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OPINION NUMBER 03-0243

1 Administrative Procedure Act
19-B Dentistry
63-B Licensing – for professions and occupations

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Louisiana State Board of Dentistry
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Mr. Begue:

It is the opinion of this office that the requirements of due process are met when the Department of Social Services has given the obligor notice of child support delinquency and of the intent to suspend his license(s). Additionally, the due process requirements are met when the obligor has been given opportunity (i.e., the obligor may file a written objection within twenty (20) days following receipt of the notice of child support delinquency) to file and has filed a timely objection requesting an administrative hearing. See La.R.S. 9:315.41; La.R.S. 9:315.42; La.R.S. 9:315.43. When the department receives a timely written objection, it is then legally mandated to conduct a hearing for the sole purpose of determining whether the obligor is in compliance.

This office is in receipt of your recent opinion request in which you present the following issue for our review: whether the immediate suspension of a license issued to a person by the Louisiana State Board of Dentistry as mandated by Title 9 denies the individual due process of law.

La.R.S. 9:315.45 provides the applicable laws relative to the suspension of Louisiana licenses for failure to pay child support. La.R.S. 9:315.45(A) states, in pertinent part, that

“within thirty days after receipt of a certification of noncompliance from the department, the licensing authority shall suspend the license of all licensees named therein and notify each licensee that his license has been suspended because of noncompliance with an order of support.”

The licensing authority shall specify a date of suspension, which date shall be within thirty days from the licensing authority's receipt of the order of suspension. La.R.S. 9:315.45(B). It (the licensing authority) shall then promptly issue a notice of suspension informing the licensee of all the following: (1) his license has been suspended by administrative order for noncompliance with an order of support, including a copy of the certification of nonsupport; (2) the effective date of the suspension; (3) to apply for reinstatement, the obligor must obtain a compliance release from the department; and (4) any other information prescribed by the licensing authority. La.R.S. 9:315.33(B). “Department” for the purposes of La.R.S. 9:315.45 means the Department of Social Services, office of family support. “License” is defined, in pertinent part, as any license, certification, registration, permit, approval, or other similar document evidencing admission to or granting authority for engaging in a profession, occupation, business, or industry. La.R.S. 9:315.45(4)(a). The “licensing authority” is any state board,

commission, department, agency, officer, or other entity, which issues, authorizes, or otherwise regulates licenses.

The department may send by certified mail, return receipt requested, a notice of child support delinquency to an obligor who is not in compliance with an order of support informing the obligor of the department's intention to submit his name to the licensing authority for suspension of his license. La.R.S. 9:315.41(A). If the obligor holds multiple licenses, the department may issue a single notice of its intention to submit multiple suspensions. La.R.S. 9:315.41(A). A notice of child support delinquency shall include all of the following: (1) a summary of the obligor's right to file a written objection to the suspension of his license, including the time within which such objection must be filed and the address where the objection must be filed; (2) a brief description of the administrative hearing and the location of such hearing if the obligor timely files a written objection; (3) the municipal address and telephone number of the department that issued the notice of child support delinquency; (4) the docket number and court which issued the order of support; (5) a statement of the amount of past-due support; and (6) a brief summary of what the obligor must do to come into compliance or to forestall the suspension. La.R.S. 9:315.41(B). Within twenty days of receiving the notice of child support delinquency, the obligor may file a written objection with the department requesting an administrative hearing for the purposes of determining whether the obligor is in compliance with an order of support. La.R.S. 9:315.42(A). Upon receipt of a timely written objection, the department shall conduct an administrative hearing in accordance with the Louisiana Administrative Procedure Act. La.R.S. 9:315.43.

There are certain exceptions with respect to the requisite notice of child support delinquency given to obligors pursuant to La.R.S. 9:315.41. Particularly, when the department receives a certified copy of a final judgment to make executory past-due payments under a child support award and the judgment specifically provides for the suspension or revocation of the obligor's license or when the department receives a certified copy of a final judgment or order finding the obligor to be in violation of La.R.S. 14:74, criminal neglect of family, the obligor is not entitled to notice of child support delinquency.

It is the opinion of this office that the requirements of due process are met when the Department of Social Services has given the obligor notice of child support delinquency and of the intent to suspend his license(s). Additionally, the due process requirements are met when the obligor has been given opportunity (i.e., the obligor may file a written objection within twenty (20) days following receipt of the notice of child support delinquency) to file and has filed a timely objection requesting an administrative hearing. See *La.R.S. 9:315.41*; *La.R.S. 9:315.42*; *La.R.S. 9:315.43*. When the department receives a timely written objection, it is then legally mandated to conduct a hearing for the sole purpose of determining whether the obligor is in compliance.

La.R.S. 37:751 et seq, The Louisiana Dental Practice Act and La.R.S. 49:951 et seq, The Louisiana Administrative Procedure Act, were enacted by the legislature in 1940 and 1966 respectively. Later in 1995, the legislature enacted La.R.S. 9:315.41, La.R.S. 9:315.42, and La.R.S. 9:315.43, which govern the administrative suspension of licenses for nonpayment of child support. The enactment of these laws in 1995 represents the latest expression of the legislative will. Particularly, the legislature intended that every license issued pursuant to the statutory authority granted to state agencies, boards, commissions, departments, or other entities, be subject to suspension for failure to make child support payments. Titles 9, 37, and 49 may be read in relation to one another where appropriate. However, where the provisions contained therein may not be reconciled, the legislature intends for its most recent enactments to supersede any of its prior enactments. Therefore, this office opines that the provisions in Title 9 supersede those contained in Titles 37 and 49.

If you need additional information, please do not hesitate to contact this office.

Very truly yours,

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By: 
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