

Regular Session, 2011

SENATE BILL NO. 226

BY SENATOR MOUNT

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

COUNSELING/GUIDANCE. Consolidates the State Board of Examiners of Psychologists and the Louisiana Licensed Professional Counselors Board of Examiners into the Louisiana Behavioral Sciences Regulatory Board. (See Act)

AN ACT

1
2 To amend and reenact R.S. 12:1143, R.S. 13:3715.1(J) and 3715.3(G)(1)(a), R.S.
3 15:560.2(B)(1), R.S. 17:2048.51(O)(1)(c), R.S. 23:1371.1(6), R.S. 36:259(E)(10),
4 R.S. 37:1103(3), 1104, 1105, 1360.52(4), 1360.55(B)(1), 1360.57(1), 1744(A)(1),
5 1745(A)(1), 1745.13(8), 2351, 2352(2), 2353, 2354(A), R.S. 40:2114(B), and R.S.
6 44:4(29), to enact Chapter 28 of Title 40 of the Louisiana Revised Statutes of 1950,
7 to be comprised of R.S. 40:2721 through 2726, and to repeal R.S. 36:259(EE),
8 relative to boards and commissions; to create and establish the Louisiana Behavioral
9 Sciences Regulatory Board; to consolidate the powers and duties of the Louisiana
10 Licensed Professional Counselors Board of Examiners and the State Board of
11 Examiners of Psychologists into the Louisiana Behavioral Sciences Regulatory
12 Board; to provide for definitions; to provide for organization, membership,
13 compensation, domicile, meetings, quorum, and powers and duties of the Louisiana
14 Behavioral Sciences Regulatory Board; to provide for an annual report to be
15 submitted by Louisiana Behavioral Sciences Regulatory Board; to provide for the
16 prohibition on receipt or expenditure of state funds by the Louisiana Behavioral
17 Sciences Regulatory Board; to provide for the transfer of assets, liabilities, and

1 obligations; to provide for the transfer of documents; to provide for rules and
2 regulations; and to provide for related matters.

3 Be it enacted by the Legislature of Louisiana:

4 Section 1. R.S. 12:1143 is hereby amended and reenacted to read as follows:

5 §1143. Regulation by the Louisiana ~~State Board of Examiners of Psychologists~~

6 **Behavioral Sciences Regulatory Board**

7 Professional psychology corporations shall be subject to the discipline of the
8 Louisiana ~~State Board of Examiners of Psychologists~~ **Behavioral Sciences**
9 **Regulatory Board** and to its authority to adopt rules and regulations governing the
10 practice of psychology.

11 Section 2. R.S. 13:3715.1(J) and 3715.3(G)(1)(a) are hereby amended and reenacted
12 to read as follows:

13 §3715.1. Medical or hospital records of a patient; subpoena duces tecum and court
14 order to a health care provider; reimbursement for records produced

15 * * *

16 J. The Louisiana State Board of Medical Examiners, Louisiana State Board
17 of Dentistry, Louisiana ~~State Board of Psychologists~~ **Behavioral Sciences**
18 **Regulatory Board**, Louisiana State Board of Nursing, Louisiana Board of
19 Pharmacy, Louisiana State Board of Social Work Examiners, Louisiana State Board
20 of Physical Therapy Examiners, and the Louisiana State Board of Chiropractic
21 Examiners, while acting in an official capacity relating to an investigation of an
22 individual over whom such board has regulatory authority shall be exempt from
23 complying with the notice provisions of this Section when the subpoena clearly
24 states that no notice or affidavit is required. Notwithstanding any privilege of
25 confidentiality recognized by law, no health care provider or health care institution
26 with which such health care provider is affiliated shall, acting under any such
27 privilege, fail or refuse to respond to a lawfully issued subpoena of such board for
28 any medical information, testimony, records, data, reports or other documents,
29 tangible items, or information relative to any patient treated by such individual under

1 investigation; however, the identity of any patient identified in or by such records or
 2 information shall be maintained in confidence by such board and shall be deemed a
 3 privilege of confidentiality existing in favor of any such patient. For the purpose of
 4 maintaining such confidentiality of patient identity, such board shall cause any such
 5 medical records or the transcript of any such testimony to be altered so as to prevent
 6 the disclosure of the identity of the patient to whom such records or testimony
 7 relates.

8 * * *

9 §3715.3. Peer review committee records; confidentiality

10 * * *

11 G.(1) As used in this Subsection, the following terms shall mean:

12 (a) "Board" means the Louisiana State Board of Medical Examiners,
 13 Louisiana State Board of Dentistry, Louisiana ~~State Board of Psychologists~~
 14 **Behavioral Sciences Regulatory Board**, Louisiana State Board of Nursing,
 15 Louisiana Board of Pharmacy, as well as any Louisiana licensing and regulatory
 16 board or agency whose licensees, certificate holders, or registrants are subject to any
 17 form of peer review identified in Subsection A of this Section.

18 * * *

19 Section 3. R.S. 15:560.2(B)(1) is hereby amended and reenacted to read as follows:

20 §560.2. Louisiana Sex Offender Assessment Panel

21 * * *

22 B.

* * *

23 (1) One member shall be either a psychologist licensed by the Louisiana ~~State~~
 24 ~~Board of Examiners of Psychologists~~ **Behavioral Sciences Regulatory Board** or a
 25 medical psychologist licensed by the Louisiana State Board of Medical Examiners
 26 who has been engaged in the practice of clinical or counseling psychology for not
 27 less than three consecutive years who is employed by the Department of Public
 28 Safety and Corrections or the Department of Health and Hospitals or a physician in
 29 the employ of the Department of Public Safety and Corrections or the Department

1 of Health and Hospitals or under contract to the Department of Public Safety and
 2 Corrections whose credentials and experience are compatible with the evaluation of
 3 the potential threat to public safety that may be posed by a sexually violent predator
 4 or a child sexual predator. If the psychologist or physician is an employee of the
 5 Department of Health and Hospitals, the secretary of both departments shall consult
 6 and jointly select the member.

