §5333]

A. A licensed midwife may administer the following medications under the conditions indicated:

1. oxygen for fetal or maternal distress and infant resuscitation;
2. local anesthetic, by infiltration, only for the purpose of postpartum repair of tears, lacerations, or episiotomy (no controlled substances);
3. vitamin K, by injection, for control of bleeding in the newborn;
4. oxytocin (pitocin) by injection or methergine orally, only for postpartum control of non-emergent maternal hemorrhage;

5. intravenous fluids for maternal hydration with additional medications as provided by a physician's order or protocol for the purpose of controlling maternal hemorrhage or for prophylactic treatment where the client has tested positive for group B strep;

6. prenatal Rh immunoglobulin (Rhlg) for Rh negative clients and post-partum for Rh positive newborns.

7. benadryl;

8. penicillin-G, unless patient is allergic, then consult with the physician.

B. A licensed midwife may lawfully obtain and have possession of small quantities of the above-named medications and the equipment normally required for administration. Each use of medication shall be recorded by the midwife in the client's chart.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1291 (August 2016).

§5327. Initiation of Physical Care
[Formerly §5353]

A. At the visit when physical care of the client is initiated, the licensed midwife practitioner shall review the results of the physician evaluation and examination to ensure that the client has received a general physical examination which included the taking of a comprehensive medical, obstetrical, and nutritional history sufficient to identify potentially dangerous conditions that might preclude midwife care. The midwife shall make an initial nutritional assessment, counsel the client as to the nutritional needs of mother and fetus during pregnancy and develop a comprehensive plan of care for the client which identifies all problems and need for consultation and establish realistic health care goals.

B. If the client's health status, as determined by medical history, physician evaluation and examination, and the laboratory results is determined not to be low-risk as outlined in §5317 of these rules, the client shall be referred to a physician for management of the client's pregnancy, labor and delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1291 (August 2016).

§5329. Routine Antepartum Care
[Formerly §5355.A]

A. At each prenatal visit, the midwife will check the client's weight, blood pressure, fundal height, urinalysis (protein and glucose), and general health, including checking

for pain, bleeding, headaches, edema, dizziness, and other symptoms of preeclampsia. The midwife shall monitor uterine measurements, fetal heart tones, and fetal activity and shall obtain a medical and nutritional history since the last visit. The midwife shall provide or arrange for the administration of prenatal Rh immunoglobulin (Rhlg) for Rh negative clients in compliance with current practice standards and for additional laboratory tests as indicated, including but not limited to serum antibody screening, blood sugar screening, genital cultures, and periodic hematocrit or hemoglobin screening. Additionally, the midwife shall assure that:

1. a quad screen test or maternal serum alpha fetal protein ("MSAFP") shall be offered at the appropriate gestational age between 15-20 weeks gestation;

2. at 28 weeks gestation hematocrit or hemoglobin shall be rechecked and a glucose tolerance test and a repeat antibody screen shall be performed;

3. at 36 weeks gestation a group B beta hemolytic streptococci ("GBBS") culture and repeat hemoglobin or hematocrit shall be performed, along with HIV and RPR testing.

B. The midwife shall ensure that all women she plans to deliver have received the state required tests and have obtained copies of all laboratory results.

C. A midwife may order laboratory testing as required for maternal care and newborn care.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1292 (August 2016).

§5331. Prenatal Visits **[Formerly §5317 and §5323.B]**

A. Prenatal visits should be every four weeks until 28 weeks gestation, every two weeks from 28 until 35 weeks gestation, and weekly from 36 weeks until delivery.

B. For home birth, the licensed midwife practitioner will make a home visit three to five weeks prior to the estimated date of confinement (EDC) to assess the physical environment, including the availability of telephone and transportation, and to ascertain whether the client has all the necessary supplies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:518 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1292 (August 2016).

§5333. Examination and Labor **[Formerly §5329 and §5355.B - C]**

A. The licensed midwife practitioner will not perform any vaginal examinations on a woman with ruptured membranes and no labor, other than an initial examination to be certain that there is no prolapsed cord. Once active labor is assured and in progress, exams may be made as necessary.

B. A record of maternal vital signs shall be recorded at the initial evaluation of labor. Maternal vital signs shall be recorded every 3-4 hours unless otherwise indicated by maternal instability or increased maternal risk factors. Maternal stability is defined as a firmly contracted uterus without excessive vaginal bleeding and stable blood pressure. Risk factors are identified in §§5315, 5339 and 5353 of this Chapter.

C. A record of fetal heart rate tones shall be made and recorded at least every 30 minutes in the first stage and every 15 minutes in the second stage of labor. Fetal heart tones shall also be recorded immediately after rupture of membranes.

D. During labor and delivery, the licensed midwife practitioner is responsible for monitoring the condition of mother and fetus; assisting with the delivery; coaching labor; repairing minor tears as necessary, however, any third degree tear or greater should be referred to a physician; examining and assessing the newborn; inspecting the placenta, membranes, and cord vessels; inspecting the cervix and upper vaginal vault, if indicated; and managing any third-stage maternal bleeding.

E. Water Births. A licensed midwife practitioner shall adhere to the then-current recommendations of ACOG for emersion in water during labor and delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519, 520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1292 (August 2016).

§5335. Correction of Presentation

A. The licensed midwife practitioner will not attempt to correct fetal presentations by external or internal version nor will the midwife use any artificial, forcible, or mechanical means to assist the birth, e.g. no forceps or vacuum extractors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1293 (August 2016).

**§5337. Operative Procedures
[Formerly §5331]**

A. The licensed midwife practitioner will not perform, routinely, an operative procedure other than artificial rupture of membranes when the head is well engaged or at zero station, clamping and cutting the umbilical cord, repair of first or second degree perineal lacerations, or repair of episiotomy, if done.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1293 (August 2016).

**§5339. Required Physician Consultation, Antepartum and Intrapartum Periods
[Formerly §5363.A-B]**

A. The midwife shall obtain medical consultation or refer for medical care any woman who during the antepartum period:

1. develops edema of the face and hands;
2. develops severe, persistent headaches, epigastric pain, or visual disturbances;
3. develops a blood pressure of 140/90 or greater;
4. does not gain 14 pounds by 30 weeks gestation or at least 4 pounds a month in the last trimester or gains more than 6 pounds in two weeks in any trimester;
5. develops greater than trace glucosuria or greater than trace proteinuria on two consecutive separate visits;
6. has abnormal vaginal discharge with no signs of improvement with medication;
7. has symptoms of urinary tract infection;
8. has vaginal bleeding before onset of labor;
9. has rupture of membranes prior to 37 weeks gestation;
10. has marked decrease in or cessation of fetal movement;
11. has inappropriate gestational size;
12. has demonstrated anemia by blood test (hematocrit less than 30 percent);
13. has a fever of equal or greater than 100.4°F or 38°C for 24 hours;
14. has polyhydramnios or oligohydramnios;
15. has excessive vomiting or continued vomiting after 24 weeks gestation;
16. has severe, protruding varicose veins of extremities or vulva;
17. has known structural abnormalities of the reproductive tract;

18. has a history of stillbirth from any cause;
19. has an abnormal Pap smear;
20. reaches a gestation of 41 weeks, 3 days by dates and examination.

B. The midwife shall obtain medical consultation or refer for medical care any woman who during the intrapartum period:

1. develops a blood pressure of 140/90 or greater;
2. develops severe headache, epigastric pain, or visual disturbance;
3. develops proteinuria;
4. develops a fever over 100.4°F or 38°C;
5. develops respiratory distress;
6. has persistent or recurrent fetal heart tones below 100 or above 160 beats per minute between or during contractions, or a fetal heart rate that is irregular;
7. has ruptured membranes without onset of labor after 12 hours;
8. has bleeding prior to delivery (other than bloody show);
9. has meconium or blood stained amniotic fluid with abnormal fetal heart tones;
10. has an abnormal presentation other than vertex;
11. does not progress in effacement, dilation, or station in accordance with practice standards;
12. does not show continued progress to deliver in second stage labor in accordance with practice standards;
13. does not deliver the placenta within one hour if there is no bleeding and the fundus is firm;
14. has a partially separated placenta during the third stage of labor with bleeding;
15. has a blood pressure below 100 systolic if the pulse rate exceeds 100 beats per minute or who is weak and dizzy;
16. bleeds more than 500 cc with or after the delivery of the placenta;
17. has retained placental fragment or membranes; or
18. desires medical consultation or transfer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:521 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1293 (August 2016).

**§5341. Emergency Measures
[Formerly §5337]**

A. The following measures are permissible in an emergency situation:

1. cardiopulmonary-resuscitation;
2. episiotomy;
3. intramuscular or intravenous administration of pitocin or intramuscular administration of methergine for the control of postpartum hemorrhage;
4. intravenous (IV) fluids and medications

B. When any of the above measures is utilized, it will be charted on the birth record with detail describing the emergency situation, the measure taken, and the outcome.

C. When an emergency measure is taken the physician (or hospital) with whom the client has made contingency arrangements for care and delivery shall be contacted by the midwife immediately upon control of the emergency situation, and the midwife shall then transfer care of the client to such physician (or hospital) as he may direct or request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1293 (August 2016).

§5343. Transfer of Care
[Formerly §5323.A]

A. The licensed midwife practitioner shall accompany to the hospital any mother or infant requiring hospitalization, giving any pertinent written records and verbal report to the physician assuming care. If possible, she should remain with the mother and/or infant to ascertain outcome. In those instances where it is necessary to continue providing necessary care to the party remaining in the home, the midwife may turn over the care of the transport of mother or child to qualified emergency or hospital personnel. All necessary written records shall be forwarded with such personnel and a verbal report must be given.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repromulgated by the Department of Health, Board of Medical Examiners, LR 42:1294 (August 2016).

§5345. Postpartum Care
[Formerly §5327 and §5357]

A. The licensed midwife practitioner shall remain with the mother and infant for at least two hours postpartum, or until the mother's condition is stable and the infant's condition is stable, whichever is longer. Maternal stability is evidenced by normal blood pressure, normal pulse, normal respirations, firm fundus, and normal lochia. Infant stability is evidenced by established respirations, normal temperature, strong sucking and normal heart rate.

B. Immediately following delivery of the placenta, the midwife must determine that the uterus is firmly contracted

without excessive bleeding. The uterus should be massaged firmly to stimulate contraction if relaxation is noted.

C. In case of an unsensitized Rh negative mother, the midwife shall obtain a sample of cord blood from the placenta and arrange for testing within 24 hours of the birth and ensure referral to a physician so that the mother receives Rh immunoglobulin (Rhlg) as indicated within 72 hours of delivery.

D. The midwife shall provide the client with information concerning routine postpartum care of the mother and infant, including information on breast-feeding, care of the infant's umbilical cord, and perinatal care.

E. The midwife shall recommend that the parents immediately contact the pediatrician or primary care physician who will be assuming care for the infant to arrange for a neonatal examination within 72 hours or sooner if it becomes apparent that the newborn requires medical attention for problems associated with, but not limited, to congenital or other anomalies. The midwife shall provide the doctor with her written summary of labor, delivery, and assessment of the newborn and shall be available to consult with the doctor concerning the infant's condition.

F. The midwife shall make a postpartum visit within 36 hours of birth, with further visits as necessary. The purpose of these contacts is to ascertain that the infant is alert, has good color, is breathing well, and is establishing a healthy pattern of waking, feeding, and sleeping and that the mother is not bleeding excessively, has a firm fundus, does not have a fever or other signs of infection, is voiding properly, and is establishing successful breastfeeding. In the event that any complications arise, the midwife shall consult with a physician or other appropriate health care provider or shall ensure that the client contacts her own physician.

G. The midwife may conduct a postpartum office visit not later than six weeks postpartum, to include a recommendation for rubella vaccine if indicated, counseling concerning contraception and answering any other questions that have arisen. Alternatively, the client may be referred back to her primary care physician or other health care provider for this care.

H. The midwife shall encourage the mother to have a postpartum evaluation conducted by a physician within two to six weeks after delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519, 520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1294 (August 2016).

§5347. Required Newborn Care
[Formerly §5359]

A. The licensed midwife practitioner shall be responsible for care immediately following the delivery only. Subsequent infant care should be managed by a pediatrician or primary care physician. This does not preclude the

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midwife from providing counseling regarding routine newborn care and breastfeeding and arranging for the neonatal tests required by state law. If any abnormality is suspected, the newborn must be sent for medical evaluation as soon as possible.

B. Immediately following delivery the midwife shall:

1. wipe face, then suction (with bulb syringe) mouth and nose if necessary;
2. prevent heat loss by the neonate;
3. determine Apgar scores at one and five minutes after delivery;
4. observe and record: skin color and tone, heart rate and rhythm, respiration rate and character, estimated gestational age (premature, term, or post-mature), weight, length, and head circumference.

C. The midwife shall insure that Vitamin K is available at the time of delivery and take appropriate measures designed to prevent neonatal hemorrhage.

D. The midwife is responsible for obtaining a PKU test and all other neonatal tests required by state law, including all required metabolic newborn screens, between 24 hours and no later than 14 days after birth. If the parents object to such tests being performed on the infant, the midwife shall document this objection and notify and refer the newborn to the infant's pediatrician or primary care physician and notify appropriate authorities.

E. The midwife shall leave clear instructions for follow-up care including signs and symptoms of conditions that require medical evaluation, especially fever, irritability, generalized rash and lethargy.

F. The midwife is responsible for performing a glucose check for a newborn if weight is greater than 9 pounds, 4 ounces.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1294 (August 2016).

§5349. Prevention of Infant Blindness [Formerly §5339]

A. Within one hour of birth, the licensed midwife practitioner shall administer two drops of 1.0 percent solution of silver nitrate or other agent of equal effectiveness and harmlessness into the eyes of the infant in accordance with applicable state laws and regulations governing the prevention of infant blindness.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991),

amended by the Department of Health, Board of Medical Examiners, LR 42:1295 (August 2016).

§5351. Physician Evaluation of Newborn [Formerly §5343]

A. The licensed midwife practitioner shall recommend that any infant delivered by the midwife be evaluated by a pediatrician or primary care physician within three days of age or sooner if it becomes apparent that the newborn needs medical attention for problems associated with, but not limited to, congenital or other anomalies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1295 (August 2016).

§5353. Required Physician Consultation, Postpartum Period [Formerly §5363.C-D]

A. The midwife shall obtain medical consultation or refer for medical care any woman who, during the postpartum period:

1. has a third or fourth degree laceration;
2. has uterine atony;
3. bleeds in an amount greater than normal lochial flow;
4. does not void within 2 hours of birth;
5. develops a fever greater than 100.4°F or 38°C on any two of the first 10 days postpartum excluding the first 24 hours;
6. develops foul smelling lochia;
7. develops blood pressure below 100/50 if pulse exceeds 100, pallor, cold clammy skin, and/or weak pulse.

B. The midwife shall obtain medical consultation or refer for medical care any infant who:

1. has an Apgar score of 7 or less at 5 minutes;
2. has any obvious anomaly;
3. develops grunting respirations, retractions, or cyanosis;
4. has cardiac irregularities;
5. has a pale, cyanotic, or grey color;
6. develops jaundice within 48 hours of birth;
7. has an abnormal cry;
8. weighs less than 5 pounds or weighs more than 10 pounds;
9. shows signs of prematurity, dysmaturity, or postmaturity;

10. has meconium staining of the placenta, cord, and/or infant with signs or symptoms of aspiration pneumonia;

11. does not urinate or pass meconium in the first 24 hours after birth;

12. is lethargic or does not feed well;

13. has edema;

14. appears weak or flaccid, has abnormal feces, or appears not to be normal in any other respect;

15. has persistent temperature below 97°F;

16. has jitteriness not resolved after feeding; or

17. has a blood glucose level of less than 30mg/dL.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:521 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1295 (August 2016).

§5355. Record Keeping
[Formerly §5347]

A. All midwives shall keep accurate and complete records of all care provided and data gathered for each client.

B. The midwife shall maintain an individual client chart for each woman under her care. The chart shall include results of laboratory tests, observations from each prenatal visit, records of consultations with physicians or other health care providers, and a postpartum report concerning labor, delivery, and condition of the newborn child. The chart shall be made available to the client upon request, and with the client's consent, to any physician or health care provider who is called in as a consultant or to assist in the client's care. This chart shall be kept on standard obstetric forms, or other forms approved by the board. Inactive records shall be maintained no less than 6 years. All records are subject to review by the board.

C. Evidence of the required physician evaluation and examination shall be maintained in the client's records.

D. The attending midwife shall prepare a summary of labor, delivery, and assessment of the newborn, using the Hollister form, or an alternate form containing substantially similar information. One copy of each summary shall be retained with the client's chart and one copy transmitted to the pediatrician or primary care physician.

E. Copies of the disclosure and consent forms required by this Chapter shall be maintained in the client's record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1295 (August 2016).

§5357. Birth Registration
[Formerly §5341]

A. All licensed midwife practitioners shall request copies of printed instructions relating to completion of birth certificates from the Louisiana State Registrar of Vital Records. The licensed midwife practitioner must complete a birth certificate in accordance with these instructions and file it with the registrar within five days of the birth.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repromulgated by the Department of Health, Board of Medical Examiners, LR 42:1296 (August 2016).

§5359. Notification of Maternal or Fetal Demise
[Formerly §5347.G]

A. A licensed midwife shall immediately report to the parish coroner any maternal mortality or morbidity or the demise of a fetus in excess of 350 grams or as applicable with state law, in clients for whom care has been given.

B. A licensed midwife shall report within 48 hours to the board any maternal, fetal, or neonatal mortality or morbidity in clients for who care has been given. The report shall include the sex, weight, date and place of delivery, method of delivery, congenital anomalies of the fetus, and if maternal, fetal, or neonatal death occurred, cause of death.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:519 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1296 (August 2016).

§5361. Annual Reporting

A. Every licensed midwife shall report to the board annually in a manner and form prescribed by the board. The report shall be submitted by January thirty-first of each year and shall include all of the following:

1. the licensed midwife's name and license number;
2. the calendar year being reported;
3. the total number of clients served;
4. the total number and parish of live births attended as a primary caregiver;
5. the total number and parish of stillbirths attended as a primary caregiver;
6. the number of patients whose primary care was transferred to another health care provider during the antepartum period and the reason for each transfer;
7. the number, reason, and outcome for each elective hospital transfer;
8. the number, reason, and outcome for each emergency transport of an expectant mother prior to labor;

9. a brief description of any complications resulting in the mortality of a mother or an infant;

10. any other information prescribed by the board through rule or regulation.

B. Any licensed midwife who fails to timely comply with the reporting requirements of this Section shall be subject to a fine, as provided in §5373 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 42:1296 (August 2016).

