

2024 Regular Session

HOUSE BILL NO. 687

BY REPRESENTATIVE BUTLER

HEALTH: Provides relative to the licensing of "PACE" program providers

1 AN ACT

2 To enact R.S. 40:1203.1(4)(aa) and Part II-J of Chapter 11 of Title 40 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 40:2120.61 through 2120.70,
4 relative to the licensing of the Program for All-Inclusive Care of the Elderly (PACE)
5 providers; to provide for definitions; to provide for licensure requirements; to
6 provide for rules and regulations; to provide for licensing fees; and to provide for
7 related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:1203.1(4)(aa) and Part II-J of Chapter 11 of Title 40 of the
10 Louisiana Revised Statutes of 1950, comprised of R.S. 40:2120.61 through 2120.70, are
11 hereby enacted to read as follows:

12 §1203.1. Definitions

13 For the purposes of this Part, the following terms have the meaning ascribed
14 in this Section:

15 * * *

16 (4) "Employer" means any of the following facilities, agencies, providers,
17 or programs:

18 * * *

19 (aa) A Program for All-Inclusive Care of the Elderly (PACE) Provider, as
20 defined in R.S. 40:2120.63.

21 * * *

1 Part II-J. LICENSING PROGRAM FOR ALL-INCLUSIVE CARE OF THE ELDERLY

2 (PACE) PROVIDERS

3 §2120.61. Short title

4 This Part shall be known and may be cited as the "Licensing Program for
5 All-Inclusive Care of the Elderly (PACE) Providers".

6 §2120.62. Purpose

7 A. The purpose of this Part is to authorize the Louisiana Department of
8 Health to promulgate and publish rules and regulations to provide for the licensing
9 of the Program of All-Inclusive Care for the Elderly (PACE) Providers, to provide
10 for the health, safety, welfare, well-being, and comfort of persons receiving services
11 from PACE providers, and to provide for the safe operation and maintenance of
12 PACE providers.

13 B. The purpose of a PACE provider is to provide prepaid, capitated,
14 comprehensive healthcare service to Medicare and Medicaid recipients or other
15 qualified individuals, who choose PACE services.

16 §2120.63. Definitions

17 For the purposes of this Part, the following terms shall have the following
18 meanings:

19 (1) "Department" means the Louisiana Department of Health or any agency
20 or office thereof designated by the secretary to administer the provisions of this Part.

21 (2) "License" means a license issued by the department to a PACE provider.

22 (3) "PACE enrollee" means a recipient or participant that has been approved
23 by Medicare or the Louisiana Medicaid Program to enroll as a PACE participant in
24 an approved and licensed PACE provider.

25 (4) "PACE services" means those healthcare and related services approved
26 by the Center for Medicare and Medicaid Services for Medicare and Louisiana
27 Medicaid Programs as PACE services, including but not limited to primary care,
28 social work services, restorative therapies, personal care and support services;
29 nutrition counseling, recreational therapy, transportation, meals, medical specialists

1 services, laboratory tests, x-rays, durable medical equipment, and other services
2 determined necessary by an interdisciplinary team to improve and maintain the
3 participant's overall health status.

4 (5) "Program for All-Inclusive Care of the Elderly (PACE) provider" means
5 a facility, place, center, agency, person, institution, corporation, partnership,
6 unincorporated association, group, organization, or other legal entity that meets the
7 requirements of 42 CFR 460 et seq., and is approved and enrolled or intends to be
8 approved and enrolled as a PACE organization by the Center for Medicare and
9 Medicaid Services for the Medicare and Louisiana Medicaid Programs to provide
10 services to Medicare and Medicaid recipients, or other qualified individuals, who
11 choose PACE services.

12 (6) "Secretary" means the secretary of the Louisiana Department of Health
13 or his designee.

14 (7) "Standards" means policies, procedures, rules, and other guidelines or
15 standards of current practice contained in this Part, in addition to those rules and
16 standards promulgated by the department for the licensing and operation of PACE
17 providers.

