

2018 Regular Session

HOUSE BILL NO. 724 (Substitute for House Bill No. 420 by Representative Dustin Miller)

BY REPRESENTATIVE DUSTIN MILLER

ETHICS: Provides an exception to certain provisions of the ethics code to allow a licensed physician to perform the duties of certain positions at the Louisiana Department of Health and to practice medicine outside of the performance of such duties

1 AN ACT

2 To enact R.S. 42:1123.2, relative to the Code of Governmental Ethics; to provide an  
3 exception to certain provisions of the code to allow a licensed physician to perform  
4 the duties of certain positions at the Louisiana Department of Health and to practice  
5 medicine outside of the performance of such duties; to require certain disclosure; and  
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 42:1123.2 is hereby enacted to read as follows:

9 §1123.2. Exception; certain positions at the Louisiana Department of Health

10 A.(1) The provisions of R.S. 42:1111(C), 1112, and 1113 shall not apply to  
11 an exempted physician in the performance of the functions and duties of a position  
12 listed in Subsection D of this Section or to the practice of medicine by the exempted  
13 physician outside of the performance of such functions and duties.

14 (2) The provisions of R.S. 42:1111(E) shall not apply to an exempted  
15 physician but only to the extent that the transaction with the Louisiana Department  
16 of Health is limited to and necessary for the physician's medical care of patients.

17 B. The provisions of R.S. 42:1121 shall not apply to a former exempted  
18 physician who served in the position described in Paragraph (D)(4) of this Section.

1           C. Prior to being employed by or contracting with the Louisiana Department  
 2           of Health or an agency thereof to serve in a position listed in Subsection D of this  
 3           Section, a licensed Louisiana physician shall disclose to the secretary of the  
 4           Louisiana Department of Health any possible conflicts of interest that could arise in  
 5           performing the functions and duties of the position, including outside employment  
 6           and business interests. All such disclosures shall be written and shall be a public  
 7           record.

8           D. For purposes of this Section, "exempted physician" means a licensed  
 9           Louisiana physician who is employed by or who has contracted with the Louisiana  
 10          Department of Health or an agency thereof to serve in any of the following positions:

- 11           (1) Assistant secretary for the office of public health.  
 12           (2) Medicaid medical director.  
 13           (3) Medical director of the office of behavioral health.  
 14           (4) Physician, Eastern Louisiana Mental Health Services, competency  
 15          restoration program.  
 16           (5) Cancer policy director.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 724 Original

2018 Regular Session

Dustin Miller

**Abstract:** Provides an exception to certain provisions of the ethics code to allow a licensed physician to perform the duties of certain positions at the La. Dept. of Health and to practice medicine outside of the performance of such duties.

Present law (R.S. 42:1111(A)) prohibits a public servant from receiving anything of economic value, other than compensation and benefits from the governmental entity to which he is entitled, for the performance of his public duties. Present law (R.S. 42:1111(C)) prohibits a public employee from receiving compensation from certain sources, including those which have or are seeking a contractual or business or financial relationship with the public employee's agency, those which conduct operations or activities regulated by the public employee's agency, and those which have a substantial economic interest that could be substantially affected by the performance or nonperformance of the public employee's official duties. Present law (R.S. 42:1111(E)) prohibits a public servant and any legal entity of which the public employee is an officer, director, trustee, partner, or employee, or in which the public employee has a substantial economic interest from receiving or agreeing to receive any thing of economic value for assisting a person in a transaction, or in an appearance in connection with a transaction, with the agency of the public employee.

Present law (R.S. 42:1112) prohibits a public employee from participating in a transaction involving his governmental entity when the public employee has or specified related persons have a substantial economic interest.

Present law (R.S. 42:1113) generally prohibits a public employee from bidding on or entering into any contract, subcontract, or other transaction under the supervision or jurisdiction of his agency.

Proposed law provides an exception to present law (R.S. 42:1111(C), 1112, and 1113) for a licensed La. physician who is employed by or has contracted with the La. Dept. of Health to serve in any of the following positions:

- (1) Assistant secretary for the office of public health.
- (2) Medicaid medical director.
- (3) Medical director of the office of behavioral health.
- (4) Physician, Eastern Louisiana Mental Health Services, competency restoration program.
- (5) Cancer policy director.

Provides that specified provisions of present law (R.S. 42:1111(C), 1112, and 1113) do not apply to the physician in the performance of the functions and duties of the position or to the practice of medicine by the physician outside of the performance of such functions and duties. Proposed law provides an additional exception for the physician from the provisions of present law (R.S. 42:1111(E)) but only to the extent the transaction with the agency (La. Dept. of Health) is limited to and necessary for the physician's medical care of patients.

Present law (R.S. 42:1121), relative to post service restrictions, prohibits a former agency head for a period of two years following the termination of his public service as the head of the agency from assisting another person, for compensation, in a transaction, or in an appearance in connection with a transaction, involving that agency or from rendering any service on a contractual basis to or for such agency. Further prohibits a legal entity in which a former public employee is an officer, director, trustee, partner, or employee for a period of two years following termination of his public service from assisting another person for compensation in a transaction or in an appearance in connection with a transaction in which such public employee at any time participated during his public service and involving his former agency. Prohibits a former public employee from sharing in any compensation received by another person for assistance which such former public employee is prohibited from rendering by present law. Provides exceptions.

Proposed law provides that present law does not apply to a licensed La. physician who is employed by or has contracted with the La. Dept. of Health to serve in the position of physician, Eastern La. Mental Health Services, competency restoration program.

Proposed law provides that prior to being employed by or contracting with the La. Dept. of Health or an agency thereof to serve in a position listed in proposed law, a licensed La. physician shall disclose to the secretary of the La. Dept. of Health any possible conflicts of interest that could arise in performing the functions and duties of the position, including outside employment and business interests. Provides that such disclosures shall be written and a public record.

(Adds R.S. 42:1123.2)