§5363. Statistics
[Formerly §5349]

A. The board shall review all reports from licensed midwife practitioners, complete annual midwifery statistics, and make them available to all interested groups or persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:520 (August 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:779 (August 1991), repromulgated by the Department of Health, Board of Medical Examiners, LR 42:1296 (August 2016).

Subchapter B. Unauthorized Practice, Exemptions

§5365. Unlawful Practice
[Formerly §2365]

A. No individual shall engage or attempt to engage in the practice of midwifery in this state, unless he or she holds a current license or a permit to practice as a licensed midwife or apprentice midwife issued by the board under Chapter 23 of these rules.

B. No person shall use in connection with his or her name or place of business the words "licensed midwife," "licensed midwife practitioner," the initials "LM," "LMP" or any other words, letters, or insignia indicating or implying that he or she is a licensed midwife practitioner or represent himself or herself as such in any way orally, in writing, in print, or by sign directly or by implication unless he or she has been licensed as such under the provisions of these regulations.

C. A licensed midwife who is currently certified by and in good standing with NARM may identify such credentials with the licensee's name or title "Licensed Midwife-Certified" or "Licensed Certified Professional Midwife" or the letters "LM-C" or "LCPM," respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1296 (August 2016).

§5367. Persons Not Affected
[Formerly §2373]

A. Any person authorized by the Louisiana State Board of Nursing to practice as a certified nurse-midwife in the state shall not be affected by the provisions of these regulations.

B. Any student pursuing a course of study in an accredited midwifery education program that is approved by NARM or by the board who provides midwifery services, provided that such services are an integral part of the student's course of study and are performed under the direct supervision of a physician, certified nurse midwife, or a licensed midwife, and the student is designated by a title which clearly indicates the status as a student or trainee, shall not be affected by the provisions of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:518 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1297 (August 2016).

Subchapter C. Grounds for Administrative Action

§5369. Causes for Administrative Action
[Formerly §2367]

A. The board may refuse to issue, suspend for a definite period, revoke or impose probationary terms, conditions and restrictions on a license or permit for any of the following causes:

1. dereliction of any duty imposed by law;
2. incompetence as determined by standards of care for obstetrical providers;
3. conviction of a felony;
4. inability to practice with reasonable skill or safety to clients because of mental illness or deficiency; physical illness, including but not limited to deterioration through the aging process or loss of motor skills; and/or, excessive use or abuse of drugs, including alcohol;
5. practicing under a false name or alias;
6. violation of any of the standards of practice set forth herein;
7. obtaining any fee by fraud or misrepresentation;
8. knowingly employing, supervising, or permitting, directly or indirectly, any person or persons not an apprentice or licensed midwife to perform any work covered by these regulations;
9. using or causing or promoting the use of any advertising matter, promotional literature, testimonial, or any other representation, however disseminated or published, which is misleading or untruthful;
10. representing that the service or advice of a person licensed to practice medicine will be used or made available

when that is not true or using the words "doctor," or similar words, abbreviations, or symbols so as to connote the medical profession, when such is not the case;

11. permitting another to use the license;
12. delinquency in submission of application and supporting documents for license renewal of 30 days or more;
13. obtaining licensure by means of fraud, misrepresentation, or concealment of material facts;
14. fraud or deceit in connection with services rendered;
15. violating any lawful order, rule, or regulation rendered or adopted by the board; or
16. unprofessional conduct, which has endangered or is likely to endanger the health, welfare or safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1297 (August 2016).

§5371. Hearing **[Formerly §2371]**

A. Any person who is disciplined or denied a license or permit or has a license or permit suspended or revoked or is otherwise penalized under these regulations will be notified in writing and afforded the opportunity of a hearing conducted pursuant to the Louisiana Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:518 (August 1986), amended LR 17:779 (August 1991), repromulgated by the Department of Health, Board of Medical Examiners, LR 42:1297 (August 2016).

§5373. Penalties **[Formerly §2369]**

A. If a person licensed to practice midwifery under the provisions of these regulations is found guilty of violating any provisions of the Act or these regulations, the board may fine the midwife a sum of not more than \$1,000 and may suspend or revoke the license of the licensed midwife practitioner.

B. The board may cause an injunction to be issued in any court of competent jurisdiction enjoining any person from violating the provisions of the Act or of these regulations. In a suit for injunction, the court may issue a fine of not less than \$100 against any person found in violation of the provisions of these regulations plus court costs and attorney's fees.

C. A licensed midwife who fails to timely file the annual report required by §5361 of this Chapter shall be subject to a

fine not to exceed \$100 each day the report is filed late. In no case shall the fine exceed \$500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 12:517 (August 1986), amended LR 17:779 (August 1991), amended by the Department of Health, Board of Medical Examiners, LR 42:1297 (August 2016).

Subchapter D. Professional Liability

§5375. Professional Liability

A. Physician evaluation and examination as provided in R.S. 37:3244 shall be deemed to constitute a risk assessment. A physician performing a risk assessment is responsible only for determining that at the time of the risk assessment the individual is at low or normal risk of developing complications during pregnancy and childbirth. For any physician performing a physician risk assessment, the physician-patient relationship shall only exist for the purposes of the risk assessment and shall not continue after the conclusion of the physician risk assessment.

B. Physician risk assessment as defined in this Section shall not create either of the following:

1. any legal duty, responsibility, or obligation by the physician to provide continuing care after the conclusion of the physician risk assessment; or
2. a legal relationship between the physician and the licensed midwife or any duty, responsibility, or obligation by the physician to supervise, collaborate, back-up, or oversee the licensed midwife's care of the patient.

C. No physician or other health care provider as defined in R.S. 40:1299.41, no hospital as defined in R.S. 40:2102, or no institution, facility, or clinic licensed by the department shall be:

1. deemed to have established a legal relationship with a licensed midwife solely by providing a risk assessment as defined in this Section or accepting a transfer of a patient from a licensed midwife; or
2. liable for civil damages arising out of the negligent, grossly negligent, or wanton or willful acts or omissions of the licensed midwife solely for providing a risk assessment as defined in this Section or accepting a transfer of a patient from a licensed midwife.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270 and 37:3241-3259.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 42:1297 (August 2016).

Chapter 55. Respiratory Therapists

Subchapter A. General Provisions

§5501. Scope of Chapter

A. The rules of this Chapter govern the practice of respiratory care in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2223 (November 1999), LR 38:62 (January 2012).

§5503. General Definitions

A. The definitions set forth in Chapter 25 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 19:747 (June 1993), LR 25:2223 (November 1999), LR 38:62 (January 2012).

Subchapter B. Unauthorized Practice, Exemptions, and Prohibitions

§5505. Unauthorized Practice

A. No person shall engage in the practice of respiratory care in the state of Louisiana unless he has in his possession a current license, a temporary license (examination permit), or a temporary work permit duly issued by the board under Subpart 2 of these rules.

B. No person shall hold himself out to the public, an individual patient, a physician, dentist or podiatrist, or to any insurer or indemnity company or association or governmental authority, nor shall he directly or indirectly identify or designate himself as a licensed respiratory therapist, nor use in connection with his name the letters "LRT" or any other words, letters, abbreviations, insignia, or signs tending to indicate or imply that the person is licensed to practice respiratory therapy in this state, or that the services provided by such person constitute respiratory care, unless such person possesses a current license, a temporary license (examination permit), or a temporary work permit duly issued by the board under Subpart 2 of these rules.

C. A licensed respiratory therapist who is currently certified or registered by and in good standing with the NBRC may identify such credentials with his name or title "Licensed Respiratory Therapist-Certified" or "Licensed Respiratory Therapist-Registered" or the letters "LRT-C" or "LRT-R," respectively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2224 (November 1999), LR 38:62 (January 2012).

§5507. Exemptions

A. The prohibitions of §5505A of this Chapter shall not apply to a person:

1. employed exclusively by, or at an institution operated by the United States Government when acting within the course and scope of such employment;
2. acting under and within the scope of a license issued by another licensing agency of the state of Louisiana;
3. enrolled in a respiratory care education program and who is designated by a title which clearly indicates his status as a student; or
4. not licensed as a respiratory therapist in accordance with the provisions of these rules but who is employed in a pulmonary laboratory or physician's office to administer treatment confined to that laboratory or office under the direction and immediate supervision of a licensed physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended, by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2224 (November 1999), LR 38:62 (January 2012).

§5509. Prohibitions

A. A licensed respiratory therapist shall not:

1. undertake to perform or actually perform any activities described in §2503 of these rules, definition of "Respiratory therapy," except upon a prescription or other order of a physician, advanced registered nurse or physician assistant;
2. administer any drugs or medications except as dispensed by a pharmacist and prescribed by a physician, advanced practice registered nurse or physician assistant; or
3. perform any surgical incisions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 25:2224 (November 1999), LR 38:63 (January 2012).

Subchapter C. Grounds for Administrative Action

§5517. Causes for Administrative Action

A. The board may deny, refuse to issue, renew, or reinstate, or may suspend, revoke or impose probationary conditions and restrictions on the license, temporary license (examination permit), or temporary work permit of any respiratory therapist if the licensee or applicant for license has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:886

(September 1991), LR 25:2225 (November 1999), LR 38:63 (January 2012).

§5519. Causes for Action; Definitions; Unprofessional Conduct

A. As used herein, the term *unprofessional conduct* by a respiratory therapist or applicant shall mean any of the causes set forth in R.S. 37:3358 of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:3351-3361.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 12:767 (November 1986), amended by the Department of Health and Hospitals, Board of Medical Examiners, LR 17:886 (September 1991), LR 25:2225 (November 1999), LR 38:63 (January 2012).

Chapter 57. Athletic Trainers

Subchapter A. General Provisions

§5701. Scope of Chapter

A. The rules of this Chapter govern the employment and practice of licensed athletic trainers in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1376 (July 2017).

§5703. General Definitions

A. The definitions set forth in Chapter 31 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1376 (July 2017).

§5705. Special Definitions

A. *The Activities of an Athletic Trainer*—the practice of prevention, emergency management, and physical rehabilitation of injuries and sports-related conditions incurred by athletes. In carrying out these functions, the athletic trainer shall use whatever physical modalities are prescribed by a team physician or consulting physician, or both. The results of these activities should be recorded.

B. *Practice of Prevention*—shall include, but is not limited to the following:

1. working cooperatively with supervisors and coaches in establishing and implementing a program of physical conditioning for athletes;
2. applying protective or injury-preventive devices such as taping, padding, bandaging, strapping, wrapping, or bracing;
3. working cooperatively with supervisors, coaches, and a team physician or consulting physician in the selection

and fitting of protective athletic equipment for each athlete and constantly monitoring that equipment for safety; and

4. counseling and advising supervisors, coaches, and athletes on physical conditioning and training, such as diet, flexibility, rest, and reconditioning.

C. *Emergency Management*—the care given to an injured athlete under the general supervision of the team or consulting physician. To accomplish this care, an athletic trainer may use such methods as accepted first aid procedures approved by the American Red Cross, the American Heart Association, or protocols previously established by the athletic trainer and the team or consulting physicians.

D. *Physical Rehabilitation*—the care given to athletes following injury and recovery. These treatments and rehabilitation programs may consist of pre-established methods of physical modality use and exercise as prescribed by a team physician, consulting physician, or both. Physical rehabilitation also includes working cooperatively with and under the general supervision of a physician with respect to the following:

1. reconditioning procedures;
2. operation of therapeutic devices and equipment;
3. fitting of braces, guards, and other protective devices;
4. referrals to other physicians, auxiliary health services, and institutions. Referrals will be made with the agreement of the athlete or, in the case of a minor, with agreement of a parent or guardian except when circumstances require emergency transfer and the parent or guardian is unavailable.

E. *General Supervision*—the service is furnished under a physician's overall direction and control, but the physician's presence shall not be required during the provision of service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:526 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1376 (July 2017).

Subchapter B. Prohibitions

§5709. Unauthorized Practices

A. No person shall hold himself out to the public, any public educational institution, any athletic organization, or any individual student, amateur, or professional athlete as an “athletic trainer” or licensed athletic trainer in the state of Louisiana, nor identify or designate himself as such, nor use in connection with his name the letters, “AT,” “LAT” or “ATC,” or any other words, letters, abbreviations, insignia, or signs tending to indicate or imply that the person is a licensed athletic trainer, unless he is currently licensed by the board as a licensed athletic trainer.

B. No person shall undertake to perform or actually perform, for compensation or other remuneration, *the*

activities of an athletic trainer, as defined in this Chapter (§5705) unless he is currently licensed by the board as an athletic trainer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1376 (July 2017).

§5711. Exemptions

A. The prohibitions of Subsection 5709.B of this Chapter shall not apply to:

1. an assigned athletic coach administering and supervising his normal sports activities;

2. a person who undertakes to perform or actually performs the activities of an athletic trainer in the employment of an educational institution or athletic organization domiciled in another state, while accompanying and attending athletes of an educational institution or athletic organization domiciled in another state during or in connection with an athletic contest conducted in Louisiana;

3. a person acting under and within the scope of professional licensure issued by another licensing agency of the state of Louisiana; or

4. any person enrolled in a CAATE accredited athletic training education program and who is designated by a title which clearly indicates his status as a student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1377 (July 2017).

§5713. Prohibitions: Licensed Athletic Trainers

A. A licensed athletic trainer shall not:

1. undertake to perform or actually perform any activities, preventive measures, emergency management, physical rehabilitation of injury, or any other functions, treatments, modalities, procedures, or regimes, except under the direction and general supervision of a physician, employed or engaged as a team or consulting physician by the educational institution or athletic organization by which the licensed athletic trainer is employed or engaged;

2. prescribe, dispense, or administer any controlled substances; or

3. dispense or administer any medications for ingestion, subcutaneous, transdermal, intramuscular, or intravenous injection or topical application, except upon the prescription and direction, or pursuant to the written protocol of a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1377 (July 2017).

Subchapter C. Ethical Guidelines and Standards of Practice

§5715. Ethical Guidelines

A. A licensed athletic trainer shall, in performance of the activities of an athletic trainer, observe and abide by the code of ethics of the Board of Certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1377 (July 2017).

§5717. Standards of Practice

A. A licensed athletic trainer shall, in performance of the activities of an athletic trainer, observe and abide by the standards of practice announced and promulgated from time to time by the board pursuant to rules and regulations, advisory opinions, and interpretations and statements of position.

B. It shall be deemed a violation of minimum standards of practice applicable to licensed athletic trainers for a licensed athletic trainer to violate of the code of ethics of the Board of Certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1377 (July 2017).

Subchapter D. Grounds for Administrative Action

§5719. Causes for Administrative Action

A. The board may refuse to issue a license to, or suspend, revoke, or impose probationary conditions and restrictions on the license of an applicant for licensure or a licensed athletic trainer for any of the causes provided by R.S. 37:3308.1 of the Louisiana athletic trainers law (R.S. 37:3301-3313) if the licensee or applicant:

1. has been convicted of or entered a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, of the United States, or of the state in which such conviction or plea was entered;

2. has been convicted of or entered a plea of guilty or nolo contendere to any criminal charge arising out of or in connection with the practice of an athletic trainer;

3. commits perjury, fraud, deceit, misrepresentation, or concealment of material facts in obtaining a license to practice as an athletic trainer;

4. provides false testimony before the board or provides false sworn information to the board;

5. engages in habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system

and which are capable of inducing physiological or psychological dependence;

6. solicits patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;

7. makes or submits false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company, indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

8. demonstrates cognitive or clinical incompetency;

9. engages in unprofessional conduct;

10. engages in continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of practice as an athletic trainer in this state;

11. knowingly performs any act which in any way assists an unlicensed person to practice as an athletic trainer, or having professional connection with or lending one's name to an illegal practitioner;

12. pays or gives anything of economic value to another person, firm, or corporation to induce the referral of injured athletes to an athletic trainer;

13. has been interdicted by due process of law;

14. is unable to practice as an athletic trainer with reasonable competence, skill, or safety to patients because of mental or physical illness, condition, or deficiency, including but not limited to deterioration through the aging process or excessive use or abuse of drugs, including alcohol;

15. refuses to submit to an examination and inquiry by an examining committee of physicians appointed by the board to inquire into the applicant's or licensee's physical or mental fitness and ability to practice as an athletic trainer with reasonable skill or safety;

16. practices or otherwise engages in any conduct or functions beyond the scope of practice of an athletic trainer as defined by this Chapter or the board's rules;

17. has been subjected to the refusal of the licensing authority or another state to issue or renew a license, permit, or certificate to practice as an athletic trainer in that state, or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents, restricts, or conditions practice, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate;

18. has been subjected to denial, revocation, suspension, probation, or other disciplinary sanction from the BOC or its successor for violation of the standards of professional practice;

19. has violated any rules and regulations of the board, or any provisions of this Chapter.

B. The board may reinstate any license suspended or revoked hereunder, or restore to unrestricted status any license subjected to probationary conditions or restrictions by the board upon payment of the reinstatement fee and satisfaction of such terms and conditions as may be prescribed by the board; provided, however, that an application for reinstatement of a license revoked by the board shall not be made or considered by the board prior to the expiration of one year following the date on which the board's order of revocation became final.

C. The board may, as part of a decision, consent order, or other agreed order, require the applicant or license holder to pay all costs of the board's proceedings and a fine not to exceed \$1,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1377 (July 2017).

§5723. Causes for Action; Definitions

A. As used in R.S. 37:3308.1 of the law, a person who has "secured a license by fraud or deceit" means and includes a person who:

1. makes 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 an application for licensure under Chapter 31 of these rules; or

2. makes any representation, or fails to make a representation, or engages in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the questions for licensure required by Chapter 31 of these rules.

B. As used in §5719.A of this Chapter, the term *convicted*, as applied to a licensed athletic trainer or applicant for licensure as an athletic trainer, means that a judgment has been entered against such person by a court of competent jurisdiction on the basis of a finding or verdict of guilt or a plea of guilty or nolo contendere. Such a judgment provides cause for administrative action by the board so long as it has not been reversed by an appellate court of competent jurisdiction and notwithstanding the fact that an appeal or other application for relief from such judgment is pending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3301-3313.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, LR 12:527 (August 1986), amended by the Department of Health, Board of Medical Examiners, LR 43:1378 (July 2017).

Chapter 58. Perfusionists

Subchapter A. General Provisions

§5801. Scope of Chapter

A. The rules of this Chapter govern the practice of perfusion in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1377 (July 2014).

§5803. General Definitions

A. The definitions set forth in Chapter 27 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1377 (July 2014).

Subchapter B. Unauthorized Practice, Exemptions, and Designation of Licenses

§5805. Unauthorized Practice

A. No individual shall engage or attempt to engage in the practice of perfusion in this state, unless he or she holds a current license or a provisional license issued by the board under Chapter 27 of these rules.

