

**ACT No. 417**

2017 Regular Session

HOUSE BILL NO. 402

BY REPRESENTATIVE HAVARD

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AN ACT

To amend and reenact R.S. 40:2166.7.1 and to enact R.S. 40:2006(A)(2)(r), (B)(2)(i), and (E)(2)(t), 2154(A)(19), and Part V of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:2162.1 through 2162.8, relative to healthcare facilities licensed and regulated by the Louisiana Department of Health; to define and provide for licensure and regulation of community-based care facilities; to authorize the Louisiana Department of Health to perform licensing and regulatory functions with respect to such facilities; to provide for community-based care facility license applications, issuance, renewal, and fees; to authorize licensure of community-based care facilities which propose to operate in state-owned residential buildings; to provide relative to the moratorium on licensure of level 4 adult residential care providers; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:2166.7.1 is hereby amended and reenacted and R.S. 40:2006(A)(2)(r), (B)(2)(i), and (E)(2)(t), 2154(A)(19), and Part V of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:2162.1 through 2162.8, are hereby enacted to read as follows:

§2006. Fees; licenses; penalties

A.

\* \* \*

(2) This Subsection shall apply to any licensed:

\* \* \*

1                   (r) Community-based care facility.

2                   B.

3                                   \*       \*       \*

4                   (2) This Subsection shall apply to any licensed:

5                                   \*       \*       \*

6                   (i) Community-based care facility.

7                                   \*       \*       \*

8                   E.

9                                   \*       \*       \*

10                  (2) This Subsection shall apply to any licensed:

11                                  \*       \*       \*

12                  (t) Community-based care facility.

13                                  \*       \*       \*

14                  §2154. Applicability

15                    A. The provisions of this Part shall not apply to the licensing of any of the  
16 following facilities or persons and shall not be construed as requiring any of the  
17 following facilities or persons to seek licensure as a behavioral health services  
18 provider:

19                                  \*       \*       \*

20                   (19) Community-based care facilities licensed pursuant to R.S. 40:2162.1 et  
21 seq.

22                                  \*       \*       \*

23                   PART V. COMMUNITY-BASED CARE FACILITIES

24                   §2162.1. Short title

25                    This Part may be cited as the "Community-Based Care Facility Licensing  
26 Law".

27                   §2162.2. Findings and purpose

28                    A. The legislature hereby finds and declares the following:

29                    (1) It is the policy of this state to ensure delivery of sufficient support  
30 services in order to successfully transition adult patients with a primary diagnosis of

1           mental illness from inpatient psychiatric facilities to the most appropriate outpatient  
 2           setting.

3           (2) Repeated admissions of persons to inpatient psychiatric units is a  
 4           significant problem which often results in inadequate care and a failure to stabilize  
 5           the patient, especially if the patient is homeless or has unstable living arrangements.

6           (3) Community-based residential programs are a more cost-effective form  
 7           of treatment and a more appropriate treatment option for persons with mental illness  
 8           than emergency room visits, unnecessary long-term stays in psychiatric hospitals,  
 9           and incarceration.

10          (4) Licensing of community-based residential programs to operate in state-  
 11          owned residential buildings presents an opportunity for adaptive and innovative use  
 12          of those buildings and for optimization of state resources.

13          (5) Persons with a mental illness who are treated in a psychiatric facility and  
 14          released without a stable transitional plan of care are at high risk for hospitalization,  
 15          incarceration, and psychiatric readmission.

16          (6) It is a fiscal and public health priority of this state to establish a licensing  
 17          component for adult community-based residential facilities which has historically  
 18          been missing in the continuum of services for adults with a primary diagnosis of  
 19          mental illness.

20          B. The purpose of this Part is to authorize the Louisiana Department of  
 21          Health to promulgate and adopt rules, regulations, and standards to license and  
 22          regulate facilities to be operated as community-based care facilities in order to  
 23          provide for the health, safety, and welfare of persons with mental illness.

24          §2162.3. Definitions

25          As used in this Part, the following terms have the meaning ascribed in this  
 26          Section:

27          (1) "Applicant" means an entity applying for a community-based care  
 28          facility license from the Louisiana Department of Health.

1                   (2) "Client" means any person who has been accepted for treatment or  
 2                   services, including rehabilitation services, furnished by a facility licensed pursuant  
 3                   to this Part.

4                   (3) "Community-based care facility" means a facility where five or more  
 5                   adults with a primary diagnosis of mental illness who are not related to the operator  
 6                   or administrator and who do not require care above intermediate-level nursing care  
 7                   reside and receive care, treatment, or services that are above the level of room and  
 8                   board and include no more than three hours of nursing care per week per resident.

9                   (4) "Community-based care services" means services provided in a  
 10                  community-based care facility licensed pursuant to the provisions of this Part.

11                  (5) "Department" means the Louisiana Department of Health.

12                  (6) "Financial viability" means the ability of the licensee to maintain capital,  
 13                  lines of credit, insurance, and other financial resources at levels deemed sufficient  
 14                  by the Louisiana Department of Health for operation of a community-based care  
 15                  facility.

