

SENATE BILL NO. 107

BY SENATOR MCPHERSON AND REPRESENTATIVE FRITH

1 AN ACT

2 To amend and reenact R.S. 40:2109(B)(7) and to enact R.S. 40:2007.1 and 2116(J), relative
3 to the licensure of healthcare providers; to provide relative to health care services in
4 areas affected by declarations of emergency or disaster; to provide relative to the
5 interruption of health care services; to provide relative to replacement and repair of
6 health care facilities in certain areas; to provide relative to facility need review
7 approvals for certain health care providers; to provide for licensure and facility need
8 review; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:2109(B)(7) is hereby amended and reenacted and R.S. 40:2007.1
11 and 2116(J) are hereby enacted to read as follows:

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

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

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

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

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

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

24 **(e) Home health agency.**

25 **(f) Hospice.**

26 **(g) Hospital.**

27 **(h) Nursing home.**

1 (i) Rural health clinic.

2 (j) Intermediate care facility for the mentally retarded (ICF/MR).

3 (k) End stage renal disease facility.

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

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

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

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

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

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

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

5 **D.(1) The Department of Health and Hospitals shall license, as of the**
 6 **date services commence, any outpatient off-campus facility of a licensed**
 7 **hospital, if the need for the off-campus facility was occasioned by an event**
 8 **which is the subject of an executive order or proclamation of emergency or**
 9 **disaster, issued in accordance with R.S. 29:724. In order to qualify for licensure**
 10 **of such an off-campus facility, the licensed hospital shall, no later than**
 11 **December 31, 2005, comply with the following:**

12 **(a) Notify the Department of Health and Hospitals that it has**
 13 **commenced operations at an outpatient off-campus facility, regardless of**
 14 **whether such off-campus facility is located in an area that is the subject of the**
 15 **executive order or proclamation of emergency or disaster issued in accordance**
 16 **with R.S. 29:724.**

17 **(b) Submit to the Department of Health and Hospitals an attestation of**
 18 **regulatory compliance specifying that, to the best of the hospital's knowledge,**
 19 **the outpatient off-campus facility is in compliance with all regulatory**
 20 **requirements, including life and safety and public health requirements, as of the**
 21 **date the off-campus facility commenced providing services.**

22 **(2) The Department of Health and Hospitals shall not require any**
 23 **documentation from a licensed hospital regarding an outpatient off-campus**
 24 **facility other than that listed in this Subsection provided that nothing herein**
 25 **shall relieve the facility from complying with federal regulations and**
 26 **requirements for approval from the Centers for Medicare and Medicaid**
 27 **Services.**

28 * * *

29 §2109. Rules, regulations, and minimum standards

30 * * *

1 B. The minimum standards adopted by the secretary governing operation and
2 maintenance of hospitals may contain regulations in relation to:

3 * * *

4 (7) Minimum number of beds required, which shall be ten. In the case of a
5 parish in which the sole hospital providing inpatient and emergency department
6 services temporarily ceases operations as a result of an event which is the
7 subject of an executive order or a proclamation of emergency or disaster issued
8 in accordance with R.S. 29:724, the Department of Health and Hospitals shall
9 waive the minimum bed number. The requirement of a minimum number of
10 beds shall be waived in order that a temporary hospital may be constructed or
11 a modular building designed for inpatient services may be utilized in such
12 parish. Such waiver shall be effective for a period of two years, beginning the
13 date on which the temporary hospital commences operations as an inpatient
14 facility. Extensions shall be granted by the Department of Health and Hospitals
15 for good cause, including, but not limited to delays in construction beyond the
16 provider's control.

17 * * *

18 §2116. Facility need review

19 * * *

20 J.(1) Notwithstanding any other provision of law to the contrary, the
21 facility need review approval for licensed nursing homes or intermediate care
22 facilities for the mentally retarded (ICF/MR) located in an area or areas which
23 have been affected by an executive order or proclamation of emergency or
24 disaster and which were operating at the time the executive order or
25 proclamation was issued under R.S. 29:724 shall remain in effect and shall not
26 be terminated, considered to have expired, or revoked until January 1, 2008.
27 For this exception to apply, the emergency or disaster shall be the sole causal
28 factor in the interruption of the provision of services. This exception shall not
29 apply if any one of the following occurs:

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

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

4 **(c) The provider fails to recommence providing services prior to January**
5 **1, 2008.**

6 **(2) Nothing in this Subsection shall be construed to accomplish either of**
7 **the following:**

8 **(a) To permit a nursing home which has relocated, as the result of an**
9 **executive order or declaration of emergency or disaster issued in accordance**
10 **with R.S. 29:724, to relocate such facility outside of the geographic area for**
11 **which the original facility need review approval was granted.**

12 **(b) To permit a nursing home which has relocated, as the result of an**
13 **executive order or declaration of emergency or disaster issued in accordance**
14 **with R.S. 29:724, to obviate the provisions of R.S. 40:2116(D)(2).**

15 Section 2. This Act shall become effective upon signature by the governor
16 or, if not signed by the governor, upon expiration of the time for bills to become law
17 without signature by the governor, as provided by Article III, Section 18 of the
18 Constitution of Louisiana. If vetoed by the governor and subsequently approved by
19 the legislature, this Act shall become effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____