

First Extraordinary Session, 2005

SENATE BILL NO. 107

BY SENATOR MCPHERSON

HEALTH/HOSPITALS DEPT. Provides relative to licensure of health care providers, provider agreements, and the provisions of the facility need review process.

1 AN ACT  
2 To enact R.S. 40:2007.1 and 2116(J), and R.S. 46:437.11(F), relative to the licensure of  
3 healthcare providers; to provide relative to health care services in areas affected by  
4 declarations of emergency or disaster; to provide relative to the interruption of health  
5 care services; to provide relative to replacement and repair of health care facilities  
6 in certain areas; to provide relative to facility need review approvals for certain  
7 health care providers; to provide for licensure and facility need review; to provide  
8 relative to the termination of provider agreements; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:2007.1 and 2116(J) are hereby enacted to read as follows:

11 **§2007.1. Interruption of provision of health care services; executive order or**  
12 **proclamation of emergency or disaster; licensing**

13 **A.(1) The provisions of this Section shall apply to any person,**  
14 **partnership, corporation, unincorporated association, or other legal entity who,**  
15 **at the time of an executive order or proclamation of emergency or disaster**  
16 **issued in accordance with R.S. 29:724, is operating a licensed health care**  
17 **facility, as listed below, in an area or areas which have been affected by such**

1 **executive order or proclamation. This Section shall apply to any licensed:**

2 **(a) Adult day health care facility.**

3 **(b) Substance abuse/addiction treatment facility.**

4 **(c) Ambulatory surgery center.**

5 **(d) Case management provider.**

6 **(e) Urine drug screening provider.**

7 **(f) Home health agency.**

8 **(g) Hospice.**

9 **(h) Hospital.**

10 **(i) Nursing home.**

11 **(j) Rural health clinic.**

12 **(k) Intermediate care facility for the mentally retarded (ICF/MR).**

13 **(l) End stage renal disease facility.**

14 **(2) All licensed health care providers operating in an area or areas which**  
15 **have been affected by an executive order or proclamation of emergency or**  
16 **disaster who seek the protection of the provisions of this Section, shall meet the**  
17 **following criteria:**

18 **(a) The health care provider shall notify in writing the health standards**  
19 **section of the Department of Health and Hospitals that the provider has**  
20 **experienced an interruption in the provision of services as a result of events that**  
21 **are the subject of such executive order or proclamation of emergency or**  
22 **disaster issued in accordance with R.S. 29:724. Such notice shall be received no**  
23 **later than December 31, 2005.**

24 **(b) The health care provider shall notify in writing the health standards**  
25 **section of the Department of Health and Hospitals that the provider intends to**  
26 **resume operating a health care facility.**

27 **(c) The provider shall resume operating as a health care facility no later**  
28 **than January 1, 2008. Extensions may be granted by the Department of Health**  
29 **and Hospitals for good cause, including, but not limited to delays in**

1 construction beyond the provider's control.

2 B.(1) No licensed health care facility that experiences an interruption in  
3 the provision of services as a result of events that are the subject of an executive  
4 order or proclamation of emergency or disaster shall be deemed by the  
5 Department of Health and Hospitals to have voluntarily surrendered its license  
6 solely as a result of such interruption of services.

7 (2) The interruption of the provision of health care services by a licensed  
8 health care facility as a result of events that are the subject of an executive  
9 order or proclamation of emergency or disaster shall not constitute the sole  
10 cause for the Department of Health and Hospitals to terminate or revoke such  
11 license.

12 C. Nothing in this Section shall prohibit the Department of Health and  
13 Hospitals from inspecting a health care facility prior to the re-establishment of  
14 the provision of health care services whether at a temporary or permanent  
15 location.

16 D. In the event that a health care facility that experienced an  
17 interruption in the provision of services re-opens at the same municipal or  
18 physical address, only the portions of the facility that meet one of the following  
19 criteria shall be subject to architectural plan review by the Department of  
20 Health and Hospitals:

21 (1) Newly constructed building to be used as a health care facility.

22 (2) Additions to existing building, to be operated as a health care facility.

23 (3) Newly-converted areas of an existing building, to be operated as a  
24 health care facility.

25 \* \* \*

26 §2116. Facility Need Review.

27 \* \* \*

28 J.(1) Notwithstanding any other provision of law to the contrary, the  
29 facility need review approval for licensed nursing homes or intermediate care

1 facilities for the mentally retarded (ICF/MR) located in an area or areas which  
 2 have been affected by an executive order or proclamation of emergency or  
 3 disaster and which were operating at the time the executive order or  
 4 proclamation was issued under R.S. 29:724 shall remain in effect and shall not  
 5 be terminated, considered to have expired, or revoked until January 1, 2008.  
 6 For this exception to apply, the emergency or disaster shall be the sole causal  
 7 factor in the interruption of the provision of services. This exception shall apply  
 8 if any one of the following occurs:

- 9 (a) The approval is voluntarily surrendered by the provider.
- 10 (b) The provider fails to notify in writing the health standards section of  
 11 the Department of Health and Hospitals of its intention to avail itself of the  
 12 continuation of facility need review approval no later than December 31, 2005.
- 13 (c) The provider fails to recommence providing services prior to January  
 14 1, 2008.

15 (2) Nothing in this Subsection shall be construed to permit a nursing  
 16 home or ICF/MR to relocate its facility outside the geographic area for which  
 17 the original facility need review approval was granted.

18 \* \* \*

19 Section 2. R.S. 46:437.11(F) is hereby enacted to read as follows:

20 §437.11. Provider agreements

21 \* \* \*

22 F. The secretary of the Department of Health and Hospitals shall not  
 23 terminate the provider agreement of a health care provider based exclusively  
 24 upon an interruption in the provision of health care services when such  
 25 interruption is solely the result of the events which were the subject of an  
 26 executive order or proclamation of emergency or disaster, including the  
 27 subsequent rebuilding or renovation of such facility.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Mary Dozier O'Brien.

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#### DIGEST

Present law provides for licensing standards for health care facilities, including the voluntary surrender of a license.

Present law provides for the facility need review process with respect to long term care providers, particularly nursing homes and intermediate care facilities for the mentally retarded (ICF/MR).

Present law provides for the termination, expiration, or revocation of such facility need review approval based upon the cessation of the provision of services.

Present law provides that DHH may terminate a health care provider agreement based upon the cessation of the provision of services.

Proposed law provides relative to an interruption in the provision of health care services by a provider operating in an area or areas affected by an executive order or proclamation of emergency or disaster issued in accordance with R.S. 29:724.

Proposed law provides for the impact of an executive order or proclamation of emergency or disaster upon the licensure process in areas affected by the emergency or disaster. The facilities whose licensing processes are affected are:

1. Adult day health care facility.
2. Substance abuse/addiction treatment facility.
3. Ambulatory surgery center.
4. Case management provider.
5. Urine drug screening provider.
6. Home health agency.
7. Hospice.
8. Hospital.
9. Nursing home.
10. Rural health clinic.
11. Intermediate care facility for the mentally retarded (ICF/MR).
12. End stage renal disease facility.

Proposed law provides for the continuation of facility need review approval for nursing homes and ICF/MR's operating in areas affected by an executive order or proclamation of emergency or disaster, given certain conditions.

Proposed law provides that DHH may not terminate the provider agreement of a health care facility which has experienced an interruption of services as a result of the emergency or disaster which was the subject of such an executive order or proclamation issued in accordance with R.S. 29:724.

(Adds R.S. 40:2007.1 and 2116(J) and R.S. 46:437.11(F))