B. An individual who does not hold a current license issued by the board as a licensed perfusionist, or whose license has been suspended, revoked or placed on inactive status, shall not use in conjunction with his or her name the words "licensed perfusionist," "LP," or any other similar words, letters, abbreviations or insignia indicating directly or by implication, that he or she is a licensed perfusionist or that the services provided by such individual constitute perfusion.

C. An individual who does not hold a current provisional license issued by the board, or whose provisional license has been suspended or revoked, shall not use in conjunction with his or her name the words "provisional licensed perfusionist," or "PLP" or any other similar words, letters, abbreviations, or insignia indicating directly or by implication, that he or she is a provisional licensed perfusionist or that the services provided by such individual constitute perfusion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1377 (July 2014).

§5807. Exemptions from Licensure

A. The prohibitions of §5805.A of this Chapter shall not prohibit an individual:

1. who is a qualified perfusionist employed by the United States Government from engaging in the practice of perfusion while acting in the discharge of his or her official duties;

2. who is an appropriately trained and qualified health care provider from:

a. monitoring an extracorporeal membrane oxygenation (ECMO) circuit in conjunction and with the consultation of a licensed perfusionist; or

b. performing autotransfusion under the direct or indirect supervision of a licensed perfusionist.

3. currently licensed in this state as a registered nurse from performing perfusion services;

4. acting under and within the scope of a license issued by the board or another licensing agency of the state of Louisiana;

5. pursuing a course of study as a student in a CAAHEP accredited perfusion education program from performing perfusion services, provided:

a. the service is an integral part of the student's course of study;

b. the service is performed under the direct supervision of licensed perfusionist who is assigned to supervise the student and who is on duty and immediately available in the assigned patient care area; and

c. the student is identified by title, name tag or otherwise which clearly designates the individual's status as a student or trainee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1377 (July 2014).

Subchapter C. Mutual Obligations

§5809. Mutual Obligations and Responsibilities

A. A licensed perfusionist and provisional licensed perfusionist shall be obligated to:

1. comply with reasonable requests by the board for personal appearances, information and documentation relative to the functions, activities and performance of the licensed perfusionist or provisional licensed perfusionist;

2. as a licensed perfusionist, practice under the written prescription or verbal orders of a physician and/or pursuant to perfusion protocols as defined by R.S. 37:1333;

3. as a supervising perfusionist, provide supervision and direction for all perfusion services performed by a provisional licensed perfusionist, and insure that all perfusion services provided are appropriate for the individual's level of training and experience;

4. as a provisional licensed perfusionist, practice at all times under the supervision and direction of a licensed perfusionist; and

5. immediately notify the board in writing, of the withdrawal or designation of a new licensed perfusionist to serve as the primary supervising perfusionist for a provisional licensed perfusionist.

B. A licensed perfusionist and provisional licensed perfusionist shall insure compliance with the obligations, responsibilities and provisions set forth in the Act, Chapter

27 and this Chapter, and immediately report any violation or noncompliance thereof to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(A)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1378 (July 2014).

Subchapter D. Grounds for Administrative Action

§5811. Causes for Administrative Action

A. The board may deny, refuse to issue, renew, reinstate or reactivate, or may suspend, revoke or impose probationary terms, conditions and restrictions on the license of a licensed perfusionist or provisional licensed perfusionist if the licensee or applicant has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

B. As used herein, *unprofessional conduct* by an applicant, licensed perfusionist or provisional licensed perfusionist in this state shall mean and include, but not be limited to:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, the United States, or the state in which such conviction or plea was entered;
2. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a misdemeanor under the laws of Louisiana, the United States, or the state in which such conviction or plea was entered, arising out of the practice of perfusion;
3. fraud, deceit, misrepresentation, or concealment of material facts in procuring or attempting to procure a license or provisional license to engage in the practice of perfusion;
4. providing false testimony before the board or providing false sworn information to the board;
5. the habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;
6. cognitive or clinical incompetency;
7. interdiction by due process of law;
8. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of the practice of perfusion in this state;
9. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;
10. knowingly performing any act which in any way assists an individual, who is not currently licensed as perfusionist or provisional licensed perfusionist, or otherwise exempt from licensure pursuant to the Act or Chapter 27 of these rules, to engage in the practice of

perfusion in this state, or having a professional connection with or lending one's name to an illegal practitioner;

11. delegating the performance of perfusion services to a individual who the licensee knows or has reason to know is not qualified by training, experience or licensure to perform such service;

12. inability to practice perfusion with reasonable competence, skill or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process or excessive use or abuse of drugs, including alcohol;

13. refusal to submit to examination and inquiry by a physician, health care professional, or at an institution designated by the board to inquire into the physical and/or mental fitness and ability of an applicant or licensee to practice perfusion with reasonable skill or safety;

14. failure to respond or to provide information or items within the time requested by the board's staff, respond to a subpoena issued by the board, or to complete an evaluation within the time designated by the board;

15. practicing or otherwise engaging in conduct or functions beyond the scope of licensure authorized by the Act;

16. intentional violation of any federal or state law, parish or municipal ordinance, the state sanitary code, or rule or regulation relative to any contagious or infectious disease;

17. violation of the code of ethics adopted and published by the American Board of Cardiovascular Perfusion;

18. the refusal of the licensing authority of another state to issue, renew, reinstate or reactivate a license or permit to practice perfusion in that state, or the revocation, suspension, or other restriction imposed on a license or permit issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license or permit issued by another state when criminal or administrative charges are pending or threatened against the holder of such license or permit;

19. violating or helping someone else violate any order, decision, rule or regulation of the board or any provision of the Act.

C. A license or provisional license that has been suspended by the board shall be subject to expiration during suspension.

D. The refusal to issue, renew, reinstate or reactivate a license, or to issue a provisional license, or the imposition of probationary or other conditions upon the holder of a license or provisional license, or on an applicant, may be entered into by consent of the individual and the board or may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act, R.S. 49:951 et seq., and the applicable rules and regulations of the board.

E. The board may, in its discretion, reinstate the license of a licensed perfusionist or provisional licensed perfusionist

that has been suspended or revoked or otherwise restricted, or restore to unrestricted status any license or provisional license subject to probationary terms, conditions or restrictions upon payment, if applicable, of the reinstatement fee and satisfaction of such terms and conditions as may be prescribed by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1331-1343 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 40:1378 (July 2014).

Chapter 59. Private Radiologic Technologists

Subchapter A. Practice Requirements and Prohibitions

§5901. Necessity of Certificate; Supervision Required

A. No person may perform or attempt to perform a diagnostic or therapeutic radiological examination or treatment or both in the private office of a physician or in a clinic in which a physician practices unless he has in his personal possession a certificate issued to him under Chapter 29 of these rules or is otherwise exempted from the requirement of such certificate pursuant to §2905.B or C.

B. No person, not otherwise exempted under §2905.B of these rules, may perform or attempt to perform a diagnostic or therapeutic radiological examination or treatment or both in the private office of a physician or in a clinic in which a physician practices except under the direct supervision of a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:577 (October 1987).

§5903. Physician's Responsibilities

A. A physician who employs a person to perform diagnostic or therapeutic examination or treatment or both in the private office of that physician or in a clinic in which that physician practices shall ensure that the person so employed has a certificate issued under Chapter 29 of these rules in his personal possession and that the employed person performs such examinations or treatment only under the direct supervision of a physician.

B. Each physician who employs any person to perform diagnostic or therapeutic radiological examination or treatment or both in the private office of that physician or in a clinic in which that physician practices shall report to the State Board of Medical Examiners annually as a condition for issuance or renewal of that physician's licensure to practice medicine in the state of Louisiana the following information on each person so employed:

1. name of the employee;
2. address at which that employee performs diagnostic or therapeutic radiological examination or treatment or both;

3. initial date of employment of that person with that physician;

4. any exemption claimed for that person under Chapter 29; and

5. certification by the physician that the person employed is proficient in, and is competent to perform, radiological examination or treatment or both only under the direct supervision of a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:577 (October 1987).

Chapter 60. Genetic Counselors

Subchapter A. General Provisions

§6001. Scope of Chapter

A. The rules of this Chapter govern the practice of genetic counseling in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1077 (August 2019).

§6003. General Definitions

A. The definitions set forth in Chapter 38 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1077 (August 2019).

Subchapter B. Unauthorized Practice, Designation of License or Permit and Exemptions

§6009. Unauthorized Practice

A. No individual shall engage in the practice of genetic counseling in this state unless he or she possesses a current license or a temporary license (examination permit), duly issued by the board under Subpart 2 of this Part.

B. An individual who does not possess a current license or a temporary license (examination permit), duly issued by the board shall not, directly or indirectly, identify or designate himself or herself as a *genetic counselor*, *licensed genetic counselor*, nor use in connection with his or her name the letters "GC," "LGC," or any other words, letters, abbreviations, insignia, or signs tending to indicate or imply that the person is licensed to practice genetic counseling in this state, or that the services provided by such person constitute genetic counseling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1077 (August 2019).

§6011. Designation of License or Permit

A. Every genetic counselor shall wear an identification badge when engaged in the practice of genetic counseling. The identification badge shall be clearly visible at all times and shall bear the first name or initial, the full surname and the term reflecting the individual's licensure as a *genetic counselor*, *licensed genetic counselor*, or the letters "GC" or "LGC."

B. A genetic counselor who currently holds a temporary license (examination permit) issued by the board may use the words "genetic counselor-temp license" or "genetic counselor-exam permit" or the letters "GC-TL" or "GC-EP" in connection with his or her name to denote his or her license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1078 (August 2019).

§6013. Exemptions

A. The prohibitions of §6009 of this Chapter shall not apply to:

1. a physician; provided, however, that while a physician may practice genetic counseling, serve as a collaborating physician or provide genetic supervision to a genetic counselor holding a temporary license, only a physician licensed by the board under this Part may hold himself or herself out as a *genetic counselor* or any other title that indicates that he or she is a genetic counselor unless licensed as such in accordance with the provisions of this Part;

2. a student or intern enrolled and participating in a supervised genetic counseling training program, accredited by the American Board of Medical Genetics and Genomics or the American Board for Genetic Counseling, and who is designated by a title which clearly indicates his or her status as a student or intern;

3. an individual from another state who is certified by the American Board of Medical Genetics and Genomics or the American Board of Genetic Counseling, when providing a true consultation as defined in Part 2 of this Part;

4. an individual acting under and within the scope of a license issued by another licensing agency of the state of Louisiana; or

5. any individual employed by, and acting under the supervision and direction of, any commissioned physician of any of the United States Armed Services, Public Health Service or Veterans' Administration, practicing in the discharge of his or her official duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1078 (August 2019).

Subchapter C. Eligibility; Requirements of Collaborative Practice Agreement, Authority and Limitations, Obligations and Responsibility and Required Information

§6019. Physician Eligibility to Engage in Collaborative Practice with a Genetic Counselor

A. To be eligible to engage in collaborative practice with a genetic counselor a physician shall:

1. 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;

2. be actively engaged in the provision of direct patient care in this state;

3. practice in an area comparable in scope, specialty, or expertise to that of a genetic counselor;

4. have signed a collaborative practice agreement with a genetic counselor that complies with the standards of practice prescribed by §§6019-6021 of this Subchapter;

5. have no pending disciplinary proceedings before the board and practice in accordance with rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1078 (August 2019).

§6021. Collaborative Practice Agreement; Requirements; Annual Review and Signature

A. A genetic counselor who engages in any of the functions listed in §6021.B.1 of this Section shall enter into a collaborative practice agreement with a physician who agrees to work with and provide medical support to the genetic counselor.

B. The CPA shall be set forth in a formal document that memorializes the relationship between the genetic counselor and CP and, at a minimum:

1. establish the criteria governing the genetic counselor's performance of any of the following functions:

a. ordering genetic tests or other tests for the purpose of diagnosing a genetic medical condition, inherited disorder, or determining the carrier status of one or more family members of the patient; and

b. selecting the most appropriate, accurate, and cost-effective methods of diagnosis.

2. include a plan of accountability among the parties that addresses:

a. arrangements for diagnostic and laboratory testing; and

b. a plan for documentation of medical records;

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c. a list of conditions and events upon which the genetic counselor is required to notify the CP;

d. a predetermined plan to address medical emergencies, e.g., calling 911, referral to a hospital emergency room or a primary care provider, if needed;

e. referral of patients to the CP or another physician;

f. documentation that patients are informed about how to access care when both the genetic counselor and/or the CP are unavailable;

g. informed consent by the patient;

h. authorization for the CP to review the patient's medical record; and

i. an acknowledgment that the CP and genetic counselor shall comply with all requirements of §6025 of this Chapter.

C. The genetic counselor and CP shall have the capability to be in contact with each other by either telephone or other telecommunications device on a regular basis to address any questions or concerns that may arise.

D. Collaborative practice agreements shall be annually reviewed, updated as appropriate, and signed and dated by the genetic counselor and collaborating physician. The signature of the genetic counselor and CP and date of review shall be noted on the CPA.

E. A collaborative practice agreement is not required for a genetic counselor who does not engage in any of the functions listed in §6021.B.1 of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1078 (August 2019).

§6023. Authority and Limitations of Genetic Counselors

A. A genetic counselor shall not:

1. engage in any of the functions listed in §6021.B.1. without a current collaborative practice agreement with a collaborating physician, as defined or provided in this Chapter;

2. perform, provide, attempt to perform or provide, or hold himself or herself out to the public as being capable of performing or providing any procedure, service or function other than as a genetic counselor as defined in this Part; or

3. identify himself or herself, or permit any other person to identify him or her, as "physician."

B. A genetic counselor holding a temporary license (examination permit) shall not:

1. practice without direct supervision of a licensed genetic counselor or a physician, and only in accordance with a current genetic supervision contract, as defined in this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1079 (August 2019).

§6025. Obligations and Responsibilities

A. It shall be the mutual obligation of a genetic counselor, who has a CPA with a collaborating physician, and collaborating physician to:

1. within five days, report directly to the board, in writing, of:

a. the termination of the collaborative practice agreement between a collaborating physician and genetic counselor; and

b. the retirement or withdrawal from active practice by the collaborating physician or genetic counselor;

2. comply with reasonable requests by the board for personal appearances, information and documentation required by this Part relative to the functions, activities, and performance of the genetic counselor;

3. insure that each individual to whom the genetic counselor provides patient services is expressly advised and understands that the genetic counselor is not a physician; and

4. insure that, with respect to each patient, all activities, functions and services of the genetic counselor are immediately and properly documented in written or electronic form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1079 (August 2019).

§6027. 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 a genetic counselor and, if so, such information as may be requested by the board.

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 licensure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1079 (August 2019).

§6029. Board Access to Documents

A. Collaborative practice agreements shall be made available by a genetic counselor and collaborating physician for review, examination, inspection and copying upon request by the board or its designated employees or agents.

B. A genetic counselor and 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 genetic counselor and collaborating physician 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. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1079 (August 2019).

Subchapter D. Grounds for Administrative Action

§6035. Causes for Administrative Action

A. The board may deny, refuse to issue, revoke, suspend, cancel, place on probation, reprimand, censure, or otherwise impose terms, conditions and restrictions on a license or temporary license (examination permit) of any licensee or applicant for licensure, upon proof satisfactory to the board that the individual has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1079 (August 2019).

§6037. Causes for Action; Definitions; Unprofessional Conduct

A. As used herein, the term *unprofessional conduct* by a licensed genetic counselor or an applicant for licensure shall mean any of the causes set forth in R.S. 37:1360.108 of the Act.

B. As used in R.S. 37:1360.108 of the Act, an individual who has “obtained or attempted to obtain a license by fraud or deceit” means and includes an individual who:

1. makes 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 an application for licensure under Chapter 38 of these rules; or

2. makes any representation, or fails to make a representation, or engages in any act or omission which is false, deceptive, fraudulent, or misleading in achieving or obtaining any of the requirements for licensure required by Chapter 38 of these rules.

C. As used in R.S. 37:1360.108 of the Act, the term *convicted*, as applied to a licensed genetic counselor or applicant for licensure as a genetic counselor, means that a judgment has been entered against such individual by a court of competent jurisdiction, whether upon verdict, judgment, or plea of guilty or nolo contendere, 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. Such a judgment provides cause for administrative action by the board so long as it has not been reversed by an appellate court of competent jurisdiction and notwithstanding the fact that an appeal or other application for relief from such judgment is pending.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1360.101-1360.111 and 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 45:1079 (August 2019).

Chapter 61. Medical Psychologists

Subchapter A. General Provisions

§6101. Scope of Chapter

A. The rules of this Chapter govern the practice of medical psychologists in the state of Louisiana.

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 37:895 (March 2011).

Subchapter B. Necessity for License, Exemptions

§6103. Necessity for License

A. No person shall engage in the practice of medical psychology in the state of Louisiana, or identify or hold himself or herself out as such, nor use in connection with his or her name the words “medical psychologists” or the letters “MP” or any other words, letters, abbreviations, insignia, or signs tending to indicate or imply that the person is a medical psychologist, unless he or she is currently licensed by the board as a medical psychologist.

B. No person shall engage in the advanced practice of medical psychology as defined in the MP Act or these rules in this state in the absence of a current certificate of advanced practice issued by the board.

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 37:895 (March 2011).

§6105. Exemptions

A. The provisions of this Chapter shall not prevent, restrict the practice, services, or activities of any individual:

1. licensed by other laws in this state from engaging in the profession or occupation for which he or she is licensed; or

2. employed as a medical psychologist by the United States government when practicing solely under the direction or control of the United States government agency by which he or she is employed.

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 37:895 (March 2011).

Subchapter C. Ethical Guidelines, Authority, Limitations and Standards of Practice

§6107. Scope of Subchapter

A. This Subchapter provides the ethical guidelines, authority, limitations and standards of practice of individuals licensed to practice medical psychology in the state of Louisiana.

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 37:895 (March 2011).

§6109. Ethical Guidelines

A. A medical psychologist shall, in the practice of medical psychology, observe and abide by the code of ethics of the American Medical Association and American Psychological Association.

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 37:896 (March 2011).

§6111. Authority of Practice

A. An individual currently licensed by the board as a medical psychologist is authorized to:

1. order, administer, and prescribe or distribute without charge drugs recognized as customarily used for the management of mental, nervous, emotional, behavioral, substance abuse and cognitive diseases or disorders; and

2. order and interpret routine laboratory studies and other medical diagnostic procedures, as necessary for adequate pretreatment health screening, diagnosis of mental, nervous, emotional, behavioral, substance abuse and cognitive disorders and treatment maintenance, including those necessary for the monitoring of potential side effects associated with medications prescribed by the MP.

B. An individual currently certified for advanced practice by the board is authorized to engage in the advanced practice of medical psychology as defined by the MP Act and these rules.

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 37:896 (March 2011).

