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## DIGEST

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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.