7 * * *

8 Section 4. R.S. 17:2048.51(O)(1)(c) is hereby amended and reenacted to read as
 9 follows:

10 §2048.51. Louisiana Health Works Commission; creation; membership;
 11 compensation; staff and facilities; powers and duties; data collection
 12 and reporting

13 * * *

14 O.(1) * * *

15 (c) Compiling statistics which will be used to measure and track the supply
 16 of licensed health care professionals as evidenced by licenses and renewed licenses
 17 granted by the health care professional boards of the state of Louisiana. Those boards
 18 affected shall include but not be limited to:

- 19 (i) Louisiana Board of Chiropractic Examiners.
- 20 (ii) Louisiana State Board of Dentistry.
- 21 (iii) Louisiana State Board of Examiners in Dietetics and Nutrition.
- 22 (iv) Louisiana Board for Hearing Aid Dealers.
- 23 (v) Louisiana ~~Licensed Professional Counselors Board of Examiners~~
 24 **Behavioral Sciences Regulatory Board.**
- 25 (vi) Louisiana State Board of Medical Examiners and related health
 26 professions under its jurisdiction.
- 27 (vii) Louisiana State Board of Nursing.
- 28 (viii) Louisiana Board of Examiners of Nursing Facility Administrators.
- 29 (ix) Louisiana State Board of Optometry Examiners.

- 1 (x) Louisiana Board of Pharmacy.
- 2 (xi) Louisiana State Board of Physical Therapy Examiners.
- 3 (xii) Louisiana State Board of Practical Nurse Examiners.
- 4 ~~(xiii) Louisiana State Board of Examiners of Psychologists.~~
- 5 ~~(xiv)~~ **(xiii)** Louisiana Radiologic Technology Board of Examiners.
- 6 ~~(xv)~~ **(xiv)** Louisiana State Board of Social Work Examiners.
- 7 ~~(xvi)~~ **(xv)** Louisiana Board of Examiners for Speech-Language Pathology and
- 8 Audiology.
- 9 ~~(xvii)~~ **(xvi)** Louisiana Professional Vocational Rehabilitation Counselors
- 10 Board of Examiners.
- 11 ~~(xviii)~~ **(xvii)** Louisiana Board of Wholesale Drug Distributors.
- 12 ~~(xix)~~ **(xviii)** Louisiana Department of Health and Hospitals and the health
- 13 professions under its jurisdiction.

* * *

Section 5. R.S. 23:1371.1(6) is hereby amended and reenacted to read as follows:

§1371.1. Definitions

As used in this Part, unless the context clearly indicates otherwise, the following terms shall be given the meanings ascribed to them in this Section:

* * *

(6) "Psychologist" shall mean an individual licensed to practice psychology by the Louisiana ~~State Board of Examiners of Psychologists~~ **Behavioral Sciences Regulatory Board** or licensed to practice medical psychology by the Louisiana State Board of Medical Examiners, or, in the event an individual is practicing psychology in a jurisdiction other than Louisiana, licensed by the appropriate member board of the Association of State and Provincial Psychology Boards to practice psychology, who has registered specialty in a relevant clinical area of practice, who has been in clinical practice for at least three years and has training and experience in the evaluation, diagnosis, and treatment of mental retardation.

* * *

1 Section 6. R.S. 36:259(E)(10) is hereby amended and reenacted to read as follows:

2 §259. Transfer of agencies and functions to Department of Health and Hospitals

3 * * *

4 E. The following agencies, as defined in R.S. 36:3, are transferred to and
5 hereafter shall be within the Department of Health and Hospitals, as provided in R.S.
6 36:803:

7 * * *

8 (10) ~~State Board of Examiners for Psychologists (R.S. 37:2351-37:2368)~~

9 **Louisiana Behavioral Sciences Regulatory Board (R.S. 40:2721-2726)**

10 * * *

11 Section 7. R.S. 37: 1103(3), 1104, 1105, 1360.52(4), 1360.55(B)(1), 1360.57(1),
12 1744(A)(1), 1745(A)(1), 1745.13(8), 2351, 2352(2), 2353, and 2354(A) are hereby amended
13 and reenacted to read as follows:

14 §1103. Definitions

15 * * *

16 (3) "Board" means the Louisiana ~~Licensed Professional Counselors Board of~~
17 ~~Examiners~~ **Behavioral Sciences Regulatory Board as provided for in R.S.**
18 **40:2721 et seq.**

19 * * *

20 §1104. ~~Louisiana Licensed Professional Counselors Board of Examiners~~ **Marriage**
21 **and Family Advisory Committee**

22 A. ~~There is hereby created in the Department of Health and Hospitals the~~
23 ~~Louisiana Licensed Professional Counselors Board of Examiners, hereafter referred~~
24 ~~to as the "board", consisting of eleven members who shall be residents of the state~~
25 ~~of Louisiana. Each term shall be for four years. Seven appointments to the board,~~
26 ~~including one individual from the public at large, shall be made by the governor from~~
27 ~~a list of qualified candidates submitted by the executive board of the Louisiana~~
28 ~~Counseling Association. Four appointments to the board shall be made by the~~
29 ~~governor from a list of qualified candidates submitted by the executive board of the~~

1 Louisiana Association for Marriage and Family Therapy. Each appointment by the
2 governor shall be submitted to the Senate for confirmation.

3 ~~B.(1) The membership of the board shall consist of three licensed~~
4 ~~professional counselors, three educators who are licensed professional counselors~~
5 ~~and whose function is the training of mental health counselors in accredited~~
6 ~~programs, four licensed marriage and family therapists, and one individual from the~~
7 ~~public at large. The professional membership of the board shall be licensed under~~
8 ~~this Chapter. The board shall perform such duties and exercise such powers as this~~
9 ~~Chapter prescribes and confers upon it. No member of the board shall be liable in~~
10 ~~any civil action for any act performed in good faith in the execution of his duties~~
11 ~~under this Chapter.~~

12 ~~(2)(a)~~ A. The board shall establish a Marriage and Family Therapy Advisory
13 Committee, which shall consist of the four licensed marriage and family therapist
14 board members appointed by the governor from a list of names submitted by the
15 executive board of the Louisiana Association for Marriage and Family Therapy.

