

Regular Session, 2014

SENATE BILL NO. 507

BY SENATOR MARTINY

DENTISTRY. Provides relative to the practice of dentistry and the regulation of the profession. (8/1/14)

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AN ACT

To amend and reenact R.S. 37:753(E) and (I), 760(A)(7) and (14)(a), and 786(A)(1) and (C), relative to the practice of dentistry and the regulation of the profession; to provide for the domicile of the Louisiana State Board of Dentistry; to provide relative to board members; to provide for terms of board members; to provide for the powers and duties of the Louisiana State Board of Dentistry; to provide for judicial review of adjudication; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:753(E) and (I), 760(A)(7) and (14)(a), and 786(A)(1) and (C) are hereby amended and reenacted to read as follows:

§753. Louisiana State Board of Dentistry; appointment of members; term of office; vacancies; nominating meetings; quorum; domicile

* * *

E.(1)(a) Each person appointed to the board shall serve a term of five years. ~~Any board member serving on August 15, 1993, shall thereafter be appointed for no more than two consecutive five-year terms.~~

(b) ~~On or after August 15, 1993, no person shall be appointed to serve more~~

1 ~~than two consecutive five-year terms.~~ **On and after August 1, 2014, no person**
2 **shall serve more than a total of ten years on the board, whether such service**
3 **consists of full or partial terms, or is consecutive or not.**

4 **(c) The provisions of Subparagraph (b) of this Paragraph shall not**
5 **prevent a board member serving on August 1, 2014, from completing his term**
6 **of service, but shall thereafter apply.**

7 * * *

8 I. The domicile of the Louisiana State Board of Dentistry shall be the city of
9 ~~New Orleans~~ **parish of East Baton Rouge.**

10 * * *

11 §760. Powers and duties of the board

12 A. The board shall exercise, subject to the provisions of this Chapter, the
13 following powers and duties:

14 * * *

15 ~~(7) Shall investigate complaints of illegal practice or a violation of this~~
16 ~~Chapter when evidence is presented to the board:~~ **provide as follows for the**
17 **investigation of complaints of illegal practice or a violation of this Chapter when**
18 **evidence is presented to the board or the Department of Health and Hospitals:**

19 **(a) An investigation of a complaint shall be conducted by the Department**
20 **of Health and Hospitals. The department may take any action in connection**
21 **with such investigation authorized to be taken by the board or otherwise**
22 **authorized by law.**

23 **(b) Any employment by the board of a private contractor or private legal**
24 **counsel in connection with such investigation, or legal process or action arising**
25 **from such investigation, shall require prior approval by the secretary of the**
26 **Department of Health and Hospitals. The secretary shall promulgate rules and**
27 **regulations in accordance with the Administrative Procedure Act for the terms**
28 **and conditions of such employment, including fee amounts to be paid. The**
29 **contract of employment shall be a public record.**

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(14)(a) When the board has reasonable cause to believe that dental health care or controlled dangerous substance records relative to a matter under investigation by the board may be created, altered, or destroyed before production for board review, or when the dental health care provider may have engaged in fraudulent conduct or may have provided substandard care, where that substandard care results in death or hospitalization, or is the subject of three or more written patient complaints to the board, or otherwise has violated the Louisiana Dental Practice Act, R.S. 37:776, or R.S. 37:777, **after approval by the secretary of the Department of Health and Hospitals** the board may apply ex parte by affidavit to the district court including within its district the parish where the licensee resides, practices dentistry or dental hygiene as reflected in the office address on record with the board, or where the licensee may be found, for an administrative warrant authorizing the seizure of dental health care records in whatever form they may be kept, such as on paper or computer discs. The court may issue the administrative warrant requiring immediate production of dental health care records only upon a finding that the board has demonstrated reasonable cause that the dental health care or controlled dangerous substance records described in the application for the administrative warrant do not exist or may be created, altered, or destroyed if production is not immediate, or that the dental health care provider may have engaged in fraudulent conduct regarding the patients whose records are at issue or may have provided substandard care resulting in death or hospitalization, or is the subject of three or more written patient complaints to the board.

* * *

§786. Judicial review of adjudication

A.(1) Where the board, whether through a disciplinary committee or the entire board, renders a decision in an administrative adjudication, the party aggrieved by it may resort to the ~~civil district court for the parish of Orleans~~ **Nineteenth Judicial District in the parish of East Baton Rouge** for judicial review. Any such

1 appeals shall be filed in the court in the same manner as original suits are instituted
2 therein. A preliminary, procedural, or intermediate agency action or ruling is
3 immediately reviewable if review of the final agency decision would not provide an
4 adequate remedy and would inflict irreparable injury.

5 * * *

6 C. All proceedings in the ~~civil district court for the parish of Orleans~~
7 **Nineteenth Judicial District in the parish of East Baton Rouge** and appellate
8 courts arising under this Section are civil in nature and shall be heard summarily by
9 the court without a jury, shall take precedence over other civil cases, and shall be
10 tried in chambers or in open court, in and out of term.

11 * * *

The original instrument was prepared by Christopher D. Adams. The following digest, which does not constitute a part of the legislative instrument, was prepared by Michelle Ducharme.

DIGEST

Martiny (SB 507)

Present law provides for terms of members of the La. State Board of Dentistry ("board").

Proposed law provides that on or after August 1, 2014, no person shall serve more than a total of 10 years on the board, whether such service consists of full or partial terms, or is consecutive or not.

Proposed law provides that proposed law shall not prevent a board member serving on August 1, 2014, from completing his term of service, but shall thereafter apply.

Present law provides that the domicile of the board shall be the city of New Orleans.

Proposed law changes the domicile of the board to the parish of East Baton Rouge.

Present law provides the board shall exercise, subject to present law certain powers and duties.

Present law provides that the board shall investigate complaints of illegal practice or a violation of present law when evidence is presented to the board.

Proposed law provides that investigations of illegal practice or a violation of present law when evidence is presented to the board or the Department of Health and Hospitals ("department") shall be conducted by the department. Proposed law provides that any employment by the board of a private contractor or private legal counsel in connection with such investigation or legal process or action arising from such investigation shall require prior approval by the secretary of the department.

Proposed law authorizes the department to promulgate rules to implement the provisions of proposed law.

Present law provides that judicial review of a decision of the board shall be in the civil district court for the parish of Orleans.

Proposed law changes the venue of judicial review of a decision of the board to the 19th Judicial District in East Baton Rouge Parish.

Effective August 1, 2014.

(Amends R.S. 37:753(E) and (I), 760(A)(7) and (14)(a), and 786(A)(1) and (C))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Makes the La. State Board of Dentistry's domicile East Baton Rouge Parish.
2. Provides that judicial review of a decision of the board shall be in the 19th Judicial District Court.
3. Provides that the Dept. of Health and Hospitals shall investigate complaints and violations of present law when evidence is presented to either the board or the department.
4. Provides for terms of board members.