

2022 Regular Session

SENATE BILL NO. 30

BY SENATOR FRED MILLS

HEALTH SERVICES. Provides relative to facility need review. (8/1/22)

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AN ACT

To amend and reenact R.S. 40:2116 and to enact R.S. 40:2009.4(C), 2116.1, 2116.2, and 2180.2(12), relative to facility need review; to provide legislative authority for facility need review; to provide for healthcare provider types subject to facility need review; to provide for the facility need review committee; to provide for a nursing facility moratorium; to provide for exceptions; to provide for cost effective measures; to provide for notice of sex offenders living in certain facilities; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:2116 is hereby amended and reenacted and R.S. 40:2009.4(C), 2116.1, 2116.2, and 2180.2(12) are hereby enacted to read as follows:

§2009.4. Standards prescribed

\* \* \*

**C. The Louisiana Department of Health shall develop and implement policies and procedures to require nursing facilities to notify new residents and their families and guardians of sex offenders living in their facilities upon admission. The notification shall continue for as long as the information is**

1 considered a public record. During the annual licensing process, health  
 2 standards surveyors shall verify the providers compliance with the policy.

3 \* \* \*

4 PART II-A. FACILITY NEED REVIEW

5 AND NURSING FACILITY MORATORIUM

6 §2116. Facility need review

7 A. The Louisiana Department of Health, ~~in accordance with the~~  
 8 ~~Administrative Procedure Act, shall establish~~ **shall implement** a facility need review  
 9 process ~~consistent with the regulations for licensure and for Title XIX of the Social~~  
 10 ~~Security Act~~ **in accordance with the provisions of this Section. The department**  
 11 **may institute facility need review on licensing or certification to participate in**  
 12 **the Title XIX program. Except as provided in R.S. 40:2116.1, no healthcare**  
 13 **provider shall be subject to facility need review unless authorized by the**  
 14 **legislature in Subsection B of this Section.**

15 **B. The following healthcare providers shall be subject to facility need**  
 16 **review to determine the need for a new or additional facility, provider,**  
 17 **program, service, or bed:**

18 **(1) Home- and community-based service providers. However, certain**  
 19 **services or modules of a home- and community-based service provider may be**  
 20 **excluded from the facility need review process at the discretion of the secretary**  
 21 **of the Louisiana Department of Health.**

22 **(2) Hospice providers or inpatient hospice facilities.**

23 **(3) Pediatric day healthcare facilities.**

24 **(4) Behavioral health services providers that provide psychosocial**  
 25 **rehabilitation or community psychiatric support and treatment services.**

26 **(5) Opioid treatment programs licensed under a behavioral health**  
 27 **services provider license.**

28 **(6) Intermediate care facilities for persons with developmental**  
 29 **disabilities.**

1                    C.(1) The secretary of the Louisiana Department of Health shall appoint  
2                    a facility need review committee, "FNR committee", that shall consist of the  
3                    following members:

4                    (a) The secretary of the Louisiana Department of Health or his designee.

5                    (b) The assistant secretary of the office of behavioral health of the  
6                    Louisiana Department of Health or his designee.

7                    (c) The assistant secretary of the office for citizens with developmental  
8                    disabilities of the Louisiana Department of Health or his designee.

9                    (d) The assistant secretary of the office of aging and adult services of the  
10                   Louisiana Department of Health or his designee.

11                   (e) The assistant secretary of the office of public health of the Louisiana  
12                   Department of Health or his designee.

13                   (f) The Medicaid director of the Louisiana Department of Health or his  
14                   designee.

15                   (g) The Medicaid medical director of the Louisiana Department of  
16                   Health or his designee.

17                   (2) In addition to the members set forth in Paragraph (1) of this  
18                   Subsection, the secretary may appoint additional members to the FNR  
19                   committee when necessary in reviewing applications of opioid treatment  
20                   programs.

