

2020 Regular Session

HOUSE BILL NO. 363

BY REPRESENTATIVE DUPLESSIS

DENTISTRY/HYGIENISTS: Creates and provides for a retired volunteer dental hygienist license

1 AN ACT

2 To enact R.S. 37:764.1 and 795(B)(1)(o), relative to retired volunteer dental hygienists; to
3 authorize the licensure of retired dental hygienists who provide voluntary dental
4 hygiene services; to provide for the procedures and requirements to obtain a retired
5 volunteer dental hygienist license; to provide for a limitation of liability for retired
6 volunteer dental hygienists and an exception to the limitation of liability; to provide
7 for a return to active licensure status; to provide a renewal date; to provide for fees
8 and costs; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 37:764.1 and 795(B)(1)(o) are hereby enacted to read as follows:

11 §764.1. Retired volunteer dental hygienist license; issuance; applicant's
12 requirements; limitation of liability; denial; violations; status change;
13 continuing education

14 A. The board may issue a retired volunteer dental hygienist license to an
15 applicant to practice dental hygiene if the dental hygienist's practice consists only of
16 voluntary care, as defined by the board rule. Holders of a retired volunteer dental
17 hygienist license shall submit with the application to the board a notarized statement
18 that they shall not accept any form of remuneration directly or indirectly for
19 providing dental hygiene services. Any application for licensure pursuant to this
20 Section shall be in the form and manner designated by the board.

1 B. The applicant for licensure shall meet all of the following conditions:

2 (1) The applicant shall maintain, for at least ten years prior to retirement, full
3 licensure in good standing in Louisiana without disciplinary action that restricted the
4 applicant's license or resulted in the applicant's license being placed on probation,
5 suspended, restricted, revoked, surrendered, resigned, or otherwise allowed to lapse
6 or expire in lieu of disciplinary action being taken.

7 (2) The applicant shall have held an active status dental hygienist license in
8 good standing in Louisiana within one year prior to the date of application for a
9 retired volunteer dental hygienist license; however, the board may waive the one-
10 year requirement in the event that the applicant demonstrates that he possesses the
11 knowledge and skills requisite to the practice of dental hygiene by successfully
12 completing such examinations required by the board.

13 (3) The applicant shall be of good moral character and affirm that he has no
14 felony convictions or other criminal convictions that would affect his ability to
15 render competent care.

16 C. For purposes of this Section, a person shall be considered retired from
17 practice if his license has been surrendered or allowed to expire with the intention
18 of ceasing to practice as a dental hygienist for remuneration.

19 D.(1) No dental hygienist holding a retired volunteer license to practice
20 dental hygiene who in good faith gratuitously renders health care to a patient shall
21 be liable for any civil damages as a result of any act or omission in rendering the care
22 or services or as a result of any act or failure to act to provide or arrange for further
23 medical or dental treatment or care to any person receiving the services, unless the
24 damages were caused by the gross negligence or willful or wanton misconduct of the
25 dental hygienist.

26 (2) This Subsection shall not apply if the dental hygienist holding a retired
27 volunteer license treats a patient in a private clinic where payment by the patient is
28 expected and the patient or the patient's private insurer pays the clinic or the clinic

1 owner for the treatment, even if the dental hygienist holding the volunteer license is
2 providing the treatment without being remunerated.

3 (3)(a) The provisions of this Subsection shall be applicable only if the person
4 receiving the healthcare services receives prior notice from the facility, where the
5 licensed retired volunteer dental hygienist is providing services, of the limitation of
6 liability provided for in this Subsection.

7 (b) Either at the initial screening of a person or at the time healthcare
8 services are provided, the facility or the licensed retired volunteer dental hygienist
9 providing the services shall inform such person of the limitation of liability by
10 distributing to such person a written notice. Such notice shall also be posted at a
11 prominent place where patients entering the facility will see it. The notice shall read
12 substantially as follows: "NOTICE - If you are injured here because of things we do
13 or fail to do, you do not have the same legal recourse as you would have against
14 other healthcare providers."

15 (c) The posted notice shall be printed in type size sufficient to be easily read
16 by patients upon entering the facility.

17 (d) Failure to follow notice procedures as provided in this Subsection shall
18 negate the limitation of liability.

19 E. All documentation and certification shall be submitted to the board for
20 review. Any plan to reestablish competency shall be submitted to and pre-approved
21 by the board. Demonstration of professional ability, skills, and knowledge may be
22 accomplished by successfully completing a reentry program at an accredited dental
23 institution, which will certify that the licensee's proficiency meets or exceeds the
24 competency level required of a graduating student in his senior year from the
25 institution.

26 F. The board shall deny issuance of a retired volunteer dental hygienist
27 license to a person who is not qualified pursuant to this Section to hold a retired
28 volunteer dental hygienist license.

