

First Extraordinary Session, 2005

HOUSE BILL NO. 165

BY REPRESENTATIVE FRITH

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

19 (a) Adult day health care facility.

20 (b) Substance abuse/addiction treatment facility.

1 (c) Ambulatory surgery center.

2 (d) Case management provider.

3 (e) Urine drug screening provider.

4 (f) Home health agency.

5 (g) Hospice.

6 (h) Hospital.

7 (i) Nursing home.

8 (j) Rural health clinic.

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

10 (l) End stage renal disease facility.

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

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

21 (b) The health care provider shall notify in writing the health standards
22 section of the Department of Health and Hospitals that the provider intends to
23 resume operating a health care facility.

24 (c) The provider shall resume operating as a health care facility no later than
25 January 1, 2008. Extensions may be granted by the Department of Health and
26 Hospitals for good cause, including but not limited to delays in construction beyond
27 the provider's control.

28 B.(1) No licensed health care facility that experiences an interruption in the
29 provision of services as a result of events that are the subject of an executive order

1 or proclamation of emergency or disaster shall be deemed by the Department of
2 Health and Hospitals to have voluntarily surrendered its license solely as a result of
3 such interruption of services.

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

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

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

- 15 (1) Newly constructed building to be used as a health care facility.
- 16 (2) Additions to existing building to be operated as a health care facility.
- 17 (3) Newly converted areas of an existing building to be operated as a health
18 care facility.

19 * * *
20 §2116. Facility need review

21 * * *
22 J.(1) Notwithstanding any other provision of law to the contrary, the facility

23 need review approval for licensed nursing homes or intermediate care facilities for
24 the mentally retarded (ICF/MR) located in an area or areas which have been affected
25 by an executive order or proclamation of emergency or disaster and which were
26 operating at the time the executive order or proclamation was issued under R.S.
27 29:724 shall remain in effect and shall not be terminated, considered to have
28 expired, or revoked until January 1, 2008. For this exception to apply, the

1 emergency or disaster shall be the sole causal factor in the interruption of the
2 provision of services. This exception shall apply if any one of the following occurs:

3 (a) The approval is voluntarily surrendered by the provider.

4 (b) The provider fails to notify in writing the health standards section of the
5 Department of Health and Hospitals of its intention to avail itself of the continuation
6 of facility need review approval no later than December 31, 2005.

7 (c) The provider fails to recommence providing services prior to January 1,
8 2008.

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

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

13 §437.11. Provider agreements

14 * * *

15 F. The secretary of the Department of Health and Hospitals shall not
16 terminate the provider agreement of a health care provider based exclusively upon
17 an interruption in the provision of health care services when such interruption is
18 solely the result of the events which were the subject of an executive order or
19 proclamation of emergency or disaster, including the subsequent rebuilding or
20 renovation of such facility.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument.

Frith

HB No. 165

Abstract: 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 continuation of facility need review approval for nursing homes and ICF/MRs operating in areas affected by an executive order or proclamation of emergency or disaster, and prohibits termination of a 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.

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

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.

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.

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

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

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))