21                   (3) No FNR committee member shall have a proprietary or financial  
22                   interest in any facility subject to facility need review.

23                   (4) The FNR committee shall issue a decision on a facility need review  
24                   application within ninety days from receipt of application or within the  
25                   deadlines established in a request for proposal or request for application.

26                   (5) An applicant for facility need review shall provide all written  
27                   application materials and documentation as may be required by rule. The  
28                   applicant may include any additional written documentation or written  
29                   evidence that supports the application for facility need review.

1           (a) Unless otherwise stated in a specific request for proposal or request  
2           for applications, the initial review and decision by the FNR committee shall  
3           consider all written materials and documentation submitted by the applicant  
4           and shall be conducted as a paper review.

5           (b)(i) Unless otherwise stated in a specific request for proposal or request  
6           for applications, if the initial decision is to reject or deny the facility need review  
7           application, then the applicant may request to supplement the application.

8           (ii) Upon receipt of additional documentation and evidence from the  
9           applicant, the FNR committee shall conduct a supplemental application review  
10           and shall provide the applicant an opportunity to meet with the FNR committee  
11           or its designees as part of the review. The meeting may be conducted in-person  
12           or, at the discretion of the Louisiana Department of Health, through virtual  
13           means, including by telephone or virtual technology that facilitates synchronous  
14           interaction.

15           (iii) After a meeting conducted pursuant to Item (ii) of this  
16           Subparagraph, the applicant may submit additional documentation and  
17           evidence for consideration during the supplemental application review.

18           (iv) The decision on the supplemental application review shall be made  
19           by the FNR Committee.

20           (c) If the facility need review application is rejected or denied after the  
21           supplemental application review, the applicant may request an administrative  
22           appeal of the FNR committee's decision with the Division of Administrative Law  
23           in accordance with the Administrative Procedure Act. The applicant is not  
24           required to request a supplemental review and can elect to proceed directly to  
25           an administrative appeal.

26           (6) If the FNR committee approves the facility need review application,  
27           then the applicant may proceed with seeking licensure or certification to  
28           participate in the Title XIX program as applicable.

29           ~~B.D.~~ The department shall promulgate rules and regulations in accordance

1 with the Administrative Procedure Act to ~~provide for facility need review~~  
2 **implement the provisions of this Section.** The rules and regulations shall include  
3 but not be limited to the following:

4 (1) Criteria for review of ~~beds for Level 4 adult residential care providers as~~  
5 ~~defined in R.S. 40:2166.3 and identified in R.S. 40:2166.5, and community and~~  
6 ~~group home beds for persons with developmental disabilities, to determine if there~~  
7 ~~is a need for additional beds to enroll and participate in the Title XIX program~~  
8 **healthcare provider applications for facility need review, including provisions**  
9 **for review pursuant to requests for proposals or requests for applications.**

10 (2) Criteria for review of ~~nursing facility beds~~ to determine if there is a need  
11 for **a new or additional beds facility, provider, program, service, or bed.**

12 (3) Specific duties of the department **and the FNR committee relative** to  
13 review ~~proposals for new facilities and determine the need therefor~~ **of applications.**

14 (4) Appropriate methodology for the collection of data necessary for the  
15 administration of the program.

16 (5) Procedures **for the FNR committee** to ~~grant and revoke approvals~~  
17 **approve, reject, or deny applications.**

18 (6) Establishment of application fees.

19 (7) Procedures for **a supplemental** review of applications by the ~~department~~  
20 **FNR committee.**

21 (8) Procedures to request a fair hearing from a determination made by the  
22 ~~department~~ **FNR committee.**

23 (9) Provisions for judicial review from the decision rendered after ~~a fair~~  
24 ~~hearing~~ **an administrative appeal.**

25 (10) ~~Criteria for review of beds issued pursuant to a department waiver to~~  
26 ~~determine if there is a need for such beds to be licensed and enrolled in the Title XIX~~  
27 ~~program. Provided, however, that providers of services may be enrolled and~~  
28 ~~participate in such a Title XIX program only if and when the department develops~~  
29 ~~a cost-effective plan for medical residential care services that is cost neutral with~~

1 respect to existing Medicaid long-term care services and expenditures, or the  
2 legislature specifically provides funding for such services: Establishment of  
3 services and modules of a home- and community-based service provider that  
4 will be subject to the facility need review process.

