

Regular Session, 2009

SENATE BILL NO. 294

BY SENATOR NEVERS

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

PSYCHOLOGISTS. Transfers the regulation of medical psychologists from the State Board of Examiners of Psychologists to the Louisiana State Board of Medical Examiners. (8/15/09)

AN ACT

1
2 To amend and reenact Code of Criminal Procedure Article 905.5.1(F), R.S. 9:2800.2(A),
3 R.S. 15:560.2(B)(1), R.S. 17:7.1(D), R.S. 22:998(A) and (C), and 1043(A)(4), R.S.
4 23:1371.1(2), R.S. 28:2(12.1) and (22)(b) and 51.1(A)(2)(a), R.S. 37:1745.14(C)(4),
5 2360(A)(1), (2) and (3), 2365(A) and (B), and 3386.1(15)(b), R.S. 40:1098.2(5)(b)
6 and 2114(B), and R.S. 44:4(29) and to enact Part VI of Chapter 15 of Title 37 of the
7 Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:1360.51 through
8 1360.72, and to repeal Part II of Chapter 28 of Title 37 of the Louisiana Revised
9 Statutes of 1950, comprised of R.S. 37:2371 through 2378, relative to medical
10 psychologists; to transfer the regulation of medical psychologists from the State
11 Board of Examiners of Psychologists to the Louisiana State Board of Medical
12 Examiners; to provide for definitions; to provide for powers and duties of the
13 Louisiana State Board of Medical Examiners; to provide for licensure; to provide for
14 a certificate of advanced practice; to provide for standards of practice; to create the
15 Medical Psychology Advisory Committee; to provide for privileged
16 communications; to provide for continuing medical education; to provide for
17 violations and penalties; to provide for orders to nurses; to provide for transfer of

1 files; to direct the Louisiana State Law Institute to make certain language corrections
2 to current law; to provide for rules and regulations; and to provide for related
3 matters.

4 Be it enacted by the Legislature of Louisiana:

5 Section 1. Code of Criminal Procedure Art. 905.5.1(F) is hereby amended and
6 reenacted to read as follows:

7 Art. 905.5.1. Mental retardation

8 * * *

9 F. When a defendant makes a claim of mental retardation under this Article,
10 the state shall have the right to an independent psychological and psychiatric
11 examination of the defendant. A psychologist **or medical psychologist** conducting
12 such examination must be licensed by the Louisiana State Board of Examiners of
13 Psychologists **or the Louisiana State Board of Medical Examiners, whichever is**
14 **applicable**. If the state exercises this right, and upon written motion of the defendant,
15 the state shall provide the defendant, within time limits set by the court, any and all
16 medical, correctional, educational, and military records, and all raw data, tests, test
17 scores, notes, behavioral observations, reports, evaluations, and any other
18 information of any kind reviewed by any state expert in forming the basis of his
19 opinion that the defendant is not mentally retarded. If the state fails to comply with
20 any such order, the court may impose sanctions as provided by Article 729.5.

21 * * *

22 Section 2. R.S. 9:2800.2(A) is hereby amended and reenacted to read as follows:

23 §2800.2. Psychologist, psychiatrist, marriage and family therapist, licensed
24 professional counselor, and social worker; limitation of liability

25 A. When a patient has communicated a threat of physical violence, which is
26 deemed to be significant in the clinical judgment of the treating psychologist or
27 psychiatrist, or marriage and family therapist, or licensed professional counselor, or
28 social worker, against a clearly identified victim or victims, coupled with the
29 apparent intent and ability to carry out such threat, the psychologist, licensed under

1 R.S. 37:2351 through 2369, **the medical psychologist, licensed under R.S.**
 2 **37:1360.51 through 1360.72,** or the psychiatrist, licensed under R.S. 37:1261
 3 through 1291, or the social worker, credentialed under R.S. 37:2701 through 2723,
 4 treating such patient and exercising reasonable professional judgment, shall not be
 5 liable for a breach of confidentiality for warning of such threat or taking precautions
 6 to provide protection from the patient's violent behavior.

7 * * *

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

9 §560.2. Louisiana Sex Offender Assessment Panel

10 * * *

11 B. Each panel shall consist of three members who are employees of the
 12 department and are selected by the secretary to serve on a panel. The secretary shall
 13 select the makeup of the panel based upon the feasibility, practicability, and
 14 effectiveness of each panel as determined by the secretary and established by rules
 15 adopted pursuant to the provisions of the Administrative Procedure Act and in
 16 accordance with the following provisions:

17 (1) One member shall be **either** a psychologist licensed by the Louisiana
 18 State Board of Examiners of Psychologists **or a medical psychologist licensed by**
 19 **the Louisiana State Board of Medical Examiners** who has been engaged in the
 20 practice of clinical or counseling psychology for not less than three consecutive years
 21 or a physician in the employ or under contract to the department whose credentials
 22 and experience are not incompatible with the evaluation of the potential threat to
 23 public safety that may be posed by a sexually violent predator or a child sexual
 24 predator.

25 * * *

26 Section 4. R.S. 17:7.1(D) is hereby amended and reenacted to read as follows:

27 §7.1. Certification of teachers; certification of principals and superintendents;
 28 certification of school psychologists

29 * * *

1 D. The State Board of Elementary and Secondary Education shall, by
 2 regulation, prescribe the qualifications, provide for the certification, and provide for
 3 the supervision of school psychologists in the employ of any public agency regulated
 4 by the board, notwithstanding the provisions of R.S. 37:2363 or any other provisions
 5 of law to the contrary. The certification requirements shall not be less than those
 6 requirements established by the National Association of School Psychology. Nothing
 7 herein shall be construed as permitting a person certified under the provisions of this
 8 Subsection to offer to render, or to render his services as a psychologist in any setting
 9 other than his institutional employment unless he has been licensed under the
 10 provisions of R.S. 37:2356 **or licensed as a medical psychologist under the**
 11 **provisions of R.S. 37:1360.51 et seq.**

12 * * *

13 Section 5. R.S. 22:998(A) and (C), and 1043(A)(4) are hereby amended and
 14 reenacted to read as follows:

15 §998. Hospital and medical expense policies; services of licensed psychologists

16 A. Whenever any hospital or medical expense policy or hospital or medical
 17 service contract issued, or issued for delivery in this state provides for the
 18 reimbursement of health related services that can lawfully be performed by a duly
 19 licensed psychologist as regulated under the provisions of R.S. 37:2351-2368 **or by**
 20 **a duly licensed medical psychologist as regulated under the provisions of R.S.**
 21 **37:1360.51et seq.,** the insured or other person entitled to benefits under such
 22 contract shall be entitled to reimbursements for such services performed by a duly
 23 licensed psychologist notwithstanding any provisions of the contract to the contrary.

24 * * *

25 C. The provisions of this section shall apply only to those services which a
 26 duly licensed psychologist is authorized to perform under the provisions of Chapter
 27 28 of Title 37 of the Louisiana Revised Statutes of 1950, **or a duly licensed medical**
 28 **psychologist is authorized to perform under the provisions of Chapter 15 of**
 29 **Title 37 of the Louisiana Revised Statutes of 1950.**

* * *

§1043. Severe mental illness and other mental disorders; policy provisions;
minimum requirements; group, blanket, and association policies

A. * * *

(4) These benefits shall be payable when the treatment or services are rendered by a physician licensed under the provisions of R.S. 37:1261 et seq., psychologist licensed under the provisions of R.S. 37:2351 et seq., **medical psychologist licensed under the provisions of R.S. 37:1360.51 et seq.**, or when the treatment or services are rendered by a licensed clinical social worker licensed under the provisions of R.S. 37:2701 et seq., who is a member of a national clinical social work registry.

