

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 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: \_\_\_\_\_