18 §2120.64. Licensure of PACE providers

19 A. All PACE providers shall be licensed by the Louisiana Department of
20 Health. No facility, place, center, agency, person, institution, corporation,
21 partnership, unincorporated association, group, organization, or other legal entity
22 providing PACE services may be established, operated, or be reimbursed under the
23 Medicaid program, unless licensed as a PACE provider to perform such services by
24 the department.

25 B. A license issued to a PACE provider shall be valid for only the
26 geographic location listed on the license and shall be issued only for the entity or
27 person and premises named in the license application. The geographic service
28 location for a PACE provider shall be a single geographic administrative region of

1 the Louisiana Department of Health as defined in the licensing rules for the PACE
2 provider.

3 C. A license issued pursuant to this Part shall be valid for twelve months,
4 beginning the month of issuance, unless revoked or otherwise suspended prior to that
5 date.

6 D. A license issued pursuant to this Part shall expire on the last day of the
7 twelfth month after the date of issuance, unless otherwise renewed, or as set forth in
8 rules promulgated by the department.

9 E. A license issued pursuant to this Part shall be on a form prescribed by the
10 department.

11 F. A license issued pursuant to this Part shall not be transferrable or
12 assignable.

13 (1) When a PACE provider is sold or ownership is transferred, the new
14 owner or transferee shall notify the department and apply for a new license at least
15 forty-five days prior to the transfer.

16 (2) The transferor shall remain responsible for the operation of the PACE
17 provider until such time as a license has been issued to the transferee.

18 G. A license issued to a PACE provider shall be posted in a conspicuous
19 place on the licensed premises.

20 §2120.65. PACE provider participants; restrictions

21 A PACE provider shall provide services only to those participants who have
22 chosen PACE services and who have been approved by Medicare or the Louisiana
23 Medicaid Program to become a PACE enrollee with an approved and licensed PACE
24 provider. A PACE provider shall not provide services to any person that is not an
25 approved PACE enrollee.

26 §2120.66. PACE provider restrictions

27 A. A PACE provider license will allow the provision of all of the following
28 services to approved PACE enrollees:

1 (1) Home- and community-based services, as defined in R.S. 40:2120.1 et
2 seq., if the PACE provider is in compliance with state licensing laws, rules and
3 regulations for home- and community-based services providers, unless otherwise
4 exempted pursuant to promulgated PACE provider licensing regulations.

5 (2) Adult day healthcare facility services, as defined in R.S. 40:2120.41 et
6 seq., if the PACE provider is in compliance with federal and state licensing laws,
7 rules and regulations for adult day healthcare facility services, unless otherwise
8 exempted pursuant to promulgated PACE provider licensing regulations.

9 (3) Home health agency services, as defined in R.S. 40:2116.31 et seq., if the
10 PACE provider is in compliance with federal and state licensing laws, rules and
11 regulations governing home health agencies, unless otherwise exempted pursuant to
12 the promulgated PACE provider licensing regulations.

13 B. A PACE organization which has been issued a PACE provider license by
14 the department shall not be required to obtain a separate home- and
15 community-based service provider license, a separate adult day healthcare facility
16 license, or a separate home health agency license, in order to provide such services
17 to approved PACE enrollees.

18 C. A PACE provider license will allow the PACE provider to contract with
19 a Louisiana-licensed and certified hospital, nursing facility, or hospice agency, to
20 arrange or provide hospital, nursing facility, or hospice services to an approved
21 PACE enrollee. A PACE provider license will allow the PACE provider to contract
22 with other licensed or certified healthcare providers to provide approved PACE
23 services to an approved PACE enrollee.

24 D. A PACE provider license will allow the PACE provider to contract or
25 arrange other approved services with licensed or certified medical or healthcare
26 professionals, for an approved PACE enrollee.

