

Regular Session, 2011

ACT No. 299

HOUSE BILL NO. 642 (Substitute for House Bill No. 440 by Representative Burford)

BY REPRESENTATIVES BURFORD, ARMES, HENRY BURNS, CHANDLER, CHANEY, GISCLAIR, HAZEL, HOFFMANN, HOWARD, MONTOUCET, NOWLIN, PUGH, GARY SMITH, JANE SMITH, TUCKER, WILLMOTT, AND WOOTON

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

AN ACT

To amend and reenact R.S. 37:1031(A)(introductory paragraph) and (D), 1033(A)(3) and (4), (B), (D)(1), (F), and (H), and 1034(3) and R.S. 40:2120.4(B)(1), 2120.5(D), and 2179(C), to enact R.S. 37:1031(A)(5) and (E) and R.S. 40:2119, and to repeal R.S. 37:1033(G), relative to home- and community-based providers; to provide for the applicability of statutory provisions governing direct service workers; to provide for appropriate training of direct service workers; to provide for the termination of authorization of direct service workers to perform certain procedures; to require the department to develop a comprehensive plan regarding the quality of services provided to individuals receiving home- and community-based services; to provide for licensure procedures and requirements applicable to granting deemed status to home- and community-based providers; to extend the application of state laws governing direct service workers to all direct service workers regardless of the type of compensation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1031(A)(introductory paragraph) and (D), 1033(A)(3) and (4), (B), (D)(1), (F), and (H), and 1034(3) are hereby amended and reenacted and R.S. 37:1031(A)(5) and (E) are hereby enacted to read as follows:

§1031. Applicability

A. The provisions of this Part shall not apply to gratuitous care provided by friends or members of the individual's family. The provisions of this Part shall apply to all direct service workers employed by a licensed agency, or employed as part of an authorized departmental self-directed program, and who attend to individuals

1 receiving ~~state or federally funded home~~ home- and community-based long-term
2 services and who are not authorized to perform these tasks under other state laws or
3 regulations. An individual being served shall meet the following criteria:

4 * * *

5 (5) Requires assistance with medication administration or other noncomplex
6 medical tasks.

7 * * *

8 D. A registered nurse may delegate to a licensed practical nurse components
9 of the training and supervision of the direct service worker provided that the
10 registered nurse shall retain the responsibility and accountability for all acts of
11 delegation and ensuring authorization and competency validation.

12 ~~D.~~ E. The Department of Health and Hospitals, in conjunction with the
13 Louisiana State Board of Nursing, shall promulgate rules and regulations necessary
14 to enable the implementation of this Part, and other rules and regulations concerning
15 direct service workers consistent with this Part.

16 * * *

17 §1033. Required training; ~~registration~~

18 A. In order to be authorized to perform the procedures specified in R.S.
19 37:1032, a direct service worker shall be employed by a licensed agency or
20 employed as part of an authorized departmental self-directed program and shall
21 receive the following training:

22 * * *

23 (3) In order to administer noncomplex tasks, complete didactic training, and
24 demonstration of competency in accordance with guidelines established and
25 approved by the Department of Health and Hospitals and the Louisiana Board of
26 Nursing.

27 ~~(3)~~ (4) ~~At least six hours of~~ Appropriate person-specific training from a
28 registered nurse who has assessed the health status of the individual ~~in the residence~~
29 ~~where the receiving services are to be performed~~ and determined that the direct
30 service worker can perform the tasks in a safe, appropriate manner, with additional

1 person-specific training by a registered nurse whenever the tasks to be performed or
2 the types of medications to be administered are changed. Written documentation of
3 training provided by the registered nurse shall be submitted to and maintained by the
4 direct service worker's ~~employing agency~~ employer.

5 ~~(4) Current Cardio-Pulmonary Resuscitation certification.~~

6 B. Any unlicensed person performing the procedures authorized by this Part
7 shall complete the training required by this Section no later than ~~thirty-six~~ twelve
8 months after promulgation of the regulations required by this Part. Training
9 specified in Subsection A of this Section shall be repeated if the registered nurse
10 does not certify that the direct service worker has demonstrated a sufficient level of
11 competency in the subject matter.

12 * * *

13 D.(1) Any ~~registered~~ licensed nurse who has properly trained and
14 documented that a direct service worker can perform the prescribed tasks shall not
15 be liable for any civil damages as a result of any act or omission of the direct service
16 worker.

17 * * *

18 F. Direct service workers performing with a finding on the Department of
19 Health and Hospital's Direct Service Worker Registry shall not perform tasks under
20 pursuant to this Part. ~~shall maintain current registration with the Department of~~
21 ~~Health and Hospital's Direct Service Worker Registry.~~

22 * * *

23 H. ~~During the thirty-six month training period required by Subsection B of~~
24 ~~this Section, the~~ The Department of Health and Hospitals and the Louisiana State
25 Board of Nursing shall meet ~~quarterly~~ at least annually to review data collected by
26 the Department of Health and Hospitals that is relevant to the administration of
27 health care tasks authorized by this Part. The Department of Health and Hospitals
28 and the Louisiana State Board of Nursing shall use the data to evaluate the efficiency
29 of this program and shall make joint recommendations to the secretary of the

1 Department of Health and Hospitals and the executive director of the Louisiana State
2 Board of Nursing for any needed revisions.

