
SENATE COMMITTEE AMENDMENTS

2020 Second Extraordinary Session

Amendments proposed by Senate Committee on Health and Welfare to Reengrossed House Bill No. 98 by Representative Edmonds

1 AMENDMENT NO. 1

2 On page 1, line 2, change "R.S. 29:771(B)(2)(c) and (e) and R.S. 40:2005" to "R.S.
3 29:770(B) and 771(B)(2)(c)"

4 AMENDMENT NO. 2

5 On page 1, line 3, delete "29:771(B)(2)(f) and R.S."

6 AMENDMENT NO. 3

7 On page 1, line 6, after "emergencies;" delete the remainder of the line and delete lines 7
8 through 9 and insert the following:

9 "to require the Louisiana Department of Health to promulgate rules; to
10 provide for rules for members of the clergy who voluntarily enter inpatient
11 health care facilities to minister; to provide for definitions; to provide for
12 licensed professional counselors; to provide for emotional and spiritual
13 support from clergy; to provide for legislative purpose; to provide for
14 restrictions; to provide for immunity from liability for hospitals, nursing
15 homes, and adult residential care homes; and to provide for related matters."

16 AMENDMENT NO. 4

17 On page 1, delete lines 11 through 18 and delete pages 2 and 3, and on page 4, delete lines
18 1 through 10 and insert the following:

19 "Section 1. R.S. 29:770(B) and 771(B)(2)(c) are hereby amended and
20 reenacted to read as follows:

21 §770. Public information regarding a public health emergency; access to
22 mental health support personnel; access to members of the
23 clergy

24 * * *

25 B. Access to mental health support personnel.

26 (1) During a declaration of a state of public health emergency, the
27 secretary of the Louisiana Department of Health or his designee shall provide
28 information about and referrals to mental health support personnel to address
29 psychological responses to the public health emergency. The information
30 provided may include the availability of no-cost or reduced-cost counseling
31 or mental health support services from licensed mental health professionals
32 offered by religious organizations or other nonprofit organizations. The
33 information provided may also include no-cost emotional or spiritual support
34 offered by clergy.

35 (2) After a declaration of a state of public health emergency, the
36 secretary of the Louisiana Department of Health or his designee shall provide
37 information about and referrals to mental health support personnel to address
38 psychological responses to the public health emergency. The information
39 provided may include the availability of no-cost or reduced-cost counseling
40 or mental health support services from licensed mental health professionals
41 offered by religious organizations or other nonprofit organizations. The
42 information provided may also include no-cost emotional or spiritual support
43 offered by clergy.

1 §771. Miscellaneous

2 * * *

3 B. Liability.

4 * * *

5 (2) Private liability.

6 * * *

7 (c)(i) During a state of public health emergency, ~~any no~~ health care
 8 ~~providers provider~~ shall ~~not~~ be civilly liable for causing the death of, or;
 9 injury to, any person or damage to any property except in the event of gross
 10 negligence or willful misconduct.

11 (ii) During a state of public health emergency, which is declared to
 12 combat COVID-19 or any other contagious disease or infectious disease, no
 13 inpatient health care facility shall be liable to a member of the clergy for any
 14 civil damages for injury or death resulting from or related to actual or alleged
 15 exposure during the course of, or through the performance of, allowing
 16 access to a member of the clergy in compliance with R.S. 40:2005.1 unless
 17 the inpatient health care facility failed to substantially comply with the
 18 applicable procedures established by the Louisiana Department of Health that
 19 govern the inpatient health care facility operations and the injury or death
 20 was caused by the inpatient health care facility's gross negligence or wanton
 21 or reckless misconduct.

22 * * *

23 Section 2. R.S. 40:2005.1 is hereby enacted to read as follows:

24 §2005.1. Visitation by members of clergy during a declared public health
 25 emergency

26 A. The legislature declares that the purpose of this Section is to
 27 protect the religious liberty of each patient or resident and to protect inpatient
 28 health care facilities from costly lawsuits and administrative complaints on
 29 the basis of religious discrimination by affording patient or resident access
 30 to members of the clergy provided that those members of the clergy enter the
 31 inpatient health care facility on a voluntary basis and comply with the safety
 32 requirements of the facility in order to visit and minister to the patient or
 33 resident.

34 B.(1) The Louisiana Department of Health shall promulgate rules,
 35 pursuant to the Administrative Procedure Act, to require inpatient health care
 36 facilities to allow members of the clergy to visit patients or residents during
 37 a public health emergency whenever a patient or resident requests such a
 38 visit. Special consideration shall be given to patients or residents receiving
 39 end-of-life care.

40 (2)(a) The rules shall include but not be limited to definitions,
 41 minimum requirements, and provisions to protect the health, safety, and
 42 welfare of the patients or residents and the staff of the inpatient health care
 43 facility.

44 (b) The rules shall allow inpatient health care facilities to adopt
 45 reasonable time, place, and manner restrictions on patient or resident
 46 visitation that are implemented for the purpose of mitigating the possibility
 47 of transmission of any infectious agent or disease or to address the medical
 48 condition or clinical considerations of an individual patient.

49 (3) The rules promulgated pursuant to this Section shall be
 50 preempted by any federal statute, federal regulation, or guidance from a
 51 federal government agency that requires an inpatient health care facility to
 52 restrict patient visitation in a manner that is more restrictive than the rules
 53 adopted by the Louisiana Department of Health pursuant to this Section.

54 C. For purposes of this Section, the following definitions shall apply:

55 (1) "Inpatient health care facilities" means all of the following:

56 (a) A hospital licensed pursuant to Part II of Chapter 11 of Title 40
 57 of the Louisiana Revised Statutes of 1950 but shall not include a licensed
 58 hospital that is designated as a forensic facility.

59 (b) A nursing home, as defined in R.S. 40:2009.2.

60 (c) An adult residential care home, as defined in R.S. 40:2166.3,
 61 including but not limited to assisted living facilities.

- 1 (2) "Patient or resident" means the patient or resident of the inpatient
2 health care facility or the legal or designated representative of the patient or
3 resident.
4 (3) "Public health emergency" means a state of public health
5 emergency that is declared pursuant to the Louisiana Health Emergency
6 Powers Act, R.S. 29:760 et seq."