

1 §2006. Fees; licenses; penalties

2 A.

3 * * *

4 (2) This Subsection shall apply to any licensed:

5 * * *

6 (b) ~~Substance abuse/addiction treatment facility.~~ Behavioral health services
7 provider.

8 * * *

9 B.

10 * * *

11 (2) This Subsection shall apply to any licensed:

12 * * *

13 (e) ~~Substance abuse/addiction treatment facility.~~ Behavioral health services
14 provider.

15 * * *

16 E.

17 * * *

18 (2) This Subsection shall apply to any licensed:

19 * * *

20 (b) ~~Substance abuse/addiction treatment facility.~~ Behavioral health services
21 provider.

22 * * *

23 PART IV-A. LICENSING OF BEHAVIORAL HEALTH SERVICES PROVIDERS

24 §2151. Short title

25 This Part may be cited as the "Behavioral Health Services Provider Licensing
26 Law".

27 §2152. Purpose

28 The purpose of this Part is to authorize the Department of Health and
29 Hospitals to promulgate and publish rules and regulations to provide for integrated

1 behavioral health services under one license, to provide for the health, safety, and
2 welfare of persons receiving behavioral health services, and to provide for the safe
3 operation and maintenance of providers and facilities providing such care.

4 §2153. Definitions

5 For the purposes of this Part, unless the context otherwise clearly indicates,
6 the following terms shall have the following meanings:

7 (1) "Behavioral health services" means mental health services, substance
8 abuse/addiction treatment services, or a combination of such services, for adults and
9 children. Behavioral health services may be provided in a residential setting, in a
10 clinic setting on an outpatient basis, or in a home or community setting.

11 (2) "Behavioral health services provider" means a facility, agency,
12 institution, person, society, corporation, partnership, unincorporated association,
13 group, or other legal entity which provides behavioral health services and which
14 presents itself to the public as a provider of behavioral health services.

15 (3) "Client" means any person who has been accepted for treatment or
16 services, including rehabilitation services, furnished by a provider licensed pursuant
17 to this Part.

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

21 (5) "Financial viability" means the provider or facility seeking licensure is
22 able to provide verification and continuous maintenance of all of the following:

23 (a) A line of credit issued from a federally insured, licensed lending
24 institution in the amount of at least fifty thousand dollars.

25 (b) General and professional liability insurance of at least five hundred
26 thousand dollars.

27 (c) Workers' compensation insurance.

28 (7) "License" means a license issued by the department to a behavioral
29 health service provider.

1 (8) "Licensed Mental Health Professional (LMHP)" means an individual
2 who is currently licensed and in good standing in the state of Louisiana to practice
3 independently as one of the following and who is acting within the scope of all
4 applicable state laws and the individual's professional license:

5 (a) Medical psychologist.

6 (b) Licensed psychologist.

7 (c) Licensed clinical social worker (LCSW).

8 (d) Licensed professional counselor (LPC).

9 (e) Licensed marriage and family therapist (LMFT).

10 (f) Licensed addiction counselor (LAC).

11 (g) Licensed Advance Practice Registered Nurse (APRN).

12 (9) "Mental health service" means a service related to the screening,
13 diagnosis, management, or treatment of a mental disorder, mental illness, or other
14 psychological or psychiatric condition or problem.

15 (10) "Outpatient services" means behavioral health services offered in an
16 accessible nonresidential setting to clients whose physical and emotional status
17 allows them to function in their usual environment.

18 (11) "Physician" means an individual who is currently licensed and in good
19 standing in the state of Louisiana to practice medicine in Louisiana and who is acting
20 within the scope of all applicable state laws and the individual's professional license.

21 (12) "Physician assistant" means an individual who is currently approved and
22 licensed by and in good standing with the Louisiana State Board of Medical
23 Examiners to perform medical services under the supervision of a physician or group
24 of physicians who are licensed by and registered with the Louisiana State Board of
25 Medical Examiners to supervise a physician assistant, and who is acting within the
26 scope of all applicable state laws and the individual's professional license.

27 (13) "Secretary" means the secretary of the Department of Health and
28 Hospitals or his designee.

1 (14) "Standards" means policies, procedures, rules, and other guidelines or
2 standards of current practice contained in this Part, in addition to those rules and
3 standards promulgated by the department for the licensing and operation of
4 behavioral health service providers.

5 (15) "Substance abuse/addiction treatment service" means a service related
6 to the screening, diagnosis, management, or treatment for the abuse of or addiction
7 to controlled dangerous substances, drugs or inhalants, alcohol, problem gambling,
8 or a combination thereof.

9 §2154. Applicability

10 The provisions of this Part shall not be construed to cover the licensing of:

11 (1) Hospitals licensed under R.S. 40:2100 et seq.

