

Regular Session, 2014

HOUSE BILL NO. 245

BY REPRESENTATIVE DIXON

DENTISTRY: Amends provisions of the Dental Practice Act relative to penalties

1 AN ACT

2 To amend and reenact R.S. 37:754(B), 780(B)(2) through (4), 786(D)(2), and 793(C)(1) and  
3 to enact R.S. 37:780(B)(5), relative to dentistry; to delete the requirement regarding  
4 the legal custodian of property of the Louisiana State Board of Dentistry; to  
5 authorize the collection of legal interest on unpaid fines; to authorize the collection  
6 of legal interest on unpaid costs; to provide for security furnished prior to judicial  
7 review; to make technical corrections; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:754(B), 780(B)(2) through (4), 786(D)(2), and 793(C)(1) are  
10 hereby amended and reenacted and R.S. 37:780(B)(5) is enacted to read as follows:

11 §754. Organization of the board; seal; records; meetings

12 \* \* \*

13 B. The board shall have an official seal and shall keep proper minutes and  
14 records of all its proceedings, which shall be open at all reasonable times to public  
15 inspection. The board shall make a complete record of the names and addresses and  
16 license numbers of persons licensed as dentists and dental hygienists, and of all  
17 licenses revoked by it. A transcript of the minutes and record entries, certified by the  
18 secretary-treasurer under the seal of the board, shall be evidence of the facts therein

~~stated. The secretary-treasurer shall be the legal custodian of all property, money, minutes, records, proceedings, and seal of the board.~~

\* \* \*

§780. Hearing; notice; penalty; interest

\* \* \*

B.

\* \* \*

(2) Any fine imposed pursuant to this Section shall not be less than five hundred dollars nor more than five thousand dollars for each offense. If the fine levied by the committee is not paid in full by the unlicensed person or licensee within thirty days of service of the administrative decision, the board shall be entitled to legal interest as provided in R.S. 9:3500 on the unpaid portion from the date of imposition of the penalty until paid.

(3) After a hearing wherein a charge, or a number of charges, is proven by clear and convincing evidence, and even if there is no fine imposed, the unlicensed person, the licensed dentist, or licensed dental hygienist shall pay, not later than the thirtieth day after the decision is made by the committee, all costs, from the start of the investigation through an administrative hearing, judicial review, and any appeals, including but not limited to stenographer fees, attorney fees, investigative fees and expenses, witness fees and expenses, and the per diem and expenses of the committee members, as detailed in a recapitulation of said costs provided by the board to the licensee or unlicensed person. The unlicensed person, the licensed dentist, or licensed dental hygienist shall pay legal interest as provided in R.S. 9:3500 on the costs imposed pursuant to this Subsection. The legal interest shall begin thirty days after the written recapitulation, with supporting documentation of those costs, is served on the unlicensed person or licensee and shall continue to accrue until the costs are paid in full.

(4) If, for any reason, the money portion of the committee's decision is not paid by the unlicensed person, licensed dentist, or licensed dental hygienist for fines

1 and costs imposed pursuant to this Section, the board may recover any and all  
2 reasonable attorney fees in association with the collection of them.

3 ~~(4)~~ (5) The committee shall release to the public the result of any decision  
4 rendered by it after it has become final.

5 \* \* \*

6 §786. Judicial review of adjudication

7 \* \* \*

8 D.

9 \* \* \*

10 (2) Any security furnished under the provisions of this Section shall be in  
11 favor of the ~~board~~ clerk of court for the judicial district in which the proceeding was  
12 brought and shall be furnished as security for the judicial review of the complaining  
13 party in civil district court and any judgment by the district court against him shall  
14 be paid or satisfied from the proceeds of the sale of his property, or from the security  
15 posted under the provisions of this Section. Mortgages on immovable property are  
16 adequate security, but only where the mortgage is applied to unencumbered  
17 immovables; mortgages in other than a first position are unacceptable as security  
18 under this Section.

