

2018 Regular Session

HOUSE BILL NO. 778

BY REPRESENTATIVE JACKSON

BOARDS/COMMISSIONS: Provides relative to investigations of physicians conducted by the La. State Board of Medical Examiners

1 AN ACT

2 To amend and reenact R.S. 37:1263 and 1285.2(A) and to enact R.S. 37:1270(A)(9), relative
3 to regulation of the practice of medicine; to provide for the membership, powers, and
4 duties of the Louisiana State Board of Medical Examiners; to provide requirements
5 relative to investigations of physicians by the Louisiana State Board of Medical
6 Examiners; to establish restrictions relative to such investigations; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:1263 and 1285.2(A) are hereby amended and reenacted and R.S.
10 37:1270(A)(9) is hereby enacted to read as follows:

11 §1263. Louisiana State Board of Medical Examiners; membership; qualifications;
12 appointment; removal; terms

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

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

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

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

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

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

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

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

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

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

17 (1) ~~Be~~ He has been a resident of this state for not less than six months.

18 (2) ~~Be~~ He is currently licensed and in good standing to engage in the practice
19 of medicine in this state.

20 (3) ~~Be~~ He is actively engaged in the practice of medicine in this state.

21 (4) ~~Have~~ He has had five years of experience in the practice of medicine in
22 this state after licensure.

23 (5) ~~Have~~ He has not been convicted of a felony.

24 (6) ~~Have~~ He has not been placed on probation by the board.

25 D. The consumer member shall, at the time of his appointment, meet all of
26 the following qualifications:

27 (1) He has been a resident of this state for not less than six months.

28 (2) He has attained the age of majority.

1 §1270. Duties and powers of the board

2 A. The board shall:

3 * * *

4 (9) Appoint a director of investigations to act as the lead investigator for any
5 complaint regarding a physician received by the board or any investigation regarding
6 a physician initiated by the board upon its own motion in accordance with R.S.
7 37:1285.2(A). The director of investigations shall serve at the pleasure of the board
8 and be answerable directly to the board. The director of investigations shall be
9 prohibited from concurrently serving as the executive director of the board. Any
10 person appointed by the board to serve as director of investigations shall be a
11 Louisiana-licensed physician who maintains board certification and has engaged in
12 the active practice of medicine for at least five years.

13 * * *

14 §1285.2. Investigations and adjudications; staff; complaints; board procedure;
15 rulemaking authority

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

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

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

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

29 * * *

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 778 Reengrossed

2018 Regular Session

Jackson

Abstract: Provides for the membership, powers, and duties of the La. State Board of Medical Examiners and its functions relative to investigations of physicians.

Present law creates the seven-member La. State Board of Medical Examiners (hereafter, the "board"). Provides, generally, for powers and duties of the board with respect to regulation of the practice of medicine in this state.

Proposed law increases the number of members of the board from seven to nine by adding to the board the following members:

- (1) One member from a list submitted by the La. Hospital Association.
- (2) One consumer member who shall be a full voting member, except that he shall not participate in any adverse licensure action initiated by the board.

Proposed law establishes the qualifications of the consumer member who is to be added to the board's membership.

Present law provides that any staff member of the La. State Board of Medical Examiners, 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. Proposed law repeals present law.

Proposed law requires the board to appoint a director of investigations, who shall be a La.-licensed physician and who has engaged in the active practice of medicine for at least five years, 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 in accordance with present law. Provides that the director of investigations shall serve at the pleasure of the board and be answerable directly to the board. Prohibits the director of investigations from concurrently serving as the executive director of the board.

Proposed law stipulates that the board shall only initiate an investigation based upon one or more of the following causes:

- (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 present law, or any rule promulgated pursuant to present law, 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 present law, or any rule promulgated pursuant to present law, may have occurred.

(Amends R.S. 37:1263 and 1285.2(A); Adds R.S. 37:1270(A)(9))

Summary of Amendments Adopted by House

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

1. Delete proposed law requiring that the lead investigator for any complaint regarding a physician received by the La. State Board of Medical Examiners (hereafter, the "board"), or any investigation regarding a physician initiated by the board upon its own motion, shall be an attorney.
2. Increase the number of members of the board from seven to nine by adding to the board the following members:
 - a. One member from a list submitted by the La. Hospital Association.
 - b. One consumer member who shall be a full voting member, except that he shall not participate in any adverse licensure action initiated by the board.
3. Establish the qualifications of the consumer member who is to be added to the board's membership.
4. Require the board to appoint a director of investigations, who shall be a La.-licensed physician and has engaged in the active practice of medicine for at least five years, 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. Provide that the director of investigations shall serve at the pleasure of the board and be answerable directly to the board. Prohibit the director of investigations from concurrently serving as the executive director of the board.
5. Require that the board shall only initiate an investigation based upon a complaint received from a person other than an employee of the board, or upon the duly adopted motion of the board making a finding that probable cause exists to conclude that a violation of any provision of present law or present administrative code may have occurred.

The House Floor Amendments to the engrossed bill:

1. Delete proposed law establishing causes for which the La. State Board of Medical Examiners may initiate an investigation and provide instead that such causes shall include the following, exclusively:
 - a. A complaint received from a person other than an employee of the board.
 - b. Any report from a law enforcement or federal or state regulatory agency that contains information that supports a conclusion that a violation of present law, or any rule promulgated pursuant to present law, may have occurred.
 - c. 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 present law, or any rule promulgated pursuant to present law, may have occurred.
2. Make technical changes.