* * *

Section 6. R.S. 23:1371.1(2) 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 meaning ascribed to them in this Section:

* * *

(2) "Psychologist" shall mean an individual licensed to practice psychology by the Louisiana State Board of Examiners of Psychologists **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.

* * *

Section 7. R.S. 28:2(12.1) and (22)(b) and 51.1(A)(2)(a) are hereby amended and reenacted to read as follows:

1 §2. Definitions

2 Whenever used in this Title, the masculine shall include the feminine, the
3 singular shall include the plural, and the following definitions shall apply:

4 * * *

5 (12.1) "Medical psychologist" means a psychologist who has undergone
6 specialized training in clinical psychopharmacology and has passed a national
7 proficiency examination in psychopharmacology approved by the ~~State Board of~~
8 ~~Examiners of Psychologists~~ **Louisiana State Board of Medical Examiners** and who
9 holds **a current and valid license** from the ~~board a current certificate of prescriptive~~
10 ~~authority, as defined in R.S. 37:2371(2)~~ **Louisiana State Board of Medical**
11 **Examiners**. For the purposes of this Chapter a medical psychologist shall have at
12 least three years training, primary experience, or both, in diagnosis and treatment of
13 mental illness.

14 * * *

15 (22) * * *

16 (b) "Psychologist" means an individual licensed to practice psychology in
17 Louisiana in accordance with R.S. 37:2351 et seq., **or licensed to proactive medical**
18 **psychology in Louisiana in accordance with R.S. 37:1360.51 et seq.**, and who has
19 been engaged in the practice of a clinical specialty for not less than three years.

20 * * *

21 §51.1. Treatment facility; staff membership and institutional privileges; certain
22 health care providers

23 A. * * *

24 (2) Staff membership, specifically delineated institutional privileges, or both,
25 granted to a medical psychologist shall be conditioned upon all of the following
26 requirements:

27 (a) The applicant medical psychologist shall have a valid, current,
28 unrestricted ~~certificate of prescriptive authority~~ **license** issued to him by the
29 Louisiana State Board of **Medical** Examiners ~~of Psychologists~~.

* * *

Section 8. R.S. 37:1745.14(C)(4), 2360(A)(1), (2) and (3), 2365(A) and (B), and 3386.1(15)(b) are hereby amended and reenacted to read as follows:

§1745.14. Reporting of certain actions taken by health care entities; to whom to report; information to be reported; time frame for reporting

* * *

C. A report shall not be required under this Section when a health care professional is granted a leave of absence for evaluation or treatment of impairment or possible impairment provided all of the following conditions are met:

* * *

(4) The individual, if a physician, cooperates with the Physicians Health Program of the Louisiana State Board of Medical Examiners or, if a registered nurse, cooperates with the Recovering Nurses Program of the Louisiana State Board of Nursing or, if a dentist, cooperates with the Dentist Well-Being Committee program of the Louisiana Dental Association, as approved by the Louisiana State Board of Dentistry, or if a medical psychologist, cooperates with the Impaired Psychologist Program of the Louisiana State Board of Examiners of Psychologists **or a similar program provided by the Louisiana State Board of Medical Examiners.**

* * *

§2360. Violation and penalties

A. It shall be a misdemeanor:

(1) For any person not licensed under this Chapter **or Part VI of Chapter 15 of this Title** to represent himself as a psychologist; or

(2) For any person not licensed under this Chapter **or Part VI of Chapter 15 of this Title** to engage in the practice of psychology; or

(3) **Except for medical psychologists duly licensed by the Louisiana State Board of Medical Examiners,** For ~~for~~ any person to represent himself as a psychologist during the time that his license as a psychologist shall be suspended or revoked or lapsed; or

* * *

§2365. Scope of Chapter

A. Members of other professions which are licensed or certified under the laws of this state shall be permitted to render services consistent with their professional training and code of ethics, provided they do not represent themselves as psychologists or their work as psychological. **The provision of this Subsection shall not apply to those persons duly licensed as medical psychologists by the Louisiana State Board of Medical Examiners.**

B. Duly ordained clergy and Christian Science practitioners shall be permitted to function in their ministerial capacity provided they do not represent themselves as psychologists, or their work as psychological, unless they have been licensed under the provisions of this Chapter **or Part VI of Chapter 15 of this Title.**

* * *

§3386.1. Definitions

As used in this Chapter the following definitions shall apply:

* * *

(15) "Qualified mental health professional" means:

* * *

(b) A psychologist licensed pursuant to R.S. 37:2351 et seq., **or a medical psychologist licensed pursuant to R.S. 37:1360.51 et seq.**

* * *

Section 9. R.S. 40:1098.2(5)(b) and 2114(B) are hereby amended and reenacted to read as follows:

§1098.2. Definitions

As used in this Subpart, the following terms shall have the following meanings:

* * *

(5) "Qualified professional" shall include:

* * *

1 (b) A licensed clinical social worker, psychologist licensed under R.S.
 2 37:2351 et seq., **medical psychologist licensed under R.S. 37:1360.51 et seq.**,
 3 physician licensed to practice medicine by the Louisiana State Board of Medical
 4 Examiners, or licensed professional counselor.

5 * * *

6 §2114. Organization of medical and dental staff

7 * * *

8 B. Each hospital offering care or services within the scope of the practice of
 9 psychology, as defined in R.S. 37:2352(5), ~~prior to January 1, 1993~~, shall establish
 10 rules, regulations, and procedures for consideration of an application for medical
 11 staff membership and clinical privileges submitted by a psychologist licensed to
 12 practice psychology by the Louisiana State Board of Examiners of Psychologists or
 13 **a medical psychologist licensed to practice medical psychology by the Louisiana**
 14 **State Board of Medical Examiners.** No hospital shall deny such medical staff
 15 membership and clinical privileges solely because the applicant is licensed under
 16 R.S. 37:2351 et seq., **or R.S. 37:1360.51 et seq.**

17 * * *

18 Section 10. R.S. 44:4(29) is hereby amended and reenacted to read as follows:

19 §4. Applicability

20 This Chapter shall not apply:

21 * * *

22 (29) To any records, writings, accounts, recordings, letters, exhibits, data,
 23 pictures, drawings, charts, photographs, or copies or memoranda thereof, and any
 24 report or reports concerning the fitness of any person to receive or continue to hold
 25 a license to practice as a psychologist in the custody or control of the Louisiana State
 26 Board of Examiners of Psychologists **or to receive or continue to hold a license to**
 27 **practice as a medical psychologist in the custody or control of or the Louisiana**
 28 **State Board of Medical Examiners;** however, any action taken by the board and
 29 any legal grounds upon which such action is based, relative to the fitness of any

1 person to receive or continue to hold a license to practice as a psychologist shall be
 2 a public record, and statistical reports which do not reveal the identity of any
 3 licensed psychologist may be released to the public.