16 ~~(b)~~ B. The functions of the advisory committee shall be established by rules
17 and regulations developed by the advisory committee, ~~promulgated by the board, and~~
18 ~~approved jointly by the House and Senate Health and Welfare Committees~~ **and duly**
19 **promulgated by the board pursuant to the Administrative Procedure Act.**

20 ~~(c)~~ C. The functions and duties of the advisory board may include but are not
21 limited to the following:

22 ~~(i)~~ (1) Develop rules and regulations in accordance with the Administrative
23 Procedure Act as it may deem necessary to implement the provisions of this Chapter
24 for promulgation and implementation by the board.

25 ~~(ii)~~ (2) Examine and qualify all applicants for licensure as marriage and
26 family therapists and recommend to the board each successful applicant for
27 licensure, attesting to his professional qualifications to be a marriage and family
28 therapist.

29 ~~(iii)~~ (3) Develop for the board application forms for licensure pursuant to this

1 Chapter.

2 (iv) (4) Maintain complete records of all meetings, proceedings, and hearings
3 conducted by the advisory committee.

4 ~~C. No board member shall serve more than two full consecutive terms. Any
5 board member may be removed by the governor or majority vote of the board, after
6 notice and hearing, for incompetence, neglect of duty, malfeasance in office, or
7 moral turpitude. Any vacancy occurring in board membership for the three licensed
8 professional counselors, three counselor educators, or one member of the public at
9 large, other than by expiration of term, shall be appointed for the remainder of the
10 unexpired term by the governor within thirty days from a list of qualified candidates
11 supplied by the executive board of the Louisiana Counseling Association. Any
12 vacancy occurring in board membership for the four licensed marriage and family
13 therapists, other than by expiration of term, shall be appointed for the remainder of
14 the unexpired term by the governor within thirty days from a list of qualified
15 candidates supplied by the executive board of the Louisiana Association for
16 Marriage and Family Therapy.~~

17 ~~D. Each board member shall serve without compensation, but shall be
18 reimbursed for actual travel, incidental, and clerical expenses incurred while engaged
19 on official board business.~~

20 ~~E. Each board member shall take the constitutional oath of office for state
21 officials before any officer authorized to administer oaths in this state.~~

22 ~~F. This board shall be financially self-sufficient. It shall receive no state
23 funds through appropriation or otherwise and shall not expend any such state funds.
24 No state funds shall be expended or committed to expenditure for the group benefits
25 program or any other health insurance or employee benefit program, for any
26 retirement system, for any salary, per diem payment, travel or expenses, office
27 supplies and materials, rent, purchase of any product or service, or for any other
28 purpose.~~

29 §1105. Board meetings; procedures; powers and duties

1 ~~A. The board shall be domiciled in Baton Rouge and shall hold its meetings~~
2 ~~in places to be designated by the board. The board shall hold a meeting within sixty~~
3 ~~days after October 1, 1987, and semiannually thereafter. The board shall elect from~~
4 ~~its membership a chairman, vice chairman, and secretary. The board may meet at~~
5 ~~such other times as deemed necessary by the chairman, or by the majority of its~~
6 ~~members, or by the governor. Reasonable notice of all meetings shall be given in the~~
7 ~~manner prescribed by the board. Four members of the board shall constitute a~~
8 ~~quorum at any meeting or hearing.~~

9 ~~B. An executive director, who shall not be a member of the board, shall be~~
10 ~~employed, within the limits of the funds received by the board pursuant to R.S.~~
11 ~~37:1106. The board shall be empowered to accept grants from foundations and~~
12 ~~institutions to carry on its functions.~~

13 ~~C. The board shall adopt a seal which shall be affixed to all licenses issued~~
14 ~~by the board.~~

15 ~~D. A. The board shall adopt such rules, regulations, and examination~~
16 ~~procedures as it may deem necessary to effect the provisions of this Chapter. The~~
17 ~~board shall adopt the Code of Ethics of the American Counseling Association,~~
18 ~~including any revisions or additions deemed appropriate or necessary by the board.~~

19 ~~E. B. The board may examine, approve, revoke, suspend, and renew the~~
20 ~~license of applicants and conduct investigations into alleged violations by a licensed~~
21 ~~professional counselor or applicant of this Chapter and rules and regulations~~
22 ~~promulgated pursuant thereto. The board shall review applications at least once a~~
23 ~~year. The board shall keep a record of its proceedings including applicant~~
24 ~~examinations, a register of applicants for licenses, and a register of licensed~~
25 ~~professional counselors which shall be made available to the public. Any person~~
26 ~~aggrieved by a ruling of the board may, within thirty days after notification, appeal~~
27 ~~to the district court for the parish of East Baton Rouge. The board shall have the~~
28 ~~power to conduct hearings on suspension or revocation of a license.~~

29 ~~F. The board shall submit an annual report to the governor containing the~~

1 financial and professional actions of the board during the past year.

2 ~~6. C.~~ C. The board shall approve, revoke, suspend, and renew the license of
3 applicants for licensure as marriage and family therapists upon recommendation of
4 the advisory committee.

