

ACT No. 444

2024 Regular Session

HOUSE BILL NO. 687

BY REPRESENTATIVE BUTLER

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AN ACT

To enact R.S. 40:1203.1(4)(aa) and Part II-J of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:2120.61 through 2120.70, relative to the licensing of the Program for All-Inclusive Care of the Elderly (PACE) providers; to provide for definitions; to provide for licensure requirements; to provide for rules and regulations; to provide for licensing fees; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1203.1(4)(aa) and Part II-J of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:2120.61 through 2120.70, are hereby enacted to read as follows:

§1203.1. Definitions

For the purposes of this Part, the following terms have the meaning ascribed in this Section:

* * *

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

* * *

(aa) A Program for All-Inclusive Care of the Elderly (PACE), as defined in R.S. 40:2120.63.

* * *

1 Part II-J. LICENSING PROGRAM FOR ALL-INCLUSIVE CARE OF THE ELDERLY

2 (PACE)

3 §2120.61. Short title

4 This Part shall be known and may be cited as the "Licensing Program for
5 All-Inclusive Care of the Elderly (PACE)".

6 §2120.62. Purpose

7 A. The purpose of this Part is to authorize the Louisiana Department of
8 Health to promulgate and publish rules and regulations to provide for the licensing
9 of the Program of All-Inclusive Care for the Elderly (PACE) providers, to provide
10 for the health, safety, welfare, well-being, and comfort of persons receiving services
11 from PACE providers, and to provide for the safe operation and maintenance of
12 PACE providers.

13 B. The purpose of a PACE provider is to provide prepaid, capitated,
14 comprehensive healthcare service to Medicare and Medicaid recipients or other
15 qualified individuals who are enrolled in PACE services.

16 §2120.63. Definitions

17 For the purposes of this Part, the following terms shall have the following
18 meanings:

19 (1) "Department" means the Louisiana Department of Health or any agency
20 or office designated by the secretary to administer the provisions of this Part.

21 (2) "License" means a license issued by the department to a PACE provider.

22 (3) "PACE enrollee" means a recipient or participant that has been approved
23 by Medicare or the Louisiana Medicaid Program or is otherwise qualified to enroll
24 as a PACE participant for PACE services provided by an approved and licensed
25 PACE provider.

26 (4) "PACE services" means those healthcare and related services approved
27 by the Centers for Medicare and Medicaid Services for Medicare and Louisiana
28 Medicaid programs as PACE services, including but not limited to primary care,
29 social work services, restorative therapies, personal care and support services,
30 nutrition counseling, recreational therapy, transportation, meals, medical specialists

1 services, laboratory tests, x-rays, durable medical equipment, and other services
 2 determined necessary by an interdisciplinary team to improve and maintain the
 3 participant's overall health status.

4 (5) "Program for All-Inclusive Care of the Elderly (PACE) provider" means
 5 a facility, place, center, agency, person, institution, corporation, partnership,
 6 unincorporated association, group, organization, or other legal entity that meets the
 7 requirements of 42 CFR 460 et seq., and is approved and enrolled or intends to be
 8 approved and enrolled as a PACE organization by the Centers for Medicare and
 9 Medicaid Services for the Medicare and Louisiana Medicaid programs to provide
 10 services to Medicare and Medicaid recipients, or other qualified individuals, who
 11 choose PACE services.

12 (6) "Secretary" means the secretary of the Louisiana Department of Health
 13 or his designee.

14 (7) "Standards" means policies, procedures, rules, and other guidelines or
 15 standards of current practice contained in this Part, in addition to those rules and
 16 standards promulgated by the department for the licensing and operation of PACE
 17 providers.

18 §2120.64. Licensure of PACE providers

19 A. All PACE providers shall be licensed by the Louisiana Department of
 20 Health. No facility, place, center, agency, person, institution, corporation,
 21 partnership, unincorporated association, group, organization, or other legal entity
 22 providing PACE services may be established, operated, or be reimbursed under the
 23 Medicaid program, unless licensed as a PACE provider to perform services by the
 24 department.

