

2016 Regular Session

SENATE BILL NO. 238

BY SENATOR THOMPSON

NURSING HOMES. Establishes procedure for certain nursing home surveys. (8/1/16)

1 AN ACT

2 To enact R.S. 40:2009.10.1, relative to investigations by the Department of Health and  
3 Hospitals; to provide for provider communication opportunities; to provide for  
4 notice; to provide for time limitations on violation issuance; to provide for an  
5 effective date; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 40:2009.10.1 is hereby enacted to read as follows:

8 **§2009.10.1. Immediate jeopardy violations in a licensed nursing home**

9 **A. Except as otherwise provided in Subsection C of this Section, if the**  
10 **Department of Health and Hospitals identifies an immediate jeopardy violation**  
11 **during the course and scope of a survey of a licensed nursing home, the**  
12 **department shall notify the administrator or his designee of such violation and**  
13 **make available an opportunity to speak via telephone with a department**  
14 **supervisor prior to the surveyor exiting the facility if the survey is conducted**  
15 **during regular working hours. If the survey is conducted during a time not**  
16 **considered regular working hours, the administrator shall have the opportunity**  
17 **to speak with a department supervisor during the next business morning.**

1           **B. If an immediate jeopardy violation is noted, the department shall**  
 2           **present the administrator or his designee with a warning that immediate action**  
 3           **is required to remedy the violation and preserve appeal rights as significant**  
 4           **fines may be imposed by the Centers for Medicare and Medicaid Services. The**  
 5           **warning notice shall be clear and in writing in a standard form developed by the**  
 6           **department that includes an explanation of the basis for the citation.**

7           **C. If the department identifies an immediate jeopardy violation after the**  
 8           **department surveyors have exited the licensed nursing home, the department**  
 9           **shall notify the administrator or his designee of such violation by telephone,**  
 10          **shall forward the notice described in Subsection B of this Section to the**  
 11          **administrator or his designee via electronic or facsimile transmission, and shall**  
 12          **provide an opportunity to speak via telephone with a department supervisor**  
 13          **during the next business morning after such notification. Such notification shall**  
 14          **be provided to the nursing home on an expedited basis.**

15          Section 2. This Act shall become effective on August 1, 2016; if vetoed by the  
 16          governor and subsequently approved by the legislature, this Act shall become effective on  
 17          August 1, 2016, or on the day following such approval by the legislature, whichever is later.

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The original instrument and the following digest, which constitutes no part  
 of the legislative instrument, were prepared by Christine Arbo Peck.

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DIGEST

SB 238 Reengrossed                      2016 Regular Session                      Thompson

Proposed law establishes a process that must be followed by the Department of Health and Hospitals if an immediate jeopardy violation is identified by a surveyor at a licensed nursing home. Provides for an opportunity for the administrator to speak with a department supervisor prior to the surveyor exiting the facility, the issuance of a warning notice that immediate action is required due to possibility of significant CMS fines, and that any immediate jeopardy violations identified after the surveyor has left the facility must be brought to the administrator's attention in an expedited basis.

Effective August 1, 2016.

(Adds R.S. 40:2009.10.1)

Summary of Amendments Adopted by Senate

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

1. Establishes a process for notifying a nursing home administrator of an immediate jeopardy after the surveyor has exited the facility to include, on an expedited basis, a telephone call, issuance of the required warning document, and opportunity to speak with a DHH supervisor.