5 * * *

6 §1360.52. Definitions

7 As used in this Part the following words, terms, and phrases have the
8 meaning ascribed to them in this Section, unless the context clearly indicates a
9 different meaning:

10 * * *

11 (4) ~~"LSBEP" means the Louisiana State Board of Examiners of Psychologists~~
12 **"LBSRB" means the Louisiana Behavioral Sciences Regulatory Board.**

13 * * *

14 §1360.55. Qualifications of applicants

15 * * *

16 B. After January 1, 2010, the board shall issue a medical psychology license
17 to applicants who submit an application upon a form and in such a manner as the
18 board prescribes and who furnish evidence to the board which meets all of the
19 following criteria:

20 (1) Holds a current and unrestricted license in good standing to practice
21 psychology issued by the Louisiana ~~State Board of Examiners of Psychologists~~
22 **Behavioral Sciences Regulatory Board.**

23 * * *

24 §1360.57. Certificate of advanced practice

25 Medical psychologists who satisfy the requirements specified by R.S.
26 37:1360.55(A) and who possess all of the following additional qualifications to the
27 satisfaction of the board shall be issued a certificate of advanced practice:

28 (1) Three years of experience practicing as a medical psychologist. For those
29 individuals licensed under R.S. 37:1360.55(A), such experience shall be deemed to

1 have commenced with the issuance of the original certificate of prescriptive authority
2 issued by the Louisiana ~~State Board of Examiners of Psychologists~~ **Behavioral**
3 **Sciences Regulatory Board.**

4 * * *

5 §1744. Disclosure of financial interest by referring health care providers

6 A. For the purposes of this Section, the following terms shall have the
7 following meanings:

8 (1) "Board" means Louisiana State Board of Medical Examiners, Louisiana
9 State Board of Dentistry, Louisiana Board of Chiropractic Examiners, Louisiana
10 State Board of Optometry Examiners, Louisiana State Board of Physical Therapy
11 Examiners, Louisiana ~~State Board of Examiners for Psychologists~~ **Behavioral**
12 **Sciences Regulatory Board,** Louisiana State Board of Nursing, ~~Louisiana Licensed~~
13 ~~Professional Counselors Board of Examiners,~~ Louisiana State Board of Practical
14 Nurse Examiners, ~~Louisiana Licensed Professional Counselors Board of Examiners,~~
15 or Louisiana Board of Pharmacy.

16 * * *

17 §1745. Prohibition on payment for patient referrals

18 A. For the purposes of this Section, the following terms shall have the
19 following meanings:

20 (1) "Board" means the Louisiana State Board of Medical Examiners,
21 Louisiana Board of Chiropractic Examiners, Louisiana State Board of Dentistry,
22 Louisiana State Board of Optometry Examiners, Louisiana State Board of Physical
23 Therapy Examiners, Louisiana ~~State Board of Examiners for Psychologists~~
24 **Behavioral Sciences Regulatory Board,** Louisiana State Board of Nursing,
25 ~~Louisiana Licensed Professional Counselor Board of Examiners,~~ Louisiana State
26 Board of Practical Nurse Examiners, or Louisiana Board of Pharmacy.

27 * * *

28 §1745.13. Definitions

29 For the purposes of this Part, the following terms shall have the following

1 meanings, unless the context clearly indicates otherwise:

2 * * *

3 (8) "Professional licensing board" means the Louisiana State Board of
4 Medical Examiners, the Louisiana State Board of Nursing, the Louisiana State Board
5 of Dentistry, or the Louisiana State Board of Examiners of Psychologists **Behavioral**
6 **Sciences Regulatory Board**.

7 * * *

8 §2351. Declaration of purpose

9 It is hereby declared that ~~the creation of a State Board of Examiners of~~
10 ~~Psychologists~~ **it** is necessary **to regulate the practice of psychology** in order to
11 safeguard life, health, property and the public welfare of this state, and in order to
12 protect the people of this state against unauthorized, unqualified, and improper
13 application of psychology.

14 §2352. Definition of terms

15 As used in this Chapter the following terms mean:

16 * * *

17 (2) "Board" means the ~~State Board of Examiners of Psychologists~~ **Louisiana**
18 **Behavioral Sciences Regulatory Board as provided for in R.S. 40:2721 et seq.**

19 * * *

20 §2353. ~~State board of examiners; organization; duties; meetings; fees~~ **Board powers**
21 **and duties**

22 ~~A.(1) There is hereby created within the Department of Health and Hospitals~~
23 ~~a Louisiana State Board of Examiners of Psychologists which shall be subject to the~~
24 ~~provisions of R.S. 36:803. The board shall consist of five members who are citizens~~
25 ~~of the United States, residents of the state of Louisiana, and appointed by the~~
26 ~~governor.~~

27 (2) ~~Upon expiration of the three-year terms of the members in office on~~
28 ~~September 1, 1987, and except for the transition set forth below, the governor shall~~
29 ~~appoint members for terms of five years. For the two vacancies occurring July 1,~~

1 ~~1988, one member shall be appointed for a three-year term and one member for a~~
2 ~~four-year term; for the vacancy occurring July 1, 1989, the member shall be~~
3 ~~appointed for a four-year term; and for the two vacancies occurring July 1, 1990, one~~
4 ~~member shall be appointed for a four-year term and one member for a five-year term.~~
5 ~~A board member shall not be eligible to succeed himself. All appointments shall be~~
6 ~~from a list provided by the Louisiana Psychological Association. The list shall report~~
7 ~~the results of an election in which persons qualified for board membership may~~
8 ~~nominate themselves and in which licensed members of the Louisiana Psychological~~
9 ~~Association and other persons licensed under this Chapter are entitled to one vote for~~
10 ~~each vacancy on the board.~~

11 ~~(3) Each board member shall have rendered service, teaching, training, or~~
12 ~~research in psychology for at least five years, shall have held a doctoral degree in~~
13 ~~psychology from a school or college as defined in this Chapter for a period of five~~
14 ~~years, and shall be licensed under this Chapter.~~

15 ~~(4) Board members shall serve without compensation but shall receive~~
16 ~~seventy-five dollars per diem allowance plus the mileage rate provided state~~
17 ~~employees to cover expenses incurred while engaged in the discharge of their duties.~~

