
DIGEST

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HB 597 Original

2022 Regular Session

Freeman

Abstract: Makes changes to various aspects of the Occupational Licensing Review Commission.

Present law defines "least restrictive regulation" by ranking the following regulations from least to most restrictive in this order:

- (1) Market competition.
- (2) Third-party or consumer-created ratings and reviews.
- (3) Specific private civil cause of action to remedy consumer harm as provided in the Unfair Trade Practices and Consumer Protection Law, R.S. 51:1401 et seq.
- (4) Regulation of the process of providing the specific goods or services to consumers.
- (5) Inspection.
- (6) Bonding or insurance.
- (7) Registration.
- (8) Occupational license.

Proposed law retains the rankings of 1-7 above and provides the following regulations in this order:

- (1) Government certification.
- (2) Specialty occupational certification solely for medical reimbursement.
- (3) Occupational license.

Present law also defines "occupational license", "occupational licensing board", "occupational regulation", "personal qualifications", "qualifications", "registration", and "state policy".

Proposed law removes "occupational regulation", "qualifications", "registration", and "state policy" from the list of definitions.

Proposed law adds definitions for "government certification" and "specialty occupational certification solely for medical reimbursement".

Present law creates the Occupational Licensing Review Commission, hereinafter "commission", and provides for the five members of the board. Proposed law retains present law and adds the following members:

- (1) Two members of the House Committee on Commerce, to be appointed by the chair of that committee.
- (2) One member of the House of Representatives, to be appointed by the speaker.
- (3) Two members of the Senate Committee on Commerce, Consumer Protection, and International Affairs, to be appointed by the chair of that committee.
- (4) One member of the Senate, to be appointed by the president.

Present law requires a majority vote of the commission in order to take any final action by the committee. Proposed law changes the majority vote requirement to a unanimous vote requirement.

Present law requires the commission to either approve or reject the occupational regulation. In the case of a rejection, the board may suggest amendments and shall require the occupational licensing board to resubmit the regulation prior to promulgation.

Proposed law requires the commission to approve or reject the occupational regulation. In the case of a rejection, however, proposed law requires the commission to provide the suggested amendments.

Proposed law allows any person to challenge or appeal any regulation promulgated by an occupational licensing board to the commission.

Proposed law requires the commission to either repeal or uphold the regulation within 90 days from receiving the request to review and to provide a written explanation of the decision.

Proposed law allows any person to file an action in court to challenge any occupational regulation promulgated by an occupational licensing board.

A person who brings an action pursuant to proposed law shall prevail if they show by a preponderance of the evidence that the challenged regulation is not demonstrated to be necessary and narrowly tailored to achieve certain objectives. If plaintiff prevails, the court shall enjoin enforcement of the regulation and award attorney's fees and costs to plaintiff.

Within one year of enactment of proposed law, each occupational licensing board is required to conduct a comprehensive review of all regulations within their jurisdiction and submit a report to the commission. The report is to contain all of the following:

- (1) The specific objectives served by the regulation.
- (2) A detailed explanation of why the regulation is necessary.
- (3) An analysis of the impact of the regulation on certain persons.
- (4) An analysis of how other states regulate similar occupations.

If an agency finds a regulation does not meet the standards provided in proposed law, the agency is to repeal the regulation, modify the regulation, or recommend to the legislature that the regulation be repealed or modified.

Within one year following enactment of proposed law, each occupational licensing board is required to report to the commission on all actions taken to conform with proposed law.

(Amends R.S. 37:43(4), (5), (6), (7), and (9) and 45(A)(1), (B), and (C)(3); Adds R.S. 37:45(I), 48, and 49; Repeals R.S. 37:43(10) and (11))