§6113. Limitations of Practice

A. A medical psychologist shall not:

1. order, administer, prescribe or distribute drugs that are not customarily used for the management of mental, nervous, emotional, behavioral, substance abuse and cognitive diseases or disorders;

2. order, administer, prescribe or distribute narcotics, as defined in this Part;

3. utilize controlled substances for the treatment of non-cancer related chronic or intractable pain, as set forth in §§6915-6923 of the board's rules or for the treatment of obesity, as set forth in §§6901-6913 of the board's rules;

4. prescribe medications outside his or her areas of competency consistent with his or her training and experience as defined by the board;

5. delegate the administration, prescription, or distribution of a drug to any other individual;

6. engage in practice beyond the authority conferred by license or certificate approved by the board; or

7. employ a physician or enter into an independent contractor or similar contractual or financial relationship with a physician with whom he or she consults or collaborates. The board may 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 with the physician's relationship with patients, his or her exercise of independent medical judgment and satisfaction of the obligations and responsibilities imposed by law and the board's rules on a physician.

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 37:896 (March 2011).

§6115. Standards for Prescribing by Medical Psychologists without a Certificate of Advanced Practice

A. Medical psychologists shall prescribe only in consultation and collaboration with the patient's primary or attending physician, and with the concurrence of that physician.

B. The medical psychologist shall also re-consult with the patient's physician prior to making changes in the patient's medication treatment protocol, as established with the physician, or as otherwise directed by the physician.

C. In the event that the primary or attending physician does not concur with the psychopharmacologic treatment protocol planned by a MP, the MP shall defer to the medical judgment of the physician.

D. In the event a patient does not have a primary or attending physician, the medical psychologist shall not prescribe for that patient.

E. Documentation of Physician Consultation. When psychopharmacologic management of a patient is indicated, the initial plan shall include consultation with the patient's primary or attending physician. The medical psychologist shall document the consultation with the primary or attending physician in the patient's medical record. Documentation shall include, but is not necessarily limited to:

1. patient authorization. In order to permit the necessary coordination of care for the patient, the MP shall obtain a release of information from the patient and/or the

patient's legal guardian to contact the patient's primary or attending physician in all cases in which psychopharmacologic management is planned. If the patient or the patient's legal guardian declines to sign a release of information authorizing coordination of care with his or her primary or attending physician, the MP shall inform the patient and/or the patient's legal guardian that he or she cannot treat the patient pharmacologically without such consultation;

2. patient identity. The physician's name; date of consultation; and contact information for the patient, physician and MP;

3. purpose. The purpose of consultation (e.g., new medication, change in medication, discontinuance of medication, adverse treatment effects, treatment failure, change in medical status, etc.);

4. psychological evaluation and diagnosis. If known, the psychological evaluation of the patient, including any relevant psychological history, laboratory or diagnostic studies and psychological diagnosis; and any other information the MP or physician deems necessary for the coordination of the care for 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 MP's 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); medications ordered (e.g., generic or trade; starting dosage and titration plan, if any; number of refills; etc.) and any other information that might be necessary for the appropriate coordination of care for the patient (e.g., review of prior labs or diagnostic procedures; new labs or diagnostic procedures requested by the physician, if any; etc.);

8. responsibilities. Any specific responsibilities of the MP and physician respecting the patient's care;

9. reporting. Any reporting and documentation requirements between the MP and the physician and/or a schedule by which such are to take place; and

10. immediate consultation. A plan to accommodate immediate consultation between the MP, physician, and/or 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 37:896 (March 2011).

§6117. Standards for Prescribing by Medical Psychologists Holding a Certificate of Advanced Practice

A. Patients receiving care from a medical psychologist who holds a certificate of advanced practice issued under this Part shall have an established primary, attending or referring physician licensed by the board who shall be responsible for the patient's overall medical care.

B. The primary, attending or referring physician shall evaluate the patient for medical conditions in accordance with customary practice standards, and as might be indicated based on the medications that the patient is receiving and/or risk factors that may be present. If the patient has been referred to a medical psychologist holding a certificate of advanced practice for the express purpose of evaluation and treatment to include drug management by the primary, attending or referring physician, this condition shall be considered met.

C. The medical psychologist shall provide the primary, attending or referring physician with a summary of the treatment planned at the initiation of treatment.

D. The medical psychologist shall provide the primary, attending or referring physician with follow-up reports as may be dictated by the patient's condition.

E. The medical psychologist shall provide the patient's primary, attending or referring physician with a summary of the patient's condition and treatment no less than annually.

F. The medical psychologist may treat common side effects of medications used in the treatment of mental illness as defined in this Chapter after consultation with the patient's primary or attending physician and with the concurrence of that physician.

G. The requirements for Subsections C, D and E of this Section shall be considered satisfied if the medical psychologist provides the physician with a copy of the initial examination and follow-up visit records or, in those instances in which the medical psychologist is providing services authorized under this Section in a hospital or clinic setting on referral of the attending or referring physician on the medical staff of that hospital or clinic, the medical psychologist documents those services in the patient's medical record at that hospital or clinic.

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 37:897 (March 2011).

§6119. Informed Consent

A. In addition to the written release and authorization set forth in Section 6115.E, a MP shall insure that each of his or her patients subject to consultation and collaboration with a physician is informed:

1. of the relationship between the MP and physician 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 MP-patient relationship;

3. of the MP's decision to withdraw from consultation and collaboration with a physician; and

4. by written disclosure, of any contractual or financial arrangement that may impact the MP's decision to engage in consultation and collaboration with a physician.

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 37:897 (March 2011).

Subchapter D. Grounds for Administrative Action

§6121. Causes for Administrative Action

A. The board may refuse to issue, or may suspend or revoke any license or certificate, or impose probationary or other restrictions on any license or certificate issued under this Part, for violation of the board's rules relative to medical psychologists or for any of the causes set forth in MP Act, R.S. 37:1360.67A.

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 37:897 (March 2011).

Chapter 63. Polysomnographic Technologists and Technicians

Subchapter A. General Provisions

§6301. Scope of Chapter

A. The rules of this Chapter govern the practice of polysomnographic technology in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3285 (December 2013).

§6303. General Definitions

A. The definitions set forth in Chapter 33 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3285 (December 2013).

Subchapter B. Unauthorized Practice, Exemptions, and Designation of License or Permit

§6305. Unauthorized Practice

A. No individual shall engage or attempt to engage in the practice of polysomnographic technology in this state, unless he or she holds a current license or a permit to practice polysomnographic technology issued by the board under Chapter 33 of these rules.

B. An individual who does not hold a current polysomnographic technologist license issued by the board, and or whose license has been suspended or revoked, shall not use in conjunction with his or her name the words "licensed polysomnographic technologist," "LPSGT," or any other similar words, letters, abbreviations, or insignia indicating directly or by implication, that he or she is a polysomnographic technologist or that the services provided by such individual constitute polysomnographic technology.

C. An individual who does not hold a current polysomnographic technician permit issued by the board, or whose permit has been suspended or revoked, shall not use in conjunction with his or her name the words "polysomnographic technician," "permit technician," or "PSGT-E," or any other similar words, letters, abbreviations, or insignia indicating directly or by implication, that he or she is a polysomnographic technician or that the services provided by such individual constitute polysomnographic technology.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3285 (December 2013).

§6307. Exemptions

A. The prohibitions of §6305.A of this Chapter shall not apply to an individual:

1. acting under and within a license issued by any licensing agency of the state of Louisiana, whose scope of practice includes polysomnography;

2. employed as a polysomnographic technologist by the United States Government when acting exclusively within the course and scope of such employment;

3. currently licensed by the board to practice respiratory therapy; or

4. pursuing a course of study in a CAAHEP accredited polysomnographic technology education program from performing a polysomnography procedure or service, provided:

a. the polysomnographic procedure or service is within the individual's course of study; and

b. the polysomnographic procedure or service is performed under the direct supervision of a physician or a qualified allied health professional currently licensed by the board whose scope of practice includes polysomnography.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3285 (December 2013).

§6309. Designation of License or Permit

A. Every polysomnographic technologist and polysomnographic technician shall wear an identification badge when engaged in the practice of polysomnographic technology. The identification badge shall be clearly visible at all times and shall bear the first name or initial, the full surname and the term reflecting the individual's level of licensure.

B. A polysomnographic technologist may use the words "polysomnographic technologist" or "licensed polysomnographic technologist" or the letters "PSGT" or "LPSGT" in connection with his or her name to denote his or her license.

C. A polysomnographic technician may use the words "polysomnographic technician" "permit technician" or the letters "PSGT-E" in connection with his or her name to denote his or her permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3285 (December 2013).

Subchapter C. Mutual Obligations

§6311. Mutual Obligations and Responsibilities

A. A supervising physician, polysomnographic technologist and polysomnographic technician shall bear equal and reciprocal obligations to:

1. comply with reasonable requests by the board for personal appearances, information and documentation relative to the functions, activities, and performance of polysomnographic technology by a polysomnographic technologist, polysomnographic technician and/or supervising physician;

2. insure that each individual to whom a polysomnographic technologist or polysomnographic technician provides polysomnography procedures or services is expressly advised and understands that a polysomnographic technologist or polysomnographic technician is not a physician;

3. insure that all procedures or services performed by a polysomnographic technologist or a polysomnographic technician are properly documented in the patient's record and accurately reflect the services rendered. These entries shall contain, at a minimum:

- a. an intake record;
- b. the reasons for the visit;
- c. the name of the polysomnographic technologist or polysomnographic technician who provides the services;

d. the name of the supervising physician for the services;

e. a summary of any verbal orders taken by polysomnographic technologist or polysomnographic technician; and

f. polysomnography observation notes on each service provided.

B. The polysomnographic technologist, polysomnographic technician, and their supervising physician shall bear equal and reciprocal obligations to insure strict compliance with the obligations, responsibilities and provisions set forth in the rules of this Chapter, and to immediately report any violation or noncompliance thereof to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3285 (December 2013).

Subchapter D. Grounds for Administrative Action

§6313. Causes for Disciplinary Action

A. The board may refuse to issue, renew or reinstate, or may suspend, revoke, or impose probationary conditions and restrictions on the holder of any license or permit to practice polysomnographic technology in this state or on an applicant, if the applicant, licensee or permit holder has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public.

B. As used herein and in R.S. 37:2867(A), "unprofessional conduct" by an applicant, licensee or holder of a permit to practice polysomnographic technology in this state shall mean and include, but not be limited to:

1. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a felony under the laws of Louisiana, of the United States, or of the state in which such conviction or plea was entered;

2. conviction of a crime or entry of a plea of guilty or nolo contendere to a criminal charge constituting a misdemeanor under the laws of Louisiana, of the United States, or of the state in which such conviction or plea was entered, arising out of the practice of polysomnographic technology;

3. fraud, deceit, misrepresentation, or concealment of material facts in procuring or attempting to procure a license or permit to engage in the practice of polysomnographic technology;

4. providing false testimony before the board or providing false sworn information to the board;

5. the habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence;

6. cognitive or clinical incompetency;

7. continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of the practice of polysomnographic technology in this state;

8. interdiction by due process of law;

9. failing to successfully complete the continuing professional education requirement for polysomnographic technology as provided in Chapter 33, Subchapter G of these rules;

10. solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading;

11. making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company, or indemnity association, company, individual, or governmental authority for the purpose of obtaining anything of economic value;

12. knowingly performing any act which in any way assists an individual who does not hold a license or permit to practice polysomnographic technology in this state to engage in the practice of polysomnographic technology, or having a professional connection with or lending one's name to an illegal practitioner;

13. paying or giving anything of economic value to another person, firm, or corporation to induce the referral of patients to a sleep center, laboratory or other entity for polysomnographic technology services or procedures;

14. inability to practice polysomnographic technology with reasonable competence, skill or safety to patients because of mental or physical illness, condition or deficiency, including but not limited to deterioration through the aging process or excessive use or abuse of drugs, including alcohol;

15. refusal to submit to examination and inquiry by an examining committee of physicians appointed by the board to inquire into the physical and/or mental fitness and ability of an applicant, licensee or permit holder to practice polysomnographic technology with reasonable skill or safety;

16. failure to respond or to provide information or items within the time requested by the board's staff, or to respond to a subpoena issued by the board, or to complete an evaluation within the time designated by the board;

17. practicing polysomnographic technology other than on the written prescription or verbal order of a physician and under his or her direction or supervision, or performing, attempting to perform, or permitting anyone else to perform any procedure not authorized by licensure or permit;

18. intentional violation of any federal or state law, parish or municipal ordinance, the state sanitary code, or rule or regulation relative to any contagious or infectious disease;

19. violation of the code of ethics adopted and published by the BRPT;

20. the refusal of the licensing authority of another state to issue or renew a license or permit to practice

polysomnographic technology in that state, or the revocation, suspension, or other restriction imposed on a license or permit issued by such licensing authority which prevents, restricts, or conditions practice in that state, or the surrender of a license or permit issued by another state when criminal or administrative charges are pending or threatened against the holder of such license or permit;

21. violating or helping someone else violate any rule and regulation of the board, or any provision of the Act, as may be amended, R.S. 37:2861-2870.

C. A license or permit that has been suspended by the board shall be subject to expiration during suspension.

D. The denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon the holder of a licensee or permit, or an applicant, may be entered into by consent of the individual and the board, or may be ordered by the board in a decision made after a hearing in accordance with the Administrative Procedure Act, R.S. 49:951 et seq., and the applicable rules and regulations of the board.

E. The board may reinstate any license or permit suspended or revoked hereunder, or restore to unrestricted status any license or permit subject to probationary conditions or restrictions by the board upon payment, if applicable, of the reinstatement fee and satisfaction of such terms and conditions as may be prescribed by the board; provided, however, an application for reinstatement of a license that has been revoked by the board shall not be made or considered by the board prior to the expiration of one year following the date on which the board's order of revocation became final. The board shall have discretion to accept or reject such an application but shall hold a hearing to consider such reinstatement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2861-2870 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 39:3286 (December 2013).

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:

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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 67. Preventing Transmission of Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV) during Exposure-Prone Invasive Procedures

§6701. Scope of Chapter

A. As authorized and mandated by R.S. 37:1747, the rules of this Chapter prescribe practice and reporting requirements for physicians, podiatrists, physician's assistants, respiratory therapists, and other board-licensed or certified practitioners to protect the public from the risk of the transmission of Hepatitis B Virus (HBV) and Human Immunodeficiency Virus (HIV).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1123 (October 1992).

§6703. Definitions

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

Board—the Louisiana State Board of Medical Examiners.

Body Fluids—amniotic, pericardial, peritoneal, pleural, synovial, and cerebrospinal fluids, semen, vaginal secretions, and other body fluids, secretions, and excretions containing visible blood.

Exposure-Prone Procedure—an invasive procedure in which there is an increased risk of percutaneous injury to the practitioner by virtue of digital palpation of a needle tip or other sharp instrument in a body cavity or the simultaneous presence of the practitioner's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site, or other invasive procedure in which there is a significant risk of contact between the blood or body fluids of the practitioner and the blood or body fluids of the patient. All invasive procedures are not considered exposure-prone; an invasive procedure (defined below) is considered an exposure-prone procedure only when it is a type of invasive procedure described by this definition.

Function Ancillary to an Invasive Procedure—the preparation, processing, or handling of blood, fluids, tissues, or instruments which may be introduced into or come into contact with any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body in connection with the performance of an invasive procedure.

HBV—the hepatitis B virus.

HBsAg Seropositive—with respect to a practitioner, that a test of the practitioner's blood under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of hepatitis B surface antigens and that no subsequent test has confirmed that hepatitis B surface antigens are no longer present.

HIV—the human immunodeficiency virus, whether HIV-1 or HIV-2.

HIV Seropositive—with respect to a practitioner, that a test under the criteria of the Federal Centers for Disease Control or of the Association of State and Territorial Public Health Laboratory Directors has confirmed the presence of HIV antibodies.

Invasive Procedure—any surgical or other diagnostic or therapeutic procedure involving manual or instrumental contact with or entry into any blood, body fluids, cavity, internal organ, subcutaneous tissue, mucous membrane, or percutaneous wound of the human body.

Practitioner—a physician, podiatrist, physician's assistant, respiratory therapist, or other health care provider licensed or certified by the board and authorized by applicable laws and regulations to perform or participate in invasive procedures or functions ancillary to invasive procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1123 (October 1992).

§6705. Use of Infection Control Precautions

A. General Requirements. A practitioner who performs or participates in an invasive procedure or performs a function ancillary to an invasive procedure shall, in performance of or participation in any such procedure or function, be familiar with, observe and rigorously adhere to both general infection control practices and universal blood and body-fluid precautions as then recommended by the Federal Centers for Disease Control to minimize the risk of the transmission of HBV or HIV from a practitioner to a patient, from a patient to a practitioner, or from a patient to a patient.

B. Universal Blood and Body-Fluid Precautions. For purposes of this Section, adherence to universal blood and body-fluid precautions requires observance of the following minimum standards.

1. Protective Barriers. A practitioner shall routinely use appropriate barrier precautions to prevent skin and mucous-membrane contact with blood and other body fluids of all patients. Gloves and surgical masks shall be worn and shall be changed after contact with each patient. Protective eyewear or face shields and gowns or aprons made of materials that provide an effective barrier shall be worn during procedures that commonly result in the generation of droplets, splashing of blood or body fluids, or the generation of bone chips. A practitioner who performs, participates in, or assists in a vaginal or caesarean delivery shall wear gloves and gowns when handling the placenta or the infant until blood and amniotic fluid have been removed from the infant's skin and shall wear gloves during post-delivery care of the umbilical cord. If, during any invasive procedure, a glove is torn or punctured, the glove should be removed and a new glove used as promptly as patient safety permits.

2. Hand Washing. Hands and other skin surfaces shall be washed immediately and thoroughly if contaminated with blood or other body fluids. Hands shall be washed immediately after gloves are removed.

3. Percutaneous Injury Precautions. A practitioner shall take appropriate precautions to prevent injuries caused by needles, scalpels, and other sharp instruments or devices during procedures; when cleaning used instruments; during disposal of used needles; and when handling sharp instruments after procedures. If a needlestick injury occurs, the needle or instrument involved in the incident should be removed from the sterile field. To prevent needlestick injuries, needles should not be recapped, purposely bent, or broken by hand, removed from disposable syringes, or otherwise manipulated by hand. After they are used, disposable syringes and needles, scalpel blades, and other sharp items should be placed for disposal in puncture-resistant containers located as close as practical to the use area. Large-bore reusable needles should be placed in puncture-resistant containers for transport to the reprocessing area.

4. Resuscitation Devices. To minimize the need for emergency mouth-to-mouth resuscitation, a practitioner shall ensure that mouthpieces, resuscitation bags, or other ventilation devices are available for use in areas in which the need for resuscitation is predictable.

5. Sterilization and Disinfection. Instruments or devices that enter sterile tissue or the vascular system of any patient or through which blood flows should be sterilized before reuse. Devices or items that contact intact mucous membranes should be sterilized or receive high-level disinfection.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1124 (October 1992).