5 (11) Provisions and procedures for the revocation, suspension, and  
6 expiration of FNR approvals.

7 ~~C.E.~~ No new facility, service, or beds healthcare provider as described  
8 provided for in Paragraphs (B)(1) and (2) Subsection B of this Section shall be  
9 certified to participate in the Title XIX program without ~~the approval of the~~  
10 ~~department based upon a determination of a need therefor in accordance with the~~  
11 ~~provisions of this Part~~ first obtaining facility need review approval and  
12 complying with any and all licensing regulations promulgated by the  
13 department. Any person establishing, managing, or operating a new facility,  
14 service, or bed without the approval required by this Part Section shall be prohibited  
15 from participating in the Title XIX program.

16 ~~D.(1) In order to accomplish cost effectiveness of beds issued pursuant to a~~  
17 ~~department waiver, the department may promulgate rules that include but are not~~  
18 ~~limited to the following:~~

19 (a) ~~A bed abeyance program to reduce nursing facility beds by ten percent or~~  
20 ~~more. Such an abeyance program shall include a time frame in which a determination~~  
21 ~~is made as to whether beds should be brought out of abeyance based upon a~~  
22 ~~ninety-three percent occupancy rate within a service area.~~

23 (b) ~~An increase in the minimum occupancy level required for a nursing~~  
24 ~~facility to fully recover its capital cost.~~

25 (c) ~~In order to achieve a reduction in long-term care institutional costs, a~~  
26 ~~program for reduction of certificates of need for nursing facility beds, which may~~  
27 ~~include a buy-back program, provided such a buy-back program is approved by the~~  
28 ~~Centers for Medicare and Medicaid Services and is eligible for federal funds~~  
29 ~~participation.~~

1           ~~(d) A bed exchange program that allows a nursing facility to create adult~~  
2           ~~residential care beds based on the permanent elimination of existing nursing facility~~  
3           ~~beds.~~

4           ~~(2) The Louisiana Department of Health shall implement a moratorium on~~  
5           ~~additional beds for nursing facilities. The Louisiana Department of Health shall not~~  
6           ~~approve any additional nursing facilities or additional beds in nursing facilities~~  
7           ~~through facility need review. This prohibition shall apply only to applications for~~  
8           ~~new beds not approved prior to July 1, 1996. The prohibition shall become~~  
9           ~~enforceable on July 1, 1996, and shall remain in effect until July 1, 2027. This~~  
10          ~~prohibition shall not apply to the replacement of existing facilities, provided that~~  
11          ~~there is no increase in existing nursing home beds at the replacement facility.~~

12          ~~(3) Repealed by Acts 2008, No. 187, §2, eff. June 13, 2008.~~

13          ~~(4) Notwithstanding any other provision of law to the contrary, any nursing~~  
14          ~~facility in Lafourche Parish located in an area designated a flood zone that has~~  
15          ~~commenced construction on a replacement facility during the period of the~~  
16          ~~moratorium on replacement facilities shall be eligible to apply for licensure after~~  
17          ~~June 30, 2008, provided the replacement facility is in an area outside a flood zone~~  
18          ~~in such parish and south of the Company Canal. The buildings and grounds~~  
19          ~~constituting the original nursing facility to be vacated may be offered by donation~~  
20          ~~to the state, political subdivision, or other public entity for uses consistent with~~  
21          ~~public purposes.~~

