

2018 Regular Session

SENATE BILL NO. 260

BY SENATOR MILKOVICH

STATE AGENCIES. Provides relative to disciplinary hearings by professional and occupational licensing boards and commissions. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 49:992(D)(5) and to enact R.S. 37:21.1, 23.1, and R.S. 49:992.2,
3 relative to boards and commissions; to provide relative to disciplinary proceedings;
4 to provide for the option to refer disciplinary matters to the division of administrative
5 law; to provide for licensure, permitting, or certification for certain individuals; to
6 provide relative to terms, conditions, and procedures; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:21.1 and 23.1 are hereby enacted to read as follows:

10 **§21.1. Licensing disciplinary actions; administrative law judges**

11 **A. Notwithstanding any provision of law to the contrary, a person who**
12 **has a disciplinary action brought against him by a professional or occupational**
13 **licensing board or commission may elect to have the matter moved to the**
14 **division of administrative law for a disciplinary adjudication by an**
15 **administrative law judge in accordance with the Administrative Procedure Act,**
16 **R.S. 49:950 et seq.**

17 **B. A notification to a person by a board or commission of pending**

1 disciplinary action against him shall include language advising him that he may
 2 elect to have the matter heard by an administrative law judge. The notice from
 3 the board to the person shall also advise the person that he has thirty days from
 4 receipt of the notice to advise the board, in writing, whether or not he elects to
 5 have the matter heard by an administrative law judge.

6 C. Professional and occupational licensing boards and commissions and
 7 the division of administrative law may promulgate rules in accordance with the
 8 Administrative Procedure Act to implement the provisions of this Section.

9 * * *

10 §23.1. License, permit, or certificate for an individual with an ADA recognized
 11 disorder

12 Any board or commission within this Title may develop a process to issue
 13 a license, permit, or certificate outside the national examination for those
 14 individuals with an Americans with Disabilities Act recognized disorder.

15 Section 2. R.S. 49:992(D)(5) is hereby amended and reenacted and R.S. 49:992.2
 16 is hereby enacted to read as follows:

17 §992. Applicability; exemptions; attorney fees; court costs

18 * * *

19 D. * * *

20 (5) ~~State~~ Except as provided in R.S. 37:21.1, state professional and
 21 occupational licensing boards shall be exempt from the provisions of this Chapter.

22 * * *

23 §992.2. Applicability; professional licensing boards and commissions

24 Pursuant to the provisions of R.S. 37:21.1, a matter referred to the
 25 division of administrative law for an adjudication hearing shall be conducted
 26 under the provisions of this Chapter and the Administrative Procedure Act.

27 Section 3. The provisions of this Act shall not apply to the Louisiana State Bar
 28 Association, its members, or any matter initiated by the Louisiana Attorney Disciplinary
 29 Board.

The original instrument was prepared by Michelle D. Ridge. The following digest, which does not constitute a part of the legislative instrument, was prepared by Tammy Crain-Waldrop.

DIGEST

SB 260 Reengrossed

2018 Regular Session

Milkovich

Present law provides relative to powers and duties of professional licensing boards and commissions.

Present law provides relative to disciplinary actions by boards and commissions.

Proposed law allows a person who has a disciplinary action brought against him by a professional licensing board or commission may elect to have the matter moved to the division of administrative law for a disciplinary adjudication by an administrative law judge.

Proposed law requires that the notification to a person by a board or commission of pending disciplinary action against him shall include language advising him that he may elect to have the matter heard by an administrative law judge.

Proposed law provides that the notice from the board to the person shall also advise the person that he has 30 days from receipt of the notice to advise the board, in writing, whether or not he elects to have the matter heard by an administrative law judge.

Proposed law provides that professional licensing boards and commissions and the division of administrative law may promulgate rules in accordance with the Administrative Procedure Act to implement proposed law.

Present law provides that state professional and occupational licensing boards shall be exempt from laws relating to the division of administrative law.

Proposed law provides that if a person elects to have his disciplinary hearing before an administrative law judge, he will be subject to the provisions of law pertaining to administrative law judge proceedings.

Proposed law provides that any board or commission within Title 37 of the La. Revised Statutes of 1950 may develop a process to issue a license, permit, or certificate outside the national examination for those individuals with an Americans with Disabilities Act recognized disorder.

Proposed law exempts the Louisiana State Bar Association, its members, or any matter initiated by the Louisiana Attorney Disciplinary Board from the provisions of proposed law.

Effective August 1, 2018.

(Amends R.S. 49:992(D)(5); adds R.S. 37:21.1, 23.1, and R.S. 49:992.2)

Summary of Amendments Adopted by Senate

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

1. Allows boards and commissions to develop a licensing, permitting, or certification process for individuals with an ADA recognized disability.

Senate Floor Amendments to engrossed bill

1. Exempts the La. State Bar Association, its members, and the La. Attorney Disciplinary Board.