

2016 Regular Session

HOUSE BILL NO. 680

BY REPRESENTATIVES MORENO AND WILLMOTT

HOSPITALS: Requires healthcare services providers to conduct background checks on prospective employees

1 AN ACT

2 To amend and reenact R.S. 40:1203.1(3)(a), (c), (g), and (o), (4), and (5) and 1203.2(B)(1)

3 and (E) and to enact R.S. 40:1203.1(3)(d), (i), (j), and (p) through (y) and 1203.2(F),

4 relative to nonlicensed healthcare providers; to require certain healthcare services

5 providers to perform criminal background history checks on nonlicensed personnel

6 prior to employment; to authorize the use of fingerprints for criminal background

7 history checks; to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 40:1203.1(3)(a), (c), (g), and (o), (4), and (5) and 1203.2(B)(1) and

10 (E) are hereby amended and reenacted and R.S. 40:1203.1(3)(d), (i), (j), and (p) through (y)

11 and 1203.2(F) are hereby enacted to read as follows:

12 §1203.1. Definitions

13 For the purposes of this Part:

14 * * *

15 (3) "Employer" means any of the following facilities, agencies, providers,

16 or programs:

17 (a) A nursing ~~home~~, facility, as defined in R.S. 40:2009.2.

18 * * *

1 (c) An adult residential care ~~home, as defined in R.S. 40:2153.~~ provider as
2 defined in R.S. 40:2166.3.

3 (d) A pain management clinic as defined in R.S. 40:2198.11.

4 * * *

5 (g) An ambulance service as defined in ~~R.S. 40:1299.41(A).~~ R.S. 40:1131.

6 * * *

7 (i) An ambulatory surgical center as defined in R.S. 40:2133.

8 (j) A crisis receiving center as defined in R.S. 28:2180.12.

9 * * *

10 (o) An adult ~~residential care provider, as defined in R.S. 40:2166.3.~~ day
11 healthcare provider as defined in R.S. 40:2120.42.

12 (p) A psychiatric residential treatment facility licensed pursuant to R.S.
13 40:2009.

14 (q) An end stage renal disease facility as defined in R.S. 40:2117.1.

15 (r) A behavioral health services provider as defined in R.S. 40:2153.

16 (s) An adult brain injury facility as defined in R.S. 40:2120.33.

17 (t) A rural health clinic as defined in R.S. 40:1185.3.

18 (u) A therapeutic group home licensed pursuant to R.S. 40:2009.

19 (v) A provider of case management services.

20 (w) A forensic supervised transitional residential and aftercare facility as
21 defined in R.S. 28:32.

22 (x) An outpatient abortion facility as defined in R.S. 40:2175.3.

23 (y) A hospital as defined in R.S. 40:2102.

24 (4) "Licensed ambulance personnel" means personnel who provide services,
25 either for compensation or volunteer services, ~~of care as a certified~~ an emergency
26 medical service ~~professional~~ practitioner, including ~~certified emergency medical~~
27 ~~technician-basic, certified emergency medical technician-intermediate, certified~~
28 ~~emergency medical technician-paramedic, or certified first responder.~~ Nothing
29 herein shall pertain to any licensed ambulance personnel working for a nursing

1 ~~home, intermediate care facility for people with developmental disabilities, adult~~
2 ~~residential care home, home- and community-based service provider, home health~~
3 ~~agency, or hospice.~~ licensed emergency medical technicians, licensed advanced
4 emergency medical technicians, licensed paramedics, and licensed first emergency
5 medical responders.

6 (5) "Nonlicensed person" means any person who provides for compensation
7 nursing care or other health-related services directly related to patient care to
8 residents in or patients of a nursing facility, intermediate care facility for people with
9 developmental disabilities, adult residential care facility or provider, pediatric day
10 healthcare facility, ~~adult residential care provider,~~ adult day healthcare center,
11 psychiatric residential treatment facility, end stage renal disease facility, behavioral
12 health services provider, home health agency, hospice agency, provider of
13 ambulance services, hospital, adult brain injury facility, crisis receiving center, pain
14 management clinic, outpatient abortion facility, rural health clinic, ambulatory
15 surgical center, therapeutic group home, forensic supervised transitional residential
16 and aftercare facility, case management provider, or home- and community-based
17 service provider and who is not a licensed health provider. "Nonlicensed person"
18 also means any person who provides such services to individuals in their own homes
19 as an employee or contract provider of a home health agency, hospice, or home- and
20 community-based service provider. "Nonlicensed person" also means any ~~person~~
21 ~~employed as a driver by or who contracts as a driver with a nonemergency, non-~~
22 ~~ambulance transportation facility or entity.~~ other direct service worker as defined in
23 R.S. 40:2179 and 2179.1.

24 * * *

25 §1203.2. Employment of nonlicensed persons and licensed ambulance personnel;
26 mandatory criminal history and security checks; temporary employment;
27 notice to applicants

28 * * *

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 680 Reengrossed

2016 Regular Session

Moreno

Abstract: Requires certain healthcare services providers to perform criminal history and security checks on nonlicensed personnel prior to employment.

Present law requires an employer to request that a criminal history and security check be conducted on a nonlicensed person or any licensed ambulance personnel prior to an offer to employ or to contract with the nonlicensed person or licensed ambulance personnel to provide nursing care, health-related services, medic services, or supportive assistance to any individual.

Proposed law retains present law and adds additional categories of healthcare services providers to the list of employers required to perform a background check on prospective employees.

Proposed law authorizes an employer to request that the criminal history check be performed using the fingerprints of the nonlicensed person or any licensed ambulance personnel. Proposed law further authorizes each applicant for employment, upon request of the employer, to be fingerprinted and to submit the fingerprint samples for use in the criminal history check.

Proposed law requires employers subject to the provisions of proposed law to only contract for staffing services provided by businesses who comply with the provisions of proposed law.

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

(Amends R.S. 40:1203.1(3)(a), (c), (g), and (o), (4), and (5) and 1203.2(B)(1) and (E); Adds R.S. 40:1203.1(3)(d), (i), (j), and (p)-(y) and 1203.2(F))

Summary of Amendments Adopted by House

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

1. Make technical changes.
2. Restore previously deleted language regarding Medicaid personal care services and the section 1915(c) home and community-based services waiver program in the definition of employer.
3. Delete the reference to the qualification of contracted or employed on staff in the definition of nonlicensed person.
4. Require employers to only contract with businesses who comply with the criminal history and security check requirement.
5. Specify that services provided by nonlicensed persons must be directly related to patient care.
6. Authorize the use of fingerprints for the criminal history and security checks.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Remove the option for the security check to be made using fingerprints.
3. Change the requirement for an applicant to be fingerprinted upon request of the employer to an authorization.
4. Require the fingerprint samples to be sent to the La. Bureau of Criminal Identification and Information.
5. Delete proposed updates to the licensing designation for intermediate care facilities for the developmentally disabled.