18 ~~(5) Membership on the board of a public employee or official shall not~~
19 ~~constitute dual office holding within the meaning of R.S. 42:61 et seq.~~

20 ~~(6) Each appointment by the governor shall be submitted to the Senate for~~
21 ~~confirmation.~~

22 ~~B. The board shall, annually in the month of July, hold a meeting and elect~~
23 ~~from its membership a chairman and vice chairman. Special sessions may be called~~
24 ~~by the chairman or the governor. A majority of the board shall constitute a quorum~~
25 ~~at any meeting or hearing.~~

26 ~~C. The board is authorized and empowered to:~~

27 ~~(1) Adopt, and from time to time, revise, such rules and regulations not~~
28 ~~inconsistent with the law as may be necessary to effect the provisions of this~~
29 ~~Chapter.~~

1 ~~(2) Employ, within the limits of the funds received by the board, an~~
2 ~~administrative assistant, general legal counsel, or other personnel necessary for the~~
3 ~~proper performance of work under this Chapter.~~

4 ~~(3) Adopt a seal, which shall be affixed to all licenses issued by the board.~~

5 ~~(4)~~ **(2)** Examine for, deny, approve, revoke, suspend, and renew the licenses
6 of applicants, candidates, and psychologists as provided under this Chapter.

7 ~~(5)~~ **(3)** Conduct hearings upon complaints concerning the disciplining of a
8 psychologist; provided that, notwithstanding Chapter 1-A of Title 37 of the
9 Louisiana Revised Statutes of 1950, no disciplinary proceeding shall be commenced
10 more than one year after the date upon which the board knows or should know of the
11 act or omission upon which the disciplinary action is based.

12 ~~(6)~~ **(4)** Cause the prosecution and enjoinder of all persons violating this
13 Chapter, and incur necessary expenses therefor.

14 ~~D. The board shall have the authority to correct an error made in processing~~
15 ~~an application, examining a candidate, investigating a complaint, rendering due~~
16 ~~process during hearings, or in any of its other activities.~~

17 ~~E. Any person aggrieved by an action of the board may seek judicial review~~
18 ~~in the district court for the parish of East Baton Rouge in accordance with the~~
19 ~~Louisiana Administrative Procedure Act, R.S. 49:950 et seq.~~

20 ~~F. Within thirty days after the close of each fiscal year, the board shall submit~~
21 ~~a report, reviewed and signed by the board members, to the governor, concerning the~~
22 ~~financial and professional transactions of the board during the preceding fiscal year.~~

23 ~~G. This board shall be financially self-sufficient. It shall receive no state~~
24 ~~funds through appropriation or otherwise and shall not expend any such state funds.~~
25 ~~No state funds shall be expended or committed to expenditure for the group benefits~~
26 ~~program or any other health insurance or employee benefit program, for any~~
27 ~~retirement system, for any salary, per diem payment, travel or expenses, office~~
28 ~~supplies and materials, rent, purchase of any product or service, or for any other~~
29 ~~purpose.~~

1 §2354. Fees

2 A. All monies received by the board under this Chapter shall be paid into the
3 treasury of the ~~State Board of Examiners of Psychologists~~ **board** and may be
4 expended by the board without appropriation for costs of administration and other
5 expenses, and any surplus at the end of a fiscal year or a biennium may be retained
6 by the board for future expenditures and the board is not required to pay any such
7 surplus into the general fund of the state of Louisiana.

8 * * *

9 Section 8. R.S. 40:2114(B) is hereby amended and reenacted to read as follows:

10 §2114. Organization of medical and dental staff

11 * * *

12 B. Each hospital offering care or services within the scope of the practice of
13 psychology, as defined in R.S. 37:2352(5), shall establish rules, regulations, and
14 procedures for consideration of an application for medical staff membership and
15 clinical privileges submitted by a psychologist licensed to practice psychology by the
16 Louisiana ~~State Board of Examiners of Psychologists~~ **Behavioral Sciences**
17 **Regulatory Board** or a medical psychologist licensed to practice medical
18 psychology by the Louisiana State Board of Medical Examiners. No hospital shall
19 deny such medical staff membership and clinical privileges solely because the
20 applicant is licensed under R.S. 37:2351 et seq., or R.S. 37:1360.51 et seq.

21 * * *

22 Section 9. R.S. 44:4(29) is hereby amended and reenacted to read as follows:

23 §4. Applicability

24 * * *

25 (29) To any records, writings, accounts, recordings, letters, exhibits, data,
26 pictures, drawings, charts, photographs, or copies or memoranda thereof, and any
27 report or reports concerning the fitness of any person to receive or continue to hold
28 a license to practice as a psychologist in the custody or control of the Louisiana ~~State~~
29 ~~Board of Examiners of Psychologists~~ **Behavioral Sciences Regulatory Board** or to

1 receive or continue to hold a license to practice as a medical psychologist in the
 2 custody or control of the Louisiana State Board of Medical Examiners; however, any
 3 action taken by the board and any legal grounds upon which such action is based,
 4 relative to the fitness of any person to receive or continue to hold a license to
 5 practice as a psychologist shall be a public record, and statistical reports which do
 6 not reveal the identity of any licensed psychologist may be released to the public.

