

2018 Regular Session

HOUSE BILL NO. 158

BY REPRESENTATIVE FOIL AND SENATOR CLAITOR

CORONERS: Provides relative to admissions to treatment facilities under an emergency certificate

1 AN ACT

2 To amend and reenact R.S. 28:53(B)(1) and (G)(8) and 63(A)(1) and (B), relative to
3 admissions to treatment facilities by emergency certificate; to provide relative to
4 transfers between parishes; to provide relative to duties of physicians and coroners;
5 to provide for standard of care; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 28:53(B)(1) and (G)(8) and 63(A)(1) and (B) are hereby amended and
8 reenacted to read as follows:

9 §53. Admission by emergency certificate; extension; payment for services rendered

10 * * *

11 B.(1) Any physician licensed or permitted by the Louisiana State Board of
12 Medical Examiners, physician assistant when acting in accordance with their
13 respective clinical practice guidelines, psychiatric mental health nurse practitioner,
14 other nurse practitioner who acts in accordance with a collaborative practice
15 agreement and receives verbal approval for executing the certificate from his
16 collaborating physician, or psychologist may execute an emergency certificate only
17 after an actual examination of a person alleged to have a mental illness or be
18 suffering from a substance-related or addictive disorder who is determined to be in
19 need of immediate care and treatment in a treatment facility because the examining
20 physician, physician assistant when acting in accordance with their respective

1 clinical practice guidelines, psychiatric mental health nurse practitioner, other nurse
 2 practitioner who acts in accordance with a collaborative practice agreement and
 3 receives verbal approval for executing the certificate from his collaborating
 4 physician, or psychologist determines the person to be dangerous to self or others or
 5 to be gravely disabled. The actual examination of the person by a psychiatrist may
 6 be conducted by telemedicine utilizing video conferencing technology provided that
 7 a licensed healthcare professional who can adequately and accurately assist with
 8 obtaining any necessary information including but not limited to the information
 9 listed in Paragraph (4) of this Subsection shall be in the examination room with the
 10 patient at the time of the video conference. A patient examined in such a manner
 11 shall be medically cleared prior to admission to a mental health treatment facility.
 12 Failure to conduct an examination prior to the execution of the certificate will be
 13 evidence of gross negligence.

14 * * *

15 G.

16 * * *

17 (8) As it relates to all other parishes, ~~the parishes of East Baton Rouge,~~
 18 ~~Jefferson, Orleans, and Ouachita~~, the following shall apply:

19 (a) When a patient is transferred from another parish pursuant to an
 20 emergency certificate, a second physician's emergency certificate, when appropriate,
 21 shall be executed by a physician at the admitting facility.

22 (b) The coroner shall be notified immediately following the execution of the
 23 second emergency certificate and shall conduct an independent examination within
 24 seventy-two hours as provided in Paragraph (2) of this Subsection, in the manner
 25 provided in accordance with Subparagraph (G)(7)(a) of this Section.

26 (c) Nothing herein shall be construed to authorize a period of commitment
 27 to exceed fifteen days from the date and time the initial emergency certificate was
 28 executed in the parish of origin.

29 * * *

1 §63. Standard of care; limitation of liability; penalties

2 A.(1) Any ~~licensed~~ physician licensed or permitted by the Louisiana State
3 Board of Medical Examiners, psychologist, medical psychologist, psychiatric mental
4 health nurse practitioner, or public and private general hospital personnel exercising
5 that degree of skill and care ordinarily employed, under similar circumstances by
6 members of his profession in good standing in the same community or locality, and
7 using reasonable care and diligence with his best judgment in the application of his
8 skill, shall not be held civilly liable or subject to criminal prosecution for acts arising
9 from his professional opinions which fall within the scope of his duties, judgments,
10 actions, or duties pursuant to any of the provisions of this Part, unless the damage or
11 injury was caused by willful or wanton negligence or gross misconduct. This
12 limitation of liability shall apply only to public and private general hospital
13 personnel who within the preceding twelve-month period have received appropriate
14 training in nonviolent crisis intervention. Such training shall be documented in their
15 personnel files. The training shall be provided by an instructor who has attended a
16 course in crisis intervention taught by a certified instructor.

17 * * *

18 B. Any ~~licensed~~ physician licensed or permitted by the Louisiana State
19 Board of Medical Examiners, psychologist, medical psychologist, or psychiatric
20 mental health nurse practitioner who executes an emergency certificate shall be held
21 to that degree of skill and care ordinarily employed, under similar circumstances, by
22 members of his profession in good standing in the same community or locality, and
23 using reasonable care and diligence with his best judgment in the application of his
24 skill.

25 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 158 Engrossed

2018 Regular Session

Foil

Abstract: Expands list of parishes to all in Louisiana that require notification to the coroner when a second physician's emergency certificate is executed following a patient's transfer from one parish to another. Adds that physicians issuing emergency certificates must be licensed or permitted by the Louisiana State Board of Medical Examiners.

Present law allows the admission and detention of a person to a treatment facility for observation and diagnosis by emergency certificate if the person is mentally ill or is suffering from substance abuse. However, treatment shall not exceed fifteen days under an emergency certificate.

Proposed law retains present law.

Present law, in the parishes of East Baton Rouge, Jefferson, Orleans, and Ouachita, requires that the coroner be notified when a patient is transferred from one parish to another and a second physician's emergency certificate is executed. Further requires the coroner to conduct an independent examination in such cases.

Proposed law maintains present law but expands present law to include all parishes of Louisiana.

Present law also contains requirements specific to St. Tammany Parish.

Proposed law retains present law.

Present law provides that any physician may execute an emergency certificate only after a thorough examination.

Proposed law requires that the physician executing the emergency certificate be licensed or permitted by the Louisiana State Board of Medical Examiners.

Present law provides for liability and the standard of care for licensed physicians executing emergency certificates.

Proposed law requires that the physicians covered by liability and exercising the standard of care required for emergency certificates, be licensed or permitted by the Louisiana State Board of Medical Examiners.

(Amends R.S. 28:53(B)(1) and (G)(8) and 63(A)(1) and (B))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Require physicians issuing emergency certificates to be licensed and permitted by the Louisiana State Board of Medical Examiners.

2. Require physicians covered by liability and exercising the standard of care required for emergency certificates, be licensed or permitted by the Louisiana State Board of Medical Examiners.
3. Make technical changes.