22          ~~(5) The moratorium on additional beds for nursing facilities imposed pursuant~~  
23          ~~to Paragraph (2) of this Subsection shall not apply to a nursing facility that seeks to~~  
24          ~~license additional beds if the following criteria are met:~~

25                  ~~(a) The nursing facility is a non-profit corporation formed pursuant to~~  
26                  ~~Louisiana law.~~

27                  ~~(b) The total number of additional beds shall not exceed ten.~~

28                  ~~(c) The additional beds shall be occupied only by persons who meet one of~~  
29          ~~the following criteria:~~

1           ~~(i) Prior to admission to the nursing facility, the person resided in an adult~~  
2 ~~residential care facility, as defined in R.S. 40:2153, owned by the same legal entity~~  
3 ~~which owns the nursing facility.~~

4           ~~(ii) Prior to admission to the nursing facility, the person resided in a living~~  
5 ~~unit of a provider of continuing care, as defined in R.S. 51:2173, owned by the same~~  
6 ~~legal entity which owns the nursing facility.~~

7           ~~(iii) The person was previously a resident of the same nursing facility.~~

8           ~~(d) The additional beds shall not be enrolled and participate in the Title XIX~~  
9 ~~program.~~

10           ~~(e) Tentative approval of the plans and specifications for additional beds was~~  
11 ~~received by the division of engineering and architectural services of the Louisiana~~  
12 ~~Department of Health prior to August 15, 2006.~~

13           ~~(f) Construction of the additional beds commenced prior to August 15, 2006.~~

14           ~~(g) Construction was completed on or before April 1, 2007.~~

15           ~~(6)(a) Notwithstanding any other provision of law to the contrary, the~~  
16 ~~department may license, but not certify for Medicaid participation, up to thirty~~  
17 ~~additional beds for a continuing care retirement community, registered in accordance~~  
18 ~~with R.S. 51:2171 et seq., and found to be in compliance with said statutes on May~~  
19 ~~3, 2002 by the Louisiana Department of Health during the existence of the~~  
20 ~~moratorium imposed pursuant to Paragraph (2) of this Subsection.~~

21           ~~(b) At the discretion of the continuing care retirement community provider,~~  
22 ~~the licensed beds may be used for persons who are not residents of the continuing~~  
23 ~~care retirement community and who are not parties to a continuing care contract for~~  
24 ~~a period of up to five years after the receipt of the certification of occupancy for a~~  
25 ~~registered continuing care retirement community. After that period, the licensed beds~~  
26 ~~may be used only by owners of a continuing care contract with the continuing care~~  
27 ~~retirement community provider.~~

28           ~~(7) Repealed by Acts 2011, No. 179, §1, eff. August 15, 2011.~~

29           ~~(8) Repealed by Acts 2011, No. 179, §1, eff. August 15, 2011.~~



1           ~~E.(1) Except as provided in Paragraphs (2), (3), and (4) of this Subsection,~~  
2           ~~the Louisiana Department of Health shall suspend approval, certification, and~~  
3           ~~enrollment of nursing facility beds which were previously approved to participate in~~  
4           ~~the Title XIX program under a facility need review process, Section 1122 process,~~  
5           ~~or any predecessor needs review process, unless such beds are certified and enrolled~~  
6           ~~in the Title XIX program by December 31, 1997. Such suspension shall be for the~~  
7           ~~length of the moratorium imposed pursuant to Subsection D of this Section.~~

8           ~~(2) The suspension shall not apply to existing approvals for replacement of~~  
9           ~~existing nursing facilities, or approvals which are under judicial review, on August~~  
10           ~~15, 1997. The suspension shall not apply to approvals for alternate use of previously~~  
11           ~~approved beds.~~