§6707. Prohibitions and Restrictions

A. Except as may be permitted pursuant to §6709 of this Chapter, a practitioner who is HBsAg seropositive or HIV seropositive, or who otherwise knows or should know that he or she carries and is capable of transmitting HBV or HIV, shall not thereafter perform or participate directly in an exposure-prone procedure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1124 (October 1992).

§6709. Exception; Informed Consent of Patient

A. Conditions. Notwithstanding the prohibition of §6707 of this Chapter, an HBsAg or HIV seropositive practitioner may nonetheless perform or participate in an exposure-prone procedure with respect to a patient when each of the following four conditions is met.

1. The practitioner has affirmatively advised the patient, or the patient's lawfully authorized representative, that the practitioner has been diagnosed as HBsAg seropositive and/or HIV seropositive, as the case may be.

2. The patient, or the patient's lawfully authorized representative, has been advised of the risk of the practitioner's transmission of HBV and/or HIV to the patient during an exposure-prone procedure. The practitioner, if a physician or podiatrist, shall personally communicate such information to the patient or patient's representative. If the practitioner is other than a physician or podiatrist, such information shall also be communicated to the patient's physician.

3. The patient, or the patient's lawfully authorized representative, has subscribed a written instrument setting forth:

a. identification of the exposure-prone procedure to be performed by the practitioner with respect to the patient;

b. an acknowledgment that the advice required by §6709.A.1 and 2 have been given to and understood by the patient or the patient's representative; and

c. the consent of the patient, or the patient's lawfully authorized representative to the performance of or participation in the designated procedure by the practitioner.

4. The practitioner's HBsAg and/or HIV seropositivity has been affirmatively disclosed to each practitioner or other health care personnel who participates or assists in the exposure-prone procedure.

B. Revocation of Consent. Consent given pursuant to §6709.A may be revoked by a patient, or a patient's lawfully authorized representative, at any time prior to performance of the subject procedure by any verbal or written communication to the practitioner expressing an intent to revoke, rescind, or withdraw such consent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1125 (October 1992).

§6711. Self-Reporting

A. Applicability. Any practitioner who in the course of practice may at any time undertake to perform or participate in an exposure-prone procedure and who is or becomes HBsAg seropositive or HIV seropositive shall give notice of such seropositivity to the board in accordance with the provisions of this Section.

B. Procedure. On or before the applicable initial request deadline specified by §6711.C, a practitioner required by §6711.A to report his or her HBsAg or HIV seropositivity to the board shall request a self-reporting form from the board's physician medical consultant, by mail directed to the confidential attention of the medical consultant or by personal telephone communication with the medical consultant at the board's offices. In making such request, a requesting practitioner shall advise the medical consultant of the address to which the self-reporting form should be mailed or delivered. Upon receipt of any such request, the medical consultant will promptly mail or deliver a board-approved self-reporting form to the requesting practitioner, accompanied by an addressed, postage-prepaid envelope directed to the confidential attention of the medical consultant. Within 10 days of receipt of such form the requesting practitioner shall complete, subscribe, and cause such self-reporting form to be delivered or mailed to the medical consultant.

C. Initial Request Deadlines. The initial request deadline for a practitioner:

1. who is HBsAg or HIV seropositive on or prior to the effective date of this Chapter, or who becomes HBsAg or HIV seropositive within 60 days from the effective date of this Chapter, shall be 90 days from the effective date of this Chapter;

2. who becomes HBsAg or HIV seropositive more than 60 days from the effective date of this Chapter shall be 30 days from the date on which the practitioner becomes seropositive; and

3. who is HBsAg or HIV seropositive on the date on which any license, permit, or certification is issued by the board to the practitioner shall be 10 days from such date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1125 (October 1992).

§6713. Confidentiality of Reported Information

A. General Confidentiality. Reports and information furnished to the board pursuant to §6711 of this Chapter and records of the board relative to such information shall not be deemed to constitute public records, but shall be deemed and maintained by the board as confidential and privileged and shall not be subject to disclosure by means of subpoena in any judicial, administrative, or investigative proceeding; providing that such reports, information, and records may be disclosed by the board as necessary for the board to investigate or prosecute alleged violations of this Chapter.

B. Confidentiality of Identity of Seropositive Practitioners. The identity of practitioners who have reported their status as carriers of HBV or HIV to the board's medical consultant pursuant to §6711 hereof shall be maintained in confidence by the medical consultants and shall not be disclosed to any member, employee, agent, attorney, or representative of the board nor to any other person, firm, organization, or entity, governmental or private, except as may be necessary in the investigation or prosecution of suspected violations of this Chapter.

C. Disclosure of Statistical Data. Provided that the identity or self-reporting practitioners is not disclosed, either directly or indirectly, the provisions of this Section shall not be deemed to prevent disclosure by the medical consultant or the board, to governmental public health agencies with a legitimate need therefor, of statistical data derived from such reports, including, without limitation, the number and licensure class of practitioners having reported themselves as HBsAg and/or HIV seropositive and their geographical distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1125 (October 1992).

§6715. Interpretation

A. Nothing in this Chapter shall be construed to require the mandatory testing of any practitioner for HBsAg or HIV seropositivity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1746-1747 and 37:1270(B)(6).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 18:1126 (October 1992).

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

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;

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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

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.

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 44:272 (February 2018).

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 MP's 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

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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 telephone 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;

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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

PROFESSIONAL AND OCCUPATIONAL STANDARDS

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 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), LR 45:1080 (August 2019).

§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

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), LR 46:342 (March 2020).

§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, or another location identified in his or her registration under this Chapter, 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.

Consult or Consultation—as used in this Chapter, means advice or opinions provided to a physician registered with the board to recommend therapeutic marijuana, by a pediatric subspecialist regarding a patient’s diagnosis of ASD and treatment with therapeutic marijuana. The consultation may be obtained in person or by telephone, telemedicine or electronic mail, provided it affords for medical/health information privacy and security. The request for and report of the consultant must be documented in the patient record of the requesting physician, who shall remain personally responsible to the patient for the primary diagnosis and any treatment provided. If the consultant’s advice or opinions are not accepted by the requesting physician, the medical record should document the consultation and the reason(s) why it was not accepted.

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*)—means any of the following:

- a. cancer;
- b. glaucoma;
- c. Parkinson’s disease;
- d. positive status for human immunodeficiency virus;
- e. acquired immune deficiency syndrome;
- f. cachexia or wasting syndrome;
- g. seizure disorders;
- h. epilepsy;
- i. spasticity;
- j. severe muscle spasms;
- k. intractable pain;
- l. Crohn’s disease;
- m. muscular dystrophy;
- n. multiple sclerosis;
- o. post-traumatic stress disorder;
- p. any of the following conditions associated with autism spectrum disorder (ASD); provided, however, that prior to recommending therapeutic marijuana for any condition associated with ASD to a patient under eighteen years of age, the physician shall consult with a pediatric subspecialist:

- i. repetitive or self-stimulatory behavior of such severity that the physical health of the person with autism is jeopardized;

- ii. avoidance of others or inability to communicate of such severity that the physical health of the person with autism is jeopardized;

- iii. self-injuring behavior;

- iv. physically aggressive or destructive behavior;

- q. and 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.

Intractable Pain—for purposes of this Chapter, means a pain state in which the course of the pain cannot be removed or otherwise treated with the consent of the patient and which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. It is pain so chronic and severe as to otherwise warrant an opiate prescription.

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 (LBP). For purposes of this definition *inhalation* shall not exclude a form of medical marijuana administered by metered-dose inhaler to the extent permitted by LBP rules.

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.

Pediatric Subspecialist—an individual licensed to practice medicine in any state in the United States who provides care to patients with ASD.

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.

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), LR 45:1471 (October 2019), LR 46:342 (March 2020).

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. Reserved.

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. if registered with the board under this Chapter, 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), amended by the Department of Health, Board of Medical Examiners, LR 45:1472 (October 2019).

§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.

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), LR 45:1472 (October 2019), LR 46:342 (March 2020).

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. 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), LR 46:342 (March 2020).

§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 alleviate 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.

d. of compliance with the board's rules on chronic or intractable pain, set forth in 6915-6923 of this Part, if therapeutic marijuana is utilized for the treatment of non-cancer-related chronic or intractable pain.

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 at such intervals as the physician determines appropriate to assess the benefits of

treatment, assure the therapeutic use of marijuana remains indicated, and evaluate the patient's progress toward treatment objectives. 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), LR 45:1472 (October 2019).

§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 by facsimile or in another electronic 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), LR 45:1472 (October 2019).

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

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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)			
<input type="checkbox"/> Acquired Immune Deficiency Syndrome <input type="checkbox"/> Cachexia or Wasting Syndrome <input type="checkbox"/> Cancer <input type="checkbox"/> Crohn’s Disease <input type="checkbox"/> Epilepsy <input type="checkbox"/> Multiple Sclerosis <input type="checkbox"/> Muscular Dystrophy <input type="checkbox"/> Positive Status for Human Immunodeficiency Virus <input type="checkbox"/> Spasticity <input type="checkbox"/> Seizure Disorders <input type="checkbox"/> Glaucoma <input type="checkbox"/> Parkinson’s Disease <input type="checkbox"/> Severe Muscle Spasms	<input type="checkbox"/> Intractable Pain <input type="checkbox"/> Post-Traumatic Stress Disorder <input type="checkbox"/> Any of the following conditions associated with autism spectrum disorder: <input type="checkbox"/> (i) repetitive or self-stimulatory behavior of such severity that the health of the person with autism is jeopardized; <input type="checkbox"/> (ii) avoidance of others or inability to communicate of such severity that the physical health of the person with autism is jeopardized; <input type="checkbox"/> (iii) self-injuring behavior; <input type="checkbox"/> (iv) physically aggressive or destructive behavior.		

Section D. Form, Amount, Dose, and Instructions for Use of Therapeutic Marijuana (Required)

Section E. Certification, Signature and Date (Required)

<p>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.</p> <p>Signature of Physician: X _____</p> <p>Date: _____</p>

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), LR 45:1472 (October 2019).

Chapter 78. Site Visits; Practice Performance Reviews

§7801. Scope of Chapter

A. The rules of this Chapter govern the board's initiation of site visits and practice performance reviews prescribed or authorized by the laws or rules administered by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B); 37:1285.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 46:339 (March 2020).

§7803. Initiation of Site Visit; Requesting Medical Records

A. Prior to conducting a site visit or requesting medical records from an individual licensed by the board who is not the subject of an active investigation, the executive director shall, following discussion in executive session, request approval to conduct the site visit or make the records request by a duly adopted motion by two-thirds vote of the board.

B. The executive director shall include in the request for approval the basis upon which the site visit or records request is warranted, the number of records to be requested, if applicable, the date, time and anticipated length of the proposed site visit, and the dates of any previous site visits.

C. The board shall not disclose the identity of any person included in the request for approval to conduct a site visit or record request.

D. The provisions of this section shall apply to practice performance reviews of physicians practicing telemedicine.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270, 37:1285.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 46:339 (March 2020).

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 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.

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 80. Louisiana Uniform Prescription Drug Prior Authorization Form

Subchapter A. General Provisions

§8001. Louisiana Uniform Prescription Drug Prior Authorization; Requirements; Referral for Enforcement

A. A prescriber or pharmacy required to obtain prior authorization from a third party payor shall complete the Louisiana Uniform Prescription Drug Prior Authorization Form referenced below in §8003, either in written form or its electronic equivalent.

B. In the event a third party payor demands the completion of an alternative authorization process, the prescriber or pharmacy shall refer the demand to the appropriate enforcement agency.

1. If the demand is made by a Medicaid-managed care organization, the prescriber or pharmacy shall refer the demand to the Department of Health.

2. If the demand is made by any other third party payor, the prescriber or pharmacy shall refer the demand to the Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1006.1(C) and 46:460.33(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:2154 (December 2018).

§8003. Louisiana Uniform Prescription Drug Prior Authorization Form

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LOUISIANA UNIFORM PRESCRIPTION DRUG PRIOR AUTHORIZATION FORM

SECTION I - SUBMISSION

Submitted to:	Phone:	Fax:	Date:
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SECTION II - PRESCRIBER INFORMATION

Last Name, First Name MI:		NPI# or Plan Provider #:	Specialty:	
Address:		City:	State:	ZIP Code:
Phone:	Fax:	Office Contact Name:	Contact Phone:	

SECTION III - PATIENT INFORMATION

Last Name, First Name MI:		DOB:	Phone:	<input type="checkbox"/> Male	<input type="checkbox"/> Female
				<input type="checkbox"/> Other	<input type="checkbox"/> Unknown
Address:		City:	State:	ZIP Code:	
Plan Name (if different from Section I):	Member or Medicaid ID:	Plan Provider ID:			
Patient is currently a hospital inpatient getting ready for discharge? ___ Yes ___ No Date of Discharge: _____					
Patient is being discharged from a psychiatric facility? ___ Yes ___ No Date of Discharge: _____					

SECTION IV - PRESCRIPTION DRUG INFORMATION

Requested Drug Name:						
Strength:	Dosage Form:	Route of Admin:	Quantity:	Days' Supply:	Dosage Interval/Directions for Use:	Expected Therapy Duration/Start Date:
To the best of your knowledge this medication is: ___ New therapy/Initial request ___ Continuation of therapy/Reauthorization request						
For Provider Administered Drugs only:						
HCPCS/CPT-4 Code: _____ NDC#: _____ Dose Per Administration: _____						
Other Codes: _____						
Will patient receive the drug in the physician's office? Yes No						

SECTION V - PATIENT CLINICAL INFORMATION

Primary diagnosis relevant to this request:		ICD-10 Diagnosis Code:	Date Diagnosed:
Secondary diagnosis relevant to this request:		ICD-10 Diagnosis Code:	Date Diagnosed:
For pain-related diagnoses, pain is: ___ Acute ___ Chronic			
For postoperative pain-related diagnoses: Date of Surgery _____			
Pertinent laboratory values and dates (attach or list below):			
Date	Name of Test	Value	

SECTION VI - THIS SECTION FOR OPIOID MEDICATIONS ONLY

Does the quantity requested exceed the max quantity limit allowed? ___Yes ___No (If yes, provide justification below.)
 Cumulative daily MME _____
 Does cumulative daily MME exceed the daily max MME allowed? ___Yes ___No (If yes, provide justification below.)

	YES (True)	NO (False)	THE PRESCRIBER ATTESTS TO THE FOLLOWING:	
	SHORT AND LONG-ACTING OPIOIDS			A
			B	The patient has been screened for substance abuse / opioid dependence . (Not required for recipients in long-term care facility.)
			C	The PMP will be accessed each time a controlled prescription is written for this patient.
			D	A treatment plan which includes current and previous goals of therapy for both pain and function has been developed for this patient.
			E	Criteria for failure of the opioid trial and for stopping or continuing the opioid has been established and explained to the patient.
			F	Benefits and potential harms of opioid use have been discussed with this patient.
			G	An Opioid Treatment Agreement signed by both the patient and prescriber is on file. (Not required for recipients in long-term care facility.)
LONG-ACTING OPIOIDS			H	The patient requires continuous around the clock analgesic therapy for which alternative treatment options have been inadequate or have not been tolerated.
			I	Patient previously utilized at least two weeks of short-acting opioids for this condition. Please enter drug(s), dose, duration and date of trial in pharmacologic/non-pharmacologic treatment section below.
			J	Medication has not been prescribed to treat acute pain, mild pain, or pain that is not expected to persist for an extended period of time.
			K	Medication has not been prescribed for use as an as-needed (PRN) analgesic.
			L	Prescribing information for requested product has been thoroughly reviewed by prescriber.

IF NO FOR **ANY** OF THE ABOVE (A-L), PLEASE EXPLAIN:

SECTION VII - PHARMACOLOGIC & NON-PHARMACOLOGIC TREATMENT(S) USED FOR THIS DIAGNOSIS (BOTH PREVIOUS & CURRENT):

Drug name	Strength	Frequency	Dates Started and Stopped or Approximate Duration	Describe Response, Reason

Drug Allergies: _____ Height (if applicable): _____ Weight (if applicable): _____

Is there clinical evidence or patient history that suggests the use of the plan's pre-requisite medication(s), e.g. step medications, will be ineffective or cause an adverse reaction to the patient? ___Yes ___No (If yes, please explain in Section VIII below.)

SECTION VIII - JUSTIFICATION (SEE INSTRUCTIONS)

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By signing this request, the prescriber attests that the information provided herein is true and accurate to the best of his/her knowledge. Also, by signing and submitting this request form, the prescriber attests to statements in the 'Attestation' section of the criteria specific to this request, if applicable.

Signature of Prescriber: _____

Date: _____

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1006.1(C) and 46:460.33(B).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 44:2155 (December 2018).

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Part XLV. Medical Professions

Subpart 4. Administrative Provisions

Chapter 81. Fees and Costs

**Subchapter L. Private Radiologic
Technologists**

§8183. Scope of Subchapter

A. The rules of this Subchapter prescribe the fees and costs applicable to the certification of private radiological technologists.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:577 (October 1987).

§8185. Certification

A. For processing an application for certification of a private radiological technologist as to proficiency, a fee of \$35, of which \$25 represents a nonrefundable processing fee, shall be payable to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1292.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Medical Examiners, LR 13:577 (October 1987).

Chapter 83. General Information

Subchapter A. Reserved.

Subchapter B. Board Organization

§8315. Executive Director; Director of Investigations

A. No individual shall simultaneously hold the positions of executive director and director of investigations for the board nor shall the executive director serve as an investigator on any complaint received or initiated by the board with respect to a physician. Each of these positions may be filled by the board on an interim basis; however, if a position remains vacant for a period of six months, the board shall notify its legislative oversight committees of such fact and its plans and anticipated time frame within which to fill the position.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 42:570 (April 2016).

Title 46
PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XLV. Medical Professions

Subpart 5. Rules of Procedure

Chapter 93. Miscellaneous Provisions

**Subchapter A. Petitions for
Rulemaking**

§9301. Scope of Subchapter

A. This Subchapter prescribes the procedures by which interested persons may petition the Board of Medical Examiners to exercise its rulemaking authority to adopt, amend or repeal administrative rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953C(1), R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:733 (June 2021).

§9303. Definitions as Used in This Subchapter

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

Interested Person—a person who or which:

- a. holds or has applied for any license, certificate, permit or registration issued by the board; or
- b. is subject to the regulatory jurisdiction of the board; or
- c. is or may be affected by the practice of individuals regulated by the board.

Person—an individual natural person, partnership, corporation, company, association, governmental subdivision or other public or private organization or entity.

Rulemaking—the process by which the board exercises its authority under the laws of the state of Louisiana, including the Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana Medical Practice Act, R.S. 37:1261 et seq., and the other acts administered by the board, to formulate, propose and adopt, amend or repeal and promulgate administrative rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953C(1), R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:733 (June 2021).

