

Regular Session, 2012

HOUSE BILL NO. 639

BY REPRESENTATIVE PATRICK WILLIAMS

DENTISTRY: Provides relative to the identification, monitoring, assistance, and treatment of dentists and dental hygienists suffering from mental illness, physical deficiencies, or substance abuse

1 AN ACT

2 To amend and reenact R.S. 37:791(B) and to enact R.S. 37:770(F), 791(A)(3) and (4), and
3 795(B)(2)(v) and (3)(m), relative to the well-being program for dentists and dental
4 hygienists; to provide for the assessment and collection of a fee to be used for the
5 treatment of dentists and dental hygienists suffering from mental illness, physical
6 deficiencies, or substance abuse; to provide for the limitation of liability of the
7 Louisiana State Board of Dentistry and certain other specified people involved in the
8 identification, investigation, and treatment of dentists and dental hygienists suffering
9 from certain illnesses or deficiencies; to authorize the recovery of the cost of
10 defending a frivolous lawsuit under certain circumstances; to establish minimum and
11 maximum fees to be collected from dentists and dental hygienists to support the
12 well-being program; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. R.S. 37:791(B) is hereby amended and reenacted and R.S. 37:770(F),
15 791(A)(3) and (4), and 795(B)(2)(v) and (3)(m) are hereby enacted to read as follows:

16 §770. Renewals; requirements

17 * * *

18 F. In addition to all other applicable fees and costs attendant to the issuance,
19 renewal, or reinstatement of any license, certificate, permit, or registration issued to
20 a dentist by the board pursuant to this Part, the board shall charge and collect a fee
21 from each dentist and each dental hygienist in an amount set by the board to be

1 utilized for the identification, monitoring, and assistance of, and procurement of
2 treatment for, dentists and dental hygienists suffering from substance abuse,
3 chemical dependency, psychiatric conditions, or physical deficiencies resulting in
4 behavior such as defined in R.S. 37:776(A)(5) and (17) which may interfere with
5 their ability to practice dentistry or dental hygiene with reasonable skill and safety.

6 (1) The fee established in this Subsection shall be due and payable at the
7 time of application for the issuance, renewal, or reinstatement of any license, permit,
8 certificate, or registration.

9 (2) The fee established in this Subsection shall not be collected from a
10 dentist seeking issuance or renewal of a retired volunteer license.

11 * * *

12 §791. Protected action and communication

13 A. There shall be no liability on the part of and no action for damages
14 against:

15 * * *

16 (3) Any nonprofit corporation, foundation, or organization that enters into
17 any agreement with the board related to the operation of any committee or program
18 to identify, investigate, counsel, monitor, or assist any licensed physician who suffers
19 or may suffer from alcohol or substance abuse or a physical or mental condition
20 which could compromise such dentist's fitness and ability to practice dentistry with
21 reasonable skill and safety to patients, for any investigation, action, report,
22 recommendation, decision, or opinion undertaken, performed, or made in connection
23 with or on behalf of such committee or program, without malice and in the
24 reasonable belief that such investigation, action, report, recommendation, decision,
25 or opinion was warranted.

26 (4) Any person who serves as a director, trustee, officer, employee,
27 consultant, or attorney for or who otherwise works for or is associated with any
28 nonprofit corporation, foundation, or organization as described in Paragraph (3) of
29 this Subsection.

1 B. In any suit brought against ~~the board, its employees or agents, any~~
 2 ~~member of an examining committee appointed or designated by the board, or any~~
 3 ~~person or entity providing information to the board~~ any individual or entity described
 4 in Subsection A of this Section, when ~~the board, its employees or agents, any~~
 5 ~~member of an examining committee or any person or entity providing information~~
 6 ~~to the board~~ that individual or entity substantially prevails in such suit, the court
 7 shall, at the conclusion of the action, award to the ~~board, its employees or agents, any~~
 8 ~~member of an examining committee or any person or entity providing information~~
 9 ~~to the board~~ individual or entity described in Subsection A of this Section and assess
 10 against the claimant the cost of defending the suit attributable to such claim,
 11 including reasonable attorney fees, if the claim, or the claimant's conduct during the
 12 litigation of the claim, was either frivolous, unreasonable, without foundation, or in
 13 bad faith. For the purpose of this Subsection, the ~~board, its employees or agents, any~~
 14 ~~member of an examining committee appointed or designated by the board or any~~
 15 ~~person or entity providing information to the board~~ individual or entity described in
 16 Subsection A of this Section shall not be considered to have substantially prevailed
 17 when the claimant obtains an award for damages or permanent injunctive or
 18 declaratory relief.

