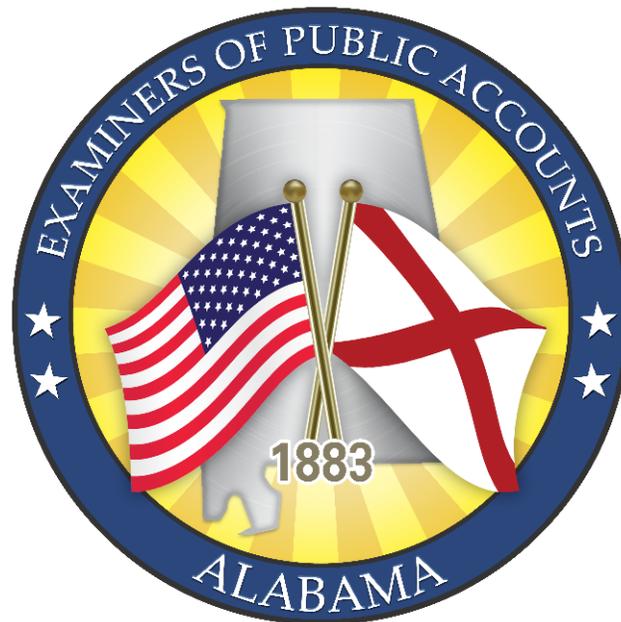


Report on the

**Board of Medical Examiners and the
Medical Licensure Commission
State of Alabama
Montgomery, Alabama**

October 1, 2017 through September 30, 2019

Filed: April 16, 2021



**Department of
Examiners of Public Accounts**

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Rachel Laurie Riddle, Chief Examiner



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Honorable Christine Harden
Assistant Chief Examiner of Public Accounts
Montgomery, Alabama 36130

Dear Madam:

An examination was conducted on the Board of Medical Examiners and the Medical Licensure Commission, Montgomery, Alabama, for the period October 1, 2017 through September 30, 2019, by Examiners Rodney Wagstaff, Daniel Dupree, Janet Berry and Troy Eastman. I, Rodney Wagstaff, served as Examiner-in-Charge on the engagement, and under the authority of the *Code of Alabama 1975*, Section 41-5A-19, I hereby swear to and submit this report to you on the results of the examination.

Respectfully submitted,

A handwritten signature in blue ink that reads 'Rodney Wagstaff'. The signature is written in a cursive style with a large initial 'R'.

Rodney Wagstaff
Examiner of Public Accounts

rb

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Department of
Examiners of Public Accounts

SUMMARY

**Board of Medical Examiners and the Medical Licensure Commission
October 1, 2017 through September 30, 2019**

The Board of Medical Examiners (the “Board”) issues certificates of qualification to the Medical Licensure Commission for applicants meeting the statutory qualifications for licensure and licenses physician assistants. The Board operates under the authority of the *Code of Alabama 1975*, Sections 34-24-50 through 34-24-75.1; and Sections 34-24-290 through 34-24-610.

The Medical Licensure Commission (the “Commission”) is authorized to issue, revoke, and reinstate all licenses authorizing doctors to practice medicine or osteopathy in the State of Alabama. The Commission operates under the authority of the *Code of Alabama 1975*, Sections 34-24-310 through 34-24-543.

This report presents the results of an examination of the Board and Commission and a review of the Board’s and Commission’s compliance with applicable laws and regulations of the State of Alabama. This examination was conducted in accordance with the requirements of the Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5A-12. Our examination was performed for the purpose of determining whether the public officers, agents, and employees of the Board and Commission properly and lawfully accounted for all money and other public assets or resources received, disbursed, or in the custody of the Board and Commission. Our examination included determining compliance by the Board and Commission with state laws and regulations that pertain to financial transactions; personnel; safeguarding of state-owned assets, property, and resources; information dissemination, processing, and retention; and official actions, rulemaking procedures, and meetings. As a part of our examination, we also reviewed internal control policies and procedures relating to the areas listed above. Our examination did not encompass managerial and operational matters, such as whether the Board and Commission accomplished its mission or its regulatory, enforcement, investigative, or other oversight activities in an efficient, fair, timely, or legal manner.