19 \* \* \*

20 §793. Nitrous oxide inhalation analgesia; enteral moderate sedation; parenteral  
21 sedation; deep sedation; general anesthesia; definitions; permits; credentials;  
22 reporting; fees; limitations; exceptions

23 \* \* \*

24 C.(1) When nitrous oxide inhalation analgesia, enteral moderate sedation,  
25 parenteral moderate sedation, deep sedation, or general anesthesia are used in a  
26 dental practice, board authorization shall be obtained in compliance with board rules  
27 and regulations to ensure that these procedures are performed in a properly staffed,  
28 designed, and equipped facility capable of handling the procedures, problems, and  
29 ~~emergency incidents~~ emergencies incident thereto for the level of anesthesia

1 administered. Adequacy of the facility and competence of the anesthesia team shall  
2 be determined by the board through the use of qualified anesthesia consultants.

3 \* \* \*

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Dixon

HB No. 245

**Abstract:** Authorizes the collection of legal interest on unpaid fines and costs levied by the La. State Board of Dentistry.

Present law creates the La. State Board of Dentistry and provides for the composition of the board, its powers and duties, and required meetings.

Proposed law retains present law.

Present law requires the secretary-treasurer of the board to be the legal custodian of all property, money, minutes, records, proceedings, and seal of the board.

Proposed law repeals present law.

Present law authorizes the board to investigate and hold an administrative hearing when a violation of present law has been committed by a licensee of the board or unlicensed person practicing dentistry in this state. Present law further authorizes the board to impose a fine not less than \$500 nor more than \$5,000 for each offense committed by the licensee or unlicensed person practicing dentistry in this state.

Proposed law retains present law and adds the requirement that, if the fine is not paid in full by the licensee or unlicensed person within 30 days of service of the administrative decision, the board shall be entitled to legal interest on the unpaid portion from the date of imposition of the penalty until paid.

Present law requires the licensee or unlicensed person, after a hearing wherein a charge is proven by clear and convincing evidence, to pay, not later than the 30th day after the decision is made by the committee, all costs from the start of the investigation through an administrative hearing, judicial review, and any appeals, including but not limited to stenographer fees, attorney fees, investigative fees and expenses, witness fees and expenses, and the per diem and expenses of the committee members, as detailed in a recapitulation of the costs provided by the board to the licensee or unlicensed person.

Proposed law retains present law.

Proposed law requires the licensee or unlicensed person to pay legal interest on the costs imposed pursuant to proposed law.

Proposed law provides that the legal interest shall begin 30 days after the written recapitulation, with supporting documentation of those costs, is served on the unlicensed person or licensee and shall continue to accrue until the costs are paid in full.

Present law authorizes the board, if for any reason the money portion of the hearing committee's decision is not paid by the licensee or unlicensed person, to recover any and all reasonable attorney fees in association with the collection of them.

Proposed law retains present law.

Present law requires the disciplinary committee to release to the public the result of any decision rendered by it after it has become final.

Proposed law retains present law.

Present law authorizes the party aggrieved by a board decision in an administrative adjudication, whether through a disciplinary committee or the entire board, to seek judicial review in the civil district court for the parish of Orleans.

Proposed law retains present law.

Present law requires the party seeking judicial review to furnish security from which any judgment by the district court against the party seeking judicial review will be paid.

Proposed law retains present law.

Present law requires any security furnished to be in favor of the board and to be furnished as security for the judicial review of the complaining party in civil district court.

Proposed law retains present law but changes the party of whom the security furnished shall be in the favor from the board to the clerk of court for the judicial district in which the proceeding was brought by the board.

Present law requires board authorization to be obtained when nitrous oxide inhalation analgesia, enteral moderate sedation, parenteral moderate sedation, deep sedation, or general anesthesia are used in a dental practice to ensure that these procedures are performed in a properly staffed, designed, and equipped facility capable of handling the procedures, problems, and emergencies incident thereto for the level of anesthesia administered.

Proposed law retains present law but makes a technical correction.

(Amends R.S. 37:754(B), 780(B)(2)-(4), 786(D)(2), and 793(C)(1); Adds R.S. 37:780(B)(5))