3 §1034. Termination of authorization

4 Authorization for a direct service worker to perform any of the tasks specified
5 in R.S. 37:1032 shall be terminated for any of the following reasons:

6 * * *

7 (3) The direct service worker ~~no longer maintains current registration in~~ has
8 a finding against him placed on the Direct Service Worker Registry.

9 * * *

10 Section 2. R.S. 40:2120.4(B)(1), 2120.5(D), and 2179(C) are hereby amended and
11 reenacted and R.S. 40:2119 is hereby enacted to read as follows:

12 §2119. Comprehensive plan

13 A. The Department of Health and Hospitals is hereby directed to develop a
14 comprehensive plan to address the delivery of quality services to a person receiving
15 home- and community-based services, and the department shall submit a written
16 report to the House Committee on Health and Welfare and the Senate Committee on
17 Health and Welfare by January 15, 2012.

18 B. The plan shall be developed with input from stakeholders and shall
19 include action steps, recommended time lines, and identified necessary resources for
20 implementation, and shall address the following:

21 (1) Accreditation - accreditation of home- and community-based service
22 providers.

23 (2) Compliance - assurance that all home- and community-based service
24 providers meet the standards for licensure and plan for monitoring to ensure ongoing
25 compliance.

26 (3) Billing - appropriate revisions to streamline the procedures for the billing
27 of home- and community-based services and the monitoring thereof to reduce fraud
28 and errors.

1 (4) Cost reporting - mandatory cost reporting by providers of home- and
2 community-based services to verify expenditures and for use in determining
3 appropriate reimbursement rates.

4 (5) Support coordination - appropriate revisions to streamline the delivery
5 of support coordination and ensure that these services are timely, cost-effective, and
6 efficient. The department shall assess the current support coordination system, in
7 conjunction with a stakeholders group, to include families, persons who utilize
8 support coordination and providers of home- and community-based services and
9 based on that assessment to implement revisions to reform and streamline the
10 delivery of support coordination.

11 (6) Rate reimbursement - review of reimbursement rate methodologies to
12 promote administrative efficiencies and reflect the cost of providing quality home-
13 and community-based services. This is inclusive of but not limited to medication
14 administration.

15 (7) Technology - utilization of technology to simplify the training, delivery,
16 monitoring, and payment for home- and community-based services.

17 (8) Medicaid enrollment - revision to requirements for Medicaid enrollment
18 to promote sustainable quality home- and community-based services.

19 (9) Medicaid delivery options - provide for the use of organized health care
20 delivery systems as an option for the provision of Medicaid-funded home and
21 community based services.

22 * * *

23 §2120.4. Rules and regulations; licensing standards

24 * * *

25 B. The licensing agency of the department shall prescribe, promulgate, and
26 publish rules, regulations, and licensing standards to include but not be limited to the
27 following:

28 (1) Licensure application and renewal application procedures and
29 requirements. Licensure procedures and requirements ~~may~~ shall include provisions
30 for granting deemed status to home- and community-based service providers that

1 either obtain accreditation through a recognized national, not-for-profit accrediting
 2 body approved by the department, or comply with any other procedure developed by
 3 the department to ensure that every home- and community-based provider meets
 4 minimum standards for the delivery of services and is in compliance with all
 5 applicable federal and state regulations; the licensure procedures and requirements
 6 may include provisions for denying and revoking deemed status, for complaint
 7 surveys and investigations of providers holding deemed status, and for approved
 8 accreditation organizations. Deemed status shall not be available to persons or
 9 entities seeking initial licensure with the department.

10 * * *

11 §2120.5. License issuance; application; onsite inspection

12 * * *

13 D. As a condition for a renewal of a license, the licensee ~~must~~ shall submit
 14 to the licensing agency a completed annual renewal application on forms prescribed
 15 by the licensing agency and ~~shall contain~~ containing such information as required by
 16 the agency; additionally, the annual renewal licensing fee ~~must~~ shall be submitted
 17 with the annual renewal application. Upon receipt of the completed annual renewal
 18 application and the annual renewal licensing fee, the licensing agency shall
 19 determine if the facility or provider continues to meet the requirements established
 20 under pursuant to this Part and the licensing standards adopted pursuant to this Part.
 21 The licensing agency may perform an onsite survey and inspection upon annual
 22 renewal. If the facility or provider continues to meet the requirements established
 23 under pursuant to this Part and the licensing standards adopted pursuant to this Part,
 24 a license shall be issued which is valid for one year.

25 * * *

26 §2179. Establishment of Direct Service Worker Registry

27 * * *

28 C. The provisions of this Part shall apply ~~only~~ to direct service workers who
 29 are compensated ~~through state or federal funds~~, regardless of the setting, and
 30 specifically do not apply to those direct service workers listed on the Certified Nurse

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

1 Aide Registry established under rules promulgated by the Department of Health and
2 Hospitals.

3 * * *

4 Section 3. R.S. 37:1033(G) is hereby repealed in its entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____