4 * * *

5 Section 11. Part VI of Chapter 15 of Title 37 of the Louisiana Revised Statutes of
 6 1950, comprised of R.S. 37:1360.51 through 1360.72, is hereby enacted to read as follows:

7 **PART VI. MEDICAL PSYCHOLOGISTS**

8 **§1360.51. Short title**

9 **This Part may be cited as the "Medical Psychology Practice Act."**

10 **§1360.52. Definitions**

11 **As used in this Part the following words, terms, and phrases have the**
 12 **meaning ascribed to them in this Section, unless the context clearly indicates a**
 13 **different meaning:**

14 **(1) "Board" means the Louisiana State Board of Medical Examiners as**
 15 **established in R.S. 37:1263.**

16 **(2) "Drug" means the same as the term "drug" as defined in R. S.**
 17 **40:961(16), including controlled substances except narcotics, but shall be limited**
 18 **only to those agents related to the diagnosis and treatment or management of**
 19 **mental, nervous, emotional, behavioral, substance abuse or cognitive disorders.**
 20 **Nothing in this Part shall be construed to permit a medical psychologist to**
 21 **administer or prescribe a narcotic.**

22 **(3) "LAMP" means the Louisiana Academy of Medical Psychology.**

23 **(4) "LSBEP" means the Louisiana State Board of Examiners of**
 24 **Psychologists.**

25 **(5) "Medical psychologist" or "MP" means a psychological practitioner**
 26 **who has undergone specialized training in clinical psychopharmacology and has**
 27 **passed a national proficiency examination in psychopharmacology approved by**
 28 **the board. Such practice specifically includes the authority to administer,**
 29 **prescribe, and distribute, without charge, drugs as defined in this Part.**

1 (6) "Medical Psychology Advisory Committee" means a committee,
2 established by the board for purposes as defined in this Chapter.

3 (7) "Medical psychology" means that profession of the health sciences
4 which deals with the examination, diagnosis, psychological, pharmacologic and
5 other somatic treatment and/or management of mental, nervous, emotional,
6 behavioral, substance abuse or cognitive disorders, and specifically includes the
7 authority to administer, distribute without charge and/or prescribe drugs as
8 defined in this Part. In addition, the practice of medical psychology includes
9 those practices defined in R.S. 37:2352(5).

10 (8) "Mental, nervous, emotional, behavioral, substance abuse and
11 cognitive disorders" means those disorders, illnesses or diseases listed in either
12 the most recent edition of the Diagnostic and Statistical Manual of Mental
13 Disorders published by the American Psychiatric Association or the mental,
14 nervous, emotional, behavioral, substance abuse and cognitive disorders listed
15 in the International Classification of Diseases published by the World Health
16 Organization.

17 (9) "Narcotics" means those natural or synthetic opioid analgesics, and
18 their derivatives used to relieve pain.

19 (10) "Physician" means an individual who holds a license, permit,
20 certification, or registration issued by the board to engage in the practice of
21 medicine in the state of Louisiana.

22 §1360.53. Powers and duties of the board

23 A. The board shall have and exercise with respect to medical
24 psychologists, all powers and duties granted to it by R.S. 37:1261 et seq., relative
25 to physicians. In addition, the board shall have the authority to:

26 (1) Establish and publish standards of medical psychology practice in
27 accordance with those developed and accepted by the profession.

28 (2) Approve, deny, revoke, suspend, renew and reinstate licensure or
29 certification of duly qualified applicants.

1 **(3) Adopt, promulgate, revise, and enforce orders, rules and regulations**
2 **for initial licensure, renewal and certificates of advanced practice, as well as the**
3 **board may deem necessary to ensure the competency of applicants, the**
4 **protection of the public and proper administration of this Part in accordance**
5 **with the Administrative Procedure Act.**

6 **(4) Conduct hearings on charges calling for the denial, suspension,**
7 **revocation, or refusal to renew a license.**

8 **§1360.54. License required**

9 **No one shall engage in the practice of medical psychology, or hold**
10 **himself out as a medical psychologist in this state unless licensed in accordance**
11 **with the provisions of this Part.**

12 **§1360.55. Qualifications of applicants**

13 **A. Notwithstanding any other provision of this Part or other law, on or**
14 **before January 1, 2010, any medical psychologist who satisfies all of the**
15 **following criteria shall be issued a medical psychology license:**

16 **(1) Holds a current and unrestricted license or certificate in good**
17 **standing to practice psychology issued by the Louisiana State Board of**
18 **Examiners of Psychology.**

19 **(2) Holds a current and unrestricted certificate of prescriptive authority**
20 **issued by the Louisiana State Board of Examiners of Psychology.**

21 **(3) Holds a controlled and dangerous substance permit issued by the**
22 **Louisiana Board of Pharmacy.**

23 **(4) Holds a controlled substance registration issued by the United States**
24 **Drug Enforcement Administration.**

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

29 **(1) Holds a current and unrestricted license or certificate in good**

1 standing to practice psychology issued by the Louisiana State Board of
2 Examiners of Psychology.

3 (2) Has successfully graduated with a post-doctoral master's degree in
4 clinical psychopharmacology from a regionally accredited institution or has
5 completed equivalent training to the post-doctoral master's degree approved by
6 the board. The curriculum shall include instruction in anatomy and physiology,
7 biochemistry, neurosciences, pharmacology, psychopharmacology, clinical
8 medicine/ pathophysiology and health assessment, including relevant physical
9 and laboratory assessment.

10 (3) Has passed a national exam in psychopharmacology approved by the
11 board.

12 C. Medical psychologists licensed by the board shall be eligible for a
13 controlled and dangerous substance permit and registration issued by the state
14 and for United States Drug Enforcement Agency.

15 §1360.56. Consultation and collaboration for medical psychologists without a
16 certificate of advanced practice

17 A. Medical psychologists shall prescribe only in consultation and
18 collaboration with the patient's primary or attending physician, and with the
19 concurrence of that physician.

20 B. The medical psychologist shall also re-consult with the patient's
21 physician prior to making changes in the patient's medication treatment
22 protocol, as established with the physician, or as otherwise directed by the
23 physician. The medical psychologist and the physician shall document the
24 consultation in the patient's medical record.

25 C. In the event a patient does not have a primary or attending physician,
26 the medical psychologist shall not prescribe for that patient.

27 D. The board shall promulgate rules relating to how the consultation and
28 collaboration shall be affected in consultation with the Medical Psychology
29 Advisory Committee.

1 **§1360.57. Certificate of advanced practice**

2 Medical psychologists who satisfy the requirements specified by Section
3 1360.55(A) of this Part and who possess all of the following additional
4 qualifications to the satisfaction of the board shall be issued a certificate of
5 advanced practice:

6 (1) Three years of experience practicing as a medical psychologist. For
7 those individuals licensed under R.S. 37:1360.55(A), such experience shall be
8 deemed to have commenced with the issuance of the original certificate of
9 prescriptive authority issued by the Louisiana State Board of Examiners of
10 Psychologists.

11 (2) Treatment of a minimum of one hundred patients including twenty-
12 five or more involving the use of major psychotropics and twenty-five or more
13 involving the use of major antidepressants which demonstrate the competence
14 of the medical psychologist.

15 (3) The recommendation of two collaborating physicians, each of whom
16 holds an unconditional license to practice medicine in Louisiana, and who are
17 each familiar with the applicant's competence to practice medical psychology.