12           ~~(3) In the case of previously approved but unbuilt nursing facilities or beds,~~  
13           ~~the department shall not suspend approval, certification, and enrollment if~~  
14           ~~construction has actually begun by June 30, 1998, and construction is completed and~~  
15           ~~such facilities or beds are actually certified and enrolled in the Title XIX program~~  
16           ~~by December 31, 1999. In said cases, the department shall suspend approval,~~  
17           ~~certification, and enrollment of previously approved beds not certified and enrolled~~  
18           ~~by December 31, 1999.~~

19           ~~(4) In the case of previously approved but unbuilt nursing facilities or beds,~~  
20           ~~if construction has actually begun by June 30, 1998, and construction is not~~  
21           ~~completed and the facilities or beds are not actually certified and enrolled in the Title~~  
22           ~~XIX program by December 31, 1999, the secretary of the Louisiana Department of~~  
23           ~~Health may authorize the certification and enrollment of the beds by December 31,~~  
24           ~~2001. However, the extension shall not be granted unless the secretary determines~~  
25           ~~that construction has not been completed due to circumstances beyond the control~~  
26           ~~of the applicant, a written request for an extension was made prior to December 31,~~  
27           ~~1999, and financing has been approved for the beds. These provisions shall only be~~  
28           ~~applicable in the case of a facility, the primary purpose of which is to replace an~~  
29           ~~existing facility, but also in so doing, enrolling additional beds.~~

1           ~~F.(1) Except as provided in Paragraph (2) of this Subsection, the Louisiana~~  
2           ~~Department of Health shall revoke all approvals for community and group home~~  
3           ~~beds which were previously approved to participate in the Title XIX program under~~  
4           ~~a facility need review process, Section 1122 process, or any predecessor needs~~  
5           ~~review process, unless such beds are certified and enrolled in the Title XIX program~~  
6           ~~by December 31, 1997.~~

7           ~~(2) In the case of unbuilt community and group home facilities, the~~  
8           ~~department shall not revoke approvals if construction has actually begun by~~  
9           ~~December 31, 1997, and construction is completed and such facilities or beds are~~  
10           ~~actually certified and enrolled in the Title XIX program by June 30, 1999. In said~~  
11           ~~cases, the department shall revoke all approved beds not certified and enrolled by~~  
12           ~~June 30, 1999.~~

13           ~~G. Any intermediate care facility for people with developmental disabilities,~~  
14           ~~which serves children or adults with intellectual disabilities, autism, or behavioral~~  
15           ~~problems, with no less than one hundred fifty and no more than one hundred eighty~~  
16           ~~beds, shall be eligible for the facility need review process as set forth in this Section~~  
17           ~~and in rules and regulations promulgated by the Louisiana Department of Health as~~  
18           ~~authorized in Subsections A and B of this Section. The exemption shall exist for a~~  
19           ~~maximum of fifty additional beds.~~

20           ~~H. In the case of nursing facility beds currently approved, any nursing facility~~  
21           ~~provider may replace any existing beds with adult residential care home beds, either~~  
22           ~~through new construction or through renovation and conversion. Such replacement~~  
23           ~~shall be subject to licensing regulations, but not to additional facility need review~~  
24           ~~process approval, subject to budget neutrality provisions and rules and regulations~~  
25           ~~promulgated by the Louisiana Department of Health.~~

26           ~~I. The Louisiana Department of Health shall develop and implement policies~~  
27           ~~and procedures to require nursing facilities and ICF/DD providers to notify new~~  
28           ~~residents and their families and guardians of sex offenders living in their facilities~~  
29           ~~upon admission. The notification shall continue for as long as the information is~~

1 considered a public record. During the annual licensing process, health standards  
2 surveyors shall verify providers' compliance with the policy.