16                  (7) "License" means a license issued by the Louisiana Department of Health  
 17                  to a community-based care facility.

18                  §2162.4. Licensure of community-based care facilities

19                  A. Each community-based care facility shall be licensed in accordance with  
 20                  the requirements of this Part and the applicable rules of the department. No facility,  
 21                  agency, institution, person, society, corporation, partnership, unincorporated  
 22                  association, group, or other legal entity providing community-based care services  
 23                  may be established, operated, or reimbursed through the Medicaid program unless  
 24                  licensed as a community-based care facility by the department.

25                  B. A license issued to a community-based care facility shall be issued only  
 26                  for the owner and premises named in the license application.

27                  C. A license issued pursuant to this Part shall be on a form prescribed by the  
 28                  department and shall be valid for a twelve-month period beginning the month of  
 29                  issuance unless revoked or otherwise suspended prior to that date.

1                    D. A license issued pursuant to this Part shall not be transferable or  
 2                    assignable.

3                    E. Each licensed community-based care facility shall post its license in a  
 4                    conspicuous place on the licensed premises.

5                    §2162.5. Rules and regulations; licensing standards

6                    A. The department shall adopt rules, regulations, and licensing standards in  
 7                    accordance with the Administrative Procedure Act to provide for the licensure of  
 8                    community-based care facilities; to provide for the safe operation and maintenance  
 9                    of those facilities; and to provide for the health, safety, and welfare of clients.

10                   B. The rules, regulations, and licensing standards required by this Section  
 11                   shall include, without limitation, all of the following:

12                   (1) Licensure application and renewal application forms, procedures, and  
 13                   requirements.

14                   (2) Operational and personnel requirements.

15                   (3) Practice standards to assure quality of care.

16                   (4) Practice standards to assure the health, safety, and welfare of clients.

17                   (5) Confidentiality of client records.

18                   (6) Initial and annual renewal of license.

19                   (7) Financial viability requirements and requirements for verification and  
 20                   continuous maintenance of financial viability.

21                   (8) Denial, revocation, suspension, and nonrenewal of licenses and  
 22                   procedures for appeals of such decisions.

23                   (9) Facility construction and design.

24                   (10) Other regulations or standards to ensure proper care and treatment of  
 25                   clients.

26                   §2162.6. License application, issuance, and renewal; fees; inspection

27                   A. Each applicant shall submit a license application to the department on  
 28                   forms prescribed by the department and shall provide with the application such  
 29                   information as the department may require by rule.

1           B. Each application for licensure and each license renewal application shall  
2           be accompanied by a nonrefundable license fee in the amount required pursuant to  
3           R.S. 40:2006.

4           C. Following receipt of the completed initial licensing application and  
5           license fee, the department shall perform an onsite survey and inspection. After the  
6           onsite survey and inspection, if the department finds that the applicant meets the  
7           requirements established in this Part and in the licensing standards adopted pursuant  
8           to this Part, then the department shall issue a license to the applicant.

9           D. As a condition for renewal of its license, the licensee shall submit to the  
10          department a completed annual renewal application on the forms prescribed by the  
11          department, which shall contain all information required by the department along  
12          with the annual license renewal fee pursuant to R.S. 40:2006. Upon receipt of the  
13          completed annual renewal application and the annual license renewal fee, the  
14          department shall determine whether the facility continues to meet the applicable  
15          requirements for licensure. The department may perform an onsite survey and  
16          inspection after receiving an annual renewal application. If the provider continues  
17          to meet the applicable requirements for licensure, then the department shall issue a  
18          license which shall be valid for the period specified in R.S. 40:2162.4.

19          E. The department may perform onsite inspections of community-based care  
20          facilities at reasonable times as necessary to ensure compliance with the  
21          requirements of this Part.

22          §2162.7. Facility operation in state-owned residential buildings authorized

23          The department may license community-based care facilities which propose  
24          to operate in one or more state-owned residential buildings. The secretary of the  
25          department shall direct the staff of the health standards section, and of any other  
26          division of the department as he deems appropriate, to cooperate with and give  
27          assistance to any applicant who seeks to operate a community-based care facility in  
28          one or more state-owned residential buildings and is otherwise qualified for licensure  
29          pursuant to this Part.

1           §2162.8. Program approval

2                   Implementation of the program authorized by this Part shall be subject to  
3           approval by the Centers for Medicare and Medicaid Services and approval of the  
4           Joint Legislative Committee on the Budget.

5   \*       \*       \*

6           §2166.7.1. Moratorium on licensure of level 4 adult residential care providers

7                   Notwithstanding any other provision of law to the contrary, the department  
8           shall implement a moratorium on the licensure of additional level 4 adult residential  
9           care providers until ~~July 1, 2017~~ July 1, 2018. The moratorium shall not apply to a  
10          provider which has received facility need review approval from the department for  
11          a level 4 adult residential care provider on or before April 25, 2012.

12          Section 2. Implementation of the provisions of this Act shall only become effective  
13          in the event a specific appropriation by the legislature is made for such purposes and the  
14          program receives approval by the Centers for Medicare and Medicaid Services.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_