18 (4) The recommendation of the Medical Psychology Advisory
19 Committee.

20 **§1360.58. Issuance and renewal of license**

21 A. The board shall issue a license to any person who meets the
22 qualifications provided for in this Part and the rules and regulations of the
23 board and who pays the respective license fees fixed by the board.

24 B. A license issued under the provisions of this Part shall be subject to
25 annual renewal and shall expire and become null and void unless renewed in the
26 manner prescribed by the board.

27 **§1360.59. Designation of license**

28 A. A license issued under this Part shall designate the licensee's status
29 with respect to advanced practice.

1 **B. Any individual who is issued a license as a medical psychologist under**
2 **the provisions of this Part may use the words "medical psychologist" or**
3 **"psychologist" or may use the letters "MP" in connection with his name to**
4 **denote licensure.**

5 **§1360.60. Reinstatement of license**

6 **A. Any license or certificate suspended, revoked, or otherwise restricted**
7 **by the board may be reinstated by the board.**

8 **B. A license that has expired without renewal may be reinstated by the**
9 **board for a period of two years from the date of expiration, provided the**
10 **applicant is otherwise eligible under the provisions of this Part, pays the**
11 **applicable fees, and satisfies the continuing education and such other**
12 **requirements as may be established by the board.**

13 **§1360.61. Standards of practice for medical psychologists**

14 **A. Medical psychologists shall be authorized to administer and prescribe**
15 **only drugs recognized and customarily used for the management of mental,**
16 **nervous, emotional, behavioral, substance abuse and cognitive diseases or**
17 **disorders.**

18 **B. Standards or the treatment or management of common complications**
19 **of the drug therapy provided by medical psychologists will be set forth in rules**
20 **and regulations which shall be promulgated and adopted by the board, in**
21 **consultation with the Medical Psychology Advisory Committee, in accordance**
22 **with the Administrative Procedure Act.**

23 **C. Medical psychologists may not order, administer, prescribe or**
24 **distribute narcotics, as defined in this Part.**

25 **D. Nothing in this Part shall be interpreted or construed as permitting**
26 **a medical psychologist to pharmacologically treat patients for other primary**
27 **medical conditions, unless specifically defined in, and authorized by, the board**
28 **in such rules and regulations as might be necessary.**

29 **E. Practitioners licensed under this Part may order and interpret**

1 laboratory studies and other medical diagnostic procedures, as necessary for
2 adequate pretreatment health screening, diagnosis of mental, nervous,
3 emotional, behavioral, substance abuse and cognitive disorders and treatment
4 maintenance, including those necessary for the monitoring of potential side-
5 effects associated with medications prescribed by the medical psychologist.

6 F. Medical psychologists shall maintain Basic Life Support certification.

7 G. Notwithstanding any law to the contrary, nothing in this Part shall
8 prohibit or restrict medical psychologists, licensed under the provisions of this
9 Part, from employing or otherwise utilizing psychological technicians or
10 psychometricians to assist in the provision of non-medical psychological
11 services.

12 (1) Psychological technicians or psychometricians shall be authorized
13 to administer psychological tests and provide other technical, ancillary non-
14 medical psychological services as specifically ordered by the medical
15 psychologist.

16 (2) Psychological technicians or psychometricians shall minimally hold
17 a bachelor's degree in psychology from an accredited college or university.

18 (3) Psychological technicians or psychometricians shall administer
19 psychological tests or provide other technical, ancillary non-medical
20 psychological services only under the general supervision of the medical
21 psychologist.

22 (4) The medical psychologist employing or otherwise utilizing the
23 services of a psychological technician or psychometrician assumes the
24 professional responsibility and liability for all services and actions undertaken
25 by the psychological technician or psychometrician acting on behalf of the
26 medical psychologist.

27 (5) The medical psychologist shall provide the board, in such manner
28 and form as directed by the board, with the name and credentials
29 of any psychological technician or psychometrician under his or her

1 supervision.

2 (6) Psychological technicians or psychometrician in the employ or
3 otherwise utilized by a medical psychologist under the provisions of this Part
4 may provide other technical, ancillary non-medical psychological services as
5 might be approved by the board.

6 (7) The board, in consultation with the Medical Psychology Advisory
7 Committee, shall have the authority to promulgate such rules and regulations
8 necessary to otherwise govern the activities of psychological technicians or
9 psychometricians.

10 §1360.62. Standards of practice for medical psychologists holding certificates
11 of advanced practice

12 A. Patients receiving medical care from a medical psychologist shall
13 have an established primary, attending or referring physician licensed by the
14 board who shall be responsible for the patient's overall medical care.

15 B. The primary, attending or referring physician shall evaluate the
16 patient for medical conditions in accordance with customary practice standards,
17 and as might be indicated based on the medications that the patient is receiving
18 and/or risk factors that may be present. If the patient has been referred to a
19 medical psychologist holding a certificate of advance practice for the express
20 purpose of evaluation and treatment to include drug management by the
21 primary, attending or referring physician, this condition shall be considered
22 met.

23 C. The medical psychologist shall provide the primary, attending or
24 referring physician with a summary of the treatment planned at the initiation
25 of treatment.

26 D. The medical psychologist shall provide the primary, attending or
27 referring physician with follow up reports as may be dictated by the patient's
28 condition.

29 E. The medical psychologist shall provide the patient's primary,

1 attending or referring physician with a summary of the patient's condition and
2 treatment no less than annually.

3 F. The requirements for Subsections B, C and D of this Section shall be
4 considered satisfied if the medical psychologist provides the physician with a
5 copy of the initial examination and follow up visit records.

6 **§1360.63. Medical Psychology Advisory Committee**

7 A. A Medical Psychology Advisory Committee shall be established by
8 the board for the purpose of reviewing and/or recommending action on
9 application for licensure, recommending educational requirements for other
10 medical activities that may be provided by medical psychologists,
11 recommending changes in related statutes and rules, as well as other activities
12 as might be requested by the board.

13 B. The Medical Psychology Advisory Committee shall consist of the
14 following five members selected by the board:

15 (1) One member shall be a primary care physician licensed to practice
16 medicine in this state selected from a list of names submitted by the Louisiana
17 State Medical Society.

18 (2) Four members shall be medical psychologists selected from a list of
19 names recommended by the Louisiana Academy of Medical Psychology.

20 C. The executive director of the board shall serve as an ex officio, non-
21 voting member of the committee.

22 D. Members shall serve at the pleasure of the board. A vacancy in an
23 unexpired term shall be filled in the manner of the original appointment.

24 E. The committee may meet as needed but shall meet at least twice a
25 year. A majority of the members of the committee shall constitute a quorum for
26 the transaction of all business.

27 F. Members of the committee shall serve without compensation but shall
28 be reimbursed for travel expenses incurred in attendance at meetings and other
29 official business on behalf of the committee or the board.