7 * * *

8 Section 10. Chapter 28 of Title 40 of the Louisiana Revised Statutes of 1950,
 9 comprised of R.S. 40:2721 through 2726, is hereby enacted to read as follows:

10 **§2721. Louisiana Behavioral Sciences Regulatory Board; organization;**
 11 **membership; appointment and removal; oath; compensation**

12 **A. There is hereby created within the Department of Health and**
 13 **Hospitals the Louisiana Behavioral Sciences Regulatory Board which shall be**
 14 **subject to the provisions of R.S. 36:803. The board shall consist of nine**
 15 **members who are citizens of the United States and residents of the state of**
 16 **Louisiana.**

17 **B. The membership of the Louisiana Behavioral Sciences Regulatory**
 18 **Board shall be appointed by the governor and submitted to the Senate for**
 19 **confirmation, and shall consist of the following:**

20 **(1) Three members representing the psychology profession who each**
 21 **satisfy the following criteria:**

22 **(a) Has rendered service, teaching , training, or research in psychology**
 23 **for at least five years.**

24 **(b) Holds a doctoral degree in psychology from a school or college as**
 25 **defined in R.S. 37:2352 for a period of five years.**

26 **(c) Holds a current and unrestricted license under Chapter 27 of Title 37**
 27 **of the Louisiana Revised Statutes of 1950.**

28 **(d) Has been included on the list submitted by the Louisiana**
 29 **Psychological Association to the governor for consideration for appointment.**

1 **(2) Three members representing the mental health counseling profession,**
2 **of which two members shall be selected by the governor from a list submitted**
3 **by the Louisiana Counseling Association and one member selected by the**
4 **governor from a list submitted by the Louisiana Association of Marriage and**
5 **Family Therapy. Each member shall be duly licensed pursuant to Chapter 13**
6 **of Title 37 of the Louisiana Revised Statutes of 1950.**

7 **(3) Three members who shall represent the general public and who are**
8 **not, and have never been, licensed in a mental health related profession and who**
9 **are in no way connected with the practice of any such profession regulated by**
10 **the board.**

11 **C.(1) No later than December 1, 2011, the governor shall initially appoint**
12 **the nine members of the board as follows:**

13 **(a) Three members for terms of two years.**

14 **(b) Three members for terms of three years.**

15 **(c) Three members for terms of four years.**

16 **(2) As the terms of the initial appointments expire, the governor shall**
17 **appoint successors for terms of four years.**

18 **D. Each member shall hold office until the expiration of his appointed**
19 **term or until a successor is duly appointed. Any vacancy occurring in board**
20 **membership other than by expiration of term shall be filled by the governor,**
21 **under the provisions of Subsection B of this Section, by appointment of a**
22 **member to serve for the unexpired term. A board member may be removed**
23 **upon one or more of the following grounds:**

24 **(1) The refusal or inability of a board member for any reason to perform**
25 **the duties as a member of the board in an efficient, responsible, and**
26 **professional manner.**

27 **(2) The misuse of office by a member of the board for pecuniary or**
28 **material gain personally or for another through such office.**

29 **(3) For other just and reasonable causes as determined solely by the**

1 board pursuant to applicable laws.

2 E. Each board member shall receive a certificate of appointment from
3 the governor. Before commencing the discharge of his duties, and within thirty
4 days from the effective date of his appointment, each board member shall
5 subscribe to the oath for state officials before any officer authorized to
6 administer oaths in this state and shall file the oath with the secretary of state.

7 F. Board members shall serve without compensation but shall receive
8 seventy-five dollars per diem allowance plus the mileage rate provided state
9 employees to cover expenses incurred while engaged in the discharge of their
10 duties.

11 §2722. Board; domicile; meetings; quorum

12 The board shall be domiciled in Baton Rouge and shall hold its meetings
13 in places to be designated by the board. The board shall hold a meeting within
14 forty-five days after December 1, 2011, and at least semiannually thereafter.
15 The board shall, at its initial meeting, elect from its membership a chairman,
16 vice chairman, and secretary, and thereafter the board shall, annually in the
17 month of July, hold a meeting and elect from its membership a chairman and
18 vice chairman, and secretary. The board may meet at such other times as
19 deemed necessary by the chairman, or by the majority of its members, or by the
20 governor. Five members of the board shall constitute a quorum at any meeting
21 or hearing.

22 §2723. Board; powers and duties

23 A. On and after December 1, 2011, the board is authorized and
24 empowered to:

25 (1) Perform such duties and exercise such powers as this Chapter
26 prescribes and confers upon it.

27 (2) Employ, within the limits of the funds received by the board, an
28 executive director and any other administrative assistants, general legal counsel,
29 or other personnel necessary for the proper performance of work under this

1 Chapter. The board may enter into such professional service contracts as
2 necessary to carry out its responsibilities under this Chapter in accordance with
3 R.S. 36:803.

4 (3) Adopt a seal, which shall be affixed to all licenses issued by the board.

5 (4) Cause the prosecution and enjoinder of all persons violating this
6 Chapter, Chapter 13 or Chapter 28 of Title 37 of the Louisiana Revised Statutes
7 of 1950, and incur necessary expenses therefor.

8 (5) Correct an error made in processing an application, examining a
9 candidate, investigating a complaint, rendering due process during hearings, or
10 in any of its other activities.

11 B. On and after January 1, 2012, the board is authorized and empowered
12 to:

13 (1) Perform such duties and exercise such powers as are prescribed and
14 conferred by Chapters 13 and 28 of Title 37 of the Louisiana Revised Statutes
15 of 1950.

16 (2) Adopt, and from time to time, revise, such rules and regulations not
17 inconsistent with the law as may be necessary to effectuate the provisions of
18 Chapters 13 and 28 of Title 37 of the Louisiana Revised Statutes of 1950.

19 §2724. Board; judicial review

20 Any person aggrieved by an action of the board may seek judicial review
21 in the district court for the parish of East Baton Rouge in accordance with the
22 Louisiana Administrative Procedure Act, R.S. 49:950 et seq. No member of the
23 board shall be liable in any civil action for any act performed in good faith in
24 the execution of his duties under this Chapter or Chapters 13 or 28 of Title 37
25 of the Louisiana Revised Statutes of 1950.

26 §2725. Board; annual report

27 Within thirty days after the close of each fiscal year, the board shall
28 submit a report, reviewed and signed by the board members, to the governor,
29 concerning the financial and professional transactions of the board during the

1 preceding fiscal year.