FINDINGS

The following instances of noncompliance with State laws and regulations and other matters were found during the examination as shown on the Schedule of State Legal Compliance and Other Findings and they are summarized below.

- ◆ 2019-001 Relates to the Board not adhering to federal regulations or its Employee Policies and Procedures Handbook to ensure that compensatory time is calculated, recorded, and documented correctly.
- ◆ 2019-002 Relates to the Board not having effective internal controls in place to ensure that travel claims are reviewed for accuracy prior to processing for payment.
- ◆ 2019-003 Relates to the Board not adhering to the Department of Finance's Fiscal Policy and Procedures Manual for out-of-state travel.
- ◆ 2019-004 Relates to the Board not having effective internal controls in place to accurately review contracts and supporting documentation for compliance with State laws and the Department of Finance's Fiscal Policy and Procedures Manual.
- ◆ 2019-005 Relates to the Board not following its adopted Parliamentary Procedures for conducting board meetings.
- ◆ 2019-006 Relates to the Board not having effective internal controls in place to ensure that payments are made in accordance with the terms and conditions of the contracts.
- ◆ 2019-007 Relates to the Board not having effective internal controls in place to ensure invoices properly indicate the services being provided.
- ◆ 2019-008 Relates to a Board member receiving compensation as a consultant on days that the member received compensation for performance of Board duties as specified in the *Code of Alabama 1975*, Section 34-24-313(c).
- ◆ 2019-009 Relates to the Board not having effective internal controls in place to ensure sales taxes are not paid for items purchased.
- ◆ 2019-010 Relates to the Board not adhering to State law pertaining to the purchase of meals.
- ◆ 2019-011 Relates to the Board making unauthorized payments to physicians serving as members of the Physician Assistants' Advisory Committee.
- ◆ 2019-012 Relates to the Board not having effective internal controls in place to ensure credit card purchases are adequately documented with itemized invoices.

- ◆ 2019-013 Relates to the Board not adhering to the Open Meetings Act regarding executive sessions participation via teleconferencing. This finding was reported in the prior examination as Finding 2017-002.

CHARGES AGAINST BOARD MEMBER

As reflected on Exhibit 4, an advisory board member received unauthorized compensation in the amount of \$1,500.00 for attending committee meetings. A letter was sent to the board member requesting payment in the amount \$1,500.00. At a meeting with the Assistant Chief Examiner, the board member failed to show just cause why the amount should not be repaid; therefore, relief was denied as evidenced by the Order of the Assistant Chief Examiner. The charge remains due and unpaid and, as a result, this report will be certified to the Attorney General for collection.

EXIT CONFERENCE

The Medical Examiners Board members, the Medical Licensure Commission members, and the Executive Director were invited to an exit conference held on February 4, 2021. Individuals in attendance were: L. D. Morris, M.D., Commission member, and Mark Lequire, M.D., Board member; William Perkins, Executive Director; Matt Hart and Effie Hawthorne, Legal Counsel, Board Legal Counsel; Wallace Mills, Legal Counsel, Licensure Commission; Staff members: Amy Dorminey, Karen Silas, and Ryan Lynch, along with Maria Catledge, Robin Hutcheson, Daniel Dupree, Jason Paulk, and Laura Mest from the Department of Examiners of Public Accounts. Attending via teleconference were Commission members: Jorge Alsip, M.D., James Walburn, M.D., George Smith, M.D., and Paul Nagrodzki, M.D.; Board members: Patrick O'Neil, M.D., Gary Leung, M.D., Beverly Jordan, M.D., John Meigs, Jr., M.D., Aruna Arora, M.D., and Gregory Ayers, M.D.

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Department of
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COMMENTS

**Board of Medical Examiners and the Medical Licensure Commission
October 1, 2017 through September 30, 2019**

The Medical Licensure Commission (the "Commission") operates under the *Code of Alabama 1975*, Sections 34-24-310 through 34-24-543.

The Commission is comprised of seven Alabama licensed physicians and one public member. The Governor appoints four members including the public member. The Lieutenant Governor and the Speaker of the House Representatives each appoint two members. The members serve five-year terms with no limit on the number of terms served.