3 J.(1) Notwithstanding any other provision of law to the contrary, the facility  
4 need review approval for licensed intermediate care facilities for people with  
5 developmental disabilities (ICF/DD) located in an area or areas which have been  
6 affected by an executive order or proclamation of emergency or disaster and which  
7 were operating at the time the executive order or proclamation was issued under R.S.  
8 29:724 shall remain in effect and shall not be terminated, considered to have expired,  
9 or revoked until January 1, 2012. For this exception to apply, the emergency or  
10 disaster shall be the sole causal factor in the interruption of the provision of services.  
11 This exception shall not apply if any one of the following occurs:

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

13 (b) The provider fails to notify in writing the health standards section of the  
14 Louisiana Department of Health of its intention to avail itself of the continuation of  
15 facility need review approval no later than December 31, 2005.

16 (c) The provider fails to recommence providing services prior to January 1,  
17 2012.

18 (2) Nothing in this Subsection shall be construed to accomplish either of the  
19 following:

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

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

27 (3)(a) Notwithstanding any other law to the contrary, any nursing home  
28 provider located in a parish with a population between sixty-five thousand and  
29 seventy thousand according to the latest federal decennial census, which parish was

1 affected by hurricane Katrina or Rita, and who ceased operations solely because of  
2 the damage occasioned by the events which were the subject of an order or  
3 proclamation of emergency or disaster issued pursuant to R.S. 29:724, and whose  
4 operations have not been resumed as of July 1, 2008, shall have their pre-storm  
5 facility need review approval reinstated for the sole purpose of rebuilding or  
6 replacing the facility, upon meeting the following conditions:

7 (i) The nursing home provider shall submit a reinstatement request to the  
8 health standards section of the Louisiana Department of Health in writing by  
9 December 31, 2008.

10 (ii) The reinstatement request shall state the provider's intent to rebuild the  
11 nursing home and resume providing nursing home services in that parish.

12 (iii) The nursing home provider shall resume operation as a nursing home  
13 provider in that parish no later than January 1, 2010.

14 (iv) The nursing home provider shall submit all fees, costs, and cost reports  
15 due and owing to the Louisiana Department of Health.

16 (b) The facility need review approval reinstated to the facility shall  
17 encompass all rights and responsibilities afforded the facility at the time it ceased  
18 providing services as a result of hurricanes Katrina and Rita.

19 (c) The provisions of this Subsection shall not apply to a nursing home  
20 provider who has voluntarily surrendered its facility need review approval.

21 K. The department shall adopt a rule to allow a nursing home located in a  
22 service area which has less than ninety-three percent occupancy to temporarily  
23 convert a number of licensed beds to an alternate use. The beds may be converted for  
24 alternate health care use until such time as the average annual occupancy in the  
25 service area exceeds ninety-three percent and an adjoining service area exceeds  
26 ninety-three percent based on the department's LTC-2 Report and the facility is  
27 notified of the same. The facility shall then either re-license the beds as nursing  
28 home beds within one year of receipt of the notice from the department, or the beds  
29 will be deemed expired. Nothing herein shall be construed to preclude nursing homes

1 from taking beds out of alternate use at any time and using them as licensed beds  
2 unless deemed expired. The prohibition contained in Paragraph (D)(2) of this Section  
3 shall not apply to nursing home beds in alternate use.

4 **§2116.1. Nursing facilities; facility need review; moratorium; exceptions**

5 **A.(1) The Louisiana Department of Health, in accordance with the**  
6 **Administrative Procedure Act, shall establish a facility need review process for**  
7 **nursing facilities consistent with the regulations for licensure and for Title XIX**  
8 **of the Social Security Act.**

9 **(2) The department shall promulgate rules and regulations in accordance**  
10 **with the Administrative Procedure Act to provide for facility need review. The**  
11 **rules and regulations shall include but not be limited to the following:**

12 **(a) Criteria for review of nursing facility beds to determine if there is a**  
13 **need for additional beds.**

14 **(b) Specific duties of the department to review proposals for new**  
15 **facilities and determine the need therefor.**

16 **(c) Appropriate methodology for the collection of data necessary for the**  
17 **administration of the program.**