25 B. A license issued to a PACE provider shall be all of the following:

26 (1) Issued only for the entity or person and premises named in the license
 27 application.

28 (2) Valid for only the geographic location listed on the license. The
 29 geographic service location for a PACE provider shall be a single geographic

1 administrative region of the Louisiana Department of Health as defined in the
2 licensing rules for the PACE provider.

3 (3) Valid for twelve months beginning the month of issuance, unless revoked
4 or otherwise suspended prior to that date. The license shall expire on the last day of
5 the twelfth month after the date of issuance, unless otherwise renewed, or as set forth
6 in rules promulgated by the department.

7 (4) On a form prescribed by the department.

8 C. A license issued pursuant to this Part shall not be transferrable or
9 assignable.

10 (1) When a PACE provider is sold or ownership is transferred, the new
11 owner or transferee shall notify the department and apply for a new license at least
12 forty-five days prior to the transfer.

13 (2) The transferor shall remain responsible for the operation of the PACE
14 provider until such time as a license has been issued to the transferee.

15 D. A license issued to a PACE provider shall be posted in a conspicuous
16 place on the licensed premises.

17 §2120.65. PACE provider participants; restrictions

18 A PACE provider shall provide services only to those participants who have
19 chosen PACE services and who have been approved by Medicare or the Louisiana
20 Medicaid Program or is otherwise qualified to become a PACE enrollee. A PACE
21 provider shall not provide services to any person that is not an approved PACE
22 enrollee.

23 §2120.66. PACE provider restrictions

24 A. A PACE provider may provide all of the following services to approved
25 PACE enrollees:

26 (1) Home- and community-based services, as defined in R.S. 40:2120.1 et
27 seq., if the PACE provider is in compliance with state licensing laws, rules and
28 regulations for home- and community-based services providers, unless otherwise
29 exempted pursuant to promulgated PACE provider licensing regulations.

1 (2) Adult day healthcare facility services, as defined in R.S. 40:2120.41 et
 2 seq., if the PACE provider is in compliance with federal and state licensing laws,
 3 rules and regulations for adult day healthcare facility services, unless otherwise
 4 exempted pursuant to promulgated PACE provider licensing regulations.

5 (3) Home health agency services, as defined in R.S. 40:2116.31 et seq., if the
 6 PACE provider is in compliance with federal and state licensing laws, rules and
 7 regulations governing home health agencies, unless otherwise exempted pursuant to
 8 the promulgated PACE provider licensing regulations.

9 B. A PACE organization which has been issued a PACE provider license by
 10 the department shall not be required to obtain a separate home- and
 11 community-based service provider license, a separate adult day healthcare facility
 12 license, or a separate home health agency license, in order to provide such services
 13 to approved PACE enrollees.

14 C. A PACE provider may contract with any of the following:

15 (1) A Louisiana-licensed and certified hospital, nursing facility, or hospice
 16 agency, to arrange or provide hospital, nursing facility, or hospice services to an
 17 approved PACE enrollee.

18 (2) Other licensed or certified medical or healthcare providers or
 19 professionals to provide approved PACE services to an approved PACE enrollee.

20 D. A PACE provider shall ensure that all services provided to or arranged
 21 for a PACE enrollee are provided by either of the following:

22 (1) Individuals who are licensed by, and in good standing with, the
 23 appropriate licensing board in this state, and who are practicing within the licensed
 24 scope of practice.

25 (2) Individuals who are certified by, and in good standing with, the
 26 appropriate board, authority, or agency in this state, and who are acting within the
 27 scope of practice or certification.

28 E. A PACE provider shall not serve any person who is not an approved
 29 PACE enrollee.

1 §2120.67. Rules and regulations; licensing standards

2 A. The department shall promulgate and publish rules, regulations, and
 3 licensing standards, in accordance with the Administrative Procedure Act, to provide
 4 for the licensure of PACE providers, to provide for the health, safety, welfare,
 5 well-being, and comfort of persons receiving services from PACE providers, and to
 6 provide for the safe operation and maintenance of PACE providers.

