

HOUSE COMMITTEE AMENDMENTS

2018 Regular Session

Amendments proposed by House Committee on Health and Welfare to Reengrossed Senate Bill No. 277 by Senator Claitor

AMENDMENT NO. 1

On page 1, line 2, after "reenact" delete the remainder of the line and delete lines 3 through 6 in their entirety and insert in lieu thereof the following:

"R.S. 37:1263 and 1285.2(A) and (D) and to enact R.S. 37:1270(A)(9), relative to regulation of the practice of medicine; to provide for the membership, powers, and duties of the Louisiana State Board of Medical Examiners; to provide requirements relative to investigations of physicians by the Louisiana State Board of Medical Examiners; to establish restrictions relative to such investigations; and to provide for related matters."

AMENDMENT NO. 2

On page 1, delete lines 8 through 10 in their entirety and insert in lieu thereof the following:

"Section 1. R.S. 37:1263 and 1285.2(A) and (D) are hereby amended and reenacted and R.S. 37:1270(A)(9) is hereby enacted to read as follows:"

AMENDMENT NO. 3

On page 1, after line 12, delete the remainder of the page and delete page 2 in its entirety and insert in lieu thereof the following:

"A. The Louisiana State Board of Medical Examiners is hereby created within the Louisiana Department of Health and is subject to the provisions of R.S. 36:803.

B. ~~Beginning on January 1, 2017, the~~ The board shall consist of ~~seven~~ nine voting members, all appointed by the governor and subject to Senate confirmation as follows:

(1) Two members from a list of names submitted by the Louisiana State Medical Society. One of the members so appointed shall practice in a parish or municipality with a population of less than twenty thousand people.

(2) One member from a list of names submitted by the Louisiana State University Health Sciences Center at New Orleans and the Louisiana State University Health Sciences Center at Shreveport.

(3) One member from a list of names submitted by the Tulane Medical School.

(4) Two members from a list submitted by the Louisiana Medical Association.

(5) One member from a list submitted by the Louisiana Academy of Family Practice Physicians.

(6) One member from a list submitted by the Louisiana Hospital Association.

(7) One consumer member. The consumer shall be a full voting member of the board with all rights and privileges conferred on board members, except that the consumer member shall not participate in any adverse licensure action initiated by the board.

C. Each physician member of the board shall, at the time of appointment, meet all of the following qualifications:

- 1 (1) ~~Be~~ **He has been** a resident of this state for not less than six months.
- 2 (2) ~~Be~~ **He is** currently licensed and in good standing to engage in the practice
- 3 of medicine in this state.
- 4 (3) ~~Be~~ **He is** actively engaged in the practice of medicine in this state.
- 5 (4) ~~Have~~ **He has had** five years of experience in the practice of medicine
- 6 in this state after licensure.
- 7 (5) ~~Have~~ **He has** not been convicted of a felony.
- 8 (6) ~~Have~~ **He has** not been placed on probation by the board.

9 **D. The consumer member shall, at the time of his appointment, meet all**

10 **of the following qualifications:**

- 11 **(1) He has been a resident of this state for not less than six months.**
- 12 **(2) He has attained the age of majority.**
- 13 **(3) He has never been licensed by the board, nor shall he have a spouse**
- 14 **who has ever been licensed by the board.**
- 15 **(4) He has never been convicted of a felony.**
- 16 **(5) He does not have, nor has he ever had, a material financial interest**
- 17 **in any healthcare profession licensed by the board.**

18 **E.**(1) The governor shall appoint the members of the board in accordance

19 with other provisions of this Section and the state constitution.

20 (2) When a vacancy occurs in the membership of the board for any reason,

21 including expiration of term, removal, resignation, death, disability, or

22 disqualification, the vacancy shall be filled in the same manner as the original

23 appointment.

24 (3) Each member of the board appointed to fill a vacancy occurring by death,

25 resignation, inability to act, or other cause, shall serve for the remainder of the term

26 of his predecessor.

27 **E.** **F.**(1) A board member may be removed upon one or more of the

28 following grounds:

29 (a) The refusal or inability for any reason to perform his duties as a member

30 of the board in an efficient, responsible, and professional manner.

31 (b) The misuse of office to obtain personal, pecuniary, or material gain or

32 advantage for himself or another through such office.

33 (c) The violation of the laws governing the practice of medicine.

34 (2) Removal of a member of the board shall be in accordance with the

35 Administrative Procedure Act or other applicable laws.

36 (3) The governor may remove any member of the board for good cause.

37 **F.** **G.** Except as provided in Paragraph ~~(D)~~(3) **(E)**(3) of this Section,

38 members of the board shall be appointed for a term of four years, beginning on July

39 first of the year in which the appointment is made. No member shall serve more than

40 three consecutive terms.

41 * * *

42 §1270. Duties and powers of the board

43 A. The board shall:

44 * * *

45 **(9) Appoint a director of investigations to act as the lead investigator for**

46 **any complaint regarding a physician received by the board or any investigation**

47 **regarding a physician initiated by the board upon its own motion in accordance**

48 **with R.S. 37:1285.2(A). The director of investigations shall serve at the pleasure**

49 **of the board and be answerable directly to the board. The director of**

50 **investigations shall be prohibited from concurrently serving as the executive**

51 **director of the board. Any person appointed by the board to serve as director**

52 **of investigations shall be a Louisiana-licensed physician who maintains board**

53 **certification and has engaged in the active practice of medicine for at least five**

54 **years.**

* * *

§1285.2. Investigations and adjudications; staff; complaints; board procedure; rulemaking authority

A. ~~Any staff member of the board, except the executive director, may be appointed to act as the lead investigator for any complaint regarding a physician received by the board or any investigation regarding a physician initiated by the board upon its own motion.~~ **The board shall initiate an investigation only upon one or more of the following:**

(1) A complaint received from a person other than an employee of the board.

(2) Any report from a law enforcement or federal or state regulatory agency that contains information that supports a conclusion that a violation of this Part, or any rule promulgated pursuant to this Part, may have occurred.

(3) The duly adopted motion in an executive session of the board by a two-thirds vote of the members of the board making an affirmative finding that sufficient evidence exists to conclude that a violation of this Part, or any rule promulgated pursuant to this Part, may have occurred.

* * *

D. ~~The board shall adopt the rules required by this Section no later than January 1, 2016. Beginning July 1, 2015, the board shall report monthly on the progress of the promulgation of the required rules to the House and Senate committees on health and welfare.~~ **Prior to the board conducting any site visit or requesting medical records from an individual licensed by the board who is not subject to an active investigation initiated pursuant to Subsection A of this Section, the executive director shall request approval of the board through a duly adopted motion by two-thirds vote of the board, meeting in executive session, to conduct the site visit or records request. 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. The board shall be prohibited from disclosing the identity of any individual included in the request for approval.**