§9305. Petitions for Rulemaking

A. General Form. A petition for rulemaking must be submitted to the board in writing, legibly printed or typed.

B. Title and Signature. The petition shall be plainly and prominently titled as such and manually signed by an individual petitioner, authorized officer or representative of

the petitioner, or attorney representing the petitioner. The full name, title or office, if any, address and telephone number of a person signing a petition shall be printed or typed under the person's signature. Signees signing in a representative capacity must be clearly identified.

C. Required Contents. A petition for rulemaking shall:

1. clearly identify each petitioner by name and address of residence or principal place of business;
2. describe the legal status or nature of the petitioner to establish that the petitioner is an *interested person*, within the meaning of Section 9303 of this Subchapter;
3. if a petition for adoption of a new rule, set forth a concise statement of the substance, nature, purpose and intended effect of the proposed rule and citation to the statutory authority for the board's rulemaking authority in the manner and on the subject requested;
4. if a petition for amendment of an existing rule, specify, by citation to the *Louisiana Administrative Code*, the rule or rules which the petitioner requests that the board amend, together with a concise statement of the manner in which it is proposed that the rule or rules be amended, the purpose and intended effect of the requested amendment, and citation to the statutory authority for the board's exercise or rulemaking authority in the manner and on the subject requested;
5. if a petition for repeal of an existing rule, specify, by citation to the *Louisiana Administrative Code*, the rule or rules which the petitioner requests that the board repeal, together with a concise statement of the purpose and intended effect of such repeal;
6. set forth a concise statement of the facts, circumstances, and reasons which warrant exercise of the board's rulemaking authority in the manner requested.
7. set forth a statement or prayer expressing the action sought by the petition; and
8. contain any other information deemed necessary by the board, in its discretion, in order that it may properly consider the petition.

D. Submission and Filing. A petition for rulemaking shall be filed with the board by delivery, U.S. mail to the attention of the board's executive director at the offices of the board.

E. Nonconforming Petitions. The board may refuse to accept for filing, or may defer consideration of, any petition for rulemaking that does not conform to the requirements of this Section.

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F. Public Record. A petition for rulemaking shall be deemed a public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953C(1), R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:733 (June 2021).

§9307. Consideration

A. Consideration by the Board. A petition for rulemaking may be considered and acted on at any regular or special meeting of the board. Within the time prescribed by Section 9309 of this Subchapter, the board may request additional information from the petitioner or interested persons other than the petitioner as it may deem relevant to its consideration.

B. Presentations. Within the time prescribed by Section 9309 of this Subchapter, the board may, on its own initiative or at the request of the petitioner or any other interested person, permit petitioner and other interested persons to appear before the board to make an oral presentation of information, data, views, comments and arguments in support of or opposition to the requested rulemaking.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953C(1), R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:734 (June 2021).

§9309. Disposition

A. Form of Determination. The board may grant or deny a petition for rulemaking, in whole or in part. The board's determination shall be stated in writing and transmitted by U.S. mail to the person signing the petition. If the board denies a petition for rulemaking, in whole or in part, its determination shall state the reasons. If the board grants a petition for rulemaking, in whole or in part, it shall initiate rulemaking proceedings in accordance with the Louisiana Administrative Procedure Act. However, nothing in this Subchapter shall be construed to require that the board, in granting a petition for the adoption or amendment of a rule, employ or use the specific form or language requested by the petitioner, provided that the rule or amendment proposed by the board gives effect to the substance and intent of the petition.

B. Time for Determination. The board will render its determination with respect to a petition for rulemaking:

1. within 90 days of the date on which a complete petition conforming to the requirements of §9305 of this Subchapter is filed with the board; or

2. within 60 days of the date on which, at the request of the petitioner, the board entertains an oral presentation by the petitioner, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953C(1), R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:735 (June 2021).

§9311. Construction and Effect

A. Board Discretion in Rulemaking. The provisions of this Subchapter are intended to provide an orderly and reasonable means for interested persons to petition the board to exercise its rulemaking authority under law and to provide for board consideration of such petitions. Petitions for rulemaking are addressed to the board's discretion as to the necessity or appropriateness of the adoption, amendment or repeal of a rule in the discharge of its licensing and regulatory responsibilities under the law. Nothing in this Subchapter shall be deemed to create any right or entitlement in any person to require the board to exercise its rulemaking authority.

B. Nature and Effect of Determination. The board's disposition of a petition for rulemaking by a determination made under §9309 of this Subchapter does not constitute, and shall not be deemed to constitute, a decision or order within the meaning of Louisiana Administrative Procedure Act, R.S. 49:951(3) or a declaratory order or ruling within the meaning of R.S. 49:962 and the procedures prescribed by this Subchapter do not constitute an adjudication within the meaning of R.S. 49:951(1). A determination by the board with respect to a petition for rulemaking is final and not subject to judicial review or other appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953C(1), R.S. 37:1270.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:734 (June 2021).

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 physicians, allied health care practitioners, as defined herein, and applicants seeking to practice as a physician or allied health care practitioner, as well as other state and federal laws to which physicians and allied health care practitioners 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 Part 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) and 37:1285.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2627 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 46:339 (March 2020).

§9703. Definitions

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

Allied Health Care Practitioner—an individual, other than a physician, authorized by the board to practice in this

state including, but not limited to: a licensed acupuncturist, pursuant to R.S. 37:1360; an athletic trainer pursuant to R.S. 37:3301-3312; a clinical exercise physiologist pursuant to R.S. 37:3421-3433; clinical laboratory personnel pursuant to R.S. 37:1311-1329; a genetic counselor pursuant to R.S. 37:1360.101-1360.111; a medical psychologist pursuant to R.S. 37:1360.51-1360.72; a midwife pursuant to R.S. 37:3240-3257; an occupational therapist or occupational therapy assistant pursuant to R.S. 37:3001-3014; a perfusionist pursuant to R.S. 37:1331-37:1343; a physician assistant pursuant to R.S. 37:1360.21-1360.38; a podiatrist pursuant to R.S. 37:611-628; a polysomnographic technologist or technician pursuant to R.S. 37:2861-2870; a private radiological technologist pursuant to R.S. 37:1292; a licensed respiratory therapist pursuant to R.S. 37:3351-3361; as well as any other 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.

Applicant—an individual who has applied to the board for lawful authority to engage in the practice of medicine or that of an allied health care practitioner in this state.

Board—the Louisiana State Board of Medical Examiners, as established in the Louisiana Medical Practice Act, R.S. 37:1261-1292.

Compliance Counsel—a Louisiana licensed attorney designated to assist the board to observe and comply with the rules of this Chapter and corresponding laws, who is independent of the DOI and the licensee and has not participated in the review, investigation, recommendations for disposition or prosecution of the case; provided, however, that compliance counsel may attend meetings between the DOI and a licensee held pursuant to this Chapter for purposes of compliance.

Complaint—any information, claim or report of whatsoever kind or nature received or obtained by the board, or initiated by the board on its own motion pursuant to R.S. 37:1285.2(A), that alleges or may indicate a violation of the law by a licensee or an applicant.

Director of Investigations (DOI or sometimes also referred to in this Part as the Investigating Officer)—a physician possessing the qualifications specified by R.S. 37:1270A(9), appointed by the board to serve as the lead investigator for any complaint.

Independent Counsel—an individual licensed to practice law in this state and who is appointed pursuant to §9921.D of these rules to perform such duties as may be required pursuant to R.S. 37:1285.2 and other provisions of this Part.

Jurisdictional—a matter within the board's authority under the law.

Law (or the Law)—unless the context clearly indicates otherwise, the Louisiana Medical Practice Act, R.S. 37:1261-1292, the Practice Acts governing allied health care practitioners, other applicable laws administered by the board and the board's rules, LAC 46:XLV.101 et seq.

Licensee—a physician or individual who holds a current license, certificate, registration or permit to practice as an allied health care practitioner as defined herein.

Physician—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.

Records or Files of the Case—all relevant information, documents and records gathered in a preliminary review or formal investigation, except board investigator work product or notes, communications with board counsel and other records or files in the board's possession that are required by law to remain confidential or are otherwise privileged, as well as those that independent counsel has ruled need not be included in the records or files of the case following review of the grounds of an objection by the DOI.

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 by the Department of Health, Board of Medical Examiners, LR 46:339 (March 2020).

§9705. Complaint Origination

A. Complaints may be initiated by any person other than an employee of the board or initiated by the board on its own motion pursuant to R.S. 37:1285.2(A).

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 the records or files of the case and shall:

1. during a preliminary review, 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 administrative hearing before the board or as otherwise provided by law; and

2. after the filing of an administrative complaint pursuant to Chapter 99 of these rules, not remain confidential unless authorized by ruling of independent counsel or the board pursuant to §9905 of these rules.

E. Information received and requested by the board in connection with carrying out its mandated routine regulatory functions e.g., processing applications, receipt and review of reports of medical malpractice settlements or judgments, conducting audits of continuing medical or professional education, site-visits and performance audits, etc., shall not be deemed to be a complaint. However, if such information provides sufficient cause to indicate that a violation of the laws or rules administered by the board may have occurred,

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such information will be reviewed or investigated in accordance with §9709 or §9711 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5) and 37:1285.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2628 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 46:340 (March 2020).

§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. A preliminary review may be initiated to determine if the complaint is jurisdictional and whether sufficient cause exists to warrant formal investigation only upon one or more of the following:

1. a complaint, received from a person, other than an individual employed by the board;

2. a report, received from a law enforcement agency, federal or state regulatory agency, a reporting authority verified by the board through electronic or other means, or a professional health or other monitoring or treatment program, that may implicate a potential violation of the laws or rules administered by the board; and

3. a motion duly adopted by a vote of two-thirds of the members, that sufficient cause exists to indicate a violation of the laws or rules administered by the board may have occurred.

B. A preliminary review is initiated upon the receipt, review and assignment of a case number at the direction of the DOI or the assigned investigator. During a preliminary 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. the board may obtain all files and records related to the complaint and to the complainant, which may be needed to determine if the complaint is jurisdictional and whether sufficient cause exists to warrant formal investigation; provided, however, no more than twenty additional files or records of patients may be obtained in connection with the review unless authorized by the board. 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 relevant information, documents and records gathered during the preliminary review will be added to the records or files of the case.

D. Preliminary review of a complaint shall be completed as promptly as possible within ninety days of initiation unless extended by the board for satisfactory cause. However, this period 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, which do not provide a basis for preliminary review.

E. Nothing in this Chapter requires that a preliminary review be conducted if the complaint is not jurisdictional 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) and 37:1285.2.

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), amended by the Department of Health, Board of Medical Examiners, LR 46:340 (March 2020).

§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 complaint 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 practice in this state on the part of the licensee. If past complaints and investigations are utilized, a licensee and/or his counsel shall be notified and they shall be included within the records or files of the case and subject to all applicable provisions of this Chapter.

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 may be attended only by the board's director of investigations, the investigator assigned to the matter and legal counsel, if any, compliance counsel, the licensee and the licensee'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) and 37:1285.2.

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), amended by the Department of Health, Board of Medical Examiners, LR 46:341 (March 2020).

§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

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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 that are approved by the board as evidenced by the signature of the president or other authorized signatory. 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. Prior to offering a consent order the DOI shall make available the records or files of the case pertaining to the complaint against the licensee before the board. Such offer may be transmitted with a proposed consent order provided the individual is advised of his/her opportunity to review the records or files of the case prior to considering the consent order. Unless waived, the licensee may accept this offer any time before signing a consent order.

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) and 37:1285.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2629 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 46:341 (March 2020).

§9714. Guidelines for Determining Whether to Issue Public or Non-Public Actions

A. The board has the responsibility to consider and determine appropriate action as to all conduct alleged to violate the Louisiana Medical Practice Act, R.S. 37:1261-1292 et seq., other practice acts respecting allied health care practitioners governed by the board, and the rules and regulations promulgated by the board in carrying out the provisions of this Part.

B. This Section provides guidance as to the criteria the board may consider in determining whether informal complaint disposition is non-disciplinary (not public) or disciplinary (public).

C. This Section is intended to compliment, but not limit the board's authority to make such dispositions as it may deem appropriate under the particular facts and circumstances presented in any matter.

D. In determining whether informal complaint disposition is non-disciplinary or disciplinary, as well as the terms and conditions of disciplinary dispositions, the board

may consider aggravating or mitigating circumstances. A list of aggravating and mitigating circumstances is set forth below but is neither intended to be nor shall it be construed as an exclusive listing of circumstances.

1. Aggravating circumstances may warrant a disciplinary disposition or, in the case of a disciplinary disposition, justify revocation, the duration of suspension and enhancement of the period and type of probationary terms, conditions and/or restrictions of a consent or other board order. Aggravating circumstances include, but are not limited to:

- a. a danger to public health, safety and welfare;
- b. patient(s) harm or one or more violations that involve more than one patient;
- c. severity of patient harm;
- d. prior similar violations or board disciplinary action;
- e. disciplinary action in another jurisdiction or by a government agency, peer review or professional organization or health care entity;
- f. conduct involving patient exploitation;
- g. failure to provide professional service to a person because of such person's race, creed, color or national origin;
- h. failure to cooperate with board investigation or failure to adhere/comply with previous board order;
- i. dishonesty or selfish motive;
- j. attempt to conceal, or refusal to acknowledge nature of conduct;
- k. financial benefit to licensee or applicant;
- l. other relevant circumstances increasing the seriousness of the misconduct.

2. Mitigating circumstances may result in a non-disciplinary disposition or, in the case of a disciplinary disposition, justify reduction of the duration of suspension or period and type of probationary terms, conditions and/or restrictions of a consent or other board order. Mitigating circumstances include, but are not limited to:

- a. those that do not constitute an aggravating circumstance as set forth in this Section;
- b. practice-related or other professional or competency concerns that do not rise to a level of a violation of the practice act or board rules;
- c. isolated, minor or technical violation with adequate explanation that is not likely to recur;
- d. steps taken to insure nonoccurrence of future similar violation;
- e. timely and good faith efforts to rectify or mitigate consequences of misconduct;

- f. remorse, recognition/acknowledgment of wrongdoing;
- g. cooperation with board and board staff;
- h. potential for rehabilitation;
- i. voluntary participation in board approved continuing medical or professional education;
- j. absence of adverse patient impact;
- k. remoteness of misconduct;
- l. other relevant circumstances reducing the seriousness of the misconduct.

E. By setting forth the above guidelines the board does not intend to restrict, and indeed reserves unto itself, its authority and discretion to take such action it may determine appropriate in any particular matter with respect to informal and formal complaint 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 47:736 (June 2021).

§9716. Complaint Disposition Guidelines

A. These complaint disposition guidelines are designed to:

- 1. provide guidance to the board in assessing administrative disciplinary dispositions for violations of the Louisiana Medical Practice Act and the various practice acts governing allied healthcare practitioners regulated by the board; and
- 2. promote consistency in administrative disciplinary dispositions for similar violations.

B. In the event that the practice act or rules administered by the board for a category of allied healthcare providers do not contain the exact charges identified below, but instead refer to *unprofessional conduct* or a violation of the code of ethics of a national or professional organization, such violations will to the extent applicable be addressed by the guidance set forth below.

C. Special definitions. As used in this Section the following terms shall have the meanings specified.

- 1. *Continuing Medical Education* or *CME*, may include, but is not limited to, one or a combination of courses on:
 - a. medical ethics;
 - b. professional boundaries;
 - c. professionalism;
 - d. proper prescribing of controlled or other substances;
 - e. risk management;
 - f. medical record keeping;

- g. any CME program developed by the board; and
- h. any designated CME specified by the board;

2. *Probationary Terms and Conditions* (T and C) may include, but is not limited to, any restriction, limitation, condition, requirement, stipulation, or other provision that the board may determine appropriate, probationary T and C may also include CME, a fine and payment of investigator and attorney fees and all costs of the proceeding. The duration of probationary T and C rests with the discretion of the board following consideration of aggravating and mitigating circumstances defined in §9714 of this Part.

D. The maximum administrative disciplinary disposition that may be imposed by the board is denial or revocation of a license or permit to practice medicine or the license, certificate, registration or permit to practice as an allied healthcare practitioner regulated by the board, and an administrative fine of \$5,000 as to physician and the amount, if any, specified by the act governing the allied healthcare practitioner. The board may also assess investigator and attorney fees and all costs of the proceeding in accordance with the applicable practice act.

E. The administrative disciplinary dispositions identified in this Section provide a range from *minimum* to *maximum*. Each violation constitutes a separate offense. A:

- 1. greater disciplinary disposition may be imposed based on the number of violations;
- 2. disciplinary disposition may be greater or lower based on the presence or absence of aggravating or mitigation circumstances, identified in §9714 of this Part.

F. This Section is intended to compliment, and in no event shall it be construed to limit the board's authority to make such administrative disciplinary dispositions as it may deem appropriate under the particular facts and circumstances presented and as authorized by the applicable practice act in question.

