

Regular Session, 2014

HOUSE CONCURRENT RESOLUTION NO. 92

BY REPRESENTATIVE RICHARD

CRIME: Creates a task force to study the issue of sexual misconduct between a psychotherapist and patient

1 A CONCURRENT RESOLUTION

2 To create a task force to study the issue of sexual misconduct between a psychotherapist and
3 patient and to issue recommendations on ways to address this issue no later than
4 January 1, 2016.

5 WHEREAS, in many states sexual misconduct laws and regulations categorically
6 prohibit various healthcare professionals from engaging in sexual contact with current
7 patients and with former patients for years after the end of the therapeutic relationship; and

8 WHEREAS, although other criminal statutes address the issue of nonconsensual
9 sexual activity, sexual misconduct regulations in this area are primarily directed at behavior
10 that, although consensual, still gives cause for concern due to the nature of the relationship
11 between a psychotherapist and the patient; and

12 WHEREAS, many states have enacted such laws and regulations to prohibit
13 consensual sexual contact between a psychotherapist and a current or former patient based
14 on the following observations:

15 (1) The nature of the relationship between the psychotherapist and patient puts the
16 patient in a position of vulnerability where the patient may not fully appreciate the risks of
17 sexual intimacies with the therapist and lacks the capacity to make autonomous decisions
18 regarding those risks.

19 (2) A psychotherapist has a fiduciary duty to remain objective about a patient's
20 treatment and to look out for a patient's best interest, and by engaging in such activity, the

1 psychotherapist risks creating a conflict of interest that may impair their judgment with
2 regard to the patient's treatment and maintain this fiduciary duty; and

3 WHEREAS, the legislature recognizes the authority of the licensing or governing
4 boards of the various healthcare professions to enforce the ethical standards and guidelines
5 of their respective practices; and

6 WHEREAS, the legislature also recognizes the nature of the psychotherapist-patient
7 relationship, the vulnerability of patients involved in such relationships, and the need to
8 protect these patients.

9 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana does hereby
10 create a task force to study the issue of sexual misconduct between a psychotherapist and
11 patient including its impact on victims and the reputation of the profession.

12 BE IT FURTHER RESOLVED that in conducting this study, the task force shall
13 consider the feasibility of enacting a criminal statute specifically prohibiting the sexual
14 misconduct of a psychotherapist relative to a patient and shall consider any constitutional
15 implications that may exist in enacting the statute.

16 BE IT FURTHER RESOLVED that the task force shall issue recommendations on
17 ways to address this issue which may include but are not limited to legislation to enact
18 criminal statutes or legislation to mandate education on the issue within each respective
19 profession.

20 BE IT FURTHER RESOLVED that the task force shall include the following
21 members:

22 (1) A member of the legislature, appointed by the speaker of the House of
23 Representatives, who shall serve as chairman of the task force.

24 (2) A member of the legislature appointed by the president of the Senate.

25 (3) The chairman of the House Committee on the Administration of Criminal
26 Justice, or his designee.

27 (4) The chairman of the House Committee on Health and Welfare, or his designee.

28 (5) The chairman of the Senate Committee on Judiciary B, or his designee.

29 (6) The chairman of the Senate Committee on Health and Welfare, or his designee.

30 (7) The secretary of the Department of Health and Hospitals, or his designee.

1 (8) The executive director of the Louisiana District Attorneys Association, or his
2 designee.

3 (9) A member of the Louisiana State Board of Medical Examiners.

4 (10) A member of the Louisiana Licensed Professional Counselors Board of
5 Examiners.

6 (11) A member of the Louisiana State Board of Examiners of Psychologists.

7 (12) A member of the Louisiana State Board of Social Work Examiners.

8 (13) A member of the Louisiana Behavior Analyst Board.

9 (14) A representative of the Department of Justice, office of the attorney general.

10 (15) A victim of, or an advocate for a victim of, sexual misconduct by a
11 psychotherapist appointed by the speaker of the House of Representatives from
12 recommendations by members of the House of Representatives.

13 BE IT FURTHER RESOLVED that in undertaking the study and issuing
14 recommendations, the task force may request documents or data, conduct public hearings,
15 hear the testimony of witnesses, and take any other actions that it deems necessary to carry
16 out its functions.

17 BE IT FURTHER RESOLVED that the task force shall meet, at a minimum, on a
18 quarterly basis with the first meeting taking place no later than September 1, 2014, and shall
19 issue its recommendation to the speaker of the House of Representatives and to the president
20 of the Senate no later than January 1, 2016.

21 BE IT FURTHER RESOLVED that a suitable copy of this Resolution be transmitted
22 to the Department of Health and Hospitals, the Louisiana District Attorneys Association, the
23 Louisiana State Board of Medical Examiners, the Louisiana Licensed Professional
24 Counselors Board of Examiners, the Louisiana State Board of Examiners of Psychologists,
25 the Louisiana State Board of Social Work Examiners, the Louisiana Behavior Analyst
26 Board, and the Department of Justice, office of the attorney general.

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)]

Richard

HCR No. 92

Creates a task force composed of 15 members to study the issue of sexual misconduct between a psychotherapist and patient and to issue recommendations on ways to address this issue no later than Jan. 1, 2016.