

**HOUSE SUMMARY OF SENATE AMENDMENTS**

**HB 778**

**2018 Regular Session**

**Jackson**

BOARDS/COMMISSIONS: Provides relative to investigations of physicians conducted by the La. State Board of Medical Examiners

**Synopsis of Senate Amendments**

1. Increases the number of members of the La. State Board of Medical Examiners, referred to hereafter as the "board", provided for in proposed law from nine to ten by adding to the board one member from a list of names submitted by the LSU Health Sciences Center at Shreveport.
2. Requires that the board members appointed from the lists of names submitted by the LSU Health Sciences Center at New Orleans, the LSU Health Sciences Center at Shreveport, and the La. Hospital Association be minority appointments in alternate appointed terms.
3. Increases the number of board members constituting a quorum from four to six.
4. Deletes the prohibition in proposed law on the consumer member of the board participating in any adverse licensure action initiated by the board.
5. Deletes proposed law providing conditions for the board to initiate an investigation of a licensee and provides instead that the conditions are for the board to initiate a preliminary review of a licensee in order to determine if cause exists to warrant a formal investigation.
6. Adds to proposed law authorizing the board to initiate an investigation of a licensee based upon a report from a law enforcement or federal or state regulatory agency supporting a conclusion that a violation of present law, or any rule promulgated pursuant to present law, may have occurred to authorize the board also to initiate an investigation based on any of the following:
  - a. Information from a reporting authority verified by the board chairman through electronic means or other means supporting an indication that a possible violation of present law, or any rule promulgated pursuant to present law, may have occurred.
  - b. Information from a physician health program or other treatment program supporting an indication that a possible violation of present law, or any rule promulgated pursuant to present law, may have occurred.
7. Stipulates that the duration of any preliminary review of a licensee initiated in accordance with proposed law shall be no greater than 90 days unless extended by the board.
8. Stipulates that in a preliminary review initiated in accordance with proposed law, the board may obtain all files and records related to the complaint and to the complainant, and may obtain no more than 20 additional files or records in connection with the review unless authorized by the board.
9. Requires that prior to the board conducting any site visit or requesting medical records from an individual licensed by the board who is not subject to an active investigation, the executive director of the board shall request approval of the board through a duly adopted motion by two-thirds vote of the board, meeting in executive session, to conduct the site visit or records request. Requires the

executive director to include all of the following in the request to conduct the site visit or records request:

- a. The basis upon which the site visit or records request is warranted.
  - b. The number of records to be requested, if applicable.
  - c. The date, time, and anticipated length of the proposed site visit.
  - d. The dates of any previous site visits.
10. Provides that the process established in proposed law by which the board may conduct site visits or request medical records from a licensee who is not subject to an active investigation shall apply to practice performance reviews of physicians practicing telemedicine.
  11. Prohibits the board from disclosing the identity of any individual included in the request to conduct the site visit or records request.
  12. Requires that on or before March 1 annually, the board shall submit a report to the legislative committees on health and welfare which encompasses, at minimum, all of the following information from the prior calendar year for each type of healthcare professional licensed by the board, delineated by profession type:
    - a. The number of preliminary reviews conducted in accordance with proposed law.
    - b. The number of complaints that the board received.
    - c. The number of formal investigations that the board initiated.
    - d. The number of consent decrees that licensees of the board entered into and other disciplinary actions that the board took.

### **Digest of Bill as Finally Passed by Senate**

Present law creates the seven-member La. State Board of Medical Examiners (hereafter, the "board") and provides for powers and duties of the board with respect to regulation of the practice of medicine.

Proposed law increases the number of members of the board from seven to ten by adding to the board the following members:

- (1) One member from a list submitted by the LSU Health Sciences Center at Shreveport.
- (2) One member from a list submitted by the La. Hospital Association.
- (3) One consumer member who shall be a full voting member of the board.

Proposed law requires that the board members appointed from the lists of candidates submitted by the LSU Health Sciences Center at New Orleans, the LSU Health Sciences Center at Shreveport, and the La. Hospital Association be minority appointments in alternate appointed terms.

Proposed law establishes the qualifications of the consumer member who is to be added to

the board's membership.

Proposed law increases the number of board members constituting a quorum from four to six.

Present law provides that any staff member of the board except the executive director may be appointed 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 repeals present law.

Proposed law requires the board to appoint a director of investigations, who shall be a La.-licensed physician and has engaged in the active practice of medicine for at least five years, 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 in accordance with present law. Provides that the director of investigations shall serve at the pleasure of the board and be answerable directly to the board. Prohibits the director of investigations from concurrently serving as the executive director of the board.

Proposed law stipulates that the board shall only initiate a preliminary review to determine if cause exists to warrant formal investigation based upon one or more of the following causes:

- (1) A complaint received from a person other than an employee of the board.
- (2) Any report from a law enforcement agency, federal or state regulatory agency, reporting authority verified by the board chairman through electronic means or other means, or physician health program or other treatment program that contains information that supports an indication that a possible violation of present law, or any rule promulgated pursuant to present law, may have occurred.
- (3) The duly adopted motion in an executive session of the board by a two-thirds vote of the members of the board making an affirmative finding that sufficient evidence exists to conclude that a violation of present law, or any rule promulgated pursuant to present law, may have occurred.

Proposed law stipulates that the duration of any preliminary review of a licensee initiated in accordance with proposed law shall be no greater than 90 days unless extended by the board. Provides that the board, in conducting such a preliminary review, may obtain all files and records related to the complaint and to the complainant, and may obtain no more than 20 additional files or records in connection with the review unless authorized by the board.

Proposed law requires that prior to the board conducting any site visit or requesting medical records from an individual licensed by the board who is not subject to an active investigation, the executive director of the board shall request approval of the board through a duly adopted motion by two-thirds vote of the board, meeting in executive session, to conduct the site visit or records request. Requires the executive director to include all of the following in the request to conduct the site visit or records request:

- (1) The basis upon which the site visit or records request is warranted.
- (2) The number of records to be requested, if applicable.
- (3) The date, time, and anticipated length of the proposed site visit.
- (4) The dates of any previous site visits.

Proposed law provides that the process established in proposed law by which the board may conduct site visits or request medical records from a licensee who is not subject to an active investigation shall apply to practice performance reviews of physicians practicing

telemedicine.

Proposed law prohibits the board from disclosing the identity of any individual included in the request to conduct the site visit or records request.

Proposed law requires that on or before March 1 annually, the board shall submit a report to the legislative committees on health and welfare which encompasses, at minimum, all of the following information from the prior calendar year for each type of healthcare professional licensed by the board, delineated by profession type:

- (1) The number of preliminary reviews conducted in accordance with proposed law.
- (2) The number of complaints that the board received.
- (3) The number of formal investigations that the board initiated.
- (4) The number of consent decrees that licensees of the board entered into and other disciplinary actions that the board took.

(Amends R.S. 37:1263, 1267, and 1285.2(A); Adds R.S. 37:1270(A)(9))