The Board of Medical Examiners (the "Board") operates under the authority of the *Code of Alabama 1975*, Sections 34-24-50 through 34-24-75.1; and Sections 34-24-290 through 34-24-610.

The Board issues a certificate of qualification (COQ) to applicants for licensure as physicians or osteopaths to the Medical Licensure Commission; issues licenses to physicians' assistants, and issues Alabama Controlled Substance Certificates. The Board, along with the Board of Nursing, approves applications for collaborative practice in Alabama. The Board investigates complaints against all licensees and establishes and reviews compliance with continuing medical education requirements for physicians and assistants to physicians.

Under the authority of the *Code of Alabama 1975*, Section 34-24-53(a), members of the Board of Censors of the Medical Association of Alabama serve as the Board of Medical Examiners. The Medical Association of Alabama is a private professional association comprised of physicians and other practitioners of healing arts.

The Executive Director is appointed by the Board and supervises the day-to-day operations of the Board and the Commission. The executive director serves at the pleasure of the Board.

The Board is responsible for the financial and administrative functions of the Board and the Commission. The Board's operating funds consist of license and registration fees, fines, and penalties. The Board's funds are maintained in the following bank accounts:

- ServisFirst Bank – Checking (operating) and Money Market
- River Bank and Trust – Checking (payroll), Money Market
- Regions Bank – Checking (US DOJ Equitable Sharing)

The Board also has a Certificate of Deposit with Regions Bank with a balance of \$94,625.69 at September 30, 2019, and a Certificate of Deposit with River Bank and Trust with a balance of \$331,298.34 at September 30, 2019.

The Board owned nonconsumable personal property consisting of automobiles, office furniture, computers and equipment. A comparison was done of nonconsumable personal property in the custody of the Board with property records maintained by the Property Inventory Control Division of the State Auditor's Office. No discrepancies were noted.

*Schedule of State Legal
Compliance and Other Findings*

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

Ref. No.	Finding/Noncompliance
2019-001	<p><u>Finding:</u></p> <p>The Board did not adhere to federal regulations or its Employee Policies and Procedures Handbook to ensure that compensatory time is calculated, recorded, and documented correctly. Twenty-two employees' compensatory records were reviewed. The following errors were noted:</p> <ul style="list-style-type: none"> ◆ There was insufficient documentation to support the hours the employees worked each workday and the total hours worked each workweek. ◆ Compensatory time was calculated at time and one-half when actual hours worked in the workweek did not exceed 40 hours, and compensatory time was calculated at straight time when actual hours worked in the workweek did exceed 40 hours. <p>Title 29 Code of Federal Regulations part 516.2 requires employers to "...maintain and preserve payroll or other records containing the following information and data..." "(7) Hours worked each workday and total hours worked each workweek..."</p> <p>Additionally, the Board's Employee Policies and Procedures Handbook states: "Full-time non-exempt (hourly) employees who work more than 40 hours during a work week (Thursday through Wednesday) are eligible for overtime at the rate of 1.5 times the regular rate of pay for any hours worked over 40 within the work week. Overtime pay will not exceed 1.5 times the hourly rate even when the employee works premium hours for a portion of the work week (such as nights, weekends, or holidays). Overtime pay is based on the actual hours worked. For this reason, time off for sick leave, vacation, and other paid or unpaid leaves of absence is not counted as hours worked when calculating overtime pay. Each work week (Thursday through Wednesday) is considered separately in computing overtime and all other pay.</p> <p>The Board <i>in its discretion</i> may elect to compensate non-exempt employees in the form of overtime pay, as described above, or in the form of compensatory time off ("Comp Time"). With respect to Comp Time, for each overtime hour worked during a work week (Thursday through Wednesday), a non-exempt employee will earn 1.5 hours of Comp Time and may accrue a maximum of 240 hours of Comp Time (cumulatively)."</p> <p><u>Recommendation:</u></p> <p>The Board should adhere to federal regulations and its Employee Policies and Procedures Handbook to ensure that compensatory time is calculated, recorded, and documented correctly.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