2 §2726. Board; prohibition on receipt of state funds

3 The board shall be financially self-sufficient. It shall receive no state
4 funds through appropriation or otherwise and shall not expend any such state
5 funds. No state funds shall be expended or committed to expenditure for the
6 group benefits program or any other health insurance or employee benefit
7 program, for any retirement system, for any salary, per diem payment, travel
8 or expenses, office supplies and materials, rent, purchase of any product or
9 service, or for any other purpose.

10 Section 11. R.S. 36:259(EE) is hereby repealed in its entirety.

11 Section 12. (A) The State Board of Examiners of Psychologists and the Louisiana
12 Licensed Professional Counselors Board of Examiners shall provide all resources to the
13 Louisiana Behavioral Sciences Regulatory Board which are necessary to ensure that there
14 is a minimum amount of disruption of the services provided to the professionals licensed by
15 these boards during the transition period.

16 (B) Transfer of licenses. After December 31, 2011, all current licenses issued by the
17 State Board of Examiners of Psychologists and the Louisiana Licensed Professional
18 Counselors Board of Examiners shall be transferred to the Louisiana Behavioral Sciences
19 Regulatory Board. Nothing in this Act shall be deemed to change or extend the expiration
20 date of current licenses issued by the State Board of Examiners of Psychologists or the
21 Louisiana Licensed Professional Counselors Board of Examiners.

22 (C) Legal proceedings and documents continued. Any legal proceeding to which the
23 State Board of Examiners of Psychologists or the Louisiana Licensed Professional
24 Counselors Board of Examiners is a party and which is filed, initiated, or pending before any
25 court on the effective date of this Section, and all documents involved in or affected by such
26 legal proceeding, shall retain their effectiveness and shall be continued in the name of the
27 State Board of Examiners of Psychologists or the Louisiana Licensed Professional
28 Counselors Board of Examiners. All further legal proceedings and documents in the
29 continuation, disposition, and enforcement of such legal proceedings shall be in the name

1 of the State Board of Examiners of Psychologists or the Louisiana Licensed Professional
2 Counselors Board of Examiners and the Louisiana Behavioral Sciences Regulatory Board
3 shall be substituted for the State Board of Examiners of Psychologists or the Louisiana
4 Licensed Professional Counselors Board of Examiners without the necessity for amendment
5 of any document to substitute the name of the Louisiana Behavioral Sciences Regulatory
6 Board or the name or title of any office, official, employee, or other agent or representative
7 of the Louisiana Behavioral Sciences Regulatory Board. Any legal proceeding and all
8 documents involved in or affected by such legal proceeding, which has been continued in
9 the name of the Louisiana Behavioral Sciences Regulatory Board shall retain their
10 effectiveness, and those provisions of this Section requiring that the continuation,
11 disposition, and enforcement of a legal proceeding and documents related thereto shall be
12 in the name of the State Board of Examiners of Psychologists or the Louisiana Licensed
13 Professional Counselors Board of Examiners and shall not affect their validity.

14 (D) Protection of obligations. This Act is not intended to and it shall not be
15 construed so as to impair the contractual or other obligations of the State Board of
16 Examiners of Psychologists or the Louisiana Licensed Professional Counselors Board of
17 Examiners. All obligations of the State Board of Examiners of Psychologists or the
18 Louisiana Licensed Professional Counselors Board of Examiners hereafter shall be
19 considered to be the obligations of the Louisiana Behavioral Sciences Regulatory Board to
20 the same extent as if originally made by it and the same are hereby ratified. In like manner,
21 and in order to prevent any violation of the provisions, terms, or conditions of any gift,
22 donation, deed, will, trust, or other instrument or disposition by which property vested in the
23 Louisiana Behavioral Sciences Regulatory Board by this Act was previously vested in the
24 State Board of Examiners of Psychologists or the Louisiana Licensed Professional
25 Counselors Board of Examiners or diversion from the purposes for which such property was
26 so vested, it is hereby specifically provided that each such instrument or disposition hereafter
27 shall be considered to have vested such property in the Louisiana Behavioral Sciences
28 Regulatory Board in the same manner and to the same extent as if originally so done. The
29 Louisiana Behavioral Sciences Regulatory Board shall be the successor in every way to the

1 State Board of Examiners of Psychologists and the Louisiana Licensed Professional
2 Counselors Board of Examiners, including all of the obligations and debts of the State Board
3 of Examiners of Psychologists and the Louisiana Licensed Professional Counselors Board
4 of Examiners.

5 (E) Transfer of property. All books, papers, records, money, actions, and other
6 property of every kind, movable and immovable, real and personal, heretofore possessed,
7 controlled, or used by the State Board of Examiners of Psychologists or the Louisiana
8 Licensed Professional Counselors Board of Examiners are hereby transferred to the
9 Louisiana Behavioral Sciences Regulatory Board. All funds of the State Board of Examiners
10 of Psychologists and the Louisiana Licensed Professional Counselors Board of Examiners
11 are hereby transferred to the Louisiana Behavioral Sciences Regulatory Board.

12 (F) Unfinished business. Upon the abolition of the State Board of Examiners of
13 Psychologists and the Louisiana Licensed Professional Counselors Board of Examiners any
14 pending or unfinished business of the State Board of Examiners of Psychologists or the
15 Louisiana Licensed Professional Counselors Board of Examiners shall be taken over and be
16 completed by the Louisiana Behavioral Sciences Regulatory Board with the same power and
17 authorization as that which was exercised by the State Board of Examiners of Psychologists
18 or the Louisiana Licensed Professional Counselors Board of Examiners, respectively. The
19 Louisiana Behavioral Sciences Regulatory Board shall be the successor in every way to the
20 State Board of Examiners of Psychologists and the Louisiana Licensed Professional
21 Counselors Board of Examiners, and every act done by the Louisiana Behavioral Sciences
22 Regulatory Board in the exercise of the functions transferred from the State Board of
23 Examiners of Psychologists or the Louisiana Licensed Professional Counselors Board of
24 Examiners shall be considered to have the same force and effect under any provisions of the
25 constitution and laws in effect on the effective date of this Section as if done by State Board
26 of Examiners of Psychologists or the Louisiana Licensed Professional Counselors Board of
27 Examiners.

