

2017 Regular Session

HOUSE BILL NO. 402

BY REPRESENTATIVE HAVARD

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

MENTAL HEALTH: Provides for licensure and regulation of community-based care facilities

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AN ACT

To enact R.S. 40:2006(A)(2)(r), (B)(2)(i), and (E)(2)(t), 2154(A)(19) and Part V of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:2162.1 through 2162.7, relative to healthcare facilities licensed and regulated by the Louisiana Department of Health; to define and provide for licensure and regulation of community-based care facilities; to authorize the Louisiana Department of Health to perform licensing and regulatory functions with respect to such facilities; to provide for community-based care facility license applications, issuance, renewal, and fees; to authorize licensure of community-based care facilities which propose to operate in state-owned residential buildings; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:2006(A)(2)(r), (B)(2)(i), and (E)(2)(t), 2154(A)(19) and Part V of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:2162.1 through 2162.7, are hereby enacted to read as follows:

§2006. Fees; licenses; penalties

A.

\* \* \*

(2) This Subsection shall apply to any licensed:

\* \* \*

1           (r) Community-based care facility.

2           B.

3                                   \*       \*       \*

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

5                                   \*       \*       \*

6           (i) Community-based care facility.

7                                   \*       \*       \*

8           E.

9                                   \*       \*       \*

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

11                                  \*       \*       \*

12          (t) Community-based care facility.

13                                  \*       \*       \*

14          §2154. Applicability

15                A. The provisions of this Part shall not apply to the licensing of any of the  
16 following facilities or persons and shall not be construed as requiring any of the  
17 following facilities or persons to seek licensure as a behavioral health services  
18 provider:

19                                  \*       \*       \*

20                (19) Community-based care facilities licensed pursuant to R.S. 40:2162.1 et  
21 seq.

22                                  \*       \*       \*

23                PART V. COMMUNITY-BASED CARE FACILITIES

24                §2162.1. Short title

25                This Part may be cited as the "Community-Based Care Facility Licensing  
26 Law".

27                §2162.2. Findings and purpose

28                A. The legislature hereby finds and declares the following:

1           (1) It is the policy of this state to ensure delivery of sufficient support  
2           services in order to successfully transition adult patients with a primary diagnosis of  
3           mental illness from inpatient psychiatric facilities to the most appropriate outpatient  
4           setting.

5           (2) Repeated admissions of persons to inpatient psychiatric units is a  
6           significant problem which often results in inadequate care and a failure to stabilize  
7           the patient, especially if the patient is homeless or has unstable living arrangements.

8           (3) Community-based residential programs are a more cost-effective form  
9           of treatment and a more appropriate treatment option for persons with mental illness  
10          than emergency room visits, unnecessary long-term stays in psychiatric hospitals,  
11          and incarceration.

12          (4) Licensing of community-based residential programs to operate in state-  
13          owned residential buildings presents an opportunity for adaptive and innovative use  
14          of those buildings and for optimization of state resources.

15          (5) Persons with a mental illness who are treated in a psychiatric facility and  
16          released without a stable transitional plan of care are at high risk for hospitalization,  
17          incarceration, and psychiatric readmission.

18          (6) It is a fiscal and public health priority of this state to establish a licensing  
19          component for adult community-based residential facilities which has historically  
20          been missing in the continuum of services for adults with a primary diagnosis of  
21          mental illness.

22          B. The purpose of this Part is to authorize the Louisiana Department of  
23          Health to promulgate and adopt rules, regulations, and standards to license and  
24          regulate facilities to be operated as community-based care facilities in order to  
25          provide for the health, safety, and welfare of persons with mental illness.

26          §2162.3. Definitions

27          As used in this Part, the following terms have the meaning ascribed in this  
28          Section:

1           (1) "Applicant" means an entity applying for a community-based care  
2           facility license from the Louisiana Department of Health.

3           (2) "Client" means any person who has been accepted for treatment or  
4           services, including rehabilitation services, furnished by a facility licensed pursuant  
5           to this Part.

6           (3) "Community-based care facility" means a facility where five or more  
7           adults with a primary diagnosis of mental illness who are not related to the operator  
8           or administrator and who do not require care above intermediate-level nursing care  
9           reside and receive care, treatment, or services that are above the level of room and  
10          board and include no more than three hours of nursing care per week per resident.