7 B. The department shall promulgate and publish rules, regulations, and
 8 licensing standards, which shall include but are not limited to the following:

9 (1) Licensure application, renewal, and conversion, including forms,
 10 procedures, and requirements.

11 (2) Operational requirements.

12 (3) Provision of services.

13 (4) Practice standards to ensure quality of care.

14 (5) Practice standards to ensure the health, safety, welfare, well-being, and
 15 comfort of persons receiving care and services.

16 (6) Confidentiality of clients' records.

17 (7) Criteria and protocols to ensure uniform and quality assessment,
 18 diagnosis, evaluation, and referral to appropriate level of care.

19 (8) Administration, personnel, and staffing requirements.

20 (9) Maintenance of written policies and procedures.

21 (10) Survey and complaint investigations, including investigations into
 22 allegations that a provider is operating without a license.

23 (11) License types, including provisional licenses.

24 (12) Denial, revocation, suspension, and nonrenewal of licenses, and any
 25 appeals.

26 (13) Planning, construction, and design of the provider to ensure the health,
 27 safety, welfare, well-being, and comfort of persons receiving care and services.

28 (14) Requirements for approval of PACE enrollees.

1 (15) Other regulations or standards to ensure proper care and treatment of
2 persons receiving care and services at or from a PACE provider as may be
3 considered necessary by the department for an effective administration of this Part.

4 C. No PACE organization or provider will be required to obtain a license in
5 accordance with this Part until the initial rules, regulations, and licensing standards
6 are promulgated by the department pursuant to the Administrative Procedures Act.
7 Each entity that meets the definition of a PACE provider shall submit an initial
8 licensing application and licensing fee to the department within ninety days of the
9 promulgation of the initial rules, regulations, and licensing standards. If the entity is
10 not licensed within one hundred eighty days after submission of its initial licensing
11 application and fee, the entity shall cease and desist operations until such time as it
12 is licensed as a PACE provider by the department.

13 §2120.68. License issuance; application; fees; onsite inspections

14 A. Each application for licensure as a PACE provider shall be submitted to
15 the department on forms prescribed by the department and shall contain information
16 as the department may require. If a PACE organization operates in more than one
17 departmental region, the PACE organization shall obtain a separate PACE provider
18 license for each region. At a minimum, the licensing application shall contain all of
19 the following information:

20 (1) Name, address, and contact information of the person, partnership,
21 corporation, unincorporated association, or other legal entity that is the applicant.

22 (2) Names and addresses of the applicant's officers, directors, managers, and
23 administrators, if applicable.

24 (3) A line of credit from a federally insured, licensed lending institution in
25 the amount of at least fifty thousand dollars.

26 (4) Evidence of compliance with the Louisiana Workers' Compensation Law,
27 R.S. 23:1020.1 et seq.

28 (5) Evidence of general and professional liability insurance in the amount of
29 at least three hundred thousand dollars.

1 (6) Any other relevant information that the department determines is
2 necessary to properly evaluate the applicant and application as required by the
3 department by rule.

4 B. Each application for initial licensure shall be accompanied by a
5 non-refundable license fee, payable to the department, in an amount not to exceed
6 one thousand five hundred dollars.

7 C. Following receipt of the completed initial licensing application and
8 licensing fee, the department shall perform an onsite survey and inspection. If, after
9 the onsite survey and inspection, the department finds that the PACE provider meets
10 the requirements of this Part and the licensing standards adopted pursuant to this
11 Part, a license shall be issued.

