

2016 Regular Session

HOUSE BILL NO. 680

BY REPRESENTATIVE MORENO

HOSPITALS: Requires healthcare services providers to conduct background checks on prospective employees

1 AN ACT

2 To amend and reenact R.S. 40:1203.1(3)(a) through (c), (g), and (o), (4), and (5) and
3 1203.2(B)(1) and (3) and (E) and to enact R.S. 40:1203.1(3)(d), (i), (j), and (p)
4 through (y) and 1203.2(F), relative to nonlicensed healthcare providers; to require
5 certain healthcare services providers to perform criminal background history checks
6 on nonlicensed personnel prior to employment; to authorize the use of fingerprints
7 for criminal background history checks; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:1203.1(3)(a) through (c), (g), and (o), (4), and (5) and
10 1203.2(B)(1) and (3) and (E) are hereby amended and reenacted and R.S. 40:1203.1(3)(d),
11 (i), (j), and (p) through (y) and 1203.2(F) are hereby enacted to read as follows:

12 §1203.1. Definitions

13 For the purposes of this Part:

14 * * *

15 (3) "Employer" means any of the following facilities, agencies, providers,
16 or programs:

17 (a) A nursing ~~home~~, facility, as defined in R.S. 40:2009.2.

18 (b) An intermediate care facility for ~~people~~ individuals with ~~developmental~~
19 intellectual disabilities.

1 (c) An adult residential care ~~home, as defined in R.S. 40:2153.~~ provider, as
2 defined in R.S. 40:2166.3.

3 (d) A pain management clinic as defined in R.S. 40:2198.11.

4 * * *

5 (g) An ambulance service as defined in ~~R.S. 40:1299.41(A).~~ R.S. 40:1131.

6 * * *

7 (i) An ambulatory surgical center as defined in R.S. 40:2133.

8 (j) A crisis receiving center as defined in R.S. 28:2180.12.

9 * * *

10 (o) An adult ~~residential care provider, as defined in R.S. 40:2166.3.~~ day
11 healthcare provider as defined in R.S. 40:2120.42.

12 (p) A psychiatric residential treatment facility licensed pursuant to R.S.
13 40:2009.

14 (q) An end stage renal disease facility as defined in R.S. 40:2117.1.

15 (r) A behavioral health services provider as defined in R.S. 40:2153.

16 (s) An adult brain injury facility as defined in R.S. 40:2120.33.

17 (t) A rural health clinic as defined in R.S. 40:1185.3.

18 (u) A therapeutic group home licensed pursuant to R.S. 40:2009.

19 (v) A provider of case management services.

20 (w) A forensic supervised transitional residential and aftercare facility as
21 defined in R.S. 28:32.

22 (x) An outpatient abortion facility as defined in R.S. 40:2175.3.

23 (y) A hospital as defined in R.S. 40:2102.

24 (4) "Licensed ambulance personnel" means personnel who provide services,
25 either for compensation or volunteer services, ~~of care as a certified~~ an emergency
26 medical service ~~professional practitioner,~~ including ~~certified emergency medical~~
27 ~~technician-basic, certified emergency medical technician-intermediate, certified~~
28 ~~emergency medical technician-paramedic, or certified first responder.~~ Nothing
29 herein shall pertain to any licensed ambulance personnel working for a nursing

1 ~~home, intermediate care facility for people with developmental disabilities, adult~~
2 ~~residential care home, home- and community-based service provider, home health~~
3 ~~agency, or hospice.~~ licensed emergency medical technicians, licensed advanced
4 emergency medical technicians, licensed paramedics, and licensed first emergency
5 medical responders.

6 (5) "Nonlicensed person" means any person who provides for compensation
7 nursing care or other health-related services directly related to patient care to
8 residents in or patients of a nursing facility, intermediate care facility for ~~people~~
9 individuals with developmental intellectual disabilities, adult residential care facility
10 or provider, pediatric day healthcare facility, ~~adult residential care provider, adult~~
11 day healthcare center, psychiatric residential treatment facility, end stage renal
12 disease facility, behavioral health services provider, home health agency, hospice
13 agency, provider of ambulance services, hospital, adult brain injury facility, crisis
14 receiving center, pain management clinic, outpatient abortion facility, rural health
15 clinic, ambulatory surgical center, therapeutic group home, forensic supervised
16 transitional residential and aftercare facility, case management provider, or home-
17 and community-based service provider and who is not a licensed health provider.