1 G. The holder of a license pursuant to this Section who practices dental
2 hygiene other than as authorized in this Section shall be guilty of a felony with each
3 day's violation constituting a separate offense. Upon proof of practice other than as
4 authorized in this Section or of a violation of R.S. 37:776, the board may suspend or
5 revoke the retired volunteer dental hygienist license after notice to the licensee. For
6 violations of the dental practice act or rules adopted under the act that are applicable
7 to dental hygiene practice under this Section, the board shall have the same authority
8 to investigate and impose sanctions on retired volunteer license holders as it has for
9 those holding an active license.

10 H. Any person licensed pursuant to this Section may apply to the board for
11 a return to active licensure status by filing an application in the form and manner
12 prescribed by the board and meeting all applicable requirements of this Chapter.
13 Licensees who desire to change a retired volunteer license to an active license and
14 who have not practiced within the year immediately preceding application for an
15 active license shall document and certify to the board how they have maintained their
16 professional ability, skills, and knowledge and shall be subject, at the board's
17 discretion, to the provisions of LAC 46:XXXIII.124.

18 I. The retired volunteer status of a licensee shall be plainly indicated on the
19 face of any retired volunteer license issued pursuant to this Section.

20 J. Holders of a retired volunteer dental hygienist license shall comply with
21 the continuing education requirements adopted by the board which shall include
22 cardiopulmonary resuscitation (CPR) training.

23 K. The board may charge an administrative fee for issuing a retired volunteer
24 dental hygienist license pursuant to this Section. However, a dental hygienist who
25 possesses an active Louisiana license and who desires to convert the active license
26 to a retired volunteer dental hygienist license shall not pay an administrative fee for
27 the conversion.

1 L. A retired volunteer license shall be valid for a period of two years and

2 shall expire as provided by law.

3 * * *

4 §795. Fees and costs

5 * * *

6 B. Notwithstanding any other provision of this Chapter, the fees and costs
7 established by the board shall be not less nor more than the range created by the following
8 schedule:

9 (1) Miscellaneous fees and costs Minimum Maximum

10 * * *

11 (o) Retired volunteer dental hygienist license \$35.00

12 * * *

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)]

HB 363 Original

2020 Regular Session

Duplessis

Abstract: Provides for the licensure of retired dental hygienists who provide volunteer dental services.

Proposed law permits the La. State Board of Dentistry (LSBD) to issue a retired volunteer dental hygienist license to an applicant whose practice consists of voluntary care, as defined by LSBD rule. Further provides that the applicant who wishes to practice dental hygiene shall submit an application to the board with a notarized statement that they shall not accept any form of remuneration directly or indirectly for providing dental hygiene services.

Proposed law requires the applicant to:

- (1) Maintain, for at least 10 years prior to retirement, full licensure in good standing in La. without disciplinary action.
- (2) Have held an active status dental hygiene license in good standing in La. within one year prior to the date of application for a retired volunteer's license; however, the board may waive the one year requirement.
- (3) Be of good moral character, and affirm that the applicant has no felony convictions, or other criminal convictions that would affect the applicant's ability to render competent care.

Proposed law provides limitation of liability to any dental hygienist holding a retired volunteer license to practice dental hygiene who in good faith gratuitously renders health care to a patient unless the damages were caused by the gross negligence or willful or

wanton misconduct of the dental hygienist. Further exempts from the limitation of liability a dental hygienist holding a retired volunteer license who treats a patient in a private clinic where payment by the patient is expected and the patient or the patient's private insurer pays the clinic or the clinic owner for the treatment, even if the dental hygienist holding the volunteer license is providing the treatment without being remunerated.

Proposed law provides that the facility or licensed retired volunteer dental hygienist shall make the patient receiving dental hygiene services aware of such limitation of liability by written notice.

Proposed law requires all documentation and certification, including any plan to reestablish competency, be submitted to the board for review.

Proposed law requires the LSBDB to deny issuance of a retired volunteer license to a person who is not qualified under proposed law to hold a retired volunteer license.

Proposed law provides that if the holder of a retired volunteer dental license who practices dental hygiene other than as authorized in proposed law shall be guilty of a felony with each day's violation constituting a separate offense which may result in a suspension or revocation of the volunteer license after notice to the licensee.

Proposed law provides that a retired volunteer dental hygiene licensee may apply to the board for a return to active licensure status by filing an application in the form and manner prescribed by the board and meeting all requirements of present law and proposed law. Licensees who desire to change a retired volunteer license to an active license and who have not practiced at least one year immediately preceding application for an active license shall document and certify to the board how they have maintained their professional ability, skills, and knowledge.

Proposed law requires the retired volunteer status of a licensee be plainly indicated on the face of any retired volunteer license pursuant to proposed law.

Proposed law requires retired volunteer dental hygienist licensees to comply with the continuing dental education requirements adopted by the LSBDB which shall include cardiopulmonary resuscitation (CPR) training.

Proposed law permits the board to charge an administrative fee for issuing a retired volunteer license pursuant to proposed law which shall be \$35. However, a dental hygienist who possesses an active La. license and who desires to convert the active license to a volunteer license shall not have to pay an administrative fee for such change.

Proposed law provides that a retired volunteer license shall be valid for a period of two years and shall expire according to proposed law.

(Adds R.S. 37:764.1 and 795(B)(1)(o))