

Regular Session, 2014

HOUSE BILL NO. 68

BY REPRESENTATIVE TIM BURNS

ADMIN LAW/DIVISION: Provides that certain appeals and hearings formerly conducted by the bureau of appeals of the Dept. of Health and Hospitals shall be conducted by the division of administrative law

1 AN ACT

2 To amend and reenact R.S. 28:454.16(A) and R.S. 40:2009.16(A)(1) and (B), relative to
3 responsibility for certain administrative hearings and appeals; to provide that certain
4 hearings and appeals formerly conducted by the bureau of appeals of the Department
5 of Health and Hospitals shall be conducted by the division of administrative law; and
6 to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 28:454.16(A) is hereby amended and reenacted to read as follows:

9 §454.16. Appeal procedure

10 A. A person may file an administrative appeal ~~to the bureau of appeals of the~~
11 ~~department~~ with the division of administrative law regarding the following
12 determinations:

- 13 (1) A finding by the office that the person does not qualify for system entry.
- 14 (2) Termination of a support or service.
- 15 (3) Discharge from the system.
- 16 (4) Other cases as stated in office policy or as promulgated in regulation.

17 * * *

18 Section 2. R.S. 40:2009.16(A)(1) and (B) are hereby amended and reenacted to read
19 as follows:

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

1 §2009.16. Hearing

2 A.(1) An informal reconsideration shall constitute final action by the
3 department except in those complaints in which the health standards section of the
4 bureau of health services financing determines that the complaint concerns a
5 consumer in a facility and involves issues that have resulted or are likely to result in
6 serious harm or death to the consumer. In those complaints involving the issues of
7 serious harm or death, as determined by the health standards section, the complainant
8 or the provider may appeal the informal reconsideration finding to the ~~bureau of~~
9 ~~appeals within the department~~ division of administrative law. All appeals and
10 hearings shall conform with the rules established by the department.

11 * * *

12 B. The hearing ~~before the bureau of appeals~~ by the division of administrative
13 law shall be limited to the evidence presented at the informal reconsideration unless
14 the complainant or provider has obtained additional evidence important to the issues
15 which he could not have with due diligence obtained before or during the informal
16 reconsideration.

17 * * *

18 Section 3. This Act shall become effective upon signature by the governor or, if not
19 signed by the governor, upon expiration of the time for bills to become law without signature
20 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
21 vetoed by the governor and subsequently approved by the legislature, this Act shall become
22 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)]

Tim Burns

HB No. 68

Abstract: Provides for certain administrative law hearings and appeals formerly conducted by the bureau of appeals of the Dept. of Health and Hospitals to be conducted by the division of administrative law.

Present law (R.S. 49:991 et seq.) provides that adjudications of the Dept. of Health and Hospitals (DHH) shall be handled by the division of administrative law pursuant to the Administrative Procedure Act, except to the extent federal law or federal funding require otherwise.

Present law (R.S. 28:454.16(A)), relative to the developmental disabilities services system in DHH, permits a person to file an administrative appeal to the bureau of appeals of the department regarding specified determinations.

Proposed law provides instead for filing such an administrative appeal with the division of administrative law.

Present law (R.S. 40:2009.16(A)(1) and (B)), relative to complaints against a health care provider (that is an institution or distinct part of an institution, facility, or agency licensed by DHH or certified for participation in either or both of the Medicaid or Medicare programs to provide health care services), provides that an informal reconsideration shall constitute final action by DHH unless the complaint concerns a consumer in a facility and involves issues likely to result in serious harm or death to the consumer. Provides that in cases of such complaints, as determined by the health standards section, the complainant or the provider may appeal the informal reconsideration finding to the DHH bureau of appeals.

Proposed law retains present law except provides for such appeals to be made to the division of administrative law instead of the DHH bureau of appeals.

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

(Amends R.S. 28:454.16(A) and R.S. 40:2009.16(A)(1) and (B))