18 "Nonlicensed person" also means any person who provides such services to
19 individuals in their own homes as an employee or contract provider of a home health
20 agency, hospice, or home- and community-based service provider. "Nonlicensed
21 person" also means any ~~person employed as a driver by or who contracts as a driver~~
22 ~~with a nonemergency, non-ambulance transportation facility or entity.~~ other direct
23 service worker as defined in R.S. 40:2179 and 2179.1.

24 * * *

25 §1203.2. Employment of nonlicensed persons and licensed ambulance personnel;
26 mandatory criminal history and security checks; temporary employment;
27 notice to applicants

28 * * *

1 B.(1) The employer shall request in writing that the office or authorized
2 agency conduct a criminal history and security check on the nonlicensed person or
3 any licensed ambulance personnel and shall provide the office or authorized agency
4 with any relevant information required by the office or authorized agency to conduct
5 the check. The employer may request that the criminal history and security check
6 be performed using the fingerprints of the nonlicensed person or any licensed
7 ambulance personnel.

8 * * *

9 (3) The security check shall consist of the use of personal identifiers, such
10 as name, social security number, date of birth, fingerprints if provided by the
11 employer, and driver's license number, to search the national sex offender public
12 registry. An authorized agency shall notify the office if a security check reveals that
13 an applicant is listed in the national sex offender public registry.

14 * * *

15 E.(1) An employer shall inform each applicant for employment or each
16 prospective contract provider that the employer is required to obtain a criminal
17 history record and perform a security check before such employer makes an offer of
18 employment to, or contracts with, a nonlicensed person or any licensed ambulance
19 personnel. The employer shall obtain written permission from the applicant for the
20 release of such information to the employer on a form that clearly notifies the
21 applicant it is a crime to provide false information concerning a criminal history
22 check to an employer.

23 (2) Upon request of the employer, each applicant for employment shall be
24 fingerprinted and submit fingerprint samples to the employer to be used to obtain the
25 criminal history record and perform the security check.

26 F. Employers subject to the provisions of this Part shall only contract for
27 staffing services provided by businesses who comply with the provisions of this Part.

1 Section 2. This Act shall become effective upon signature by the governor or, if not
 2 signed by the governor, upon expiration of the time for bills to become law without signature
 3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 5 effective on the day following such approval.

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)]

HB 680 Engrossed

2016 Regular Session

Moreno

Abstract: Requires certain healthcare services providers to perform criminal history and security checks on nonlicensed personnel prior to employment.

Present law requires an employer to request that a criminal history and security check be conducted on a nonlicensed person or any licensed ambulance personnel prior to an offer to employ or to contract with the nonlicensed person or licensed ambulance personnel to provide nursing care, health-related services, medic services, or supportive assistance to any individual.

Proposed law retains present law and adds additional categories of healthcare services providers to the list of employers required to perform a background check on prospective employees.

Proposed law authorizes an employer to request that the criminal history and security check be performed using the fingerprints of the nonlicensed person or any licensed ambulance personnel. Proposed law further requires each applicant for employment, upon request of the employer, to be fingerprinted and submit the fingerprint samples to the employer to be used to obtain the criminal history record and perform the security check.

Proposed law requires employers subject to the provisions of proposed law to only contract for staffing services provided by businesses who comply with the provisions of proposed law.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 40:1203.1(3)(a)-(c), (g), and (o), (4), and (5) and 1203.2(B)(1) and (3) and (E); Adds R.S. 40:1203.1(3)(d), (i), (j), and (p)-(y) and 1203.2(F))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Make technical changes.
2. Restore previously deleted language regarding Medicaid personal care services and the section 1915(c) home and community-based services waiver program in the definition of employer.

3. Delete the reference to the qualification of contracted or employed on staff in the definition of nonlicensed person.
4. Require employers to only contract with businesses who comply with the criminal history and security check requirement.
5. Specify that services provided by nonlicensed persons must be directly related to patient care.
6. Authorize the use of fingerprints for the criminal history and security checks.