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DIGEST

McPherson (SB 107)

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. Upon meeting certain conditions, the facilities whose licensing processes are affected are:

1. Substance abuse/addiction treatment facility.
2. Hospice.
3. Hospital.
4. Nursing home.
5. Intermediate care facility for the mentally retarded (ICF/MR).

Proposed law provides for licensing of outpatient off-campus facilities established by licensed hospitals who are in areas affected by the event which is the subject of a proclamation of emergency or disaster. In order to obtain retroactive licensure to the date that services were provided in an outpatient off-campus facility, the licensed hospital shall inform DHH of its intent to operate such a facility and shall attest to DHH that the off-campus facility is in compliance with regulations. Such documents shall be provided to DHH prior to December 31, 2005.

Present law provides the minimum bed requirement for hospitals is ten. Proposed law provides for a waiver of the minimum bed requirement for a hospital which is the sole hospital in a parish, damaged as a result of the event which is the subject of a declaration of emergency or disaster and such hospital establishes a temporary or replacement facility.

Proposed law provides an exception 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, given certain conditions. Provides that the exception does not apply if the approval is voluntarily surrendered, the provider fails to notify DHH of its intention to avail itself of the continuation of facility need approval, or the provider fails to recommence services prior to January 1, 2008.

(Amends R.S. 40:2109(B)(7); adds R.S. 40:2007.1 and 2116(J))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill.

1. Remove provisions relative to a facility that re-opens at the same municipal or physical address.
2. Add provisions relative to outpatient off-campus facilities of licensed hospitals and their licensure requirements.
3. Allow outpatient off-campus facilities to be licensed retroactively to the date the provision of services began, provided that by December 31, 2005, the licensed hospital notifies DHH of its intent to open such a facility and attests

that the outpatient facility was in compliance with regulatory requirements on the date that services began being provided.

4. Provide for a waiver of the minimum patient bed number for a temporary or replacement facility, in the case of a hospital which was the only hospital in a parish prior to a proclamation of emergency or disaster. The hospital shall have been so damaged as a result of the event which was the subject of the proclamation of emergency or disaster. The temporary licensure shall remain effective for not more than two years.
5. Provide that, in accordance with federal regulations and subject to CMS approval, DHH shall not terminate the provider agreement based solely upon an interruption of the provision of services as a result of an event which is the subject of a proclamation of emergency or disaster.

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill.

1. Clarifies when the exception regarding the continuation of facility need approval of nursing homes does not apply.
2. Removes prohibition against termination of health care facility provider agreements when interrupted due to a disaster or emergency.

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the reengrossed bill.

1. Removes reference to ICF/MRs relative to geographic restrictions for facility need review approval.
2. Changes the facilities whose licenses are affected by an executive order or proclamation of emergency or disaster.