

2025 Regular Session

ACT No. 229

HOUSE BILL NO. 682 (Substitute for House Bill No. 406 by Representative Ventrella)

BY REPRESENTATIVE VENTRELLA

AN ACT

To amend and reenact R.S. 44:4.1(B)(24) and (35) and to enact R.S. 37:1249.1 and R.S. 49:980.1, relative to adjudication proceedings by a professional or occupational licensure board created pursuant to Title 37 of the Louisiana Revised Statutes of 1950 that reports to the National Practitioner Data Bank pursuant to the Administrative Procedure Act; to provide for rescission of board action and expungement of board records by the Louisiana Board of Pharmacy; to provide for expungement of records related to a stipulation, agreed settlement, consent order, or proceeding in certain circumstances; to provide for grounds for board action rescission and expungement; to provide for procedures; to provide for confidentiality of records; to provide for void reports issued to third-party data banks; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1249.1 is hereby enacted to read as follows:

§1249.1. Board action and expungement of adjudication records; procedure; confidentiality

A.(1) Notwithstanding any provision of law to the contrary, a pharmacist or person permitted to operate a pharmacy may request board action rescission and expungement of adjudication proceeding records relative to a board stipulation, agreed settlement, consent order, or default if the attorney general issues a written opinion that the interpretation of law relied upon by the board and which resulted in the stipulation, agreed settlement, consent order, or default was erroneous.

(2) Notwithstanding any provision of law to the contrary, a person permitted by the board to operate a pharmacy may request board action rescission and

1 expungement of adjudication proceeding records relative to a stipulation, agreed
2 settlement, or consent order if all of the following apply:

3 (a) The person permitted to operate a pharmacy employed a pharmacist
4 licensed by the board and the pharmacist committed a regulatory violation or
5 criminal act while in the course and scope of his employment without the knowledge
6 or consent of the person who holds the pharmacy permit.

7 (b) Upon learning of the regulatory violation or criminal act of the
8 pharmacist, the person who holds the pharmacy permit terminated the pharmacist
9 and reported the regulatory violation or criminal act to the board or any other
10 appropriate state or federal regulatory or law enforcement agency.

11 (c) No other state or federal agency with regulatory or law enforcement
12 jurisdiction took adverse action against the person who holds the pharmacy permit.

13 (d) The person permitted to operate a pharmacy entered into a stipulation,
14 agreed settlement, or consent order with the board as a result of the pharmacists'
15 regulatory violation or criminal act and the stipulation, agreed settlement, or consent
16 order was reported to a third-party databank.

17 (3) Notwithstanding any provision of law to the contrary, a pharmacist or
18 person permitted to operate a pharmacy may request expungement of adjudication
19 proceeding records relative to board adjudication proceedings filed against the
20 pharmacist or person permitted to operate a pharmacy in which it is alleged that the
21 pharmacist or person permitted to operate a pharmacy violated one or more
22 provisions of law if at the conclusion of the adjudication proceedings there is no
23 finding that the pharmacist or person permitted to operate a pharmacy violated the
24 law.

25 B.(1) A pharmacist or person permitted to operate a pharmacy who seeks
26 board action rescission and expungement pursuant to this Section shall file with the
27 board a written request for board action rescission and expungement setting forth the
28 facts that demonstrate that the applicable requirements of Subsection A of this
29 Section are satisfied.

1 (2)(a) The board shall consider the request and if the facts stated in the
2 request demonstrate that the applicable requirements of Subsection A of this Section
3 are satisfied, the board shall enter into an order rescinding the applicable board
4 action and expunging the adjudication proceeding records relative to the board
5 stipulation, agreed settlement, consent order, default, or proceedings. The board may
6 enter into a non-disciplinary stipulated order with the pharmacist or person permitted
7 to operate a pharmacy agreeing to rescind board action and expunge the related
8 board records, which shall state the provisions of Subsection A of this Section that
9 authorize the board action rescission and expungement.

10 (b) If the order of expungement involves records of the division of
11 administrative law, the board shall ensure that the order of expungement is served
12 on the director of the division of administrative law as soon as practicable after
13 issuance.

14 C.(1) Upon rescission of board action and expungement of related records,
15 the board shall remove from public access all stipulations, agreed settlements,
16 consent orders, or adjudication proceeding records that are ordered to be expunged;
17 however, the records shall not be destroyed.

18 (2)(a) Expunged stipulations, agreed settlements, consent orders, and
19 adjudication proceeding records shall be privileged, confidential, are no longer
20 considered public records, and shall not be made available to any person or entity
21 other than the board.

