

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 as will ensure proper care and treatment
28 of 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 hereto, 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 pursuant to receiving an annual renewal application. If the provider
21 continues to meet the applicable requirements for licensure, then the department
22 shall issue a 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 is hereby specifically authorized to license community-based
28 care facilities which propose to operate in one or more state-owned residential
29 buildings. The secretary of the department shall direct the staff of the health

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

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 as will 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 dollars 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 pursuant to 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 R.S. 40:2162.1-2162.7)