1 **§1360.64. Privileged communications**

2 **A. In judicial proceedings, whether civil, criminal, or juvenile, legislative**
3 **and administrative proceedings, and proceedings preliminary and ancillary**
4 **thereto, a patient or his legal representative, may refuse to disclose or prevent**
5 **the disclosure of confidential information, including information contained in**
6 **administrative records, communicated to a medical psychologist licensed under**
7 **this Part, or persons reasonably believed by the patient to be so licensed, or to**
8 **their employees or other persons under their supervision, for the purpose of**
9 **diagnosis, evaluation, or treatment of any mental or emotional condition or**
10 **disorder.**

11 **B. In the absence of evidence to the contrary, the medical psychologist**
12 **is presumed to be authorized to claim the privilege on behalf of the patient.**

13 **C. This privilege may not be claimed by or on behalf of the patient in the**
14 **following circumstances:**

15 **(1) Where child abuse, elder abuse, or the abuse of disabled or**
16 **incompetent individuals is known or reasonably suspected.**

17 **(2) Where the validity of a will of a deceased former patient is contested**
18 **or his mental or emotional condition is at issue otherwise on judicial or**
19 **administrative proceedings.**

20 **(3) Where such information is necessary for the defense of the medical**
21 **psychologist in a malpractice action brought by the patient.**

22 **(4) Where an immediate threat of physical violence against a clearly**
23 **identified victim or victims is disclosed to the medical psychologist.**

24 **(5) In the context of civil commitment proceedings, where an immediate**
25 **threat of self-inflicted damage is disclosed to the medical psychologist.**

26 **(6) Where the patient puts his mental state in issue by alleging mental**
27 **or emotional damages or condition in any judicial or administrative**
28 **proceedings.**

29 **(7) Where the patient is examined pursuant to court order.**

1 **(8) Where the board is conducting an investigation or hearing.**

2 **§1360.65. Continuing medical education**

3 **A. Medical psychologists shall annually complete a minimum of twenty**
4 **hours of approved continuing medical education relevant to the practice of**
5 **medical psychology.**

6 **B. Approved sponsors of continuing medical education for practitioners**
7 **licensed under this Part shall include, the Louisiana Academy of Medical**
8 **Psychologists, the Louisiana State Medical Society, sponsors accredited by the**
9 **Accreditation Council for Continuing Medical Education approved to offer**
10 **Category 1 educational activities, and other sponsors as may be approved by the**
11 **board.**

12 **C. A minimum of twenty-five percent of a medical psychologist's**
13 **continuing medical education shall be provided by the Louisiana Academy of**
14 **Medical Psychology.**

15 **D. In addition, to meeting the requirements for continuing medical**
16 **education, as required in Subsection A of this Section, medical psychologists**
17 **shall annually also complete a minimum of fifteen hours of continuing education**
18 **in psychology. Approved sponsors for this additional requirement shall include**
19 **the Louisiana Psychological Association, the American Psychological**
20 **Association, and other sponsors as may be approved by the board.**

21 **E. A minimum of two of the required hours of continuing medical**
22 **education or additional continuing education, as set forth in this Section, shall**
23 **specifically involve ethics, as relevant to the practice of medical psychology.**

24 **§1360.66. Fees**

25 **The board, under its authority established in R.S. 37:1281, shall fix fees**
26 **for the purpose of administering the provisions of this Part.**

27 **§1360.67. Causes for refusal to issue, suspension or revocation of licenses,**
28 **permits, and certificates**

29 **A. The board may refuse to issue, or may suspend or revoke any license**

1 or certificate, or impose probationary or other restrictions on any license or
2 certificate issued under this Part for the following causes:

3 (1) Conviction of a felony.

4 (2) Conviction of any crime or offense arising out of or relating to
5 practice medical psychology.

6 (3) Fraud, deceit, or perjury in obtaining a diploma or certificate.

7 (4) Fraud or deception in applying for or procuring a license to practice
8 medical psychology.

9 (5) Making any fraudulent or untrue statement to the board.

10 (6) Refusal to appear before the board after having been ordered to do
11 so in writing by a duly authorized agent of the board.

12 (7) Habitual or recurring abuse of drugs, including alcohol, which affect
13 the central nervous system and which are capable of inducing physiological or
14 psychological dependence.

15 (8) Refusing to submit to the examinations and inquiry of an examining
16 committee of physicians appointed or designated by the board to inquire into
17 an applicant or licensee's physical and mental fitness and ability to practice
18 medical psychology with reasonable skill and safety to patients.

19 (9) Prescribing, dispensing, or administering legally controlled
20 substances or any dependency-inducing medication without legitimate medical
21 justification therefore or in other than a legal or legitimate manner.

22 (10) Impersonation of another licensed practitioner.

23 (11) Incompetence.

24 (12) Voluntary or involuntary commitment or interdiction by due
25 process of law.

26 (13) Failure to self-report in writing to the board any personal action
27 which constitutes a violation of this Part within thirty days of the occurrence.

28 (14) Solicitation of patients or self-promotion through advertising or
29 communication, public or private, which is fraudulent, false, deceptive, or

1 **misleading.**

2 **(15) Making or submitting false, deceptive, or unfounded claims, reports,**
3 **or opinions to any patient, insurance company or indemnity association,**
4 **company, individual, or governmental authority for the purpose of obtaining**
5 **any thing of economic value.**

6 **(16) Soliciting, accepting, or receiving any thing of economic value in**
7 **return for and based on the referral of patients to another person, firm, or**
8 **corporation or in return for the prescription of medications or medical devices.**

9 **(17) Unprofessional conduct.**

10 **(18) Continuing or recurring practice which fails to satisfy the prevailing**
11 **and usually accepted standards of medical psychology practice in this state.**

12 **(19) Gross, willful, and continued overcharging for professional services.**

13 **(20) Abandonment of a patient.**

14 **(21) Knowingly performing any act which, in any way, assists an**
15 **unqualified person to practice medical psychology, or having professional**
16 **connection with or lending one's name to an illegal practitioner.**

17 **(22) Inability to practice medical psychology with reasonable skill or**
18 **safety to patients because of mental illness or deficiency; physical illness,**
19 **including but not limited to deterioration through the aging process or loss of**
20 **motor skills; or excessive use or abuse of drugs, including alcohol.**

21 **(23) Violation of ethical principles and codes of conduct as promulgated**
22 **by the American Psychological Association or violation of any code of ethics**
23 **adopted in the rules and regulations of the board or other immoral,**
24 **unprofessional, or dishonorable conduct as defined in the rules and regulations**
25 **of the board.**

26 **(24) Practicing medical psychology in such a manner as to endanger the**
27 **welfare of patients, including but not limited to:**

28 **(a) Harassment, intimidation, or abuse, sexual or otherwise, of a patient.**

29 **(b) Engaging in sexual intercourse or other sexual contact with a patient.**

1 (c) Gross malpractice, repeated malpractice, or gross negligence in the
2 practice of medical psychology.

3 (25) Use of repeated untruthful, deceptive, or improbable statements
4 concerning the licensee's qualifications or the effects or results of proposed
5 treatment, including functioning outside of one's professional competence
6 established by education, training, and experience.

7 (26) Exercising undue influence in such a manner as to exploit the
8 patient for financial or other personal advantage to the practitioner or a third
9 party.

10 (27) Refusal of a licensing authority of another state to issue or renew a
11 license, permit, or certificate to practice medical psychology in that state or the
12 revocation, suspension, or other restriction imposed on a license, permit, or
13 certificate issued by such licensing authority which prevents or restricts practice
14 in that state, or the surrender of a license, permit, or certificate issued by
15 another state when criminal or administrative charges are pending or
16 threatened against the holder of such license, permit, or certificate.

17 (28) Violation of any rules and regulations of the board, or any
18 provisions of this Part.

