

Regular Session, 2013

HOUSE BILL NO. 273

BY REPRESENTATIVE LORUSSO

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

BOARDS/COMMISSIONS: Provides relative to reports, records, and adjudicatory functions of the La. State Board of Medical Examiners

1 AN ACT

2 To amend and reenact R.S. 37:1267, 1278(B), 1283, and 1285.1(B) and (D) and to enact
3 R.S. 37:1285.1(E), relative to the Louisiana State Board of Medical Examiners; to
4 provide relative to a quorum of the board; to provide for conditions pursuant to
5 which the board may take official action; to provide for written records of certain
6 decisions of the board; to provide for reports; to except certain records of the board
7 from designation as public records; to provide for dispensation of certain records; to
8 provide for informal dispositions of adjudication; to provide relative to hearing
9 panels for adjudicatory functions of the board; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 37:1267, 1278(B), 1283, and 1285.1(B) and (D) are hereby amended
12 and reenacted and R.S. 37:1285.1(E) is hereby enacted to read as follows:

13 §1267. Quorum

14 ~~Three~~ Four members of the board constitute a quorum for all purposes
15 including the holding of examinations, the granting of licenses and permits,
16 rulemaking and, except as provided in R.S. 37:1285.1, the adjudication functions of
17 the board. The board shall act only with the concurrence of a majority of board
18 members present and voting, provided at least four board members participate and
19 vote.

20 * * *

1 record of the proceedings of the board during the year, together with the names of
2 all physicians to whom the board issued licenses during the year.

3 * * *

4 §1285.1. Hearing panels

5 * * *

6 B. At the direction of the board, a hearing panel; consisting of ~~one~~ two or
7 more board members and totaling less than a quorum; may hear the charges and
8 submit written findings, conclusions, and recommendations to the board to consider
9 in arriving at its decision.

10 * * *

11 D. ~~The decision of a majority of a quorum shall be adopted as the final~~
12 ~~decision of the board.~~ The board shall adopt a final decision only with the
13 concurrence of a majority of the board members present and voting, provided at least
14 four board members participate and vote. A member of the board who serves on a
15 hearing panel shall not participate in the board's deliberations or final decision with
16 respect to the subject matter of such panel, nor shall ~~said~~ such member be considered
17 in determining a quorum for a vote on the final decision of the board.

18 E. The board shall destroy all records or other evidence of the existence of
19 complaints upon which the board has not taken any formal or informal action after
20 five years from the date the complaint was filed with the board.

21 Section 2. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 effective on the day following such approval.

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)]

Lorusso

HB No. 273

Abstract: Provides relative to reports, records, and adjudicatory functions of the La. State Board of Medical Examiners.

Present law creates the La. State Board of Medical Examiners (board) and authorizes this body to regulate the practice of medicine in the state. Proposed law retains present law and revises or adds to various provisions addressing reports, records, and adjudicatory functions of the board.

Present law requires the board to submit an annual report to the governor on the condition of the practice of medicine in the state which includes recommendations for the improvement of the practice, a record of the proceedings of the board during the year, and the names of all physicians to whom the board issued licenses during the year. Proposed law retains present law and adds the legislative committees on health and welfare as entities to which the board shall also provide the annual report.

Proposed law changes the number of members which constitutes a quorum of the board from three to four.

Proposed law provides that the board shall act only with the concurrence of a majority of board members present and voting, provided at least four board members participate and vote.

Proposed law authorizes the board to admit into the record of an adjudication proceeding any medical records or other information which may be necessary in order for the board to render a final decision, and stipulates that such medical records or other information admitted into the proceeding's record shall remain confidential and not constitute a public record.

Present law provides that at the direction of the board, a hearing panel consisting of one or more board members and totaling less than a quorum may hear charges and submit written findings, conclusions, and recommendations to the board to consider in arriving at its decision. Proposed law makes the following changes relative to hearing panels:

- (1) Changes the number of board members which may comprise a hearing panel from one or more to two or more.
- (2) Deletes provision stipulating that pursuant to consideration of a hearing panel's findings, the decision of a majority of a quorum shall be adopted as the final decision of the board.
- (3) Adds provision stipulating that pursuant to consideration of a hearing panel's findings, the board shall adopt a final decision only with the concurrence of a majority of the board members present and voting, provided at least four board members participate and vote.

Proposed law requires the board to destroy all records or other evidence of the existence of complaints upon which the board has not taken any formal or informal action after five years from the date the complaint was filed with the board.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 37:1267, 1278(B), 1283, and 1285.1(B) and (D); Adds R.S. 37:1285.1(E))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. In provisions of proposed law requiring concurrence of a majority of La. State Board of Medical Examiners (board) members in order for the board to act, clarified that such concurrence must be of a majority of board members present and voting.
2. Deleted provision of proposed law authorizing the board to include a medical finding on which a decision concerning fitness of a person to practice medicine is based in the written record of the decision. Added in lieu thereof a provision authorizing the board to admit into the record of an adjudication proceeding any medical records or other information which may be necessary in order for the board to render a final decision, and stipulating that such medical records or other information admitted into the record of the proceeding shall remain confidential and not constitute a public record.
3. Deleted provisions of proposed law stipulating that a public report of a final decision by the board shall only include a statement of the basis and reasons for the decision, and that any other parts of the record other than those which are disclosed in a public report of the final decision shall not constitute a public record unless the physician seeks judicial review of the board adjudication.
4. Deleted provisions of proposed law stipulating that informal disposition of adjudication by the board shall not constitute a public record, but that the board shall have the authority to report the disposition to the National Practitioner Data Bank if notification of such disposition is required by federal law.
5. Deleted provision of proposed law prohibiting a hearing panel of the board from being convened concerning an administrative complaint if more than one year has elapsed since the date the complaint was lodged with the board.
6. Deleted provision of proposed law stipulating that in no case shall more than one year elapse from the date an administrative complaint is filed to when a final decision is rendered by the board.
7. Revised provision of proposed law relative to compulsory destruction of records to require that the board destroy all records or other evidence of the existence of complaints upon which the board has not taken any formal or informal action after five years from the date the complaint was filed with the board.

House Floor Amendments to the engrossed bill.

1. Made technical changes.