18 **(d) Procedures to grant and revoke approvals.**

19 **(e) Establishment of application fees.**

20 **(f) Procedures for review of applications by the department.**

21 **(g) Procedures to request a fair hearing from a determination made by**  
22 **the department.**

23 **(h) Provisions for judicial review from the decision rendered after a fair**  
24 **hearing.**

25 **(3) No new facility, service, or beds shall be licensed and certified to**  
26 **participate in the Title XIX program without the approval of the department**  
27 **based upon a determination of a need therefor in accordance with the**  
28 **provisions of this Section. Any person establishing, managing, or operating a**  
29 **new facility, service, or bed without the approval required by this Section shall**

1 be prohibited from participating in the Title XIX program.

2 B.(1) There shall be a moratorium on nursing facilities and additional  
3 beds for nursing facilities which shall be in effect until July 1, 2027.

4 (2) The moratorium provided for in Paragraph (1) of this Subsection  
5 shall not apply to the following:

6 (a) Replacement of existing facilities, provided that there is no increase  
7 in existing nursing home beds at the replacement facility. However, a nursing  
8 home which has relocated, as the result of an executive order or declaration of  
9 emergency or disaster issued in accordance with R.S. 29:724 shall not be  
10 allowed to permanently relocate such facility outside of the geographic area for  
11 which the original facility was licensed.

12 (b) Replacement of nursing facility beds with adult residential care home  
13 beds, either through new construction or through renovation and conversion.  
14 Such replacement shall be subject to licensing rules and regulations and budget  
15 neutrality provisions promulgated by the Louisiana Department of Health.

16 (c) A nursing facility located in a service area which has less than  
17 ninety-three percent occupancy that temporarily converts a number of licensed  
18 beds to an alternate use. The beds may be converted for alternate health care  
19 use until such time as the average annual occupancy in the service area exceeds  
20 ninety-three percent and an adjoining service area exceeds ninety-three percent  
21 based on the department's LTC-2 Report or its successor and the facility is  
22 notified of the same. The facility shall then either relicense the beds as nursing  
23 home beds within one year of receipt of the notice from the department, or the  
24 beds will be deemed expired. Nothing in this Paragraph shall be construed to  
25 preclude nursing facilities from taking beds out of alternate use at any time and  
26 using them as licensed beds unless they are deemed expired.

27 (d) Nursing home beds in alternate use.

28 C.(1) Except as provided in Paragraphs (2), (3), and (4) of this  
29 Subsection, the Louisiana Department of Health shall suspend approval,

1 certification, and enrollment of nursing facility beds which were previously  
2 approved to participate in the Title XIX program under a facility need review  
3 process, Section 1122 process, or any predecessor needs review process, unless  
4 the beds are certified and enrolled in the Title XIX program by December 31,  
5 1997. The suspension shall be for the length of the moratorium imposed  
6 pursuant to Subsection B of this Section.

7 (2) The suspension shall not apply to existing approvals for replacement  
8 of existing nursing facilities, or approvals which are under judicial review, on  
9 August 15, 1997. The suspension shall not apply to approvals for alternate use  
10 of previously approved beds.

11 (3) In the case of previously approved but unbuilt nursing facilities or  
12 beds, the department shall not suspend approval, certification, and enrollment  
13 if construction has actually begun by June 30, 1998, and construction is  
14 completed and the facilities or beds are actually certified and enrolled in the  
15 Title XIX program by December 31, 1999. In such cases, the department shall  
16 suspend approval, certification, and enrollment of previously approved beds not  
17 certified and enrolled by December 31, 1999.