28 (G) Rules and regulations. All duly promulgated rules and regulations of the State
29 Board of Examiners of Psychologists and the Louisiana Licensed Professional Counselors

1 Board of Examiners shall remain in effect and transferred under the jurisdiction of the
 2 Louisiana Behavioral Sciences Regulatory Board. The office of state register is hereby
 3 directed and authorized to make any revisions necessary in those rules and regulations to
 4 change to all references to the State Board of Examiners of Psychologists and the Louisiana
 5 Licensed Professional Counselors Board of Examiners to the Louisiana Behavioral Sciences
 6 Regulatory Board.

7 Section 13. The State Board of Examiners of Psychologists and the Louisiana
 8 Licensed Professional Counselors Board of Examiners are hereby terminated.

9 Section 14. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, and 13 of this Act shall become
 10 effective on January 1, 2012.

11 Section 15. Sections 10, 12, 14 and this Section of this Act shall become effective
 12 upon signature by the governor or, if not signed by the governor, upon expiration of the time
 13 for bills to become law without signature by the governor, as provided by Article III, Section
 14 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved
 15 by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Greg Waddell.

DIGEST

Present law provides that the practice of psychology is to be regulated by the State Board of Examiners of Psychologists ("LBEP").

Present law provides that the practice of mental health counseling is to be regulated by the Louisiana Licensed Professional Counselors Board of Examiners ("LPCBE").

Proposed law creates the Louisiana Behavioral Sciences Regulatory Board ("LBSRB") and consolidates the powers and duties of the State Board of Examiners of Psychologists and the Louisiana Licensed Professional Counselors Board of Examiners into this newly created board.

Proposed law changes references to the LBEP and LPCBE to the LBSRB.

Proposed law provides that the membership of the Louisiana Behavioral Sciences Regulatory Board shall be appointed by the governor and be submitted to the Senate for confirmation and shall consist of the following:

- (1) Three members representing the psychology profession who each satisfy criteria set forth in proposed law.
- (2) Three members representing the mental health counseling profession, of which two members shall be selected by the governor from a list submitted by the Louisiana

Counseling Association and one member selected by the governor from a list submitted by the Louisiana Association of Marriage and Family Therapy.

- (3) Three members who shall represent the general public and who are not and have never been licensed in a mental health related profession and who are in no way connected with the practice of any such profession regulated by the board.

Proposed law provides that no later than December 1, 2011, the governor shall initially appoint the nine members of the board as follows:

- (i) Three members for terms of two years.
- (ii) Three members for terms of three years.
- (iii) Three members for terms of four years.

Proposed law further provides that as the terms of the initial appointments expire, the governor shall appoint successors for terms of four years.

Proposed law provides for the procedure to be followed in the event of a vacancy, or when an appointed member does not hold office until the expiration of the appointed term.

Proposed law provides for the grounds upon which a board member may be removed.

Proposed law provides for the procedure which must be followed by an appointed member prior to commencing the discharge of his duties.

Proposed law provides that board members shall serve without compensation but shall receive \$75 per diem allowance plus the mileage rate provided state employees while engaged in the discharge of their duties.

Proposed law provides that the board shall be domiciled in Baton Rouge and shall hold its meetings in places to be designated by the board.

Proposed law provides for the frequency of board meetings, quorum requirements, and for the election of officers.

Proposed law provides that the Louisiana Behavioral Sciences Regulatory Board shall become effective on December 1, 2011, and shall replace the State Board of Examiners of Psychologists and Louisiana Licensed Professional Counselors Board of Examiners on January 1, 2012.

Proposed law provides for a limitation of liability for board members for any act performed in good faith in the execution of his duties under proposed and present law.

Proposed law requires the board to submit certain financial information of the board annually to the governor.

Proposed law prohibits the board from receiving or expending any state funds through appropriation or otherwise. Proposed law further provides that no state funds shall be expended or committed to expenditure for the group benefits program or any other health insurance or employee benefit program, for any retirement system, for any salary, per diem payment, travel or expenses, office supplies and materials, rent, purchase of any product or service, or for any other purpose.

Proposed law provides that LBEP and LPCBE shall provide all resources to the Louisiana Behavioral Sciences Regulatory Board which are necessary to ensure that there is a minimum amount of disruption of the services provided to the professionals licensed by

these boards during the transition period.

Proposed law provides for the transfer of licenses from the LBEP and LPCBE to the Louisiana Behavioral Sciences Regulatory Board.

Proposed law provides for the disposition of any legal proceeding to which the LBEP and LPCBE is a party and which is filed, initiated, or pending before any court, and all documents involved in or affected by such legal proceeding.

Proposed law provides for the contractual and other obligations of the LBEP and LPCBE.

Proposed law provides for the transfer of property possessed, controlled, or used by the LBEP and LPCBE to the Louisiana Behavioral Sciences Regulatory Board.

Proposed law provides that all duly promulgated rules and regulations of the LBEP and LPCBE shall remain in effect and transferred under the jurisdiction of the Louisiana Behavioral Sciences Regulatory Board.

Sections 1 through 9, 11 and 13 become effective January 1, 2012. Sections 10, 12, 14 and 15 become effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 12:1143, R.S. 13:3715.1(J) and 3715.3(G)(1)(a), R.S. 15:560.2(B)(1), R.S. 17:2048.51(O)(1)(c), R.S. 23:1371.1(6), R.S. 36:259(E)(10), R.S. 37:1103(3), 1104, 1105, 1360.52(4), 1360.55(B)(1), 1360.57(1), 1744(A)(1), 1745(A)(1), 1745.13(8), 2351, 2352(2), 2353, 2354(A), R.S. 40:2114(B), and R.S. 44:4(29); adds R.S. 40:2721-2726; repeals R.S. 36:259(E))