

2015 Regular Session

HOUSE BILL NO. 568

BY REPRESENTATIVES THIERRY, BARROW, WESLEY BISHOP, CHANEY, COX, GUINN, HALL, HOFFMANN, HUNTER, JACKSON, JAMES, TERRY LANDRY, MIGUEZ, MONTOUCET, ORTEGO, ROBIDEAUX, SMITH, ST. GERMAIN, ALFRED WILLIAMS, PATRICK WILLIAMS, AND WILLMOTT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PHARMACISTS: Provides relative to the licensing and regulation of pharmacists

1 AN ACT

2 To amend and reenact R.S. 37:1241(B) through (F) and to enact R.S. 37:1241(A)(23) and
3 (24) and (G), relative to the disciplinary powers of the Louisiana Board of Pharmacy;
4 to provide for prohibited acts; to provide for definitions; to provide for scope of
5 application; to require the production of information necessary for the investigation
6 of certain violations; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:1241(B) through (F) are hereby amended and reenacted and R.S.
9 37:1241(A)(23) and (24) and (G) are hereby enacted to read as follows:

10 §1241. Refusal, restriction, suspension, or revocation of license

11 A. The board may, after due notice and hearing, assess a fine not to exceed
12 the sum of five thousand dollars for each offense, refuse to license, register, certify,
13 or permit any applicant, refuse to renew the license or permit of any person, or may
14 revoke, summarily suspend, suspend, place on probation, reprimand, issue a warning
15 against the person who was issued the license, registration, certificate, permit, or any
16 other designation deemed necessary to engage in the practice of pharmacy upon
17 proof that the person:

18 * * *

1 (23) Has used an independent contractor to provide marketing services for
2 the pharmacy to any practitioner, authorized prescriber, or prospective customer in
3 exchange for compensation unless the compensation paid is an amount set in
4 advance, consistent with fair market value, and not calculated based on the volume
5 or value of actual prescriptions filled by the pharmacy. This Paragraph shall apply
6 only to compounding pharmacies.

7 (24) Has dispensed or distributed any drug or device to any patient pursuant
8 to a prescription written by a practitioner or a member of the practitioner's group
9 practice if the practitioner or an immediate family member of the practitioner has a
10 direct or indirect financial relationship with the dispensing or distributing pharmacy,
11 unless the financial relationship meets all of the requirements of an exception to 42
12 U.S.C. 1395nn, as amended, as provided for in the regulations adopted pursuant
13 thereto. This Paragraph shall apply only to compounding pharmacies.

14 B.(1) Unless otherwise defined by board rule, the terms "direct or indirect
15 financial relationship" and "immediate family member" in Paragraph (A)(24) of this
16 Section have the meanings assigned in 42 U.S.C. 1395nn, as amended, and the
17 regulations adopted pursuant thereto.

18 (2) Paragraph (A)(24) of this Section shall apply to any arrangement or
19 scheme, including but not limited to a cross-referral arrangement, which has the
20 principal purpose of assuring indirect referrals that would be in violation of
21 Paragraph (A)(24) of this Section if made directly.

22 (3) The board may require a pharmacy to produce any information the board
23 deems reasonably necessary to investigate alleged violations of and otherwise
24 enforce Paragraphs (A)(23) and (A)(24) of this Section.

25 (4) This Subsection shall apply only to compounding pharmacies.

26 ~~B:~~ C. In addition to the disciplinary action or fine assessed by the board, the
27 board may assess all costs incurred in connection with the proceedings, including but
28 not limited to investigator, stenographer, and attorney fees.

1 ~~C.~~ D. Each day on which a violation occurs is a separate violation for the
2 purposes of this Part.

3 ~~D.~~ E. The board may, by regulation, defer action with regard to an impaired
4 licensed, registered, or certified person who voluntarily signs an agreement, in a
5 form satisfactory to the board, agreeing not to practice pharmacy and to enter an
6 approved treatment and monitoring program in accordance with this Section,
7 provided that this Section should not apply to a licensee who has been convicted of,
8 pleads guilty to, or enters a plea of nolo contendere to a felonious act or a conviction
9 relating to a controlled substance in a court of law of the United States or any state,
10 territory, or country.

11 ~~E.~~ F. The board retains jurisdiction over all such unlicensed, uncertified, or
12 unpermitted persons relative to violations of and enforcement of the provisions of
13 this Chapter. However, nothing contained in this Chapter shall prevent any licensed
14 practitioner of medicine, dentistry, or veterinary medicine from compounding,
15 dispensing, administering to, or supplying his patients with the necessary drugs and
16 medicines for their use.

17 ~~F.~~ G. Any individual who, after a hearing, shall be found by the board to
18 have unlawfully engaged in the practice of pharmacy shall be subject to a fine not
19 to exceed the sum of five thousand dollars to be imposed by the board. Each such
20 violation of this Chapter or the regulations promulgated hereunder pertaining to
21 unlawfully engaging in the practice of pharmacy shall also constitute a misdemeanor
22 punishable upon conviction by a fine of no more than five hundred dollars or by
23 imprisonment for no more than six months, or both.

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)]

HB 568 Reengrossed

2015 Regular Session

Thierry

Abstract: Establishes prohibited acts and provides for the disciplinary authority of the La. Board of Pharmacy.

Present law authorizes the La. Board of Pharmacy (board) to take certain disciplinary actions against a licensee for committing certain prohibited actions.

Proposed law retains present law but adds the following prohibited acts:

- (1) Using an independent contractor to provide marketing services for the pharmacy to any practitioner, authorized prescriber, or prospective customer in exchange for compensation unless the compensation paid is an amount set in advance, consistent with fair market value, and not calculated based on the volume or value of actual prescriptions filled by the pharmacy.
- (2) Dispensing or distributing any drug or device to any patient pursuant to a prescription written by a practitioner or a member of the practitioner's group practice if the practitioner or an immediate family member of the practitioner has a direct or indirect financial relationship with the dispensing or distributing pharmacy, unless the financial relationship meets all of the requirements of an exception to the federal provisions limiting certain physician referrals.

Proposed law provides for the definition of "direct or indirect financial relationship" and "immediate family member".

Proposed law applies to any arrangement or scheme, including but not limited to a cross-referral arrangement, which has the principal purpose of assuring indirect referrals that would be in violation of proposed law.

Proposed law authorizes the board to require a pharmacy to produce any information the board deems reasonably necessary to investigate alleged violations of and otherwise enforce proposed law.

Proposed law applies only to compounding pharmacies.

Proposed law makes technical changes to update the reference of each provision of proposed law.

(Amends R.S. 37:1241(B)-(F); Adds R.S. 37:1241(A)(23) and (24) and (G))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Limit the application of proposed law to compounding pharmacies.

The House Floor Amendments to the engrossed bill:

1. Make a technical change by relocating a scope of applicability provision.