12 D. As a condition for renewal of license, the licensee shall continue to be
13 approved and enrolled as a PACE organization by the Centers for Medicare and
14 Medicaid Services for the Medicare and Louisiana Medicaid programs. In addition,
15 the licensee shall submit to the department, a completed annual renewal application
16 on the forms prescribed by the department, which shall contain all information
17 required by the department. Additionally, a non-refundable annual renewal licensing
18 fee, in an amount not to exceed one thousand five hundred dollars, shall be submitted
19 with the annual renewal application. A PACE provider shall be assessed a
20 delinquent fee of two hundred dollars for failure to timely renew its license; the
21 delinquent fee shall be assessed and shall become due and payable to the department
22 at 12:01 a.m. on the first day following the expiration date of the license.

23 E. Upon receipt of the completed annual renewal application and the annual
24 renewal fee, and any applicable delinquent fee, the department shall determine if the
25 PACE provider continues to meet the requirements established under this Part and
26 under the licensing standards adopted pursuant to this Part. The department may
27 perform an onsite survey and inspection upon annual renewal. If the provider
28 continues to meet the requirements established under this Part and under the
29 licensing standards adopted pursuant to this Part, a license shall be issued, which
30 shall be valid for up to one year, unless otherwise revoked or suspended.

1 F. The department may perform an onsite survey or inspection at reasonable
2 times as necessary to ensure compliance with this Part and the licensing standards
3 adopted pursuant to this Part.

4 §2120.69. Investigations; surveys

5 A. The department may conduct onsite licensing surveys and inspections,
6 including complaint surveys, to determine that the PACE provider is in compliance
7 with the laws, rules, and regulations applicable to the PACE provider. Further, a
8 PACE provider that has applied for a license or that is licensed pursuant to this Part
9 shall be open at reasonable times for inspection by the department, the state fire
10 marshal, and any other authorized governmental entity.

11 B. Every applicant or licensee shall keep all records and make all reports as
12 the department shall prescribe, and all necessary records shall be available for
13 inspection by the department or other authorized governmental entity. The
14 department may examine the premises of any PACE provider and may examine and
15 inspect the PACE provider's books, records, documents, and other evidence in any
16 survey or investigation. The PACE provider shall cooperate in any survey or
17 investigation conducted by the department. Failure to cooperate with the survey or
18 investigation may result in action up to and including license revocation.

19 C. The department may assess a PACE provider a survey or investigation
20 fee, not to exceed one thousand dollars, for any complaint survey or investigation
21 conducted by the department at which deficiencies are substantiated. This survey or
22 inspection fee shall be imposed by the department only after the PACE provider has
23 completed the administrative process that has upheld the deficiencies or the time for
24 filing any administrative process or appeal has expired. The survey or investigation
25 fee shall not exceed the cost of performing the survey or inspection. This fee shall
26 be in addition to any other sanctions.

27 §2120.70. Operation without license; penalty; exception

28 A. Except as provided in R.S. 40:2120.67, a PACE provider shall not operate
29 without a license issued by the department. Any provider, organization, or facility
30 operating without a license shall be guilty of a misdemeanor and upon conviction

1 shall be fined no less than two hundred fifty dollars nor more than one thousand
2 dollars. Each day of violation shall constitute a separate offense. It shall be the
3 responsibility of the department to inform the appropriate district attorney of the
4 alleged violation to ensure enforcement.

5 B. If a PACE provider is operating without a license issued by the
6 department, the department shall have the authority to issue an immediate cease and
7 desist order to the provider. Any provider that receives a cease and desist order from
8 the department shall immediately cease operations until the provider is issued a
9 license by the department.

10 C. The department shall seek an injunction in the Nineteenth Judicial District
11 Court against any PACE provider that receives a cease and desist order from the
12 department in accordance with Subsection B of this Section and does not cease
13 operations immediately. Any PACE provider against whom an injunction is granted
14 shall be liable to the department for attorney fees, costs, and damages.

15 Section 2. This Act shall become effective upon signature by the governor or, if not
16 signed by the governor, upon expiration of the time for bills to become law without signature
17 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
18 vetoed by the governor and subsequently approved by the legislature, this Act shall become
19 effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____