27 E. A PACE provider shall ensure that all services provided to or arranged for
28 a PACE enrollee are provided by either of the following:

1 (1) Individuals who are licensed by, and in good standing with, the
2 appropriate licensing board in this state, and who are practicing within the licensed
3 scope of practice.

4 (2) Individuals who are certified by, and in good standing with, the
5 appropriate board, authority, or agency in this state, and who are acting within the
6 scope of practice or certification.

7 F. A PACE provider shall not serve any person who is not an approved
8 PACE enrollee.

9 §2120.67. Rules and regulations; licensing standards

10 A. The department shall promulgate and publish rules, regulations, and
11 licensing standards, in accordance with the Administrative Procedure Act, to provide
12 for the licensure of PACE providers, to provide for the health, safety, welfare,
13 well-being, and comfort of persons receiving services from PACE providers, and to
14 provide for the safe operation and maintenance of PACE providers. The rules,
15 regulations, and licensing standards shall become effective upon approval of the
16 secretary of the department in accordance with the Administrative Procedure Act.
17 The rules, regulations, and licensing standards promulgated shall have the effect of
18 law.

19 B. The department shall prescribe, promulgate, and publish rules,
20 regulations, and licensing standards, which shall include but are not limited to the
21 following:

22 (1) Licensure application, renewal, and conversion, including forms,
23 procedures, and requirements.

24 (2) Operational requirements.

25 (3) Provision of services.

26 (4) Practice standards to ensure quality of care.

27 (5) Practice standards to ensure the health, safety, welfare, well-being, and
28 comfort of persons receiving care and services.

29 (6) Confidentiality of clients' records.

1 (7) Criteria and protocols to ensure uniform and quality assessment,
2 diagnosis, evaluation, and referral to appropriate level of care.

3 (8) Administration, personnel, and staffing requirements.

4 (9) Maintenance of written policies and procedures.

5 (10) Survey and complaint investigations, including investigations into
6 allegations that a provider is operating without a license.

7 (11) License types, including provisional licenses.

8 (12) Denial, revocation, suspension, and nonrenewal of licenses, and the
9 appeals therefrom.

10 (13) Planning, construction, and design of the provider to ensure the health,
11 safety, welfare, well-being, and comfort of persons receiving care and services.

12 (14) Requirements for approval of PACE enrollees and provisions related
13 thereto.

14 (15) Other regulations or standards as will ensure proper care and treatment
15 of persons receiving care and services at or from the PACE provider, as may be
16 deemed necessary by the department for an effective administration of this Part.

17 C. No PACE organization or provider will be required to obtain a license in
18 accordance with this Part until the initial rules, regulations, and licensing standards
19 are promulgated by the department pursuant to the Administrative Procedures Act.
20 Each entity that meets the definition of a PACE provider, as defined in this Part,
21 shall submit an initial licensing application and licensing fee to the department
22 within ninety days of the promulgation of the initial rules, regulations and licensing
23 standards; thereafter, if the entity is not licensed within one hundred eighty days after
24 submission of its initial licensing application and fee, the entity shall cease and desist
25 operations until such time as it is licensed as a PACE provider by the department.

26 §2120.68. License issuance; application; fees; onsite inspections

27 A. Each application for licensure as a PACE provider shall be submitted to
28 the department on forms prescribed by the department and shall contain such
29 information as the department may require. If a PACE organization operates in more

1 than one departmental region, the PACE organization shall obtain a separate PACE
2 provider license for each region. At a minimum, the licensing application shall
3 contain all of the following information:

4 (1) Name, address, and contact information of the person, partnership,
5 corporation, unincorporated association, or other legal entity that is the applicant.

6 (2) Names and addresses of the applicant's officers, directors, managers, and
7 administrators, if applicable.

8 (3) A line of credit from a federally insured, licensed lending institution in
9 the amount of at least fifty thousand dollars.

10 (4) Evidence of compliance with the Louisiana Workers' Compensation Law,
11 R.S. 23:1020.1 et seq.