18 (4) In the case of previously approved but unbuilt nursing facilities or  
19 beds, if construction has actually begun by June 30, 1998, and construction is  
20 not completed and the facilities or beds are not actually certified and enrolled  
21 in the Title XIX program by December 31, 1999, the secretary of the Louisiana  
22 Department of Health may authorize the certification and enrollment of the  
23 beds by December 31, 2001. However, the extension shall not be granted unless  
24 the secretary determines that construction has not been completed due to  
25 circumstances beyond the control of the applicant, a written request for an  
26 extension was made prior to December 31, 1999, and financing has been  
27 approved for the beds. These provisions shall only be applicable in the case of  
28 a facility, the primary purpose of which is to replace an existing facility, but also  
29 in so doing, enrolling additional beds.

1        **§2116.2. Nursing facilities; cost effective measures**

2                **A. The Louisiana Department of Health may promulgate rules to**  
3        **accomplish cost effectiveness of beds that include but are not limited to the**  
4        **following:**

5                **(1) A bed abeyance program to reduce nursing facility beds by ten**  
6        **percent or more. Such an abeyance program shall include a timeframe in which**  
7        **a determination is made as to whether beds should be brought out of abeyance**  
8        **based upon a ninety-three percent occupancy rate within a service area.**

9                **(2) An increase in the minimum occupancy level required for a nursing**  
10        **facility to fully recover its capital cost.**

11                **(3) A buy-back program, provided such a buy-back program is approved**  
12        **by the Centers for Medicare and Medicaid Services and is eligible for federal**  
13        **funds participation.**

14                **(4) A bed exchange program that allows a nursing facility to create adult**  
15        **residential care beds based on the permanent elimination of existing nursing**  
16        **facility beds.**

17                                \*        \*        \*

18        §2180.2. Promulgation of rules

19                The department shall promulgate, in accordance with the Administrative  
20        Procedure Act, licensing standards, rules, and regulations, regarding, but not limited  
21        to the following:

22                                \*        \*        \*

23                **(12) The Louisiana Department of Health shall develop and implement**  
24        **policies and procedures to require ICF/DD providers to notify new residents**  
25        **and their families and guardians of sex offenders living in their facilities upon**  
26        **admission. The notification shall continue for as long as the information is**  
27        **considered a public record. During the annual licensing process, health**  
28        **standards surveyors shall verify the providers' compliance with the policy.**



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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Brandi Cannon.

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## DIGEST

SB 30 Engrossed

2022 Regular Session

Fred Mills

Present law establishes a facility need review process within the Louisiana Department of Health (LDH) to determine if there is a need for any new or additional facilities, providers, programs, services, or beds. Proposed law identifies the healthcare providers that are subject to facility need review and provides for the creation and composition of a facility need review committee, the review process used by the committee, and the rights of the applicant subject to review. Proposed law provides that facility need review must be satisfied before a provider can proceed with licensure and Medicaid provider certification.

Present law provides for a nursing facility moratorium and certain exceptions. Proposed law moves provisions in present law relative to the moratorium and exceptions into a new section and deletes obsolete provisions.

Present law provides that the nursing facility moratorium shall be in effect until July 1, 2027. Proposed law retains present law and provides that nursing facilities are subject to facility need review in absence of the moratorium.

Present law provides for certain cost effective measures that may be accomplished by a department waiver. Proposed law moves provisions in present law relative to cost effective measures into a new section.

Effective August 1, 2022.

(Amends R.S. 40:2116; adds R.S. 40:2009.4(C), 2116.1, 2116.2, and 2180.2(12))

Summary of Amendments Adopted by Senate

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

1. Clarifies that a facility need review may be conducted prior to licensure or certification to participate in the Louisiana Medicaid program.
2. Removes adult day healthcare providers and adult residential care providers from the list of providers subject to facility need review.
3. Provides for the supplemental review process including an in-person or virtual meeting between the applicant and the FNR committee or its designees.
4. Provides for the revocation, suspension, and expiration of FNR approvals.
5. Provides for a facility need review process for nursing facilities in absence of a moratorium.
6. Repeals additional present law provisions that are obsolete.
7. Restores and relocates present law relative to nursing facility beds approved prior to the moratorium.
8. Makes technical change.