

SENATE BILL NO. 131

BY SENATOR PRESSLY

1 AN ACT

2 To amend and reenact R.S. 37:21, relative to professions and occupations; to provide
3 relative to limiting recovery of attorney fees and costs in disciplinary proceedings
4 initiated by professional or occupational licensing boards; to provide relative to
5 licensees; to provide relative to negotiations; to provide relative to suspension and
6 probationary periods; to provide relative to monetary fees; to provide relative to
7 certain offers of judgments; to provide relative to consent order negotiations; to
8 provide relative to attorney fees and costs incurred by the board; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 37:21 is hereby amended and reenacted to read as follows:

12 §21. Limitations on disciplinary proceedings by professional or occupational boards
13 and commissions; **recovery of attorney fees and costs**

14 A.(1) Unless a special law is applicable, no proceeding of any kind may be
15 initiated by a professional or occupational board or commission as follows:

16 (a) If the nature of the complaint is based on negligence or gross negligence,
17 no proceeding may be initiated after two years from discovery by the complainant.
18 However, under no circumstances shall such a proceeding be initiated more than five
19 years from the date of the act or omission.

20 (b) If the nature of the complaint is based on an intentional act or omission,
21 no proceeding may be initiated after two years from discovery by the complainant.
22 However, under no circumstances shall such a proceeding be initiated more than five
23 years from the date of the act or omission.

24 (c) If the nature of the complaint is based on fraud, no proceeding may be
25 initiated after two years from discovery by the complainant.

26 (d) If the nature of the complaint is based on a license or rules violation, no
27 proceeding may be initiated after five years from the date of the act or omission.

1 (2) In all cases where a complaint is filed with a professional or occupational
2 board or commission, the board or commission shall notify the licensee who is
3 specifically named in the complaint as the subject of the complaint in writing of the
4 complaint within six months after the filing of the complaint or be barred from
5 further action thereon. The board or commission shall hold any required hearing
6 within six months after the notice of the hearing, but this period may be interrupted
7 by the filing of procedural motions or suspended as provided in Paragraph (3) of this
8 Subsection.

9 (3) The time periods provided in this Subsection are suspended during the
10 pendency of a legal action involving the licensee as a party or witness if the
11 complaint arises from the same facts giving rise to the legal action or arises from the
12 licensee's activities in the legal action. For the purposes of this Subsection, "legal
13 action" includes litigation, arbitration, mediation, administrative proceeding, or other
14 disciplinary proceeding.

15 B. The provisions of ~~this Section~~ **Subsection A of this Section** shall not
16 apply to the following:

17 (1) The Louisiana State Board of Medical Examiners.

18 (2) The Louisiana State Board of Dentistry.

19 (3) A certified public accountant.

20 (4) Repealed by Acts 2023, No. 381, §2, eff. August 1, 2023.

21 (5) The Louisiana State Board of Embalmers and Funeral Directors.

22 (6) The Louisiana Board of Examiners for Speech-Language Pathology and
23 Audiology.

24 (7) The Louisiana Board of Pharmacy.

25 (8) The Louisiana State Board of Nursing.

26 (9) The Louisiana State Board of Social Work Examiners.

27 (10) The Louisiana Physical Therapy Board.

28 (11) The Louisiana State Board of Practical Nurse Examiners.

29 C. The provisions of Paragraph (A)(2) of this Section with respect to the time
30 of hearing only shall not apply to the following:

1 (1) The Louisiana Professional Engineering and Land Surveying Board.

2 (2) The State Board of Architectural Examiners.

3 **D.(1) When a professional or occupational board initiates a disciplinary**
4 **proceeding against a licensee and the final disposition of the proceeding results**
5 **in a consent order, judgment, or finding in which the licensee is the prevailing**
6 **party, the board shall not collect from the licensee any attorney fees or costs**
7 **incurred by the board after a written offer of judgment.**

8 **(2) For purposes of this Subsection, a licensee is deemed the prevailing**
9 **party when either of the following occurs:**

10 **(a) The licensee made a written offer of judgment, and the matter is**
11 **subsequently terminated, dismissed, or resolved without an adverse finding**
12 **against the licensee.**

13 **(b)(i) The consent order, judgment, or finding results in a disposition**
14 **more favorable to the licensee than the terms previously offered by the licensee**
15 **pursuant to this Subsection.**

16 **(ii) A result is considered more favorable to the licensee under any of the**
17 **following circumstances:**

18 **(aa) The licensee offered a suspension period, and the final consent**
19 **order, judgment, or finding imposes a suspension period shorter than or equal**
20 **to that offered by the licensee.**

21 **(bb) The licensee offered a probationary period, and the final consent**
22 **order, judgment, or finding imposes a probationary period shorter than or**
23 **equal to that offered by the licensee.**

24 **(cc) The licensee offered payment of a monetary fine, and the final**
25 **consent order, judgment, or finding imposes only a monetary fine in an amount**
26 **less than or equal to that offered by the licensee.**

27 **(dd) The licensee offered a suspension of licensure, and the final consent**
28 **order, judgment, or finding imposes no suspension of licensure, regardless of**
29 **whether the final disposition includes a fine, probation, or both. For purposes**
30 **of this Subitem, one day of suspension shall be deemed equivalent to fifteen days**

1 of probation when comparing disciplinary sanctions that include both
2 suspension and probationary periods.

3 (ee) The final consent order, judgment, or finding imposes a combined
4 suspension and probationary period that is less severe than or equal to that
5 offered by the licensee. For purposes of this Subitem, one day of suspension
6 shall be deemed equivalent to fifteen days of probation when comparing
7 disciplinary sanctions that include both suspension and probationary periods.

8 (3) The provisions of this Subsection supersede any agency rule,
9 regulation, custom, or practice governing the payment of attorney fees and costs
10 to the extent that such rule, regulation, custom, or practice is less favorable to
11 the licensee.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____