

2015 Regular Session

HOUSE BILL NO. 843 (Substitute for House Bill No. 573 by Representative Hazel)

BY REPRESENTATIVES HAZEL, JACKSON, AND CONNICK

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

BOARDS/COMMISSIONS: Provides for the investigation and adjudication of violations by the Louisiana State Board of Medical Examiners

1 AN ACT

2 To amend and reenact R.S. 37:1267 and 1285(A)(12) through (14) and to enact R.S.
3 37:1285.2, relative to the powers and duties of the Louisiana State Board of Medical
4 Examiners; to provide for a quorum; to define professional and medical
5 incompetency and unprofessional conduct; to require promulgation of the procedures
6 to be used for complaints, investigations, and adjudications; to require rulemaking
7 progress reports; to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:1267 and 1285(A)(12) through (14) are hereby amended and
10 reenacted and R.S. 37:1285.2 is hereby enacted to read as follows:

11 §1267. Quorum

12 ~~Three~~ Four members of the board constitute a quorum for all purposes
13 including the holding of examinations, the granting of licenses and permits,
14 rulemaking and, except as provided in R.S. 37:1285.1, the adjudication functions of
15 the board.

16 * * *

17 §1285. Causes for nonissuance; suspension; revocation; or the imposition of
18 restrictions; fines; reinstatement; publication of action; stays

19 A. The board may refuse to issue, or may suspend or revoke any license or
20 permit, or impose probationary or other restrictions on any license or permit issued
21 ~~under~~ pursuant to this Part for the following causes:

22 * * *

1 (2) Except in cases of egregious conduct, the board shall not do either of the
2 following:

3 (a) Take any action upon receipt of an anonymous complaint against a
4 physician.

5 (b) Initiate or take any action upon a complaint involving conduct by a
6 physician that occurred more than three years from the date the complaint is received
7 by the board.

8 (3) For the purposes of this Section, "egregious conduct" means any action
9 which threatens substantial or irreparable harm to other parties, including individuals
10 for whom the physician may render medical services, or constitutes a threat to the
11 health, safety, and welfare of the citizens of this state.

12 C. The board shall promulgate rules, in accordance with the Administrative
13 Procedure Act, to provide for the investigation of complaints against physicians and
14 adjudication of alleged violations by physicians of any provision of this Chapter.
15 The rules shall satisfy the minimum due process requirements of the constitution of
16 this state and the Constitution of the United States and shall address, at a minimum,
17 all of the following:

18 (1) Notice of the investigation including a brief summary of the facts
19 constituting the alleged violation to be provided to the physician no later than five
20 business days after the investigation is initiated.

21 (2) Time limits for initiating and completing a complaint investigation and
22 for scheduling an adjudicatory hearing.

23 (3) Informal settlements and consent decrees.

24 (4) Notice of any adjudicatory hearing to be provided to the physician.

25 (5) Pleadings and other motions.

26 (6) Discovery.

27 (7) Subpoenas and subpoenas duces tecum.

28 (8) Representation of the physician by counsel of choice.

29 (9) Prehearing conferences.

1 (10) Procedure for conducting the adjudicatory hearing including
2 examination of witnesses and the placement of evidence into the record.

3 (11) Notice of the final decision of the board to be provided to the physician.

4 D. Any final decision of the board shall be supported by a preponderance of
5 the evidence presented at the adjudicatory hearing.

6 E. The board shall promulgate the rules required by this Section no later than
7 January 1, 2016. Beginning July 1, 2015, the board shall report monthly on the
8 progress of the promulgation of the required rules to the House and Senate
9 committees on health and welfare.

10 Section 2. This Act shall become effective upon signature by the governor or, if not
11 signed by the governor, upon expiration of the time for bills to become law without signature
12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
13 vetoed by the governor and subsequently approved by the legislature, this Act shall become
14 effective on the day following such approval.

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 843 Engrossed

2015 Regular Session

Hazel

Abstract: Requires the promulgation of procedures for the investigation and adjudication of alleged violations by the La. State Board of Medical Examiners (LSBME).

Present law provides that three members of the board constitute a quorum for all purposes including the holding of examinations, the granting of licenses and permits, rulemaking and, except as provided in present law, the adjudication functions of the LSBME.

Proposed law raises the quorum to four.

Present law authorizes the LSBME to refuse to issue, or suspend or revoke any license or permit, or impose probationary or other restrictions on any license or permit for the certain causes.

Proposed law retains present law but clarifies the following causes: professional incompetency, medical incompetency, and unprofessional conduct.

Proposed law authorizes any staff member of the board, except the executive director, to act as the lead investigator for any complaint regarding a physician received by the board or any investigation regarding a physician initiated by the board upon its own motion.

Proposed law provides that an initial complaint may be made by any person or by the LSBME on its own initiative and requires the initial complaint, except in cases of egregious conduct, to be made in writing and dated and provides for the minimum required content for the complaint.

Proposed law prohibits the board, except in cases of egregious conduct, from taking any action upon receipt of an anonymous complaint or a complaint involving conduct that occurred more than three years from the date the complaint is received by the board.

Proposed law requires the board to promulgate rules to provide for the investigation of complaints against physicians and adjudication of alleged violations by physicians. Further requires the rules to satisfy the minimum due process requirements of the constitution of this state and the Constitution of the United States and to address certain issues such as notice, discovery, and hearing procedure.

Proposed law requires any final decision of the board to be supported by a preponderance of the evidence presented at the adjudicatory hearing.

Proposed law requires the board to promulgate the rules required by proposed law no later than Jan. 1, 2016. Further requires the board to report monthly on the progress of the promulgation of the required rules to the House and Senate committees on health and welfare.

Effective upon signature by the governor or lapse of time for gubernatorial action.

(Amends R.S. 37:1267 and 1285(A)(12)-(14); Adds R.S. 37:1285.2)