
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

SB 75 Reengrossed

2017 Regular Session

Mills

Proposed law updates the transfer of agencies to the Louisiana Department of Health provisions to remove repealed and obsolete cites and references, and categorizes those entities statutorily created within the department.

Present law lists all board members and their qualifications to serve on the board. Proposed law adds at least one consumer member to any board that did not previously have one and provides standardized eligibility criteria of consumers to serve on any board.

Proposed law provides that nothing in proposed law shall be construed to change the scope of practice of the individuals licensed by each of the boards. Proposed law also provides that the boards' ability to develop and administer exams, develop applications, process applications, and issue licenses, conduct investigations, subpoena information, make determinations on complaints, and issue notices regarding disciplinary actions, promulgate rules, negotiate a settlement or consent decree with a licensee, and conduct hearings in matters that are not disciplinary or adverse do not change with proposed law.

Present law provides that agencies statutorily created within the department retain all powers and duties for investigation, policymaking, rulemaking, certification, licensing, regulation, enforcement, and adjudication. Proposed law transfers all adjudicatory powers to the division of administrative law.

Present law provides that all of the agencies within the department terminate if the agency terminates. Proposed law establishes that the boards shall terminate concurrently with, but independent of the department, such that they must be specifically re-created in addition to the re-creation of the department.

Present law requires the undersecretary of the department to conduct a budget review of the boards. Proposed law provides specific deliverables of the undersecretary regarding budget review.

Proposed law establishes a mechanism for the public to submit complaints about board action or inaction to the department.

Proposed law provides that only final adjudicatory proceedings shall be transferred to the division of administrative law, that administrative hearings shall be held in the administrative law location closest in proximity to the licensee, and that venue for appeal of the administrative law judge's ruling shall be the district court for the parish in which the licensee is domiciled.

Proposed law provides that no contract for legal services with an attorney or law firm shall be

approved if the contracted hourly rate is more than that of the board's in-house counsel or the hourly rate for a state civil service attorney with comparable years of experience.

Proposed law provides relative to the transfer of agencies to the Louisiana Department of Health, provisions specific to the health profession licensing boards, and the provision to repeal an inactive council are effective upon signature of the governor or upon lapse of time for gubernatorial action. Proposed law provisions relative to the transfer of adjudicatory proceeding to the division of administrative law and the appointment of the consumer member to each board that do not already have one are effective January 1, 2018.

(Amends R.S. 36:259, 801.1(A), 802 (intro para), and 803, R.S. 37:753(B), (C)(4) and (J), 832(B)(2), 916(B), 962, 1042, 1104(A), (B)(1), and (C), 1174(B), 1263(B), (D) and (E), 1515(A)(2) and (3), (C), (D), and (E), 2102(A), 2353(A)(1), (2) and (3), 2403(B)(intro para), 2455(B)(1) and (5), 2503(A)(3)(c), 2654(A), (B), (C) and (D), 2704(A)(intro para), (A)(5), (B) and (C), 2802(A)(1), (C), (D), (E), (F) and (G), 3061(A)(1)(a), 3084(B)(1) (intro para) and (C), 3201(B)(1)(intro para) and (B)(1)(c) and (C), 3389(B)(intro para), 3444(A), (B) and (C), 3463(A), (B) and (E), 3554(A)(1) and (B), 3703(B)(1), and R.S. 49:992(D)(5) and (G); adds R.S. 36:260, R.S. 37:753(C)(5), 1515(F), 2102(C), 2403(B)(6), 2802(H), 3061(A)(1)(d), 3084(B)(1)(e), 3201(B)(1)(e) and (F), 3389(B)(6), 3554(A)(3), and 3703(B)(8); repeals R.S. 37:1263(F) and R.S. 40:5.11(C), (D), (E) and (F))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Updates the name of the Louisiana Board of Wholesale Drug Distributors to the Louisiana Board of Drug and Device Distributors.
2. Clarifies that the purpose of the bill is to fulfill the mission of the health profession licensing boards.
3. Deletes provisions that required a licensee to get advance notice of an investigation.
4. Clarifies that if the board does not proceed with disciplinary or adverse action after an investigation, the records or materials collected pursuant to the investigation shall be destroyed.
5. Creates an exemption from the one year time line for investigation and conclusion on disciplinary or adverse action determination if there is federal agency involvement and the federal agency requests that the board not take action on the licensee pending their investigation.
6. Establishes time lines that provide the licensee with 30 days from the date he receives notice of the board's intent to take adverse or disciplinary action, to request an

informal reconsideration with the board, or request a fair hearing with the division of administrative law.

7. Establishes that proposed law does not change the scope of practice of the individuals licensed by each of the boards and does not impact the board's ability to conduct exams, conduct investigations, promulgate rules, negotiate settlements or enter into consent decrees with a licensee, or conduct hearings in matters that are not disciplinary or adverse.
8. Provides clarification that the consumer member of the board shall not have a material financial interest in the health care profession.

Senate Floor Amendments to engrossed bill

1. Clarifies that the division of administrative law will only preside over hearings in which final action of the licensee is being pursued by the board, that the hearing will be held in a location in closest proximity to the licensee, and the licensee can appeal the decision of the administrative law judge to the district court in the parish of his domicile.
2. Removes all provisions in proposed law regarding investigations and reverts to the current practices of the boards regarding investigations.
3. Clarifies that a consent decree entered into between the board and the licensee does not need to be approved by the administrative law judge.
4. Clarifies that the approval of attorney contracts is not the responsibility of the Louisiana Department of Health, but rather a condition of contract approval in accordance with state procurement protocol.
5. Provides clarification that the consumer member of the Louisiana Behavior Analyst Board shall not have a material financial interest in the healthcare profession.