Ref. No.	Finding/Noncompliance
2019-002	<p><u>Finding:</u></p> <p>The Board does not have effective internal controls in place to ensure that travel claims are reviewed for accuracy prior to processing for payment. Travel claims did not have the times of departure and return; mileage and per diem rates were not paid according to the rates established by statute; and travelers were paid meal allowances when meals were provided. Eighteen travel claims for four travelers had the following errors:</p> <ul style="list-style-type: none">◆ One traveler used the incorrect mileage rate on one travel claim resulting in an overpayment totaling \$1.76 and was reimbursed a daily meal allowance of \$34.00 on four travel claims when meals were provided. The traveler was not reimbursed a daily meal allowance of \$12.75 three times for trips that exceeded six hours. As a result, the traveler was overpaid \$99.51.◆ One traveler used the incorrect mileage rate on one travel claim resulting in an overpayment totaling \$1.66 and was reimbursed a daily meal allowance of \$34.00 on four travel claims when meals were provided. The traveler was not reimbursed a daily meal allowance of \$12.75 four times for trips that exceeded six hours. As a result, the traveler was overpaid \$86.66.◆ Two travelers were incorrectly reimbursed \$85 overnight per diem instead of the daily meal allowance of \$12.75 resulting in overpayments of \$72.25. <p>The Board was reimbursed for the travel overpayments.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-7-20 states, “No travel allowance shall be paid for a trip of less than six hours' duration. For travel which does not require an overnight stay, <i>the traveler shall be paid a meal allowance of 15 percent of the regular per diem rate for a trip of from six to 12 hours' duration</i>, and for travel in excess of 12 hours' duration, the traveler shall be paid one meal allowance and one-fourth of the per diem allowance.”</p> <p>Opinion to Honorable Robert Childree, State Comptroller, dated April 26, 2001, A. G. Opinion 2001-168 states, “The State may, however, provide refreshments and meals during a meeting that lasts through a mealtime as long as the total costs of the meals and the refreshments provided throughout the day do not exceed the amount allowable to an individual employee for in-state travel.”</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

Ref. No.	Finding/Noncompliance
	<p><u>Finding Continued:</u> The <i>Code of Alabama 1975</i>, Section 36-7-22 states, “Persons traveling on official business for the state or any of its Legislative, Executive, and Judicial Branches, departments, institutions, boards, bureaus, commissions, councils, committees, or other like agencies in privately owned vehicles <i>shall receive an amount equal to the mileage rate allowed by the Internal Revenue Code for income tax deductions per mile in lieu of actual expenses for transportation...</i>”</p> <p>Opinion to Honorable Samuel Earle Hobbs, Chancellor of the University of Alabama, dated February 10, 1989, A. G. Opinion 89-00166 states, “Of course, persons receiving meals under these circumstances should not claim the state meal allowance.”</p> <p><u>Recommendation:</u> The Board should establish internal controls to ensure that travel claims are reviewed for accuracy prior to processing for payment.</p>
2019-003	<p><u>Finding:</u> The Board did not adhere to the Department of Finance’s Fiscal Policy and Procedures Manual for out-of-state travel. Twenty-six travelers submitted out-of-state travel claims for a trip in October 2017 without obtaining prior approval from the Governor. Approval was obtained from the Governor in October 2018.</p> <p>According to the Department of Finance’s Fiscal Policy and Procedures Manual, “Persons traveling in the service of the state or any of its departments, institutions, boards, bureaus, commissions, councils, committees or other agencies, outside the state of Alabama... shall be allowed all of their actual and necessary expenses in addition to the actual expenses for transportation.... [T]he travel shall first be fully authorized in writing by the Governor...” or other designated official as prescribed by law.”</p> <p><u>Recommendation:</u> The Board should obtain prior approval from the Governor or other designated official for out-of-state travel.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

