

2016 Regular Session

SENATE BILL NO. 429

BY SENATOR BARROW

HEALTH/HOSPITALS DEPT. Provides for the Louisiana State Board of Medical Examiners. (8/1/16)

1 AN ACT

2 To amend and reenact R.S. 37:1263 and to repeal R.S. 37:1264 and 1265, relative to the  
3 board of medical examiners; to provide for membership; to provide for congressional  
4 districts; to provide for qualifications; to provide for an appointment process; to  
5 provide for removal; to provide for terms; to provide for an effective date; and to  
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:1263 is hereby amended and reenacted to read as follows:

9 §1263. Louisiana State Board of Medical Examiners; membership; congressional  
10 districts; qualifications; appointment; removal; terms

11 A. The Louisiana State Board of Medical Examiners is hereby created within  
12 the Department of Health and Hospitals and is subject to the provisions of R.S.  
13 36:803.

14 B.~~(1) Until January 1, 2000, the board shall consist of seven members, all~~  
15 ~~appointed by the governor from lists of names submitted by the Louisiana State~~  
16 ~~Medical Society and the Louisiana Medical Association. At least one of the members~~  
17 ~~appointed to the board shall be a physician practicing in a parish or municipality with~~

1 a population of less than twenty thousand people, and at least one member shall be  
2 appointed from the list submitted by the Louisiana Medical Association.

3 (2) Beginning on January 1, 2000, the board shall consist of seven voting  
4 members, all appointed by the governor and subject to Senate confirmation as  
5 follows:

6 (a) Four members from a list of names submitted by the Louisiana State  
7 Medical Society. One of the members so appointed shall practice in a parish or  
8 municipality with a population of less than twenty thousand people.

9 (b) Two members from a list submitted by the Louisiana Medical  
10 Association.

11 (c) One member from a list submitted by the Louisiana Academy of Family  
12 Practice Physicians.

13 **(1) Beginning on January 1, 2017, the board shall consist of seven**  
14 **members appointed by the governor, including one licensed physician from each**  
15 **of the congressional districts and one representative of the consumers of**  
16 **Louisiana from the state at-large who possesses the qualifications specified in**  
17 **Paragraph (C)(2) of this Section. For purposes of this Section, the composition**  
18 **of the congressional districts shall be pursuant to the 2010 federal decennial**  
19 **census.**

20 **(2) Each appointment by the governor shall be subject to Senate**  
21 **confirmation.**

22 C. All voting members of the board shall be graduate physicians or surgeons  
23 and practitioners.

24 **(1) Each physician member of the board shall at the time of**  
25 **appointment:**

26 **(a) Be a resident of this state for not less than six months.**

27 **(b) Be currently licensed and in good standing to engage in the practice**  
28 **of medicine in this state.**

29 **(c) Be actively engaged in the practice of medicine in this state.**

1           (d) Have five years of experience in the practice of medicine in this state  
2           after licensure.

3           (e) Shall not have been convicted of a felony.

4           (f) Shall not have been placed on probation by the board.

5           (2) The consumer member of the board shall be a resident of this state  
6           who has attained the age of majority and shall not have nor shall ever have had  
7           material financial interest in the providing of medical services or who has  
8           engaged in any activity directly related to the practice of medicine. The  
9           consumer representative shall not have been convicted of a felony.

10          D.(1) The governor shall appoint the members of the board in  
11          accordance with other provisions of this Section and the state constitution.

12          (2) When a vacancy occurs in the membership of the board representing  
13          one of the congressional districts for any reason, including expiration of term,  
14          removal, resignation, death, disability, or disqualification, the following  
15          nominating process shall be satisfied:

16          (a) The physician making the nomination shall be a resident of the  
17          congressional district where the vacancy occurs.

18          (b) The physician nominee shall be a resident of the congressional  
19          district where the vacancy occurs.

20          (c) Nomination ballots shall be returned to the board office at least sixty  
21          days prior to a vacancy occurring by an expiring term.

22          (d) Nomination ballots shall be returned to the board office at least thirty  
23          days following a vacancy occurring by death, resignation, inability to act, or  
24          other cause.

25          (e) The nominee shall not have been convicted of a felony.

26          (f) The nominee shall not have been placed on probation by the board.

27          (3) When the vacancy in question involves the consumer representative,  
28          the governor shall fill the vacancy at his pleasure without following the  
29          procedure set forth in Paragraph (2) of this Subsection, provided the consumer

1 representative meets the requirements for such member specified in this  
2 Section.