19 B. The board may, as a probationary condition, or as a condition of the
20 reinstatement of any license or certificate suspended or revoked hereunder,
21 require the license or certificate holder to pay all costs of the board proceedings,
22 including investigators', stenographers', and attorneys' fees, and to pay a fine
23 not to exceed five thousand dollars.

24 C. Any license or certificate suspended, revoked, or otherwise restricted
25 by the board may be reinstated by the board.

26 D. The board's final decision in an adjudication proceeding conducted
27 pursuant to this Section, other than by consent order, agreement, or other
28 informal disposition, shall constitute a public record, and the board may
29 disclose and provide such final decision to any person, firm, or corporation, or

1 to the public generally. The board's disposition of an adjudication proceeding
2 by consent order shall not constitute a public record, but the board shall have
3 authority and discretion to disclose such disposition.

4 E. No judicial order staying or enjoining the effectiveness or enforcement
5 of a final decision or order of the board in an adjudication proceeding, whether
6 issued pursuant to R.S. 49:964(C) or otherwise, shall be effective, or be issued
7 to be effective, beyond the earlier of either:

8 (1) One hundred twenty days from the date on which the board's
9 decision or order was rendered.

10 (2) The date on which the court enters judgment in a proceeding for
11 judicial review of the board's decision or order issued pursuant to R.S. 49:964.

12 F. Notwithstanding any other law to the contrary, no judicial order
13 staying, enjoining, or continuing an adjudication proceeding before, or a
14 preliminary, procedural, or intermediate decision, ruling, order, or action of,
15 the board shall be effective or issued to be effective, whether pursuant to R.S.
16 49:964 or otherwise, prior to the exhaustion of all administrative remedies and
17 issuance of a final decision or order by the board.

18 G. No order staying or enjoining a final decision or order of the board
19 shall be issued unless the district court finds that the applicant or petitioner has
20 established that the issuance of the stay does neither of the following:

21 (1) Threaten harm to other interested parties, including individuals for
22 whom the applicant or petitioner may render medical psychology services.

23 (2) Constitute a threat to the health, safety, and welfare of the citizens of
24 this state.

25 H. No stay of a final decision or order of the board shall be granted ex
26 parte. The court shall schedule a hearing on a request for a stay order within
27 ten days from filing of the request. The court's decision to either grant or deny
28 the stay order shall be rendered within five days after the conclusion of the
29 hearing.

1 **§1360.68. Persons and practices not affected**

2 Nothing in this Part shall be construed as preventing or restricting the
3 practice, services, or activities of any individual:

4 (1) Licensed in this state by any other law from engaging in the
5 profession or occupation for which he is licensed.

6 (2) Employed as a medical psychologist by the United States government
7 in the event such individual practices solely under the direction or control of a
8 United States governmental agency by which he is employed.

9 **§1360.69. Orders to nurses**

10 Notwithstanding any law or rule or regulation to the contrary, including,
11 but not limited to Chapter 11 of Title 37 of the Louisiana Revised Statutes of
12 1950, it shall be considered to be within the scope of the practice of nursing as
13 defined in Chapter 11 of said Title 37 for a registered nurse, licensed practical
14 nurse, and any other health care provider licensed under Chapter 11 of Title 37
15 to execute and effectuate any order or direction otherwise within the scope of
16 the practice of said health care provider when that order is within the scope of
17 practice of medical psychology and given to him by a medical psychologist
18 licensed under Part VI of Chapter 15 of Title 37 of the Louisiana Revised
19 Statutes of 1950, and, when given in an institutional setting, the order is within
20 the scope of the privileges granted to the medical psychologist by that
21 institution.

22 **§1360.70. Injunction; penalty; attorney fees; costs**

23 A. The board, through its president or the president's designee, may
24 cause to issue in any competent court, a writ of injunction enjoining any person
25 from practicing medical psychology in this state as defined herein until such
26 person obtains a license under the provisions of this Part. This injunction shall
27 not be subject to being released upon bond.

28 B. In the suit for an injunction, the board, through its president or
29 designee, may demand of the defendant a penalty of not more than five hundred

1 dollars, and attorney's fees, besides the costs of court. This judgment for
2 penalty, attorney's fees, and costs may be rendered in the same judgment in
3 which the injunction is made absolute.

4 C. The trial of the proceeding by injunction shall be summary and by the
5 judge without a jury.

6 §1360.71. Penalties

7 A. It shall be a misdemeanor for any individual:

8 (1) Not licensed under this Part to represent himself as a medical
9 psychologist.

10 (2) Not licensed under this Part to engage in the practice of medical
11 psychology.

12 (3) To represent himself as a medical psychologist during the time that
13 his license as a medical psychologist shall be suspended or revoked or lapsed.

14 (4) To otherwise violate the provisions of this Part.

15 B. Such misdemeanor shall be punishable upon conviction by
16 imprisonment for not more than six months, or by a fine of not less than one
17 hundred dollars nor more than five hundred dollars, or both. Each violation
18 shall be deemed a separate offense.

19 C. Such misdemeanor shall be prosecuted by the district attorney of the
20 judicial district in which the offense was committed in the name of the people
21 of the state of Louisiana.

22 §1360.72. Transfer of files

23 The Louisiana State Board of Examiners of Psychologists shall provide
24 the board with copies of all files relating to medical psychologists.

25 Section 12. Part 2 of Chapter 28 of Title 37 of the Louisiana Revised Statutes of
26 1950, comprised of R.S. 37:2371 through 2378, is hereby repealed.

27 Section 13. The Louisiana State Law Institute is hereby directed to add the term
28 "licensed medical psychologist" where it is appropriate to the following articles of the
29 Children's Code and Titles and Sections of the revised statutes:

1 Children's Code Articles 326, 837.1, 1120, 1172, 1173, 1272, R.S. 14:81.2, R.S.
2 15:440.4, and R.S. 23:1775.

3 Section 14. Sections 1 through 10, 12, 13, and this Section of this Act shall become
4 effective on January 1, 2010.

5 Section 15. Sections 11 and this Section of this Act shall become effective upon
6 signature by the governor or, if not signed by the governor, upon expiration of the time for
7 bills to become law without signature by the governor, as provided by Article III, Section
8 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved
9 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

Proposed law transfers the regulation of medical psychologists from the State Board of Examiners of Psychologists (LSBEP) to the Louisiana State Board of Medical Examiners (LSBME).

Proposed law provides that the LSBME shall have and exercise with respect to medical psychologists, all powers and duties granted to it by R.S. 37:1261 et seq. relative to physicians. Proposed law further provides that the Board shall have the authority to:

- (1) Establish and publish standards of medical psychology practice in accordance with those developed and accepted by the profession.
- (2) Approve, deny, revoke, suspend, renew and reinstate licensure of duly qualified applicants.
- (3) Adopt, promulgate, revise, and enforce orders, rules and regulations for initial licensure, renewal and certificates of advanced practice, as well as that the board may deem necessary to ensure the competency of applicants, the protection of the public and proper administration of proposed law in accordance with the APA.
- (4) Conduct hearings on charges calling for the denial, suspension, revocation, or refusal to renew a license.

Proposed law provides that no one shall engage in the practice of medical psychology, or hold himself out as a medical psychologist in this state unless licensed in accordance with the provisions of this Part.