12 (2) Crisis receiving centers licensed under R.S. 40:2180.11 et seq.

13 (3) Nursing homes licensed under R.S. 40:2009.3 et seq.

14 (4) Psychiatric residential treatment facilities or therapeutic group homes
15 licensed under R.S. 40:2009.

16 (5) Facilities or services operated by the federal government.

17 (6) Federally qualified health care centers certified by the federal
18 government.

19 (7) Community mental health centers certified by the federal government.

20 (8) Home- and community-based service providers licensed under R.S.
21 40:2120.1 et seq.

22 (9) An individual Licensed Mental Health Professional (LMHP), or a group
23 practice of LMHPs, providing services under the auspices and pursuant to the scope
24 of the individual's license or group's licenses.

25 (10) An individual licensed physician, or a group of licensed physicians,
26 providing services under the auspices and pursuant to the scope of the individual's
27 license or group's licenses.

1 (11) An individual licensed physician assistant, or a group practice of
2 licensed physician assistants, providing services under the auspices and pursuant to
3 the scope of the individual's license or group's licenses.

4 (12) School-based health clinics/centers which are certified by the
5 Department of Health and Hospitals, office of public health, and enrolled in the
6 Louisiana Medicaid Program.

7 (13) A health care provider or entity solely providing case management or
8 peer support services, or a combination thereof.

9 (14) A health care provider which meets all of the following criteria:

10 (a) Was an accredited mental health rehabilitation provider enrolled in the
11 Louisiana Medicaid Program as of February 28, 2012.

12 (b) Was enrolled with the statewide management organization for the
13 Louisiana Behavioral Health Partnership as of March 1, 2012.

14 (c) Maintains continuous, uninterrupted accreditation through an approved
15 accreditation organization.

16 (d) Maintains continuous, uninterrupted enrollment with the statewide
17 management organization for the Louisiana Behavioral Health Partnership.

18 §2155. Licensure of behavioral health services providers

19 A. All behavioral health services providers shall be licensed. No facility,
20 agency, institution, person, society, corporation, partnership, unincorporated
21 association, group, or other legal entity providing behavioral health services may be
22 established, operated, or reimbursed under the Medicaid program, unless licensed as
23 a behavioral health services provider to perform such care by the department.

24 B. A license issued to a behavioral health services provider shall be valid for
25 only one geographic location and shall be issued only for the person and premises
26 named in the license application.

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

1 D. A license issued pursuant to this Part shall be on a form prescribed by the
2 department.

3 E. A license pursuant to this Part shall not be transferrable or assignable.

4 F. A license issued to a behavioral health service provider shall be posted in
5 a conspicuous place on the licensed premises.

6 G. A license issued to a behavioral health services provider shall list the
7 types or modules of behavioral health services that the provider is licensed to
8 provide.

9 §2156. Rules and regulations; licensing standards; fees

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 behavioral health services providers, to provide for the health,
13 safety, and welfare of persons receiving care and services from providers, and to
14 provide for the safe operation and maintenance of providers. The rules, regulations,
15 and licensing standards shall become effective upon approval of the secretary of the
16 department in accordance with the Administrative Procedure Act. The rules,
17 regulations, and licensing standards shall have the effect of law.

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

21 (1) Licensure application and renewal application forms, procedures, and
22 requirements.

23 (2) Operational and personnel requirements.

24 (3) Practice standards to assure quality of care.

25 (4) Practice standards to assure the health, safety, welfare, and comfort of
26 persons receiving care and services.

27 (5) Confidentiality of clients' records.

28 (6) Treatment priorities, as well as residential and outpatient criteria.

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

3 (8) Survey and complaint investigations, including investigations into
4 allegations that a provider is operating without a license.

5 (9) Initial and annual renewal of license, including the requirement of
6 providing verification and continuous maintenance of financial viability for all
7 behavioral health services providers other than those owned by governmental
8 entities.

9 (10) Provisional licenses.

10 (11) Denial, revocation, suspension, and nonrenewal of licenses, and the
11 appeals therefrom.

12 (12) Planning, construction, and design of the facility or provider to ensure
13 the health, safety, welfare, and comfort of persons receiving care and services.

14 (13) Modules of behavioral health services providers with varying levels or
15 types of services. The modules for behavioral health services providers shall
16 include at a minimum:

17 (a) Mental Health Services Module.

18 (b) Substance Abuse/Addiction Treatment Module.

19 (14) Requirements for offsite or branch locations.

20 (15) Other regulations or standards as will ensure proper care and treatment
21 of persons receiving care and services, including provisions relative to civil
22 monetary penalties, as may be deemed necessary for an effective administration of
23 this Part.