Ref. No.	Finding/Noncompliance
2019-004	<p><u>Finding:</u> The Board does not have effective internal controls in place to accurately review contracts and supporting documentation for compliance with State laws and the Fiscal Policy and Procedures Manual. Thirty-two legal services contracts; thirty-five professional services contracts; three hundred seventeen consultant contracts; two consultant contracts; two Acting Executive Directors contracts; and twenty-two contracts and agreements for non-professional services were reviewed for the examination period. The contracts were missing E-Verify Memorandums of Understanding, Disclosure Statements, Immigration Clauses, Resumes, bid documents, No Boycott Clauses, Sole source determinations, and appropriate signatures.</p> <p>According to the Department of Finance’s Fiscal Policy and Procedures Manual, and the <i>Code of Alabama 1975</i>, Sections 31-13-9(a); 31-13-9(b); 41-16-5(b); 41-16-20(a); 41-16-72(4); 41-16-75; and 41-16-82(b), all contracts must have the required information prior to executing the contract.</p> <p><u>Recommendation:</u> The Board should establish effective internal controls to accurately review contracts and supporting documentation for compliance with State laws and the Fiscal Policy and Procedures Manual.</p>
2019-005	<p><u>Finding:</u> The Board did not follow its adopted Sturgis Code of Parliamentary Procedures for conducting board meetings. The Vice-Chairman voted on motions to approve receiving \$300 per hour for serving as Acting Executive Director and for mediation in a civil lawsuit where he was named as a defendant. The Vice-Chairman should have abstained from voting because he had a personal or financial interest in the outcome of the vote.</p> <p><i>Administrative Rule</i> 540-X-1-.03(6) establishes that “Meetings of the Board are governed by <u>Sturgis Standard Code of Parliamentary Procedure</u> and/or any amendments adopted by the Board.”</p> <p><u>The Standard Code of Parliamentary Procedure 4th Edition</u> <i>Chapter 16 – Votes Required for Valid Actions</i> section on abstentions states, “ Any member has the right to abstain from voting on any issue, and <u>must abstain from voting if he or she has a financial or personal interest in the outcome of the vote.</u>” (Emphasis added)</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

Ref. No.	Finding/Noncompliance
	<p><u>Recommendation:</u> The Board should comply with the Sturgis Standard Code of Parliamentary Procedure and ensure that members abstain from voting on motions if the members have a financial or personal interest in the outcome of the vote.</p>
2019-006	<p><u>Finding:</u> The Board does not effective internal controls in place to ensure that payments are made in accordance with the contracts' specified terms and conditions. The following discrepancies were noted:</p> <ul style="list-style-type: none"> ◆ The Board reimbursed an attorney at an hourly rate of \$265.00 instead of the \$220.00 per hour rate as specified in the contract, resulting in an overpayment of \$2,308.50. When notified of the overpayment, the attorney reimbursed the Board. ◆ The Chairman, serving as Acting Executive Director, was compensated an amount in excess of the total contract amount. The contract amount was \$51,600.00 and the Chairman received \$53,400.00, resulting in an overpayment of \$1,800.00. The Chairman reimbursed the Board for the overpayment. <p>According to the Fiscal Policy and Procedures Manual 5-4B, "The method of payment (hourly, bi-weekly, monthly, by the job, etc.) as well as the maximum amount to be paid must be specified in the contract. The contract must include the total dollar amount over which the contract may not exceed."</p> <p><u>Recommendation:</u> The Board should ensure that contractors are paid in accordance with the terms of the contracts.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

Ref. No.	Finding/Noncompliance
2019-007	<p><u>Finding:</u> The Board does not have effective internal controls in place to ensure invoices properly indicate the services being provided. The Board’s Chairman submitted eleven invoices totaling \$53,400.00 for serving as Acting Executive Director without fully itemizing the invoices to indicate the services performed, the exact dates of the services performed, and a description of the services provided.</p> <p>The <i>Code of Alabama 1975</i>, Section 41-4-54 states, “All accounts against the state must be accurately and fully itemized”.</p> <p><u>Recommendation:</u> The Board should ensure that all invoices properly indicate the services being provided.</p>
2019-008	<p><u>Finding:</u> The Board did not adhere to the statutory requirement that prohibits Board members from receiving compensation as consultants on days they receive compensation for performance of Board duties. In addition to receiving compensation of \$300.00 per day for attending official meetings or functions of the Board, the Board’s Chairman was also compensated \$300.00 per hour for serving as Acting Executive Director. There were five instances totaling \$6,600.00 in which the Chairman was compensated for serving as Acting Executive Director while performing duties as a Board member. The Chairman reimbursed the Board \$6,600.00 for the additional payments.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-24-313(c) states, “Members of the Board may render professional services to the Board as consultants and shall be reimbursed for those services and for expenses as provided in paragraph (b) above. No Board member shall be reimbursed under this section for any day that the Board member receives per diem and mileage reimbursement for attendance at Board functions and travel pursuant to Section 34-24-54.”</p> <p><u>Recommendation:</u> The Board should ensure Board members are not compensated as consultants on days they receive compensation for performing Board duties.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