19 * * *

20 §795. Fees and costs

21 * * *

22 B. Notwithstanding any other provision of this Chapter, the fees and costs
 23 established by the board shall be not less nor more than the range created by the
 24 following schedule:

25 * * *

26 (2) Licenses, permits, and examinations for dentists

27 * * *

28 (v) Fee to support well-being program \$ 25.00 50.00

1	(3) Licenses, permits, and examinations		
2	for dental hygienists		
3	* * *		
4	<u>(m) Fee to support well-being program</u>	<u>\$5.00</u>	<u>15.00</u>
5	* * *		

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)]

Patrick Williams

HB No. 639

Abstract: Authorizes the imposition of a fee for the identification, monitoring and assistance of, and procurement of treatment for dentists and dental hygienists suffering from mental illness, physical deficiencies, or substance abuse.

Proposed law (R.S. 37:770(F)) provides that in addition to all other applicable fees and costs the board must charge and collect a fee, which is set by the board, from each dentist and each dental hygienist to be utilized in the treatment of dentists and dental hygienists suffering from mental illness, physical deficiencies, or substance abuse resulting in behavior such as, habitual indulgence in the use of drugs, narcotics, or intoxicating liquors or conduct which disqualifies the licensee to practice dentistry with safety to the public, including inability to practice dentistry with reasonable skill or safety to patients because of mental illness or deficiency or physical illness, including but not limited to deterioration through the aging process or loss of motor skills which may interfere with their ability to practice dentistry or dental hygiene with reasonable skill and safety.

Provides that the fee established in present law is due and payable at the time of application for the issuance, renewal, or reinstatement of any license, permit, certificate, or registration.

Prohibits the collection of the fee established in present law from a dentist seeking issuance or renewal of a retired volunteer license.

Proposed law (R.S. 37:791(A)(3) and (4)) specifies that there is no liability and no action for damages against:

- (1) Any nonprofit corporation, foundation, or organization that enters into any agreement with the board related to the operation of any committee or program to identify, investigate, counsel, monitor, or assist any licensed dentist who suffers or may suffer from alcohol or substance abuse or a physical or mental condition which could compromise such dentist's fitness and ability to practice dentistry with reasonable skill and safety to patients, for any investigation, action, report, recommendation, decision, or opinion undertaken, performed, or made in connection with or on behalf of such committee or program, without malice and in the reasonable belief that such investigation, action, report, recommendation, decision, or opinion was warranted.
- (2) Any person who serves as a director, trustee, officer, employee, consultant, or attorney for or who otherwise works for or is associated with any nonprofit corporation, foundation, or organization as described in proposed law.

Present law (R.S. 37:791(B)) provides that in any suit brought against the board or specified other related parties providing information to the board, when the board, or the specified other related parties substantially prevail in such suit, the court must award all of these parties the cost of defending the suit attributable to such claim, including reasonable attorney fees, if the claim, or the claimant's conduct during the litigation of the claim, was either frivolous, unreasonable, without foundation, or in bad faith. Further, provides that the board and specified other related parties providing information to the board cannot be considered to have substantially prevailed when the claimant obtains an award for damages or permanent injunctive or declaratory relief.

Proposed law modifies present law by specifying that in any suit brought against any individual or entity protected under present law, when that individual or entity substantially prevails in such suit, the court must award to that individual or entity and assess against the claimant the cost of defending the suit attributable to such claim, including reasonable attorney fees, if the claim, or the claimant's conduct during the litigation of the claim, was either frivolous, unreasonable, without foundation, or in bad faith. Further, provides that the individual or entity protected under present law cannot be considered to have substantially prevailed when the claimant obtains an award for damages or permanent injunctive or declaratory relief.

Proposed law establishes a minimum fee of \$25 and a maximum fee of \$50 to be assessed against dentists for support of the well-being program for the service and treatment of dentists. Also, establishes a minimum fee of \$5 and a maximum fee of \$15 to be assessed against dental hygienists for support of the well-being program for the service and treatment of dental hygienists.

(Amends R.S. 37:791(B); Adds R.S. 37:770(F), 791(A)(3) and (4), and 795(B)(2)(v) and (3)(m))