To: Attorney General Jeff Landry

 Attn: Department of Justice, Occupational Licensing Review Program

From: Dr. Vincent A. Culotta, Jr.

 Executive Director, Louisiana State Board of Medical Examiners

Date: June 18, 2025

Subject: Recusal

The Louisiana State Board of Medical Examiners proposes to amend its rules governing recusal in administrative hearings and/or proceedings to clarify that in addition to the board, the Director of Investigations (DOI) and/or the Independent Counsel may also be recused, and to provide for a pro tem DOI, when needed, and the qualifications of the pro tem DOI.

To facilitate the Department of Justice’s review of the proposed rule, the Louisiana State Board of Medical Examiners provides answers to the following questions.

1. Describe any relevant factual background to the occupational regulation and the purpose of the occupational regulation?

The circumstances requiring the proposed amendments are the Board’s duty to provide rules of procedure assuring that Adjudication hearings are conducted as fair and impartial proceedings. To that end, LAC 46:XLV.9920 governs recusal of board members. The proposed rule would amend §9920 to add provisions for the recusal of the Director of Investigations, and of the Independent Counsel, and adds qualifications required for a pro tem Director of Investigations.

2. Is the occupational regulation within the scope of the occupational licensing board’s general authority to regulate in a given occupation or industry? If so, identify the law that provides the authority for the rule and describe how the occupational regulation is within the scope.

Yes, these rules were promulgated in accordance with R.S. 37:3001-3014, 37:1270, and 37:1281.

3. Check all of the following that apply as reasons the occupational regulation is subject to review

[] Creates a barrier to market competition

[] Fixes prices, limits price competition, or results in high prices for a product or service provided by or to a license holder.

[] Reduces competition or excludes present or potential competitors from the occupation regulated by the board

[] Limits output or supply in this state of any good or service provided by the members of the regulated occupation.

[] Reduces the number of providers that can serve a particular set of customers

[X] Other activity (please describe) – relative to investigations and enforcement of professional regulations.

4. Identify the clearly articulated state policy (e.g., health, safety, welfare, or consumer protection) in state statute, or any supporting evidence of the harm the action/proposed action is intended to protect against?

These regulations are intended to protect the public’s health and welfare by ensuring the practitioners are fairly adjudicated.

5. Do any less restrictive alternatives to the occupational regulation exist for addressing the same harm? If so, include a comparison of the occupational regulation to the alternatives and a justification for not pursuing a less restrictive alternative. If no less restrictive alternatives exist, explain why.

 These regulations are the least restrictive.

6. Describe the process that the occupational licensing board followed in developing the proposed rule, including any public hearings held, studies conducted, and data collected or analyzed.

All meetings complied with the Open Meetings Law, offering proper notice, public comment, and records of the meetings. The rule changes went before the LSBME at a public meeting where the board adopted the proposed rule change.

7. Does the occupational regulation relate to a matter on which there is pending litigation or a final court order?

 No.

8. Please identify the board members voting in favor of this rule, and state whether the member is an active market participant.

The LSBME is composed of the following members: Roderick V. Clark, MD, MBA, Kim S. Sport, JD, Rita Y. Horton, MD, Juzar Ali, MD, Wyche T. Coleman, Jr., MD, Patrick T. O'Neill, MD, James A. Taylor, Jr., MD, Terrie R. Thomas, MD, Leonard Weather, Jr., MD, R.Ph, Cheryl Hayes Williams, MD.

The vote to approve the rule change was unanimous.

9. Is there anything else that the occupational licensing board would like the Department to know about the proposed rule?