Proposed law provides that on or before January 1, 2010, any medical psychologist shall be issued a medical psychology license who satisfies all of the following criteria:

- (1) Holds a current and unrestricted license to practice psychology issued by the Louisiana State Board of Examiners of Psychology.

- (2) Holds a current and unrestricted certificate of prescriptive authority issued by the Louisiana State Board of Examiners of Psychology.
- (3) Holds a controlled and dangerous substance permit issued by the Louisiana Board of Pharmacy.
- (4) Holds a permit issued by the United States Drug Enforcement Administration.

Proposed law provides that after January 1, 2010, the board shall issue a medical psychology license to applicants who submit an application upon a form and in such a manner as the board prescribes and who furnish evidence to the board which meets all of the following criteria:

- (1) Holds a license in good standing in psychology in Louisiana.
- (2) Has successfully graduated with a post-doctoral master's degree in clinical psychopharmacology from a regionally accredited institution or has completed equivalent training to the post-doctoral master's degree approved by the board.
- (3) Has passed a national exam in psychopharmacology approved by the board.

Proposed law provides that medical psychologists licensed by the board shall be eligible for a controlled and dangerous substance permit issued by the state and for United States Drug Enforcement Agency permits issued for controlled substances.

Proposed law provides that medical psychologists shall prescribe only in consultation and collaboration with the patient's primary or attending physician, and with the concurrence of that physician. The medical psychologist shall also re-consult with the patient's physician prior to making changes in the patient's medication treatment protocol, as established with the physician, or as otherwise directed by the physician. The medical psychologist and the physician shall document the consultation in the patient's medical record.

Proposed law provides that in the event a patient does not have a primary or attending physician, the medical psychologist shall not prescribe for that patient.

Proposed law provides that medical psychologists who meet all of following additional requirements shall be issued a certificate of advanced practice:

- (1) Three years of experience practicing as a medical psychologist, with such experience commencing with the original license to practice medical psychology from the LSBEP.
- (2) Treatment of a minimum of one hundred patients including twenty-five or more involving the use of major psychotropics and twenty-five or more involving the use of major antidepressants which demonstrate the competence of the medical psychologist.
- (3) The recommendation of two collaborating physicians, each of whom holds an unconditional license to practice medicine in Louisiana, and who are each familiar with the applicant's competence to practice medical psychology.
- (4) The recommendation of the Medical Psychology Advisory Committee.

Proposed law provides that the LSBME shall issue a license to any person who meets the qualifications provided for in proposed law and the rules and regulations of the board and who pays the respective license fees fixed by the board.

Proposed law provides that a license issued under by the LSBME shall be subject to annual renewal and shall expire and become null and void unless renewed in the manner prescribed by the board.

Proposed law provides that a license issued by the LSBME shall designate the licensee's status with respect to advanced practice. Any individual who is issued a license as a medical psychologist under the provisions of this Part may use the words "medical psychologist" or may use the letters "MP" in connection with his name to denote licensure.

Proposed law provides that any license or certificate suspended, revoked, or otherwise restricted by the board may be reinstated by the board. Proposed law further provides that a license that has expired without renewal may be reinstated by the board for a period of two years from the date of expiration, provided the applicant is otherwise eligible, pays the applicable fees, and satisfies the continuing education and such other requirements as may be established by the LSBME.

Proposed law provides that medical psychologists shall be authorized to administer and prescribe only drugs recognized and customarily used for the management of mental, nervous, emotional, cognitive, substance abuse and behavioral diseases or disorders. Standards or the treatment or management of common complications of the drug therapy provided by medical psychologists will be set forth in rules and regulations which shall be promulgated and adopted by the LSBME, in consultation with the Medical Psychology Advisory Committee.

Proposed law provides that medical psychologists may not order, administer, prescribe or distribute narcotics, as defined in proposed law. Proposed law further provides that nothing shall be interpreted or construed as permitting a medical psychologist to pharmacologically treat patients for other primary medical conditions, unless specifically defined in, and authorized by, the board in such rules and regulations as might be necessary.

Proposed law provides that practitioners licensed by the LSBME may order and interpret laboratory studies and other medical diagnostic procedures, as necessary for adequate pretreatment health screening, diagnosis of mental, nervous, emotional, cognitive, substance abuse and behavioral disorders and treatment maintenance, including those necessary for the monitoring of potential side-effects associated with medications prescribed by the medical psychologist.

Proposed law requires medical psychologists to maintain Basic Life Support certification.

Proposed law provides that nothing in proposed law shall prohibit or restrict medical psychologists from employing or otherwise utilizing psychological technicians or psychometricians to assist in the provision of non-medical psychological services.

Proposed law provides for certain duties and requirements of psychometricians.

Proposed law provides that patients receiving medical care from a medical psychologist shall have an established primary, attending or referring physician licensed by the LSBME who shall be responsible for the patient's overall medical care. The primary, attending or referring physician shall evaluate the patient for medical conditions in accordance with customary practice standards, and as might be indicated based on the medications that the patient is receiving and/or risk factors that may be present.

Proposed law provides that the medical psychologist shall provide the primary, attending or referring physician with a summary of the treatment planned at the initiation of treatment and shall provide the primary, attending or referring physician with follow-up reports when significant changes occur in the patient's condition. Proposed law further requires the medical psychologist to provide the patient's primary, attending or referring physician with

a summary of the patient's condition and treatment no less than annually.

Proposed law creates the Medical Psychology Advisory Committee for the purpose of reviewing and/or recommending action on application for licensure, recommending educational requirements for other medical activities that may be provided by medical psychologists, recommending changes in related statutes and rules, as well as other activities as might be requested by the LSBME.

Proposed law provides that the membership of the Medical Psychology Advisory Committee shall consist of the following five members selected by the board:

- (1) One member shall be a primary care physician licensed to practice medicine in this state selected from a list of names submitted by the Louisiana State Medical Society.
- (2) Four members shall be medical psychologists recommended by the Louisiana Academy of Medical Psychology.

Proposed law provides that the executive director of the LSBME shall serve as an ex-officio, non-voting member of the committee.

Proposed law provides that members of the committee shall serve without compensation but shall be reimbursed for travel expenses incurred in attendance at meetings and other official business on behalf of the committee or the board.

Proposed law provides that in judicial proceedings, whether civil, criminal, or juvenile, legislative and administrative proceedings, and proceedings preliminary and ancillary thereto, a patient or his legal representative, may refuse to disclose or prevent the disclosure of confidential information, including information contained in administrative records, communicated to a medical psychologist licensed by the LSBME, or persons reasonably believed by the patient to be so licensed, or to their employees or other persons under their supervision, for the purpose of diagnosis, evaluation, or treatment of any mental or emotional condition or disorder.

Proposed law provides that the privilege may not be claimed by or on behalf of the patient in the following circumstances:

- (1) Where child abuse, elder abuse, or the abuse of disabled or incompetent individuals is known or reasonably suspected.
- (2) Where the validity of a will of a deceased former patient is contested or his mental or emotional condition is at issue otherwise on judicial or administrative proceeding.
- (3) Where such information is necessary for the defense of the medical psychologist in a malpractice action brought by the patient.
- (4) Where an immediate threat of physical violence against a clearly identified victim or victims is disclosed to the medical psychologist.
- (5) In the context of civil commitment proceedings, where an immediate threat of self-inflicted damage is disclosed to the medical psychologist.
- (6) Where the patient puts his mental state in issue by alleging mental or emotional damages or condition in any judicial or administrative proceedings.
- (7) Where the patient is examined pursuant to court order.
- (8) Where the board is conducting an investigation or hearing.