- 1. Conviction/plea to a felony:
 - a. minimum—suspension for period of incarceration plus supervised release. If no incarceration, suspension for the duration of the supervised release and probationary terms and conditions (T and C) for a minimum of one year;
 - b. maximum—suspension with probationary terms and conditions or revocation;
- 2. Conviction/plea to charge related to practice:
 - a. minimum—suspension of license for period of incarceration plus supervised release. If no incarceration, suspension for the duration of the supervised release and reprimand and CME or a fine or both;
 - b. maximum—suspension or revocation;
- 3. Fraud, deceit, or perjury obtaining a diploma, license, or permit:

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- a. minimum—letter of concern, resubmission of corrected application and new application fee;
 - b. maximum— if violation renders applicant/licensee ineligible for license, suspension or revocation; if violation does not render applicant/licensee ineligible for license, resubmission of corrected application, new application fee and probationary T and C;
4. Providing false testimony/information to the board:
 - a. minimum—letter of concern and CME;
 - b. maximum—probationary T and C;
 5. Abuse of drugs or alcohol.
 - a. minimum—when no prior treatment, referral to Healthcare Professionals Foundation of Louisiana, Inc.; when prior treatment, probationary T and C for minimum of 1 year;
 - b. maximum—suspension, probationary T and C and/or revocation;
 6. Providing controlled substances without medical justification therefor or in illegitimate manner:
 - a. minimum—letter of concern;
 - b. maximum—suspension with probationary T and C for or revocation;
 7. Solicitation of patients or self-promotion that is fraudulent, false, deceptive, or misleading;
 - a. minimum—letter of concern;
 - b. maximum—suspension and/or probationary T and C;
 8. currently not enforceable;
 9. currently not enforceable;
 10. Efforts to deceive the public:
 - a. minimum—letter of concern;
 - b. maximum—probationary T and C;
 11. Making or submitting false, deceptive, or unfounded claims or reports:
 - a. minimum—letter of concern and CME or a fine or both;
 - b. maximum—suspension and/or probationary T and C;
 12. Inability to practice medicine with skill or safety:
 - a. minimum—practice restrictions, probationary T and C;
 - b. maximum—suspension with probationary T and C or revocation;
 13. Unprofessional conduct:
 - a. minimum— letter of concern and CME or a fine or both;
 - b. maximum—suspension and/or probationary T and C or revocation;
 14. Medical incompetency:
 - a. minimum—letter of concern and CME or a fine or both;
 - b. maximum—suspension and/or probationary T and C or revocation;
 15. Immoral conduct:
 - a. minimum—reprimand and CME or a fine or both;
 - b. maximum—suspension and/or probationary T and C or revocation;
 16. Gross overcharging for professional services:
 - a. minimum—letter of concern and CME or a fine or both;
 - b. maximum—probationary T and C;
 17. Abandonment of a patient:
 - a. minimum—letter of concern and CME or a fine or both;
 - b. maximum—probationary T and C;
 18. Assisting an unlicensed person to practice or professional association with illegal practitioner:
 - a. minimum—letter of concern and/or CME;
 - b. maximum—suspension and/or probationary T and C;
 19. Soliciting or accepting, or receiving anything of economic value for referral:
 - a. minimum—letter of concern and CME or a fine or both;
 - b. maximum—suspension and/or probationary T and C or revocation;
 20. Violation of federal or state laws relative to control of social diseases:
 - a. minimum—letter of concern and CME;
 - b. maximum—probationary T and C;
 21. Interdiction or commitment:
 - a. minimum—suspension, demonstration of competency to resume practice;
 - b. maximum—suspension and/or probationary T and C or revocation;
 22. Utilizing a physician's assistant without Board registration:
 - a. minimum—letter of concern and/or CME.
 - b. maximum—reprimand and CME or a fine or both;

23. Employing a physician's assistant whose conduct includes any of the causes enumerated in this Section:

- a. minimum—reprimand and CME or a fine or both;
- b. maximum—probationary T and C for 1 year and fine;

24. Misrepresenting the qualifications of physician's assistant:

- a. minimum—letter of concern and CME or a fine or both;
- b. maximum—probationary T and C.

25. Inability to practice medicine with skill or safety:

- a. minimum—restriction/limitation of practice and CME;
- b. maximum—suspension and/or probationary T and C or revocation;

26. Refusing to submit to evaluation:

- a. minimum—suspension and/or probationary terms and conditions;
- b. maximum—suspension and probationary T and C;

27. Currently not enforceable;

28. Currently not enforceable;

29. Action by another state that denies, prevents or restricts practice in that state:

- a. minimum—letter of concern or probationary T and C;
- b. maximum—suspension and/or probationary T and C or revocation;

30. Violation of rules of the board, or any provisions of the practice act:

- a. minimum—letter of concern and CME or a fine or both;
- b. maximum—suspension and/or probationary T and C or revocation;

31. Failure by a physician to self-report personal action constituting a violation of this Act within 30 days:

- a. minimum—letter of concern and CME or a fine or both;
- b. maximum—probationary T and C;

32. Holding oneself out as "board certified", without meeting required criteria:

- a. minimum—letter of concern and CME or a fine or both;
- b. maximum—reprimand and CME or a fine or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1261-1292 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:883 (July 2021).

Chapter 99. Adjudication

§9901. Scope of Chapter

A. The rules of this Chapter govern the board's initiation and adjudication of administrative complaints providing cause under law for the suspension, revocation, imposition of probation on, or other disciplinary action against persons holding licenses, permits, certifications, or registration issued by the board or applicants therefor.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990).

§9902. General Definitions

A. The definitions set forth in Chapter 97 of these rules shall equally apply to this Chapter, unless the context clearly states otherwise.

B. In addition, as used in this Chapter, the following additional terms and phrases shall have the meanings specified:

Respondent—a licensee or applicant who is the subject of an administrative enforcement action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B)(6) and 37:1285.2.

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 46:341 (March 2020).

§9903. Complaint

A. Proceedings to adjudicate an administrative enforcement action shall be initiated by the filing of a written administrative complaint with the board. The complaint shall be signed by the investigating officer appointed and designated by the board with respect to the subject matter of the complaint and shall name the accused licensee as respondent in the proceedings.

B. The complaint shall set forth, in separately numbered paragraphs, a concise statement of the material facts and matters alleged and to be proven by the investigating officer including the facts giving rise to the board's jurisdiction over the respondent, the facts constituting legal cause under law for administrative action against the respondent, and the statutory or regulatory provisions alleged to have been violated by respondent. The complaint shall conclude with a request for the administrative sanction or other relief sought by the investigating officer and shall bear the name, address, and telephone number of complaint counsel engaged by the board to present the case at evidentiary hearing before the board.

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

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HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended LR 17:480 (May 1991).

§9905. Notice of Hearing; Complainant Anonymity

A. Upon the filing of an administrative complaint pursuant to §9903, the board shall docket the complaint and schedule the complaint for hearing before the board not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the board determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification, or registration has been suspended by the board pending hearing, pursuant to R.S. 49:961(C), evidentiary hearing on the complaint shall be noticed and scheduled not more than 60 days from the date of suspension, unless respondent waives convening a hearing during such period.

B. A written notice of the complaint and the time, date, and place of the scheduled hearing thereon shall be served upon the respondent by registered, return-receipt-requested mail, as well as by regular first class mail, at the most current address for the respondent reflected in the official records of the board, or by personal delivery of the complaint to the respondent. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint.

C. The notice shall also include the right to be represented by legal counsel of respondent's selection and at his or her cost, and the right to face any complainant at an administrative hearing unless, following a review of all evidence relating to the complaint submitted by the DOI and respondent, independent counsel rules that the complainant may remain anonymous. The ruling of independent counsel relative to complaint anonymity may be overruled by a motion duly adopted by a two-thirds vote of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:1285.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended LR 34:1625 (August 2008), repromulgated LR 34:1905 (September 2008), amended by the Department of Health, Board of Medical Examiners, LR 46:341 (March 2020).

§9907. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the board, on motion of the respondent, may permit, the respondent may answer the complaint, admitting or denying each of the separate allegations of fact and of law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted therein shall be deemed denied.

B. Any respondent may be represented in an adjudication proceeding before the board by an attorney at law duly admitted to practice in this state. Upon receipt of service of a complaint pursuant to this Chapter, or thereafter, a respondent who is represented by legal counsel with respect to the proceeding shall personally or through such counsel, give written notice to the board of the name, address, and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, complaints, subpoenas, orders, or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended LR 41:2630 (December 2015).

§9909. Pleadings, Motions; Service

A. All pleadings, motions, or other papers permitted or required to be filed with the board in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the board and shall by the same method of delivery be concurrently served upon complaint counsel designated by the complaint, if filed by or on behalf of the respondent, or upon respondent, through counsel of record if any, if filed by complaint counsel.

B. All such pleadings, motions, or other papers shall be submitted on plain white, letter-size (8 1/2 by 11 inches) bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced, shall bear the caption and docket number of the case as it appears on the complaint and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by §9909.A.

C. The board may refuse to accept for filing any pleading, motion, or other paper not conforming to the requirements of this Section.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:508 (June 1990).

§9911. Prehearing Motions

A. Motions for continuance of hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the board may order, the investigating officer, through complaint counsel, may file a memorandum

in opposition to or otherwise setting forth the investigating officer's position with respect to the motion.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:508 (June 1990).

§9913. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by §9911 of these rules, provided that the board may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

B. A scheduled hearing may be continued by the board only upon a showing by respondent or complaint counsel that there are substantial legitimate grounds that the hearing should be continued balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the board's responsibility to protect the public health, welfare, and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the board will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

C. If an initial motion for continuance is not opposed, it may be granted by the executive director.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:508 (June 1990).

§9915. Disposition of Prehearing Motions

A. Any prehearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the executive director, shall be referred for decision to the presiding officer of the hearing panel designated with respect to the proceeding for ruling. The presiding officer, in his discretion, may refer any prehearing motion to the entire panel for disposition, and any party aggrieved by the decision of a presiding officer on a prehearing motion may request that the motion be reconsidered by the entire panel.

B. Prehearing motions shall ordinarily be ruled upon by the presiding officer or the hearing panel, as the case may be, on the papers filed, without hearing. On the written request of respondent or of complaint counsel, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing, by oral argument, on any prehearing motion.

C. The president of the board or presiding officer of the hearing panel, as the case may be, may delegate the task of ruling on prehearing motions to the board's independent legal counsel appointed pursuant to §9921D, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:508 (June 1990), amended, LR 41:2630 (December 2015).

§9916. Discovery; Disclosure

A. After filing and notice of an administrative complaint has been served pursuant to §9905 of this Chapter:

1. the parties or their respective counsel shall, within the time frames established by the prehearing conference order, provide the other with a list of all witnesses and copies of all exhibits that may be offered as evidence at the adjudication hearing. Respondent shall also be provided a copy of any written or recorded statement he may have provided to the board and any exculpatory material the board may possess concerning the respondent;

2. subpoenas and subpoenas duces tecum may be requested pursuant to §9917 of these rules and discovery may be conducted in accordance with the Louisiana Administrative Procedure Act.

3. the records or files of the case regarding the complaint shall be made available to the respondent through full discovery and disclosed to the respondent at his or her request.

4. Any potential exculpatory evidence shall be disclosed to the respondent whether or not requested and whether or not reduced to recorded or documentary form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1270(B) and 37:1285.2.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 41:2630 (December 2015), amended by the Department of Health, Board of Medical Examiners, LR 46:341 (March 2020).

§9917. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and compliance with the requirements of this Section, the executive director, or such other individuals as may be designated by the board, shall sign and issue subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the board only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the board with reference to the value of time employed and the degree of learning or skill required.

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

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HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:507 (June 1990), amended LR 27:2236 (December 2001).

§9919. Prehearing Conference

A. In any case of adjudication noticed and docketed for hearing a prehearing conference shall be held among the parties or their respective counsel, together with the board's independent counsel appointed pursuant to §9921.D hereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

B. Following such prehearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a prehearing stipulation or order which shall include:

1. a brief statement by complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of the witnesses to be called by complaint counsel and by respondent, together with a brief general statement of the nature of the testimony each such witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents, or issues; and

5. an estimate of the time required for the hearing;

6. dates for exchanging and supplementing lists of witnesses and copies of exhibits that may be offered at the hearing and discovery.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:509 (June 1990), amended, LR 41:2630 (December 2015).

§9920. Recusal

A. Any board member who, because of bias or interest, is unable to assure a fair hearing shall be recused from that particular proceeding. The reasons for the recusal shall be made part of the record. Should the majority of the board members be recused for a particular proceeding, the governor shall be requested to appoint a sufficient number of pro tem members to obtain a quorum for the proceeding.

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 41:2630 (December 2015).

§9921. Conduct of Hearing; Record; Order

A. Unless requested by the respondent, adjudication hearings shall be conducted in closed session.

B. At an adjudication hearing, opportunity shall be afforded to complaint counsel and respondent to present

evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. Unless stipulation is made between the parties, and approved by the hearing panel, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

D. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in executive session. At any such hearing, the board may be assisted by legal counsel, retained by the board for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the board or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in a case of adjudication shall include:

1. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery in the case or hearing of the adjudication, and all pleadings, motions, and intermediate rulings;

2. evidence received or considered at the hearing;

3. a statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;

4. offers of proof, objections, and rulings thereon;

5. proposed findings and exceptions, if any;

6. the decision, opinion, report, or other disposition of the case made by the board.

F. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

G. The order of proceedings in an adjudication hearing is as follows but may be altered at the discretion of the presiding officer or by agreement of the parties:

1. complaint counsel makes an opening statement of what he intends to prove, and what action is sought from the board;

2. respondent or his counsel makes an opening statement, explaining why he believes that the charges against respondent are not legally founded;

3. complaint counsel presents the evidence against the respondent;

4. respondent or his counsel cross examines;

5. respondent or his counsel presents evidence;

- 6. complaint counsel cross examines;
 - 7. complaint counsel rebuts the respondent's evidence;
- and

8. each party makes closing statements. The complaint counsel makes the initial closing statement and the final statement.

H. The board may impose reasonable time limits on the parties provided that such will not unduly prejudice the rights of the parties.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:509 (June 1990), amended LR 41:2630 (December 2015).

§9923. Evidence; Burden of Proof

A. In an adjudication hearing, the board, or the designated hearing panel thereof, may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. Effect shall be given to the rules of privilege recognized by law. The board or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the board which complaint counsel desires the board to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

C. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the board's medical knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The board's medical experience, technical competence, and medical knowledge may be utilized in the evaluation of the evidence.

D. Any member of the board serving as presiding officer in adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place of continued hearings, fix the time for the filing of briefs and other documents, if any are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

E. Except as otherwise governed by the provisions of these rules, adjudication hearings before the board shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

F. Burden of Proof. Any final decision of the board shall be supported by a preponderance of the evidence presented during the administrative hearing.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:509 (June 1990), amended LR 41:2630 (December 2015).

§9927. Decisions; Notice

A. The final decision of the board in an adjudication proceeding shall, if adverse to the respondent, and otherwise may be, in writing, shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the board.

B. Upon issuance of a final decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of complaints.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990).

§9929. Rehearings

A. A decision by the board in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the decision on respondent. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §9909 and shall set forth the grounds upon which such motion is based, as provided by §9929.B.

B. The board may grant rehearing, reopening, or reconsideration if it is shown that:

- 1. the decision is clearly contrary to the law and the evidence;
- 2. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
- 3. other issues not previously considered ought to be examined in order properly to dispose of the matter; or
- 4. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 16:510 (June 1990).

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§9931. Emergency Action

A. If the board, acting through its president or another member designated by the president, finds that the public health, safety, and welfare requires emergency action and a finding to that effect is incorporated in its order, summary suspension of a license, permit, certificate or registration may be ordered pursuant to R.S. 49:961(C), pending proceedings for revocation or other action. Such proceedings shall be promptly instituted and determined pursuant to this Chapter.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 34:2401 (November 2008).

§9935. Assessment of Costs and Fines

A. Assessment. As part of a decision, consent order, or other agreed order, the board may require a respondent to pay all costs of the board proceedings. If costs are assessed in a consent or other agreed order, the amount shall be stated in the order.

B. Special Definition. *Costs of the Proceedings*—for the purposes of this rule, shall mean a reasonable charge to meet all obligations incurred by the board in the performance of its duties, including but not limited to investigators', stenographers', and attorney fees, witness fees and expenses, and the per diem and expenses of the members of the board's hearing panel.

C. Notice. Notice of the application of this Section shall be provided to a respondent with the written notice of filing of an administrative complaint, pursuant to 9905.

D. Timing; Content; Service; Scope and Limitations; Exceptions and Requests for Modification; Disposition. Statements of Costs shall be processed as follows:

1. Timing. A statement of costs shall be compiled by the board within 20 days from the date on which the board's decision is served on the respondent.

2. Content. A statement of costs must state with particularity the nature and amount of the costs assessed. The statement must be signed and certify that all reasonable attempts have been made to ensure the statement's accuracy.

3. Service. A statement of costs shall be served on respondent by regular and certified mail at the last known address on file with the board not later than 20 days from the date on which the board's decision is served on the respondent.

4. Scope and Limitations. A statement of costs shall be assessed in any decision following an administrative hearing, in which a respondent is found guilty of a violation of a law or rule administered by the board. The statement shall include those costs actually incurred by the board from the time of filing of an administrative complaint until the issuance of a final decision or order; provided, however, and except as provided below, that such costs shall not exceed for a respondent:

a. physician, the sum of \$75,000;

b. allied health care practitioner, as to whom the board is authorized by law to assess the costs of the proceeding, the sum of \$25,000.

5. Exceptions; Requests for Modification. Within 20 days of the date of service of the statement of costs:

a. the respondent may file an exception to, or submit a request for modification of, a statement of costs. Each such exception or request shall be accompanied by a concise statement of the grounds on which the exception or request is based and any supporting legal or other authority. Within 10 days of such filing or submission, a response may be filed by the complainant;

b. the complainant may request an assessment of costs above the amounts specified above. Such a request shall be made only when the complainant contends a respondent unreasonably increased the costs of the proceedings by activities undertaken to harass or create undue burden, or by the repetitive, unduly burdensome, or unwarranted filing of meritless motions or discovery requests. Within 10 days of the filing of such a request, a response may be filed by the respondent.

6. Disposition of Exceptions and Requests for Modification. Upon timely filing:

a. an exception or request shall be referred to the presiding officer of the hearing panel with respect to the proceeding for a ruling. The presiding officer, in his or her discretion, may refer an exception or request to the entire hearing panel which considered the case for disposition, and any party aggrieved by the ruling of a presiding officer may request, within 10 days of receipt of the ruling, that the exception or request be reconsidered by the entire panel which heard the case;

b. the matter shall ordinarily be decided on by the presiding officer or the hearing panel, as the case may be, on the papers filed, without hearing. On the written request of respondent or complainant, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing by oral argument;

c. the president of the board or presiding officer of the hearing panel, as the case may be, may delegate the task of ruling on such exceptions or request to the board's independent legal counsel appointed pursuant to §9921D, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case.

E. Payment of Costs and Expenses; Periodic Payment Plan; Waiver

1. A statement of costs must be satisfied within 30 days of receipt unless the statement of costs provides otherwise or the respondent enters into a periodic payment plan with the board's compliance officer assigned to the matter or with another individual designated by the board.

2. The board's compliance officer or designee may enter into an agreement with a respondent for a reasonable

periodic payment plan if the respondent demonstrates in writing the present inability to pay such costs or provides other satisfactory cause to support the request.

3. A respondent may ask the board to review an adverse determination by its compliance officer or designee regarding specific conditions for a periodic payment plan. Such review shall be conducted in accordance with §9935.D.6.

F. Fine. As part of a decision, consent order, or other agreed order, the board may require the payment of a fine; provided, however, that such fine shall not exceed, as to a respondent:

- a. physician, the sum of \$5,000;
- b. allied health care practitioner, the amount authorized by law, but in no event more than \$5,000.

G. Waiver; Adjustment. A statement of costs or amount of a fine, or both, may be waived or reduced by the board, in its discretion, in whole or part, upon a request submitted in writing that evidences to the board's satisfaction a significant medical, physical, financial or similar extenuating circumstance precluding the individual's payment of costs or fine or where it appears to the board in the interests of justice to do so.

H. Failure to Comply with Assessment of Costs or Fine. A respondent who fails to timely pay a statement of costs or fine, or who fails to comply with the terms of a periodic payment plan, shall be notified of non-compliance by first class and certified mail at his or her last known address on file with the board. A respondent's failure to comply with such notice within 30 days of mailing may provide a basis for further action by the board.