11          (4) "Community-based care services" means services provided in a  
12          community-based care facility licensed pursuant to the provisions of this Part.

13          (5) "Department" means the Louisiana Department of Health.

14          (6) "Financial viability" means the ability of the licensee to maintain capital,  
15          lines of credit, insurance, and other financial resources at levels deemed sufficient  
16          by the Louisiana Department of Health for operation of a community-based care  
17          facility.

18          (7) "License" means a license issued by the Louisiana Department of Health  
19          to a community-based care facility.

20          §2162.4. Licensure of community-based care facilities

21           A. Each community-based care facility shall be licensed in accordance with  
22           the requirements of this Part and the applicable rules of the department. No facility,  
23           agency, institution, person, society, corporation, partnership, unincorporated  
24           association, group, or other legal entity providing community-based care services  
25           may be established, operated, or reimbursed through the Medicaid program unless  
26           licensed as a community-based care facility by the department.

27           B. A license issued to a community-based care facility shall be issued only  
28           for the owner and premises named in the license application.

1           C. A license issued pursuant to this Part shall be on a form prescribed by the  
2           department and shall be valid for a twelve-month period beginning the month of  
3           issuance unless revoked or otherwise suspended prior to that date.

4           D. A license issued pursuant to this Part shall not be transferable or  
5           assignable.

6           E. Each licensed community-based care facility shall post its license in a  
7           conspicuous place on the licensed premises.

8           §2162.5. Rules and regulations; licensing standards

9           A. The department shall adopt rules, regulations, and licensing standards in  
10          accordance with the Administrative Procedure Act to provide for the licensure of  
11          community-based care facilities; to provide for the safe operation and maintenance  
12          of those facilities; and to provide for the health, safety, and welfare of clients.

13          B. The rules, regulations, and licensing standards required by this Section  
14          shall include, without limitation, all of the following:

15                 (1) Licensure application and renewal application forms, procedures, and  
16                 requirements.

17                 (2) Operational and personnel requirements.

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

19                 (4) Practice standards to assure the health, safety, and welfare of clients.

20                 (5) Confidentiality of client records.

21                 (6) Initial and annual renewal of license.

22                 (7) Financial viability requirements and requirements for verification and  
23                 continuous maintenance of financial viability.

24                 (8) Denial, revocation, suspension, and nonrenewal of licenses and  
25                 procedures for appeals of such decisions.

26                 (9) Facility construction and design.

27                 (10) Other regulations or standards to ensure proper care and treatment of  
28                 clients.

1        §2162.6. License application, issuance, and renewal; fees; inspection

2            A. Each applicant shall submit a license application to the department on  
3        forms prescribed by the department and shall provide with the application such  
4        information as the department may require by rule.

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

8            C. Following receipt of the completed initial licensing application and  
9        license fee, the department shall perform an onsite survey and inspection. After the  
10       onsite survey and inspection, if the department finds that the applicant meets the  
11       requirements established in this Part and in the licensing standards adopted pursuant  
12       to this Part, then the department shall issue a license to the applicant.

13           D. As a condition for renewal of its license, the licensee shall submit to the  
14       department a completed annual renewal application on the forms prescribed by the  
15       department, which shall contain all information required by the department along  
16       with the annual license renewal fee pursuant to R.S. 40:2006. Upon receipt of the  
17       completed annual renewal application and the annual license renewal fee, the  
18       department shall determine whether the facility continues to meet the applicable  
19       requirements for licensure. The department may perform an onsite survey and  
20       inspection after receiving an annual renewal application. If the provider continues  
21       to meet the applicable requirements for licensure, then the department shall issue a  
22       license which shall be valid for the period specified in R.S. 40:2162.4.

23           E. The department may perform onsite inspections of community-based care  
24       facilities at reasonable times as necessary to ensure compliance with the  
25       requirements of this Part.