24 C. The department shall have the authority to monitor, survey, and regulate
25 mental health clinics and substance abuse/addiction treatment facilities under the
26 existing licensing regulations for the programs until the department publishes
27 minimum licensing standards for behavioral health services providers and the time
28 for all existing licensed mental health clinics and substance abuse/addiction

1 treatment facilities to apply for the behavioral health services provider license has
2 expired.

3 §2157. License issuance; application; onsite inspection

4 A. Each application for licensure of a behavioral health services provider
5 shall be submitted to the department on forms prescribed by the department and shall
6 contain such information as the department may require. Additional information
7 required by the department shall be provided by the applicant as requested.

8 B. Each application for licensure and each license renewal application shall
9 be accompanied by a nonrefundable license fee in the amount required pursuant to
10 R.S. 40:2006.

11 C. Following receipt of the completed initial licensing application and
12 licensing fee, the department shall perform an onsite survey and inspection. If, after
13 the onsite survey and inspection, the department finds that the provider meets the
14 requirements established under this Part and under the licensing standards adopted
15 pursuant to this Part, a license shall be issued.

16 D. As a condition for renewal of license, the licensee shall submit to the
17 department a completed annual renewal application on the forms prescribed by the
18 department, which shall contain all information required by the department.
19 Additionally, the annual renewal licensing fee shall be submitted with the annual
20 renewal application. Upon receipt of the completed annual renewal application and
21 the annual renewal licensing fee, the department shall determine if the facility
22 continues to meet the requirements established under this Part and under the
23 licensing standards adopted pursuant to this Part. The department may perform an
24 onsite survey and inspection upon annual renewal. If the provider continues to meet
25 the requirements established under this Part and under the licensing standards
26 adopted pursuant to this Part, a license shall be issued which shall be valid for up to
27 one year, unless otherwise revoked or suspended.

28 E. The department may perform an onsite inspection at reasonable times as
29 necessary to ensure compliance with this Part.

1 §2158. Operation without license; penalty

2 A. A behavioral health services provider shall not operate without a license
3 issued by the department. Any provider or facility operating without a license shall
4 be guilty of a misdemeanor and upon conviction shall be fined no less than two
5 hundred fifty dollars nor more than one thousand dollars. Each day of violation shall
6 constitute a separate offense. It shall be the responsibility of the department to
7 inform the appropriate district attorney of the alleged violation to assure
8 enforcement.

9 B. If a behavioral health services provider is operating without a license
10 issued by the department, the department shall have the authority to issue an
11 immediate cease and desist order to that provider. Any such provider receiving such
12 a cease and desist order from the department shall immediately cease operations until
13 such time as that provider is issued a license by the department.

14 C. The department shall seek an injunction in the Nineteenth Judicial District
15 Court against any provider who receives a cease and desist order from the
16 department under Subsection B of this Section and who does not cease operations
17 immediately. Any provider against whom an injunction is granted shall be liable to
18 the department for attorney fees, costs, and damages.

19 §2159. Opioid treatment programs

20 The department shall not license any opioid treatment programs under the
21 behavioral health services provider license unless the department, in its discretion,
22 determines that there is a need for another opioid treatment program in a certain
23 geographic location. The department has promulgated and adopted rules and
24 regulations in accordance with the Administrative Procedure Act to provide for the
25 criteria and processes for determining whether such a need exists, and the procedures
26 for selecting a opioid treatment program to be licensed once a need has been
27 determined.

1 §2160. Right of inspection by department; records; reports

2 A. Every behavioral health services provider which has applied for a license
3 or which is licensed pursuant to this Part shall be open at all reasonable times for
4 inspection by the department, the state fire marshal, municipal boards of health, and
5 any other authorized governmental entity.

6 B. Every licensee shall keep all records and make all reports as the
7 department shall prescribe, and all records shall be open to inspection by the
8 department or other authorized governmental entity.

9 §2161. Drug free zone; notice, signs

10 A. A drug free zone is an area inclusive of any property used as a behavioral
11 health services provider which has a substance abuse/addiction treatment module,
12 or within two thousand feet of such property.

13 B. The local governing authority which has jurisdiction over zoning matters
14 in which each drug free zone is located shall publish a map clearly indicating the
15 boundaries of each drug free zone in accordance with the specifications in
16 Subsection A of this Section. The drug free zone map shall be made on an official
17 public document and placed with the clerk of court for the parish or parishes in
18 which the drug free zone is located.

19 C.(1) The secretary of the Department of Health and Hospitals shall develop
20 a method by which to mark drug free zones, including the use of signs or other
21 marking suitable to the situation. Signs or other markings shall be located in a
22 visible manner on or near each behavioral health services provider which has a
23 substance abuse/addiction treatment module, indicating that the area is a drug free
24 zone, that the zone extends for a distance of two thousand feet, and that a felony
25 violation of the Uniform Controlled Dangerous Substances Law will subject the
26 offender to severe penalties under law. The posting required in this Subsection is
27 the responsibility and at the expense of the licensed provider.