I. Nothing in this Section shall delay, suspend, extend, or otherwise affect the time authorized by law within which a respondent may file a petition for judicial review of a final decision or order issued by the board.

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

HISTORICAL NOTE: Promulgated by the Department of Health, Board of Medical Examiners, LR 47:726 (June 2021).

Chapter 111. Clinical Laboratory Personnel

§11101. Scope of Chapter

A. The rules of this Chapter prescribe the procedures governing the investigation of complaints, reports, and information evidencing legal cause under the Louisiana Clinical Laboratory Personnel law for the suspension, revocation, imposition of probation on, or other disciplinary action against persons holding licenses, certifications, or permits under the Louisiana Clinical Laboratory Personnel law and the initiation of formal enforcement proceedings and adjudication of administrative complaints by the Clinical Laboratory Personnel Committee and the Louisiana State Board of Medical Examiners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:195 (March 1996).

§11103. Definitions

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

Board—the Louisiana State Board of Medical Examiners.

Committee—the Clinical Laboratory Personnel Committee to the Louisiana State Board of Medical Examiners, as established and constituted under R.S. 37:1314.

Law—the Louisiana Clinical Laboratory Personnel Law, R.S. 37:1311-1329, as the same may be amended hereafter.

Licensee—a person who holds a license, certification, or permit issued by the board, on the recommendation of the committee, under the law.

Respondent—a licensee who has been named in an administrative complaint filed with the committee, alleging cause under the law for revocation, suspension, or the imposition of probation on the license, certification, or permit of the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:196 (March 1996).

§11105. Investigation

A. Upon receipt of information, by complaint, report, or otherwise coming to its attention, which, if established as true, would constitute legal cause under the law for the revocation, suspension, or the imposition of probation on the license, certification, or permit of a licensee, the committee may designate one or more of its members, employees, or agents as "investigating officers," to conduct such investigation or inquiry as they may deem appropriate to determine whether there is probable cause to initiate formal administrative proceedings against the subject licensee. To obtain evidence of violations of the law or otherwise to aid in an investigation, investigating officers may request that the board issue and serve investigative subpoenas to obtain documents or sworn testimony by deposition.

B. Except to the extent that disclosure of an investigation to the subject licensee would, in the judgment of the investigating officers, prejudice the investigation, notice of the initiation and pendency of an investigation, stating the nature and basis of the information prompting the investigation, shall promptly be given in writing to the subject licensee, who shall be requested and given an opportunity to respond to the complaint or other information giving rise to the investigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

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HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:196 (March 1996).

§11107. Disposition of Investigation

A. If, having conducted an investigation, the investigating officers determine that there is probable cause to believe that a licensee has engaged or is engaging in conduct, acts or omissions constituting legal cause under the law for the revocation, suspension, or the imposition of probation on the license, certification, or permit of the subject licensee, the investigating officers shall file with the committee an administrative complaint against the licensee pursuant to §11109. Before filing an administrative complaint with the committee, the investigating officers shall give notice by mail to the subject licensee of the intent to file an administrative complaint, including a copy of the proposed complaint or statement of the facts or conduct which the investigating officers believe warrant the initiation of enforcement proceedings by administrative complaint, and the licensee shall be given a reasonable opportunity to show compliance with all lawful requirements for the retention of licensure and to persuade the investigating officers that an administrative complaint is not justified or warranted.

B. If, having conducted an investigation, the investigating officers determine that there is insufficient evidence to establish legal cause for formal action by the committee, the investigating officers may recommend to the committee that the investigation be dismissed or concluded without formal action.

C. Investigating officers may also recommend that an investigation be concluded or otherwise disposed of pursuant to consent order or other informal disposition which has been agreed to in writing by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:196 (March 1996).

§11109. Complaint

A. Proceedings to adjudicate an administrative enforcement action shall be initiated by the filing of a written administrative complaint with the committee. The complaint shall be signed by investigating officers appointed and designated by the committee with respect to the subject matter of the complaint and shall name the accused licensee as respondent in the proceedings.

B. The complaint shall set forth, in separately numbered paragraphs, a concise statement of the material facts and matters alleged and to be proven by the investigating officers including the facts giving rise the committee's jurisdiction over the respondent, the facts constituting legal cause under law for administrative action against the respondent, and the statutory or regulatory provisions alleged to have been violated by respondent. The complaint shall conclude with a request for the administrative sanction or other relief sought by the investigating officers and shall bear the name,

address, and telephone number of complaint counsel, if any, engaged by the committee to present the case at evidentiary hearing before the committee. The complaint shall also contain the certificate of the investigating officer that the requirements of §11107.A of these rules and of R.S. 37:916.C have been satisfied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:196 (March 1996).

§11111. Notice of Hearing

A. Upon the filing of an administrative complaint pursuant to §11109, the committee shall docket the complaint and schedule the complaint for hearing before the committee not less than 45 days nor more than 180 days thereafter; provided, however, that such time may be lengthened or shortened as the committee determines may be necessary or appropriate to protect the public interest or upon motion of the investigating officer or respondent pursuant to a showing of proper grounds. In the event that the respondent's license, permit, certification, or registration has been suspended by the board pending hearing on the recommendation of the committee, pursuant to R.S. 49:961.C, evidentiary hearing on the complaint shall be noticed and scheduled not more than 45 days after the filing of the complaint.

B. A written notice of the complaint and the time, date, and place of the scheduled hearing thereon shall be served upon the respondent by registered, return-receipt-requested mail, as well as by regular first class mail, at the most current address for the respondent reflected in the official records of the committee, or by personal delivery of the complaint to the respondent. The notice shall include a statement of the legal authority and jurisdiction under which the hearing is to be held and shall be accompanied by a certified copy of the administrative complaint.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:196 (March 1996).

§11113. Response to Complaint; Notice of Representation

A. Within 15 days of service of the complaint, or such longer time as the committee, on motion of the respondent, may permit, the respondent may answer the complaint, admitting or denying each of the separate allegations of fact and of law set forth therein. Any matters admitted by respondent shall be deemed proven and established for purposes of adjudication. In the event that respondent does not file a response to the complaint, all matters asserted therein shall be deemed denied.

B. Any respondent may be represented in an adjudication proceeding before the committee by an attorney at law duly admitted to practice in any state. Upon receipt of service of a complaint pursuant to this Chapter, or thereafter,

a respondent who is represented by legal counsel with respect to the proceeding shall, personally or through such counsel, give written notice to the committee of the name, address, and telephone number of such counsel. Following receipt of proper notice of representation, all further notices, complaints, subpoenas, orders, or other process related to the proceeding shall be served on respondent through his or her designated counsel of record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:197 (March 1996).

§11115. Pleadings, Motions; Service

A. All pleadings, motions, or other papers permitted or required to be filed with the committee in connection with a pending adjudication proceeding shall be filed by personal delivery at or by mail to the office of the committee and shall by the same method of delivery be concurrently served upon complaint counsel designated by the complaint, if filed by or on behalf of respondent, or upon respondent, through counsel of record, if any, if filed by complaint counsel.

B. All such pleadings, motions, or other papers shall be submitted on plain white, letter-size (8 1/2 by 11 inches) bond, with margins of at least one inch on all sides and text double-spaced except as to quotations and other matter customarily single-spaced, shall bear the caption and docket number of the case as it appears on the complaint and shall include the certificate of the attorney or person making the filing that service of a copy of the same has been effected in the manner prescribed by §11115.A.

C. The committee may refuse to accept for filing any pleading, motion, or other paper not conforming to the requirements of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:197 (March 1996).

§11117. Prehearing Motions

A. Motions for continuance of hearing, for dismissal of the proceeding and all other prehearing motions shall be filed not later than 30 days following service of the complaint on the respondent or 15 days prior to the hearing, whichever is earlier. Each prehearing motion shall be accompanied by a memorandum which shall set forth a concise statement of the grounds upon which the relief sought is based and the legal authority therefor. A motion may be accompanied by an affidavit as necessary to establish facts alleged in support of the motion. Within 10 days of the filing of any such motion and memorandum or such shorter time as the committee may order, the investigating officers, through complaint counsel, may file a memorandum in opposition to or otherwise setting forth the investigating officers' position with respect to the motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:197 (March 1996).

§11119. Motions for Continuance of Hearing

A. A motion for continuance of hearing shall be filed within the delay prescribed by §11117 of these rules, provided that the committee may accept the filing of a motion for continuance at any time prior to hearing upon a showing of good cause not discoverable within the time otherwise provided for the filing of prehearing motions.

B. A scheduled hearing may be continued by the committee only upon a showing by respondent or complaint counsel that there are substantial legitimate grounds that the hearing should be continued balancing the right of the respondent to a reasonable opportunity to prepare and present a defense to the complaint and the committee's responsibility to protect the public health, welfare, and safety. Except in extraordinary circumstances evidenced by verified motion or accompanying affidavit, the committee will not ordinarily grant a motion to continue a hearing that has been previously continued upon motion of the same party.

C. If an initial motion for continuance is not opposed, it may be granted by the investigating officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:197 (March 1996).

§11121. Disposition of Prehearing Motions

A. Any prehearing motion, other than an unopposed initial motion for continuance of hearing which may be granted by the investigating officers, shall be referred for decision to the presiding officer of the hearing panel designated with respect to the proceeding for ruling. The presiding officer, in his discretion, may refer any prehearing motion to the entire panel for disposition, and any party aggrieved by the decision of a presiding officer on a prehearing motion may request that the motion be reconsidered by the entire panel.

B. Prehearing motions shall ordinarily be ruled upon by the presiding officer or the hearing panel, as the case may be, on the papers filed, without hearing. On the written request of respondent or of complaint counsel, however, and on demonstration that there are good grounds therefor, the presiding officer may grant opportunity for hearing, by oral argument, on any prehearing motion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:198 (March 1996).

§11123. Subpoenas for Hearing

A. Upon request of the respondent or complaint counsel and compliance with the requirements of this Section, the executive director of the board shall sign and issue

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subpoenas in the name of the board requiring the attendance and giving of testimony by witnesses and the production of books, papers, and other documentary evidence at an adjudication hearing.

B. No subpoena shall be issued unless and until the party who wishes to subpoena the witness first deposits with the board a sum of money sufficient to pay all fees and expenses to which a witness in a civil case is entitled pursuant to R.S. 13:3661 and R.S. 13:3671. Witnesses subpoenaed to testify before the committee only to an opinion founded on special study or experience in any branch of science, or to make scientific or professional examinations, and to state the results thereof, shall receive such additional compensation from the party who wishes to subpoena such witnesses as may be fixed by the committee with reference to the value of the time employed and the degree of learning or skill required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:198 (March 1996).

§11125. Prehearing Conference

A. In any case of adjudication noticed and docketed for hearing, counsel for respondent and complaint counsel may agree, or the presiding officer may require, that a prehearing conference be held among such counsel, or together with the committee's independent counsel appointed pursuant to §11127.D hereof, for the purpose of simplifying the issues for hearing and promoting stipulations as to facts and proposed evidentiary offerings which will not be disputed at hearing.

B. Following such prehearing conference the parties shall, and without such conference the parties may by agreement, agree in writing on a prehearing stipulation which should include:

1. a brief statement by complaint counsel as to what such counsel expects the evidence to be presented against respondent to show;

2. a brief statement by respondent as to what the evidence and arguments in defense are expected to show;

3. a list of the witnesses to be called by complaint counsel and by respondent, together with a brief general statement of the nature of testimony each such witness is expected to give;

4. any stipulations which the parties may be able to agree upon concerning undisputed claims, facts, testimony, documents, or issues; and

5. an estimate of the time required for the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:198 (March 1996).

§11127. Conduct of Hearing; Record

A. Unless requested by the respondent, adjudication hearings shall be conducted in closed session.

B. At an adjudication hearing, opportunity shall be afforded to complaint counsel and respondent to present evidence on all issues of fact and argument on all issues of law and policy involved, to call, examine, and cross-examine witnesses, and to offer and introduce documentary evidence and exhibits as may be required for a full and true disclosure of the facts and disposition of the complaint.

C. Unless stipulation is made between the parties, and approved by the hearing panel, providing for other means of recordation, all testimony and other proceedings of an adjudication shall be recorded by a certified stenographer who shall be retained by the board to prepare a written transcript of such proceedings.

D. During evidentiary hearing, the presiding officer shall rule upon all evidentiary objections and other procedural questions, but in his discretion may consult with the entire panel in executive session. At any such hearing, the committee may be assisted by legal counsel, retained by the committee for such purpose, who is independent of complaint counsel and who has not participated in the investigation or prosecution of the case. If the committee or panel is attended by such counsel, the presiding officer may delegate to such counsel ruling on evidentiary objections and other procedural issues raised during the hearing.

E. The record in a case of adjudication shall include:

1. the administrative complaint and notice of hearing, respondent's response to the complaint, if any, subpoenas issued in connection with discovery in the case or hearing of the adjudication, and all pleadings, motions, and intermediate rulings;

2. evidence received or considered at the hearing;

3. statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;

4. offers of proof, objections, and rulings thereon;

5. proposed findings and exceptions, if any;

6. the decision, opinion, report, or other disposition of the case made by the committee.

F. Findings of fact shall be based exclusively on the evidence of record and on matters officially noticed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:198 (March 1996).

§11129. Evidence

A. In an adjudication hearing, the committee, or the designated hearing panel thereof, may give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their

affairs. Effect shall be given to the rules of privilege recognized by law. The committee or panel may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

B. All evidence, including records and documents in the possession of the committee which complaint counsel desires the committee to consider, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference. In case of incorporation by reference, the materials so incorporated shall be available for examination by the respondent before being received in evidence.

C. Notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the committee's professional knowledge. Parties shall be notified either before or during the hearing of the material noticed or sought by a party to be noticed, and they shall be afforded an opportunity to contest the material so noticed. The committee's professional experience, technical competence, and knowledge may be utilized in the evaluation of the evidence.

D. Any member of the committee serving as presiding officer in an adjudication hearing shall have the power to and shall administer oaths or affirmations to all witnesses appearing to give testimony, shall regulate the course of the hearing, set the time and place for continued hearings, fix the time for the filing of briefs and other documents, if any are required or requested, and may direct the parties to appear and confer to consider simplification of the issues.

E. Except as otherwise governed by the provisions of these rules, adjudication hearings before the committee shall be governed by the Louisiana Code of Evidence, insofar as the same may be applied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:199 (March 1996).

§11131. Informal Disposition

A. The committee may recommend to the board an informal disposition, by default, consent order, agreement, settlement, or otherwise of any adjudication pending before it. A consent order shall be considered by the committee only upon the recommendation of the investigating officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:199 (March 1996).

§11133. Recommended Decisions; Notice

A. The recommended decision of the committee in an adjudication proceeding shall be set forth in writing, shall include findings of fact and conclusions of law, and shall be signed by the presiding officer of the hearing panel on behalf and in the name of the committee.

B. Upon issuance of a recommended decision, a certified copy thereof shall promptly be served upon respondent's counsel of record, or upon respondent personally in the absence of counsel, in the same manner of service prescribed with respect to service of complaints.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:199 (March 1996).

§11135. Rehearings

A. A recommended decision by the committee in a case of adjudication shall be subject to rehearing, reopening, or reconsideration by the committee pursuant to written motion filed with the committee within 10 days from service of the recommended decision on respondent. A motion for rehearing, reopening, or reconsideration shall be made and served in the form and manner prescribed by §11115 and shall set forth the grounds upon which such motion is based, as provided by §11135.B.

B. The committee may grant rehearing, reopening, or reconsideration if it is shown that:

1. the recommended decision is clearly contrary to the law and the evidence;
2. the respondent has discovered since the hearing evidence important to the issues which he or she could not have with due diligence obtained before or during the hearing;
3. other issues not previously considered ought to be examined in order properly to dispose of the matter; or
4. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:199 (March 1996).

§11137. Effect of Recommended Decision; Appeal to Board

A. A recommended decision of the committee shall be adopted by the board and become final and effective, subject to appeal as hereinafter provided, 20 days after the date of its service on the respondent if no rehearing has been sought or 20 days after the committee issues its decision following a timely request for rehearing or reconsideration, whichever is later.

PROFESSIONAL AND OCCUPATIONAL STANDARDS

B. A recommended decision of the committee which is timely appealed shall not become effective as to the respondent until such recommended decision is adopted by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:200 (March 1996).

§11139. Appeal of Recommended Decision

A. A respondent may appeal a recommended decision of the committee by giving written notice of intent to appeal to the board, the committee, and the investigating officers prior to the date on which such recommended decision would become final pursuant to §11137.A.

B. Upon receipt of a notice of appeal, the committee shall promptly transmit to the board the entire hearing record.

C. Following service of notice of appeal, on such date as may be designated by the board, the respondent and the investigating officers shall appear before the board, in person or through legal counsel and/or other representative, and shall be entitled to make such relevant representations and arguments as they deem appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:200 (March 1996).

§11141. Conduct of Appeal before Board

A. A respondent who fails without good cause, as determined by the board, to appear and proceed at appeal proceedings shall be deemed to have waived his right to appeal.

B. Appeal of a recommended decision of the committee shall be confined to the record of the hearing and the issues addressed and determined therein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:200 (March 1996).

§11143. Decision by Board

A. The board shall adopt the recommended decision of the committee as its own if the respondent has not appealed such decision.

B. Upon appeal of a recommended decision of the committee, the board shall consider the entire hearing record together with the representations and arguments made before it by the respondent and the investigating officers and render its decision thereon as soon as practicable following conclusion of the appeal proceedings.

C. The board may affirm and adopt, reverse, or modify and adopt the recommended decision of the committee.

D. The decision of the board shall be given in writing, including a statement of the basis and reasons for the decision, dated and subscribed by the president of the board or other presiding officer. A copy of the decision shall be served on the respondent by certified mail, return-receipt-requested, and delivered to the investigating officers and the committee.

E. The decision of the board shall become final and effective 10 days after the date of its service on the respondent, subject to reconsideration by the board as hereinafter provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:200 (March 1996).

§11145. Reconsideration on Appeal

A. A decision by the board pursuant to a recommended decision by the committee in a case of adjudication shall be subject to reconsideration by the board pursuant to written motion filed with the board within 10 days from service of the board's decision on respondent. A motion for reconsideration shall be made and served in the form and manner prescribed by §11115 and shall set forth the grounds upon which such motion is based, as provided by §11145.B.

B. The board may grant reconsideration if it is shown that:

1. the decision is clearly contrary to the law and the evidence;
2. other issues not previously considered ought to be examined in order properly to dispose of the matter; or
3. there exists other good grounds for further consideration of the issues and the evidence in the public interest.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1311-1329 and 37:1270(A)(5).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Medical Examiners, LR 22:200 (March 1996).