

ACT No. 409

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

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 require the production of information necessary for
5 the investigation of certain violations; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

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

9 §1241. Refusal, restriction, suspension, or revocation of license

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

17 * * *

18 (23) Has used an independent contractor to provide marketing services for
19 the pharmacy to any practitioner, authorized prescriber, or prospective customer in
20 Louisiana in exchange for compensation unless the compensation paid is an amount
21 set in advance, consistent with fair market value, and not calculated based on the
22 volume or value of actual prescriptions filled by the pharmacy.

1 (24) Has dispensed or distributed any drug or device to any patient pursuant
2 to a prescription written by a practitioner or a member of the practitioner's group
3 practice if the practitioner or an immediate family member of the practitioner has a
4 direct or indirect financial relationship with the dispensing or distributing pharmacy,
5 unless the financial relationship meets all of the requirements of R.S. 37:1745.
6 Nothing in this Paragraph shall prohibit a practitioner or an immediate family
7 member of the practitioner from having an ownership interest in a pharmacy.

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

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

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

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

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

1 F: G. Any individual who, after a hearing, shall be found by the board to
2 have unlawfully engaged in the practice of pharmacy shall be subject to a fine not
3 to exceed the sum of five thousand dollars to be imposed by the board. Each such
4 violation of this Chapter or the regulations promulgated hereunder pertaining to
5 unlawfully engaging in the practice of pharmacy shall also constitute a misdemeanor
6 punishable upon conviction by a fine of no more than five hundred dollars or by
7 imprisonment for no more than six months, or both.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____