12 (5) Evidence of general and professional liability insurance in the amount of
13 at least three hundred thousand dollars.

14 (6) Any other relevant information that the department determines is
15 necessary to properly evaluate the applicant and application as required by the
16 department by rule.

17 B. Each application for initial licensure shall be accompanied by a
18 non-refundable license fee, payable to the department, in an amount not to exceed
19 one thousand five hundred dollars.

20 C. Following receipt of the completed initial licensing application and
21 licensing fee, the department shall perform an onsite survey and inspection. If, after
22 the onsite survey and inspection, the department finds that the PACE provider meets
23 the requirements of this Part and the licensing standards adopted pursuant to this
24 Part, a license shall be issued.

25 D. As a condition for renewal of license, the licensee shall continue to be
26 approved and enrolled as a PACE organization by the Center for Medicare and
27 Medicaid Services for the Medicare and Louisiana Medicaid Programs. In addition,
28 the licensee shall submit to the department, a completed annual renewal application
29 on the forms prescribed by the department, which shall contain all information

1 required by the department. Additionally, a non-refundable annual renewal licensing
2 fee, in an amount not to exceed one thousand five hundred dollars, shall be submitted
3 with the annual renewal application. A PACE provider shall be assessed a
4 delinquent fee of two hundred dollars for failure to timely renew its license; the
5 delinquent fee shall be assessed and shall become due and payable to the department
6 at 12:01 a.m. on the first day following the expiration date of the license.

7 E. Upon receipt of the completed annual renewal application and the annual
8 renewal fee, and any applicable delinquent fee, the department shall determine if the
9 PACE provider continues to meet the requirements established under this Part and
10 under the licensing standards adopted pursuant to this Part. The department may
11 perform an onsite survey and inspection upon annual renewal. If the provider
12 continues to meet the requirements established under this Part and under the
13 licensing standards adopted pursuant to this Part, a license shall be issued, which
14 shall be valid for up to one year, unless otherwise revoked or suspended.

15 F. The department may perform an onsite survey or inspection at reasonable
16 times as necessary to ensure compliance with this Part and the licensing standards
17 adopted pursuant to this Part.

18 §2120.69. Investigations; surveys

19 A. The department may conduct onsite licensing survey and inspections,
20 including complaint surveys, to determine that the PACE provider is in compliance
21 with the laws, rules, and regulations applicable to the PACE provider. Further, the
22 PACE provider that has applied for a license or that is licensed pursuant to this Part
23 shall be open at reasonable times for inspection by the department, the state fire
24 marshal, and any other authorized governmental entity.

25 B. Every applicant or licensee shall keep all records and make all reports as
26 the department shall prescribe, and all necessary records shall be available for
27 inspection by the department or other authorized governmental entity. The
28 department may examine the premises of any PACE provider and may examine and
29 inspect the PACE provider's books, records, documents, and other evidence in any

1 survey or investigation. The PACE provider shall cooperate in any survey or
2 investigation conducted by the department. Failure to cooperate with the survey or
3 investigation may result in action up to and including license revocation.

4 C. The department may assess a PACE provider a survey or investigation
5 fee, not to exceed one thousand dollars, for any complaint survey or investigation
6 conducted by the department at which deficiencies are substantiated. This survey or
7 inspection fee shall be imposed by the department only after the PACE provider has
8 completed the administrative process that has upheld the deficiencies or the time for
9 filing any administrative process or appeal has expired. The survey or investigation
10 fee shall not exceed the cost of performing the survey or inspection. This fee shall
11 be in addition to any other sanctions.

12 §2120.70. Operation without license; penalty; exception

13 A. Except as provided in R.S. 40:2120.67, a PACE provider shall not operate
14 without a license issued by the department. Any provider, organization, or facility
15 operating without a license shall be guilty of a misdemeanor and upon conviction
16 shall be fined no less than two hundred fifty dollars nor more than one thousand
17 dollars. Each day of violation shall constitute a separate offense. It shall be the
18 responsibility of the department to inform the appropriate district attorney of the
19 alleged violation to ensure enforcement.