26        §2162.7. Facility operation in state-owned residential buildings authorized

27           The department may license community-based care facilities which propose  
28       to operate in one or more state-owned residential buildings. The secretary of the  
29       department shall direct the staff of the health standards section, and of any other

1 division of the department as he deems appropriate, to cooperate with and give  
 2 assistance to any applicant who seeks to operate a community-based care facility in  
 3 one or more state-owned residential buildings and is otherwise qualified for licensure  
 4 pursuant to this Part.

## 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 402 Reengrossed

2017 Regular Session

Havard

**Abstract:** Provides for licensure and regulation of residential facilities for adults with a primary diagnosis of mental illness to be known as "community-based care facilities".

Proposed law provides that it may be cited as the "Community-Based Care Facility Licensing Law".

Proposed law presents findings and declarations concerning the necessity of appropriate care and treatment for persons with mental illness.

Proposed law provides that its purpose is to authorize the La. Department of Health (LDH) to promulgate and adopt rules, regulations, and standards to license and regulate facilities to be operated as community-based care facilities in order to provide for the health, safety, and welfare of persons receiving mental health services.

Proposed law defines "community-based care facility" as a facility where five or more adults with a primary diagnosis of mental illness who are not related to the operator or administrator and who do not require care above intermediate-level nursing care reside and receive care, treatment, or services that are above the level of room and board and include no more than three hours of nursing care per week per resident.

Proposed law requires each community-based care facility to be licensed in accordance with the requirements of proposed law. Specifically provides that community-based care facilities shall not be subject to requirements of present law for licensure and regulation as behavioral health services providers (R.S. 40:2151 et seq.).

Proposed law stipulates that no facility, agency, institution, person, society, corporation, partnership, unincorporated association, group, or other legal entity providing community-based care services may be established, operated, or reimbursed through the Medicaid program unless licensed as a community-based care facility by LDH.

Proposed law provides that a license issued to a community-based care facility shall be issued only for the owner and premises named in the application; shall be on a form prescribed by LDH; shall be valid for a 12-month period beginning the month of issuance unless revoked or otherwise suspended prior to that date; and shall not be transferable or assignable.

Proposed law requires LDH to adopt rules, regulations, and licensing standards in accordance with the Administrative Procedure Act to provide for the licensure of community-based care facilities. Provides that such rules, regulations, and licensing standards shall include, without limitation, all of the following:

- (1) Licensure application and renewal application forms, procedures, and requirements.
- (2) Operational and personnel requirements.
- (3) Practice standards to assure quality of care.
- (4) Practice standards to assure the health, safety, and welfare of clients.
- (5) Confidentiality of client records.
- (6) Initial and annual renewal of license.
- (7) Financial viability requirements and requirements for verification and continuous maintenance of financial viability.
- (8) Denial, revocation, suspension, and nonrenewal of licenses, and procedures for appeals of such decisions.
- (9) Facility construction and design.
- (10) Other regulations or standards to ensure proper care and treatment of clients.

Proposed law applies to community-based care facilities all of the following fees established in present law for licensed healthcare facilities and providers and payable to LDH:

- (1) A fee of \$600 at the time of initial application for licensure and annually thereafter for renewal of the license.
- (2) An additional fee of \$5 per unit, defined to mean a room or station (commonly known as a "bed fee").
- (3) A delinquent fee of \$100 for failure to timely renew a license.

Proposed law provides that following receipt of a license application and the required fee, LDH shall perform an onsite survey and inspection, and shall issue a license to the applicant if it finds that the applicant meets all applicable licensure requirements. Provides that LDH may perform another onsite survey and inspection after receiving an annual license renewal application, and shall renew the facility's license if the facility continues to meet all applicable licensure requirements. Provides further that LDH may perform any onsite inspections of community-based care facilities at reasonable times as necessary to ensure compliance with proposed law.

Proposed law authorizes LDH to license community-based care facilities which propose to operate in one or more state-owned residential buildings. Requires the secretary of LDH to direct department staff to cooperate with and give assistance to any applicant who seeks to operate a community-based care facility in one or more state-owned residential buildings and is otherwise qualified for licensure pursuant to present law.

(Adds R.S. 40:2006(A)(2)(r), (B)(2)(i), and (E)(2)(t), 2154(A)(19), and 2162.1-2162.7)

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Make technical changes.