Ref. No.	Finding/Noncompliance
2019-009	<p><u>Finding:</u> The Board does not have effective internal controls in place to ensure sales tax are not paid for items purchased. The Board paid \$1,161.57 in sales tax for items purchased, although state agencies are exempt by State law from paying sales tax.</p> <p>The <i>Code of Alabama 1975</i>, Section 40-23-4(a)(11) states, “There are exempted from the provisions of this division and from the computation of the amount of the tax levied, assessed, or payable under this division the following:</p> <p style="padding-left: 40px;">(11) The proceeds of sales of tangible personal property to the State of Alabama, to the counties within the state and to incorporated municipalities of the State of Alabama.”</p> <p><u>Recommendation:</u> The Board should establish internal controls to ensure sales taxes are not paid for purchases.</p>
2019-010	<p><u>Finding:</u> The Board did not adhere to the <i>Code of Alabama 1975</i>, Section 36-7-20(b) and Attorney General Opinion 2001-168 pertaining to the purchase of meals. The Board purchased twenty meals totaling \$8,216.26 for Board/Commission members, staff members, and witnesses attending Board/Commission meetings. Meals were provided for staff members individuals who were not entitled to a meal allowance; meetings did not last through a mealtime; and costs per eligible attendees exceeded the \$12.75 meal allowance by \$3.04 to \$106.42.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-7-20(b) states, “No travel allowance shall be paid for a trip of less than six hours' duration. For travel which does not require an overnight stay, <i>the traveler shall be paid a meal allowance of 15 percent of the regular per diem rate for a trip of from six to 12 hours' duration</i>, and for travel in excess of 12 hours' duration, the traveler shall be paid one meal allowance and one-fourth of the per diem allowance.”</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

Ref. No.	Finding/Noncompliance
	<p><u>Finding Continued:</u> Opinion to Honorable Robert Childree, State Comptroller, dated April 26, 2001, A. G. Opinion 2001-168 states, “The State may, however, provide refreshments and meals during a meeting that lasts through a mealtime as long as the total costs of the meals and the refreshments provided throughout the day do not exceed the amount allowable to an individual employee for in-state travel.”</p> <p><u>Recommendation:</u> The Board should ensure that only eligible attendees at meetings are provided meals; the costs of the meals do not exceed the amount allowable to an individual employee for in-state travel; and persons receiving meals do not claim the state meal allowance.</p>
2019-011	<p><u>Finding:</u> There is no statutory authority to compensate physicians, who are not board or commission members, for serving on the Physician Assistants’ Advisory Committee. The Board paid one physician \$1,500.00 for attending five meetings and paid one physician \$2,100.00 for attending seven meetings. When notified of the unauthorized payments, one physician reimbursed the Board \$2,100.00. The other physician did not reimburse the Board \$1,500.00 and this amount is reflected as a charge against the member on Exhibit 4.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-24-54 authorizes the Board to only compensate board and commission members \$300 per day for attending meetings and official functions of the Board.</p> <p><u>Recommendation:</u> The Board should only compensate board and commission members that are entitled to receive compensation for attending meetings.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

