

2018 Regular Session

SENATE BILL NO. 66

BY SENATOR CLAITOR

MENTAL HEALTH. Provides relative to admission to treatment facility for mental illness pursuant to emergency certificate. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 28:53(B)(1) and the introductory paragraph of (G)(8) and
3 63(A)(1) and (B), relative to admissions to treatment facilities by emergency
4 certificates; to provide for admission procedures to treatment facilities; to provide
5 for applicability to all parishes except St. Tammany; to provide for standard of care;
6 and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 28:53(B)(1) and the introductory paragraph of (G)(8) and 63(A)(1)
9 and (B) are hereby amended and reenacted to read as follows:

10 §53. Admission by emergency certificate; extension; payment for services rendered

11 * * *

12 B.(1) Any physician licensed or permitted by the Louisiana State Board
13 of Medical Examiners, physician assistant when acting in accordance with their
14 respective clinical practice guidelines, psychiatric mental health nurse practitioner,
15 other nurse practitioner who acts in accordance with a collaborative practice
16 agreement and receives verbal approval for executing the certificate from his
17 collaborating physician, or psychologist may execute an emergency certificate only

1 after an actual examination of a person alleged to have a mental illness or be
 2 suffering from a substance-related or addictive disorder who is determined to be in
 3 need of immediate care and treatment in a treatment facility because the examining
 4 physician, physician assistant when acting in accordance with their respective
 5 clinical practice guidelines, psychiatric mental health nurse practitioner, other nurse
 6 practitioner who acts in accordance with a collaborative practice agreement and
 7 receives verbal approval for executing the certificate from his collaborating
 8 physician, or psychologist determines the person to be dangerous to self or others or
 9 to be gravely disabled. The actual examination of the person by a psychiatrist may
 10 be conducted by telemedicine utilizing video conferencing technology provided that
 11 a licensed healthcare professional who can adequately and accurately assist with
 12 obtaining any necessary information including but not limited to the information
 13 listed in Paragraph (4) of this Subsection shall be in the examination room with the
 14 patient at the time of the video conference. A patient examined in such a manner
 15 shall be medically cleared prior to admission to a mental health treatment facility.
 16 Failure to conduct an examination prior to the execution of the certificate will be
 17 evidence of gross negligence.

* * *

19 G.

* * *

21 (8) As it relates to ~~the~~ **all other** parishes of ~~East Baton Rouge, Jefferson,~~
 22 ~~Orleans, and Ouachita,~~ the following shall apply:

* * *

24 §63. Standard of care; limitation of liability; penalties

25 A.(1) Any ~~licensed~~ physician **licensed or permitted by the Louisiana State**
 26 **Board of Medical Examiners,** psychologist, medical psychologist, psychiatric
 27 mental health nurse practitioner, or public and private general hospital personnel
 28 exercising that degree of skill and care ordinarily employed, under similar
 29 circumstances by members of his profession in good standing in the same

1 community or locality, and using reasonable care and diligence with his best
 2 judgment in the application of his skill, shall not be held civilly liable or subject to
 3 criminal prosecution for acts arising from his professional opinions which fall within
 4 the scope of his duties, judgments, actions, or duties pursuant to any of the
 5 provisions of this Part, unless the damage or injury was caused by willful or wanton
 6 negligence or gross misconduct. This limitation of liability shall apply only to public
 7 and private general hospital personnel who within the preceding twelve-month
 8 period have received appropriate training in nonviolent crisis intervention. Such
 9 training shall be documented in their personnel files. The training shall be provided
 10 by an instructor who has attended a course in crisis intervention taught by a certified
 11 instructor.

12 * * *

13 B. Any ~~licensed~~ **physician licensed or permitted by the Louisiana State**
 14 **Board of Medical Examiners**, psychologist, medical psychologist, or psychiatric
 15 mental health nurse practitioner who executes an emergency certificate shall be held
 16 to that degree of skill and care ordinarily employed, under similar circumstances, by
 17 members of his profession in good standing in the same community or locality, and
 18 using reasonable care and diligence with his best judgment in the application of his
 19 skill.

20 * * *

The original instrument was prepared by Christine Arbo Peck. The following digest, which does not constitute a part of the legislative instrument, was prepared by Nancy Vicknair.

DIGEST

SB 66 Reengrossed

2018 Regular Session

Claitor

Present law provides for certain emergency certificate admission procedures for the parishes of East Baton Rouge, Jefferson, Orleans, and Ouachita.

Proposed law retains present law and makes it applicable to all parishes except St. Tammany.

Present law authorizes any physician, certain physical assistant and nurse practitioner, or psychologist to execute an emergency certificate only after an actual examination of a person alleged to have a mental illness or be suffering from a substance-related or addictive disorder and who is determined to be in immediate need care and treatment in a treatment facility.

Authorizes conducting such examination by telemedicine utilizing video conferencing technology and provides the parameters for performing such examination.

Proposed law retains present law but requires physicians executing an emergency certificate to be licensed or permitted by the La. State Board of Medical Examiners.

Present law provides a standard of care relating to the examination, admission, commitment and treatment of individuals suffering from mental illness and substance-related or addictive disorders and limitations of liability.

Proposed law retains present law but requires physicians providing such care to be licensed or permitted by the La. State Board of Medical Examiners.

Effective August 1, 2018.

(Amends R.S. 28:53(B)(1), (G)(8)(intro para), 63(A)(1) and (B))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Requires physicians executing an emergency certificate to be licensed or permitted by the La. State Board of Medical Examiners.
2. Requires physicians providing care to individuals suffering from mental illness and substance-related or addictive disorders be licensed or permitted by the La. State Board of Medical Examiners.
3. Specifies that limitation of liability applies to physicians licensed or permitted by the La. State Board of Medical Examiners.