2018 Regular Session

HOUSE BILL NO. 145

BY REPRESENTATIVE COX

MENTAL HEALTH: Provides limitations on diagnosing of the disorder commonly known as "Munchausen syndrome by proxy", and on initiation of child welfare proceedings

1	AN ACT	
2	To enact R.S. 37:1745.2 and Children's Code Article 606(C), relative to the diagnosing of	
3	certain mental health conditions; to provide limitations on the diagnosing of	
4	factitious disorder imposed on another; to provide relative to child in need of care	
5	proceedings; to provide limitations on the initiation of such proceedings; and to	
6	provide for related matters.	
7	Be it enacted by the Legislature of Louisiana:	
8	Section 1. R.S. 37:1745.2 is hereby enacted to read as follows:	
9	PART VII. HEALTH CARE PROVIDERS	
10	* * *	
11	§1745.2. Diagnosis of certain mental health conditions; limitation	
12	A. No physician or other health care provider shall diagnose the condition	
13	of factitious disorder imposed on another, formerly known as "Munchausen	
14	syndrome by proxy", unless he meets all of the following criteria:	
15	(1) He is licensed as a health care provider in this state.	
16	(2) He is qualified by licensure and professional training to diagnose mental	
17	health conditions.	
18	(3) He has conducted a bona fide evaluation of the person he diagnoses.	
19	B. For purposes of this Section, the following terms have the meaning	
20	ascribed in this Subsection:	

CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(1) "Bona fide evaluation" means all of the following actions have occurred:
2	(a) The health care provider has reviewed the relevant clinical records of the
3	individual and the purported victim, and has completed a full assessment of the
4	individual's clinical history and current clinical condition. For purposes of this
5	Section, "clinical records" shall include, without limitation, documentation from
6	schools, health care providers, child care providers, agencies, and other institutions;
7	interviews with members of the extended family, friends, and acquaintances of the
8	individual; and other collateral sources when the resulting information is likely to be
9	relevant.
10	(b) The health care provider has performed an in-person clinical evaluation
11	of the individual which includes a clinical interview and behavioral observation.
12	(c) The health care provider has created and maintained a record of the
13	condition of the individual in accordance with clinically accepted standards to
14	support a mental health diagnosis.
15	(2) "Health care provider" has the meaning ascribed in R.S. 40:1231.1(A).
16	Section 2. Children's Code Article 606(C) is hereby enacted to read as follows:
17	Art. 606. Grounds; child in need of care
18	* * *
19	C. A diagnosis of factitious disorder imposed on another, formerly known
20	as "Munchausen syndrome by proxy", shall not constitute grounds, either entirely or
21	partially, for a determination that a child is in need of care unless that diagnosis is
22	made in accordance with the provisions of R.S. 37:1745.2.

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 145 Engrossed	2018 Regular Session	Cox
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Abstract: Provides limitations on diagnosing of factitious disorder imposed on another (formerly known as "Munchausen syndrome by proxy"), and on circumstances in which state child welfare proceedings (child in need of care proceedings) may be initiated.

<u>Proposed law</u> prohibits physicians and other health care providers from diagnosing the condition of factitious disorder imposed on another, formerly known as "Munchausen syndrome by proxy", unless they meet all of the following criteria:

- (1) They are licensed as a health care provider in this state.
- (2) They are qualified by licensure and professional training to diagnose mental health conditions.
- (3) They have conducted a bona fide evaluation of the person being diagnosed.

<u>Proposed law</u> provides that "bona fide evaluation", for purposes of <u>proposed law</u>, means all of the following actions have occurred:

- (1) The health care provider has reviewed the relevant clinical records of the individual and the purported victim and has completed a full assessment of the individual's clinical history and current clinical condition.
- (2) The health care provider has performed an in-person clinical evaluation of the individual which includes a clinical interview and behavioral observation.
- (3) The health care provider has created and maintained a record of the condition of the individual in accordance with clinically accepted standards to support a mental health diagnosis.

<u>Present law</u>, Ch.C. Art. 601 et seq., provides for actions known as "child in need of care proceedings" which are brought by the state to protect children who are abused, neglected, abandoned, or endangered, and can result in a termination of parental rights and a complete and permanent separation of the parent from the child.

<u>Proposed law</u> retains <u>present law</u> and <u>adds</u> thereto provisions stipulating that a diagnosis of factitious disorder imposed on another shall not constitute grounds for a determination that a child is in need of care unless that diagnosis is made in accordance with <u>proposed law</u>.

(Adds R.S. 37:1745.2 and Ch.C. Art. 606(C))

Summary of Amendments Adopted by House

- The Committee Amendments Proposed by <u>House Committee on Health and Welfare to</u> the <u>original</u> bill:
- 1. Delete from <u>proposed law</u> the defined term "bona fide provider-patient relationship" and its corresponding definition and insert in lieu thereof the term "bona fide evaluation".
- 2. Revise <u>proposed law</u> providing that a diagnosis of factitious disorder imposed on another shall not constitute grounds for an <u>allegation</u> that a child is in need of care to provide instead that the diagnosis shall not constitute grounds for a <u>determination</u> that a child is in need of care.