28 (2) The Department of Public Safety and Corrections shall coordinate and
29 provide rules for the establishment of toll free telephone numbers for use in

1 submitting anonymous information regarding drug activity to local law enforcement
 2 agencies. The telephone numbers shall be displayed on the drug free zone signs
 3 which shall be manufactured in correctional institutions subject to the office of
 4 corrections in the Department of Public Safety and Corrections.

5 D.(1) It shall be unlawful for any person to cover, remove, deface, alter, or
 6 destroy any sign or other marking identifying a drug free zone as provided in this
 7 Section.

8 (2) Any violation of this Subsection shall be punishable by a fine of not more
 9 than one thousand dollars or by a jail sentence of not more than six months, or both.

10 Section 2. R.S. 28:567 through 573 and Part XIII of Chapter 4 of Title 40 of the
 11 Louisiana Revised Statutes of 1950, comprised of R.S. 40:1058.1 through 1058.10, are
 12 hereby repealed in their entirety.

13 Section 3. The provisions of R.S. 40:2006(A)(2)(b), (B)(2)(e), and (E)(2)(b) as
 14 enacted under the provisions of this Act and Section 2 of this Act shall become effective
 15 upon promulgation and publication by the Department of Health and Hospitals of the final
 16 rules for the Behavioral Health Services Provider license.

17 Section 4. The provisions of R.S. 40:2151 through 2161 as enacted under the
 18 provisions of this Act and Sections 3 and 4 of this Act shall become effective upon signature
 19 by the governor or, if not signed by the governor, upon expiration of the time for bills to
 20 become law without signature by the governor, as provided by Article III, Section 18 of the
 21 Constitution of Louisiana. If vetoed by the governor and subsequently approved by the
 22 legislature, this Act shall become 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)]

Simon

HB No. 281

Abstract: Creates a single license for behavioral health services providers.

Proposed law defines "behavioral health services", "behavioral health services provider", "client", "department", "financial viability", "license", "Licensed Mental Health Professional

(LMHP)", "mental health service", "outpatient services", "physician", "physician assistant", "secretary", "standards", and "substance abuse/addiction treatment service".

Proposed law establishes the behavioral health services provider license for providers of mental health services, substance abuse/addiction treatment services, or a combination of such services.

Proposed law requires all behavioral health services providers to be licensed.

Proposed law requires Dept. of Health and Hospitals (DHH) to promulgate and publish rules, regulations, and licensing standards to provide for the licensure of behavioral health services providers, to provide for the health, safety, and welfare of persons receiving care and services from providers, and to provide for the safe operation and maintenance of providers.

Proposed law sets forth the procedures for application for licensure, the issuance of the license including onsite inspections, and the renewal of licenses.

Proposed law prohibits a behavioral health services provider from operating without a license issued by DHH, authorizes DHH to seek an injunction, and establishes criminal penalties.

Proposed law prohibits DHH from licensing any opioid treatment programs under the behavioral health services provider license unless DHH, in its discretion, determines that there is a need for another opioid treatment program in a certain geographic location.

Proposed law requires every behavioral health services provider which has applied for a license or which is licensed to be open at all reasonable times for inspection by DHH, the state fire marshal, municipal boards of health, and any other authorized governmental entity.

Proposed law defines a drug free zone as an area inclusive of any property used as a behavioral health services provider which has a substance abuse/addiction treatment module, or within 2,000 feet of the property and requires visible signs or other markings to indicate the drug free zone. Proposed law prohibits a person from covering, removing, defacing, altering, or destroying any sign or other marking identifying a drug free zone and provides that any violation shall be punishable by a fine of not more than \$1,000 or by a jail sentence of not more than six months, or both.

With respect to licensing fees, proposed law changes the licensing category for "substance abuse/addiction treatment facility" used in present law to "behavioral health services provider".

Present law (R.S. 28:567-573) establishes licensing criteria and procedures for the licensing of mental health clinics.

Proposed law repeals present law.

Present law (R.S. 40:1058.1-1058.10) establishes licensing criteria and procedures for the licensing of substance abuse/addiction treatment facilities.

Proposed law repeals present law.

Effective upon signature of governor or lapse of time for gubernatorial action. However, the repeal of present law and the change in terms with respect to licensing fees shall become effective upon promulgation and publication by DHH of the final rules for the Behavioral Health Services Provider license.

(Amends R.S. 40:2006(A)(2)(b), (B)(2)(e), and (E)(2)(b); Adds R.S. 40:2151-2161; Repeals R.S. 28:567-573 and R.S. 40:1058.1-1058.10)