Proposed law requires medical psychologists to annually complete a minimum of 20 hours of approved continuing medical education relevant to the practice of medical psychology. A minimum of 25 percent of a medical psychologist's CME shall be provided by the Louisiana Academy of Medical Psychology. In addition, to meeting the requirements for continuing medical education, as required in proposed law, medical psychologists shall annually also complete a minimum of 15 hours of continuing education in psychology.

Proposed law provides the LSBME shall fix fees for the purpose of administering the provisions of proposed law.

Proposed law provides that the LSBME may refuse to issue, or may suspend or revoke any license or permit, or impose probationary or other restrictions on any license or certificate issued for the following causes:

- (1) Conviction of a felony.
- (2) Conviction of any crime or offense arising out of or relating to practice medical psychology.
- (3) Fraud, deceit, or perjury in obtaining a diploma or certificate.
- (4) Fraud or deception in applying for or procuring a license to practice medical psychology.
- (5) Making any fraudulent or untrue statement to the LSBME.
- (6) Refusal to appear before the LSBME after having been ordered to do so in writing by a duly authorized agent of the board.
- (7) Habitual or recurring abuse of drugs, including alcohol, which affect the central nervous system and which are capable of inducing physiological or psychological dependence.
- (8) Refusing to submit to the examinations and inquiry of an examining committee of physicians appointed or designated by the LSBME to inquire into an applicant or licensee's physical and mental fitness and ability to practice medical psychology with reasonable skill and safety to patients.
- (9) Prescribing, dispensing, or administering legally controlled substances or any dependency-inducing medication without legitimate medical justification therefore or in other than a legal or legitimate manner.
- (10) Impersonation of another licensed practitioner.
- (11) Incompetence.
- (12) Voluntary or involuntary commitment or interdiction by due process of law.
- (13) Failure to self-report in writing to the LSBME any personal action which constitutes a violation of proposed law within 30 days of the occurrence.
- (14) Solicitation of patients or self-promotion through advertising or communication, public or private, which is fraudulent, false, deceptive, or misleading.
- (15) Making or submitting false, deceptive, or unfounded claims, reports, or opinions to any patient, insurance company or indemnity association, company, individual, or

- governmental authority for the purpose of obtaining any thing of economic value.
- (16) Soliciting, accepting, or receiving any thing of economic value in return for and based on the referral of patients to another person, firm, or corporation or in return for the prescription of medications or medical devices.
 - (17) Unprofessional conduct.
 - (18) Continuing or recurring practice which fails to satisfy the prevailing and usually accepted standards of medical psychology practice in this state.
 - (19) Gross, willful, and continued overcharging for professional services.
 - (20) Abandonment of a patient.
 - (21) Knowingly performing any act which, in any way, assists an unqualified person to practice medical psychology, or having professional connection with or lending one's name to an illegal practitioner.
 - (22) Inability to practice medical psychology with reasonable skill or safety to patients because of mental illness or deficiency; physical illness, including but not limited to deterioration through the aging process or loss of motor skills; or excessive use or abuse of drugs, including alcohol.
 - (23) Violation of ethical principles and codes of conduct as promulgated by the American Psychological Association or violation of any code of ethics adopted in the rules and regulations of the LSBME or other immoral, unprofessional, or dishonorable conduct as defined in the rules and regulations of the LSBME.
 - (24) Practicing medical psychology in such a manner as to endanger the welfare of patients.
 - (25) Use of repeated untruthful, deceptive, or improbable statements concerning the licensee's qualifications or the effects or results of proposed treatment, including functioning outside of one's professional competence established by education, training, and experience.
 - (26) Exercising undue influence in such a manner as to exploit the patient for financial or other personal advantage to the practitioner or a third party.
 - (27) Refusal of a licensing authority of another state to issue or renew a license, permit, or certificate to practice medical psychology in that state or the revocation, suspension, or other restriction imposed on a license, permit, or certificate issued by such licensing authority which prevents or restricts practice in that state, or the surrender of a license, permit, or certificate issued by another state when criminal or administrative charges are pending or threatened against the holder of such license, permit, or certificate.
 - (28) Violation of any rules and regulations of the LSBME, or any provisions of proposed law.

Proposed law provides that the LSBME may, as a probationary condition, or as a condition of the reinstatement of any license or certificate suspended or revoked hereunder, require the license or certificate holder to pay all costs of the board proceedings, including investigators', stenographers', and attorney fees, and to pay a fine not to exceed \$5000.

Proposed law provides that the LSBME final decision in an adjudication proceeding

conducted pursuant to proposed law, other than by consent order, agreement, or other informal disposition, shall constitute a public record, and the LSBME may disclose and provide such final decision to any person, firm, or corporation, or to the public generally. The LSBME's disposition of an adjudication proceeding by consent order shall not constitute a public record, but the board shall have authority and discretion to disclose such disposition.

Proposed law provides that nothing in proposed law shall be construed as preventing or restricting the practice, services, or activities of any person:

- (1) Licensed in this state by any other law from engaging in the profession or occupation for which he is licensed.
- (2) Any individual employed as a medical psychologist by the United States government in the event such individual practices solely under the direction or control of a United States governmental agency by which he is employed.

Proposed law provides that the LSBME, through its president or the president's designee, may cause to issue in any competent court, a writ of injunction enjoining any person from practicing medical psychology in this state until such person obtains a license.

Proposed law provides that it shall be a misdemeanor and shall be punishable upon conviction by imprisonment for not more than 6 months, or by a fine of not less than \$100 nor more than \$500, or by both such fine and imprisonment, for the following actions:

- (1) For any person not licensed under proposed law to represent himself as a medical psychologist.
- (2) For any person not licensed under proposed law to engage in the practice of medical psychology.
- (3) For any person to represent himself as a medical psychologist during the time that his license as a medical psychologist shall be suspended or revoked or lapsed.
- (4) For any person to otherwise violate the provisions of proposed law.

Proposed law provides that the LSBEP shall provide the board with copies of all files relating to medical psychologists.

Proposed law changes various provisions of present law to reflect the transfer of regulation of medical psychologists from the LSBEP to the LSBME.

Proposed law directs the Louisiana State Law Institute to add the term medical psychologist to certain provisions of the Children's Code and certain provisions of the Louisiana Revised Statutes.

Sections 1 through 10, 12, and 13, are effective on January 1, 2010.

Sections 11 and 14 are effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends Code of Criminal Procedure Art. 905.5.1(F), R.S. 9:2800.2(A), R.S. 15:560.2(B)(1), R.S. 17:7.1(D), R.S. 22:998(A) and (C), and 1043(A)(4), R.S. 23:1371.1(2), R.S. 28:2(12.1) and (22)(b) and 51.1(A)(2)(a), R.S. 37:1745.14(C)(4), 2360(A)(1), (2) and (3), 2365(A) and (B), and 3386.1(15)(b), R.S. 40:1098.2(5)(b) and 2114(B), and R.S. 44:4(29); adds R.S. 37:1360.51 - 1360.72; repeals R.S. 37:2371 - 2378)