3 (4) The secretary of the board shall be charged with the duty of  
4 forwarding to each licensed physician, by United States mail, to the last known  
5 address indicated in the board's records, a nomination ballot. The ballot, or an  
6 accompanying communication, shall indicate the date, time, and place, for the  
7 counting of ballots. At a gathering open to the public, the ballots shall be  
8 counted openly by the secretary or by one or more individuals designated by the  
9 president. The secretary shall certify to the governor the names of the three  
10 nominees receiving the highest number of nominations. From the names  
11 submitted to him in this manner, the governor may select and appoint one  
12 eligible individual to fill the vacancy in question. The governor should ensure  
13 that several disciplines in physician specialty and ethnic diversity are included  
14 among those appointed.

15 (5) In the absence of the secretary, or in the event of his inability or  
16 failure to act, the duties of the secretary with respect to the mailing and  
17 counting of ballots and the certification to the governor shall be performed by  
18 the president of the board.

19 (6) The successor to each member of the board appointed from a  
20 congressional district shall be appointed from the congressional district having  
21 the same number designation as the congressional district from which the  
22 member who is being replaced was appointed.

23 (7) Each member of the board appointed from a congressional district  
24 to fill a vacancy occurring by death, resignation, inability to act, or other cause,  
25 shall serve for the remainder of the term of his predecessor.

26 E.(1) A board member may be removed upon one or more of the  
27 following grounds:

28 (a) The refusal or inability for any reason to perform his duties as a  
29 member of the board in an efficient, responsible, and professional manner.

1                   **(b) The misuse of office to obtain personal, pecuniary, or material gain**  
2                   **or advantage for himself or another through such office.**

3                   **(c) The violation of the laws governing the practice of medicine.**

4                   **(2) Removal of a member of the board shall be in accordance with the**  
5                   **Administrative Procedure Act or other applicable laws.**

6                   **(3) The governor may remove any member of the board for good cause.**

7                   **F.(1) Except as provided in Subsection D of this Section, physician**  
8                   **members of the board shall be appointed for a term of six years, beginning on**  
9                   **July first of the year in which the appointment is made.**

10                   **(2) The terms of the physician members of the board shall be staggered,**  
11                   **so that each member serves a term of four years with no physician member**  
12                   **serving more than three consecutive four-year terms. Each member serving on**  
13                   **the board on August 1, 2016, shall be allowed to continue his current four-year**  
14                   **term. Upon completion of that four-year term, the member shall be replaced**  
15                   **using the selection process established in Paragraph (D)(2) of this Section. The**  
16                   **first congressional district shall be allotted to the first vacancy with each**  
17                   **subsequent vacancy being filled by congressional district in numerical order**  
18                   **from two to six.**

19                   **(3) The at-large consumer representative shall be appointed upon**  
20                   **completion of filling all congressional district seats on the board and once**  
21                   **appointed shall serve at the pleasure of the governor.**

22                   Section 2. R.S. 37:1264 and 1265 are hereby repealed.

23                   Section 3. This Act shall become effective on August 1, 2016; if vetoed by the  
24                   governor and subsequently approved by the legislature, this Act shall become effective on  
25                   August 1, 2016, or on the day following such approval by the legislature, whichever is later.

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

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## DIGEST

SB 429 Reengrossed

2016 Regular Session

Barrow

Present law provides that membership of the Louisiana State Board of Medical Examiners shall include seven voting members appointed by the governor and confirmed by the Senate to include:

- (1) Four members from a list of names submitted by the Louisiana State Medical Society. One of the members from a parish or municipality with less than twenty thousand people.
- (2) Two members submitted by the Louisiana Medical Association.
- (3) One member submitted from the Louisiana Academy of Family Practice Physicians.

Present law provides that all voting members of the board must be graduate physicians or surgeons and practitioners.

Present law provides for the mechanism to fill vacancies and for removal of members and for terms of appointment.

Proposed law provides that the board shall have seven members comprised of 6 physicians, one from each of the six congressional districts as established by the 2010 federal decennial census and one consumer. The new members will be phased in as the existing membership terms expire.

Proposed law provides the following specific qualifications for physicians to be eligible for appointment:

- (1) Be a resident of this state for not less than six months.
- (2) Be currently licensed and in good standing to engage in the practice of medicine in this state.
- (3) Be actively engaged in the practice of medicine in this state.
- (4) Have five years of experience in the practice of medicine in this state after licensure.
- (5) Shall not have been convicted of a felony.
- (6) Shall not have been placed on probation by the board.

Proposed law provides for procedure for appointment, filling of vacancies, removal and duration of terms.

Effective August 1, 2016.

(Amends R.S. 37:1263; repeals R.S. 37:1264 and 1265)

Summary of Amendments Adopted by Senate

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

1. Changes board membership from seventeen members based on physician districts to seven members to include one from each of the six congressional districts based on the 2010 federal decennial census and one consumer representative.
2. Establishes a phase-in implementation to membership by congressional district to replace existing board members as their current terms expire.