Ref. No.	Finding/Noncompliance
2019-012	<p><u>Finding:</u></p> <p>The Board does not have effective internal controls in place to ensure credit card invoices are itemized and retained. During the examination period, there were 33 credit card statements with 5,139 charges totaling \$182,716.81 reviewed. Eighty-four charges totaling \$17,235.21 had no itemized receipt or invoice attached. The credit card statements only show that something was paid for; it does not show what was purchased. Without the itemized receipts or invoices, there is no way to determine if the expenditures were for an allowable purpose. After the completion of fieldwork, the Board provided documentation for charges totaling \$17,064.84.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-12-2 states, “All public officers and servants shall correctly make and <i>accurately keep</i> in and for their respective offices or places of business all such books or sets of books, documents, files, papers, letters and copies of letters as at all times shall afford <i>full and detailed information in reference to the activities</i> or business required to be done or carried on by such officer or servant and from which the actual status and condition of such activities and business can be ascertained without extraneous information, and all of the books, documents, files, papers, letters, and copies of letters so made and kept shall be carefully protected and safely preserved and guarded from mutilation, loss or destruction.”</p> <p>The <i>Code of Alabama 1975</i>, Section 41-4-54 states, “All accounts against the state must be accurately and fully itemized.”</p> <p><u>Recommendation:</u></p> <p>The Board should establish effective internal controls to ensure credit card invoices are fully itemized and retained.</p>

Schedule of State Legal Compliance and Other Findings
For the Examination Period Ended September 30, 2019

Ref. No.	Finding/Noncompliance
2019-013	<p><u>Finding:</u></p> <p>The Board did not adhere to the Open Meetings Act regarding executive sessions. Twenty-nine Board meeting minutes and thirty-four Commission meeting minutes were reviewed during the examination period. The following errors were noted:</p> <ul style="list-style-type: none">◆ Board members attending meetings via teleconference were allowed to participate in three executive sessions which were held on February 21, 2018, May 16, 2018 and June 20, 2018. <p>This was previously reported as Finding 2017-002.</p> <p>The <i>Code of Alabama 1975</i>, Section 36-25A-5.1(e) states, “Any other provision of this section to the contrary notwithstanding, a majority of a quorum of the members participating in any given meeting shall be physically present at the location noticed and called for the meeting in order to conduct any business or deliberation, and only those members who are physically present may participate in an executive session of the governmental body.”</p> <p><u>Recommendation:</u></p> <p>It is again recommended that the Board of Medical Examiners should ensure that only members who are physically present at the location of the Board meeting participate in confidential meetings/executive sessions.</p>

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***Schedule of Cash Receipts, Disbursements and Balances
For the Period October 1, 2017 through September 30, 2019***

	2018-2019	2017-2018
<u>Receipts</u>		
Fees - Professional Registration	\$ 5,323,667.87	\$ 5,203,135.00
Licenses and Permits	2,808,513.41	3,012,704.92
Reciprocity Fees	235,275.00	209,300.00
Fines and Penalties	96,244.11	100,845.62
License Application Package	21,160.00	31,260.00
Criminal Background Check Fee	42,998.75	33,734.25
Interest Income	200,632.15	79,872.09
Data Request Income	247,269.06	175,000.81
Reclassification of DOJ Recovery Income		314,092.28
Total	8,975,760.35	9,159,944.97
<u>Disbursements</u>		
Personnel Costs	5,130,397.68	4,488,146.63
Travel	233,009.84	199,723.93
Repairs and Maintenance	39,179.87	20,855.38
Rentals and Leases	331,954.60	302,245.21
Utilities and Communications	475,841.63	140,464.89
Professional Services	2,065,113.68	2,112,074.21
Supplies, Materials, and Operating Expenses	399,203.07	349,278.38
Other Equipment Purchases	455,210.01	174,672.82
Reclassification of DOJ Recovery Income		314,092.28
Total	9,129,910.38	8,101,553.73
Excess (Deficiency) of Receipts over Disbursements	(154,150.03)	1,058,391.24
Cash Balances at Beginning of Year	10,647,004.00	9,588,612.76
Unobligated Cash Balances at Year-End	\$ 10,492,853.97	\$ 10,647,004.00

