

ACT No. 311

2016 Regular Session

HOUSE BILL NO. 680

BY REPRESENTATIVES MORENO AND WILLMOTT AND SENATOR THOMPSON

1 AN ACT

2 To amend and reenact R.S. 40:1203.1(3)(a), (c), (g), and (o), (4), and (5), 1203.2(B)(1) and
3 (E), and 2009.2(1)(introductory paragraph) and to enact R.S. 15:587(A)(1)(i) and
4 R.S. 40:1203.1(3)(d), (i), (j), and (p) through (y) and 1203.2(F), relative to
5 nonlicensed healthcare providers; to require certain healthcare services providers to
6 perform criminal background history checks on nonlicensed personnel prior to
7 employment; to authorize the use of fingerprints for criminal background history
8 checks; to provide for definitions; to provide for sharing of information; to provide
9 for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 15:587(A)(1)(i) is hereby enacted to read as follows:

12 §587. Duty to provide information; processing fees; Louisiana Bureau of Criminal
13 Identification and Information

14 A.(1)

15 * * *

16 (i) The Department of Health and Hospitals shall be entitled to criminal
17 history record and identification files of the bureau of any person or owner of an
18 entity with a five percent or more ownership interest who has applied to enroll as a
19 Medicaid provider pursuant to 42 CFR 455.434. Fingerprints and other identifying
20 information of the applicant shall be submitted to the bureau for qualification and the
21 bureau shall, upon request of the department and after receipt of such fingerprint card

1 and other identifying information from the applicant, make available to the
 2 department all arrest and conviction information contained in the bureau's criminal
 3 history record and identification files which pertain to the applicant for qualification.
 4 The fingerprints shall also be forwarded by the bureau to the Federal Bureau of
 5 Investigation for a national criminal history check.

6 * * *

7 Section 2. R.S. 40:1203.1(3)(a), (c), (g), and (o), (4), and (5), 1203.2(B)(1) and (E),
 8 and 2009.2(1)(introductory paragraph) are hereby amended and reenacted and R.S.
 9 40:1203.1(3)(d), (i), (j), and (p) through (y) and 1203.2(F) are hereby enacted to read as
 10 follows:

11 §1203.1. Definitions

12 For the purposes of this Part:

13 * * *

14 (3) "Employer" means any of the following facilities, agencies, providers,
 15 or programs:

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

17 * * *

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

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

21 * * *

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

23 * * *

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

25 (j) A crisis receiving center as defined in R.S. 40:2180.12.

26 * * *

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

1 (p) A psychiatric residential treatment facility licensed pursuant to R.S.
 2 40:2009.

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

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

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

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

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

8 (v) A provider of case management services.

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

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

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

13 (4) "Licensed ambulance personnel" means personnel who provide services,
 14 either for compensation or volunteer services, ~~of care as a certified~~ an emergency
 15 medical service ~~professional practitioner,~~ including ~~certified emergency medical~~
 16 ~~technician-basic, certified emergency medical technician-intermediate, certified~~
 17 ~~emergency medical technician-paramedic, or certified first responder.~~ Nothing
 18 ~~herein shall pertain to any licensed ambulance personnel working for a nursing~~
 19 ~~home, intermediate care facility for people with developmental disabilities, adult~~
 20 ~~residential care home, home- and community-based service provider, home health~~
 21 ~~agency, or hospice.~~ licensed emergency medical technicians, licensed advanced
 22 emergency medical technicians, licensed paramedics, and licensed first emergency
 23 medical responders.

24 (5) "Nonlicensed person" means any person who provides for compensation
 25 nursing care or other health-related services directly related to patient care to
 26 residents in or patients of a nursing facility, intermediate care facility for people with
 27 developmental disabilities, adult residential care facility or provider, pediatric day
 28 healthcare facility, ~~adult residential care provider,~~ adult day healthcare center,

1 psychiatric residential treatment facility, end stage renal disease facility, behavioral
 2 health services provider, home health agency, hospice agency, provider of
 3 ambulance services, hospital, adult brain injury facility, crisis receiving center, pain
 4 management clinic, outpatient abortion facility, rural health clinic, ambulatory
 5 surgical center, therapeutic group home, forensic supervised transitional residential
 6 and aftercare facility, case management provider, or home- and community-based
 7 service provider and who is not a licensed health provider. "Nonlicensed person"
 8 also means any person who provides such services to individuals in their own homes
 9 as an employee or contract provider of a home health agency, hospice, or home- and
 10 community-based service provider. "Nonlicensed person" also means any ~~person~~
 11 ~~employed as a driver by or who contracts as a driver with a nonemergency, non-~~
 12 ~~ambulance transportation facility or entity.~~ other direct service worker as defined in
 13 R.S. 40:2179 and 2179.1.

* * *

15 §1203.2. Employment of nonlicensed persons and licensed ambulance personnel;
 16 mandatory criminal history and security checks; temporary employment;
 17 notice to applicants

* * *

19 B.(1) The employer shall request in writing that the office or authorized
 20 agency conduct a criminal history and security check on the nonlicensed person or
 21 any licensed ambulance personnel and shall provide the office or authorized agency
 22 with any relevant information required by the office or authorized agency to conduct
 23 the check. The employer may request that the criminal history and security check
 24 be performed using the fingerprints of the nonlicensed person or any licensed
 25 ambulance personnel.

* * *

27 E.(1) An employer shall inform each applicant for employment or each
 28 prospective contract provider that the employer is required to obtain a criminal
 29 history record and perform a security check before such employer makes an offer of
 30 employment to, or contracts with, a nonlicensed person or any licensed ambulance

1 personnel. The employer shall obtain written permission from the applicant for the
2 release of such information to the employer on a form that clearly notifies the
3 applicant it is a crime to provide false information concerning a criminal history
4 check to an employer.

5 (2) Upon request of the employer, each applicant for employment may be
6 fingerprinted and submit fingerprint samples to the Louisiana Bureau of Criminal
7 Identification and Information pursuant to R.S. 15:587 to be used to obtain the
8 criminal history record.

9 F. Employers subject to the provisions of this Part shall only contract for
10 staffing services provided by businesses who comply with the provisions of this Part.
11 Businesses that provide contract staffing services to healthcare providers shall
12 comply with the provisions of this Part. Such businesses shall send accompanying
13 letters certifying that the contracted staff meet license or certification standards of
14 their profession and have undergone and passed criminal background checks.

15 * * *

16 §2009.2. Definitions

17 For the purposes of R.S. 40:2009.1 through R.S. 40:2009.19, unless the
18 context otherwise requires:

19 (1) "Nursing facility", "Nursing home", or "home" means a private home,
20 institution, building, residence or other place, serving two or more persons who are
21 not related by blood or marriage to the operator, whether operated for profit or not,
22 and including those places operated by a political subdivision of the state of
23 Louisiana, which undertakes, through its ownership or management, to provide
24 maintenance, personal care, or nursing for persons who, by reason of illness or
25 physical infirmity or age, are unable to properly care for themselves. The term does
26 not include the following:

27 * * *

28 Section 3. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____