

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 294 By Senator Nevers

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

PSYCHOLOGISTS. Transfers the regulation of medical psychologists from the State Board of Examiners of Psychologists to the Louisiana State Board of Medical Examiners and provides for requirements for and rights acquired by licensure, prescribing drugs, and other regulations for such profession. (8/15/09)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Technical amendments.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

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 authorizes the State Board of Examiners of Psychologists to require an applicant for licensure as a psychologist:

1. To submit a full set of fingerprints.
2. To permit the board to request and obtain state and national criminal history record information on the applicant and collect the cost.

Further authorizes such board to request and obtain state and national criminal history record information.

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.
5. The completion of a minimum of 100 hours of continuing medical education relating to the use of medications in the management of patients with psychiatric illness commencing with the issuance of a certificate of prescriptive authority by the LSBEP prior to January 1, 2010, or by the LSBME after that date.

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 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 physician who is certified by the American Board of Medical Specialties or the American Association of Osteopathic Physicians equivalent in the specialty of psychiatry and licensed to practice medicine in this state selected from a list of names submitted by the Louisiana State Medical Society recommended by the Louisiana Psychiatric Medical Association and the Louisiana Academy of Medical Psychology.
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 psychology or 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.
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 investigator, stenographer, 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 gives a court the option of appointing a medical psychologist in lieu of one physician to a two- or three-member sanity commission to examine and report upon the mental condition of a defendant. Authorizes a medical psychologist to be a member of a clinical team from a local mental health unit which is appointed to examine and report on the mental condition of a defendant.

Proposed law authorizes a medical psychologist to perform a mental status examination attesting to the principal's ability to make reasoned decisions concerning his mental health treatment which accompanies an advance directive for mental health treatment.

Proposed law includes medical psychologists in the prohibition on referring patients for services when the referring health care provider has a financial interest served by such referral and the prohibition on being paid for patient referrals.

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. 644(A) and (D)(1), and 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), (22)(b), 51.1(A)(2)(a), and 221(10), R.S. 37:1744(A)(2), 1745(A)(2), 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, and 2356.1; repeals R.S. 37:2371 - 2378)

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