22 (b) All records concerning a request to rescind board action and expunge
23 board records shall be confidential and shall not be made available to any person or
24 other entity, except that such record shall be available to the board.

25 D. The board shall submit a void report to any third-party data bank to which
26 the board action had been reported to stating that the action of the board has been
27 fully and unequivocally rescinded and that no record of violation exists for the
28 pharmacist or person permitted to operate a pharmacy as it relates to the board
29 stipulation, agreed settlement, or consent order for the specific matter that was the
30 subject of the rescission.

1 Section 2. R.S. 49:980.1 is hereby enacted to read as follows:

2 §980.1. Board action rescission and expungement of adjudication records;
3 procedure; confidentiality

4 A.(1) Notwithstanding any provision of law to the contrary, a person who
5 holds or has held an occupational license issued by a professional occupational
6 license board created under Title 37 of the Louisiana Revised Statutes of 1950 may
7 request board action rescission and expungement of adjudication proceeding records
8 relative to board action resulting in an adverse report to the National Practitioner
9 Data Bank if the attorney general issues a written opinion that the interpretation of
10 law relied upon by the professional occupational licensure board and which resulted
11 in the adverse action was erroneous.

12 (2) Notwithstanding any provision of law to the contrary, a person who holds
13 or has held an occupational license issued by a professional occupational licensure
14 board created under Title 37 of the Louisiana Revised Statutes of 1950 may request
15 board action rescission and expungement of adjudication proceeding records relative
16 to board adjudication proceedings filed against the person in which it is alleged that
17 the person violated one or more provisions of law if at the conclusion of the
18 adjudication proceedings there is no finding that the person violated the law.

19 B.(1) A person who seeks expungement pursuant to this Section shall file
20 with the professional occupational licensure board a written request for board action
21 rescission and expungement setting forth the facts that demonstrate that the
22 applicable requirements of Subsection A of this Section are satisfied.

23 (2)(a) The professional occupational licensure board shall consider the
24 request and if the facts stated in the request demonstrate that the applicable
25 requirements of Subsection A of this Section are satisfied, the professional
26 occupational licensure board shall enter into an order rescinding the applicable board
27 action and expunging the adjudication proceeding records relative to the adverse
28 action or proceedings. The professional occupational licensure board may enter into
29 a non-disciplinary stipulated order with the licensee to rescind the adverse board
30 action and expunge the related board records, which shall state the provisions of

1 Subsection A of this Section that authorize the board action rescission and
2 expungement.

3 (b) If the order of expungement involves records of the division of
4 administrative law, the professional occupational licensure board shall ensure that
5 the order of expungement is served on the director of the division of administrative
6 law as soon as practicable after issuance.

7 C.(1) Upon rescission of adverse board action and expungement of related
8 records, the board shall remove from public access all stipulations, agreed
9 settlements, consent orders, board orders, and adjudication proceeding records that
10 are ordered to be expunged; however, the records shall not be destroyed.

11 (2)(a) Expunged adverse actions and any related adjudication proceeding
12 records shall be privileged, confidential, are no longer considered public records, and
13 shall not be made available to any person or entity other than the professional
14 occupational licensure board.

15 (b) All records concerning a request to rescind adverse board action and
16 expunge board records shall be confidential and shall not be made available to any
17 person or other entity, except that such record shall be available to the professional
18 occupational licensure board.

19 D. The professional occupational licensure board shall submit a void report
20 to any third-party data bank to which the board action had been reported to stating
21 that the action of the board has been fully and unequivocally rescinded and that no
22 record of violation exists for the licensee as it relates to the board stipulation, agreed
23 settlement, consent order, or board order for the specific matter that was the subject
24 of the rescission.

25 Section 3. R.S. 44:4.1(B)(24) and (35) are hereby amended and reenacted to read as
26 follows:

27 §4.1. Exceptions

28 * * *

29 B. The legislature further recognizes that there exist exceptions, exemptions,
30 and limitations to the laws pertaining to public records throughout the revised

1 statutes and codes of this state. Therefore, the following exceptions, exemptions, and
2 limitations are hereby continued in effect by incorporation into this Chapter by
3 citation:

4 * * *
5 (24) R.S. 37:74, 86, 90, 147, 691, 711.10, 763, 763.1, 781, 920.1, 969.1,
6 1123(E), 1249.1, 1277, 1278, 1285, 1326, 1338.1, 1360.53.1, 1360.104.1, 1518,
7 1745.15, 1747, 1806, 2156.1, 2406, 2505.1, 2863.1, 3276.2, 3481, 3507.1

8 * * *
9 (35) R.S. 49:220.25, 975.1, 980.1, 997, 1055

10 * * *

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____