20 B. If a PACE provider is operating without a license issued by the
21 department, the department shall have the authority to issue an immediate cease and
22 desist order to the provider. Any such provider receiving such a cease and desist
23 order from the department shall immediately cease operations until such time as that
24 provider is issued a license by the department.

25 C. The department shall seek an injunction in the Nineteenth Judicial District
26 Court against any PACE provider that receives a cease and desist order from the
27 department under Subsection B of this Section and does not cease operations
28 immediately. Any PACE provider against whom an injunction is granted shall be
29 liable to the department for attorney fees, costs, and damages.

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

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 687 Reengrossed

2024 Regular Session

Butler

Abstract: Establishes the licensure provisions for the "PACE" program.

Proposed law adds "Program for All-Inclusive Care of the Elderly (PACE) Provider" to the list of employers for which a background check is required as provided for in present law.

Proposed law provides that proposed law shall be known and may be cited as the "Licensing Program for All-Inclusive Care of the Elderly (PACE) providers".

Proposed law authorizes the La. Dept. of Health (LDH) to promulgate and publish rules and regulations to provide for the licensing of the PACE providers.

Proposed law defines "department", "license", "PACE enrollee", "PACE services", "PACE provider", "secretary", and "standards".

Proposed law requires all PACE providers to be licensed by LDH and stipulates certain criteria for licensure validity. Proposed law further provides that a PACE license shall be valid for 12 months, beginning the month of issuance, expiring on the last day of the twelfth month.

Proposed law requires LDH to facilitate the form for the physical license and requires licensees to post licenses in conspicuous locations.

Proposed law provides that PACE licenses shall not be transferrable; Proposed law requires new owners of newly acquired PACE providers to notify LDH of the change in ownership and apply for new licensure at least 45 days before the transfer in ownership.

Proposed law requires PACE providers to only provide services to participants who have chosen the PACE program and are approved by Medicare or the state Medicaid program.

Proposed law further requires PACE providers to only provide services to approved PACE enrollees.

Proposed law allows PACE providers to provide services to all of the following approved PACE enrollees:

- (1) Home- and community-based services as provided in present law.
- (2) Adult day health care facility services as provided in present law.

(3) Home health agency services as provided in present law.

Proposed law allows PACE providers to contract with a Louisiana-licensed and certified hospital, nursing facility, or hospice agency, to arrange or provide hospital, nursing facility, or hospice services for an approved PACE enrollee. Proposed law further establishes parameters for such contracting.

Proposed law requires LDH to prescribe, promulgate, and publish rules and regulations, and licensing standards. Proposed law further provides criteria for such rule promulgation.

Proposed law provides that no PACE provider will be required to obtain licensure in accordance with proposed law until the rules, regulations, and standards are facilitated by LDH.

Proposed law requires PACE providers to submit an initial licensing application and licensing fee to the LDH within 90 days of the promulgation of the initial rules, regulations and licensing standards. Proposed law further provides that if the entity is not licensed within 180 days after submission of its initial licensing application and fee, the entity shall cease and desist operations until such time as it is licensed as a PACE provider by LDH.

Proposed law further provides regulations and fees associated with renewal of licensure.

Proposed law provides that LDH may conduct onsite surveys and inspections for licensees.

Proposed law requires applicants to keep records and maintain certain reports.

Proposed law furnishes penalty provisions for PACE providers who operate without a license.

Proposed law requires LDH to seek an injunction against any PACE provider that receives a cease and desist order from LDH in accordance with proposed law and does not cease operations immediately. Proposed law further requires any PACE provider against whom an injunction is granted to be liable to the department for attorney fees, costs, and damages.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 40:1203.1(4)(aa) and R.S. 40:2120.61-2120.70)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Identify an exception in proposed law that clarifies conflicting provisions regarding when a PACE provider may operate without licensure with or without penalties.
2. Make technical changes.