Board Members and Officials
October 1, 2017 through September 30, 2019

Board Members		Term Expires
Hon. Mark H. LeQuire, M.D.	Chairman	2021
Hon. Aruna T. Arora, M.D.	Member	2021
Hon. Gregory W. Ayers, M.D.	Member	2022
Hon. Eli L. Brown, M.D.	Member	2021
Hon. Hernando D. Carter, M.D.	Member	2021
Hon. Howard J. Falgout, M.D.	Member	2019
Hon. Michael T. Flanagan, M.D.	Member	2021
Hon. Boyde J. Harrison, M.D.	Member	2019
Hon. David P. Herrick, M.D.	Member	2018
Hon. Beverly F. Jordan, M.D.	Member	2021
Hon. Gary F. Leung, M.D.	Member	2022
Hon. Ronnie L. Lewis, M.D.	Member	Deceased
Hon. John S. Meigs, Jr., M.D.	Member	2021
Hon. Patrick J. O'Neill, M.D.	Member	2021
Hon. Dick Owens, M.D.	Member	2021
Hon. Bradley Scott Rice, M.D.	Member	2018
Hon. Charles M. A. Rogers, IV, M.D.	Member	2021

Board Members and Officials
October 1, 2017 through September 30, 2019

Board Members **Term Expires**

Hon. William J. Suggs, M.D.	Member	2022
Hon. F. Darlene Traffanstedt, M.D.	Member	2018
Hon. Jefferson Underwood, III, M.D.	Member	2021
Hon. Jane A. Weida, M.D.	Member	2022
Hon. Amanda J. Williams, M.D.	Member	2021

Officials

Sarah Moore	Executive Director 848 Washington Ave. Montgomery, AL 36104 (334) 242-4116 www.albme.org	
Howard J. Falgout, M.D.	Acting Executive Director	January 2019
Mark H. LeQuire, M.D.	Acting Executive Director	January 2019
Edward Munson	Acting Executive Director	February 2018

Commission Members and Officials
October 1, 2017 through September 30, 2019

Commission Members		Term Expires
Hon. George C. Smith, Sr., M.D.	Chairman	2024
Hon. Craig H. Christopher, M.D.	Member	2020
Hon. L Daniel Morris, Esq.	Member	2020
Hon. Paul M. Nagrodzki, M.D.	Member	2023
Hon. Jorge A. Alsip, M.D.	Member	2021
Hon. James H. Walburn, M.D.	Member	2021
Hon. Gary R. Hill, D.O.	Member	2020
Hon. James E. West, M.D.	Member	2018

Officials

Sarah Moore	Executive Director 848 Washington Ave. Montgomery, AL 36104 (334) 242-4116 www.albme.org	
Howard J. Falgout, M.D.	Acting Executive Director	January 2019
Mark H. LeQuire, M.D.	Acting Executive Director	January 2019
Edward Munson	Acting Executive Director	February 2018

Schedule of Charges

October 1, 2017 through September 30, 2019

Person Charged	Date	Fund/Account Local Bank Account	Amount Charged	Amount Paid	Amount Relieved by Assistant Chief Examiner	Amount Unpaid	Description of Charge
Directly Charged to							
Dr. Allan Muller	10/01/2017 - 09/30/2019	River Bank and Trust	\$ 1,500.00	\$	\$	\$ 1,500.00	A physician received unauthorized compensation for serving as a committee member on the Board of Medical Examiners' Physicians Advisory Committee. There is no statutory requirement to compensate physicians who are not members of the Board for attending committee meetings.
Total Direct Charges			<u>\$ 1,500.00</u>	<u>\$</u>	<u>\$</u>	<u>\$ 1,500.00</u>	

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Order of the Assistant Chief Examiner

**ORDER OF THE ASSISTANT CHIEF
EXAMINER**

**RE: BOARD OF MEDICAL EXAMINERS and the MEDICAL
LICENSURE COMMISSION
OCTOBER 1, 2017 THROUGH SEPTEMBER 30, 2019**

This matter of an amount due from a board member was brought before me on the 2nd day of December 2020, pursuant to the provisions of the *Code of Alabama 1975*, Section 41-5A-20. The charged board member appeared before me on that date, and I am of the opinion that the board member did not provide sufficient additional evidence that the amount due should not be paid. Therefore, relief is denied.

Entered this the 8th day of December 2020.



**Christine Harden
Assistant Chief Examiner**