Regular Session, 2011

HOUSE BILL NO. 642 (Substitute for House Bill No. 440 by Representative Burford)

BY REPRESENTATIVE BURFORD

HEALTH CARE/PROVIDERS: Provides with respect to the licensing standards, rules, and regulations and quality of services applicable to home- and community-based providers

AN ACT

To amend and reenact R.S. 37:1031(A)(introductory paragraph) and (D), 1033(A)(3) and (4), (B), (D)(1), (F), and (H) and 1034(3), and R.S. 40:2120.4(B)(1), 2120.5(D), and 2179(C), to enact R.S. 37:1031(A)(5) and (E) and R.S. 40:2119, and to repeal R.S. 37:1033(G); relative to home- and community-based providers; to provide for the applicability of statutory provisions governing direct service workers; to provide for appropriate training of direct service workers; to provide for the termination of authorization of direct service workers to perform certain procedures; to require the department to develop a comprehensive plan regarding the quality of services provided to individuals receiving home- and community-based services; to provide for licensure procedures and requirements applicable to granting deemed status to home- and community-based providers; to extend the application of state laws governing direct service workers to all direct service workers regardless of the type of compensation; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1031(A)(introductory paragraph) and (D), 1033(A)(3) and (4), (B), (D)(1), (F), and (H) and 1034(3) are hereby amended and reenacted and R.S. 37:1031(A)(5) and (E) are hereby enacted to read as follows:

§1031. Applicability

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A. The provisions of this Part shall not apply to gratuitous care provided by friends or members of the individual's family. The provisions of this Part shall apply to all direct service workers employed by a licensed agency, or employed as part of an authorized departmental self-directed program, and who attend to individuals receiving ~~state or federally funded home~~ home- and community-based long-term services and who are not authorized to perform these tasks under other state laws or regulations. An individual being served shall meet the following criteria:

* * *

(5) Requires assistance with medication administration or other non-complex medical tasks.

* * *

D. A registered nurse as used in this Part, may delegate to a licensed practical nurse components of the training and supervision of the direct service worker provided that the registered nurse shall retain the responsibility and accountability for all acts of delegation and ensuring authorization and competency validation.

~~D.~~ E. The Department of Health and Hospitals, in conjunction with the Louisiana State Board of Nursing, shall promulgate rules and regulations necessary to enable the implementation of this Part, and other rules and regulations concerning direct service workers consistent with this Part.

* * *

§1033. Required training~~; registration~~

A. In order to be authorized to perform the procedures specified in R.S. 37:1032, a direct service worker shall be employed by a licensed agency or employed as part of an authorized departmental self-directed program and shall receive the following training:

* * *

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(3) In order to administer non-complex tasks, complete didactic training, and demonstrate competency in accordance with guidelines established and approved by the Department of Health and Hospitals and the Louisiana Board of Nursing.

~~(3)~~ (4) ~~At least six hours of~~ Appropriate person-specific training from a registered nurse who has assessed the health status of the individual ~~in the residence where the~~ receiving services ~~are to be performed~~ and determined that the direct service worker can perform the tasks in a safe, appropriate manner, with additional person-specific training by a registered nurse whenever the tasks to be performed or the types of medications to be administered are changed. Written documentation of training provided by the registered nurse shall be submitted to and maintained by the direct service worker's ~~employing agency~~ employer.

~~(4) Current Cardio-Pulmonary Resuscitation certification.~~

B. Any unlicensed person performing the procedures authorized by this Part shall complete the training required by this Section no later than ~~thirty-six~~ twelve months after promulgation of the regulations required by this Part. Training specified in Subsection A of this Section shall be repeated if the registered nurse does not certify that the direct service worker has demonstrated a sufficient level of competency in the subject matter.

* * *

D.(1) Any ~~registered~~ licensed nurse who has properly trained and documented that a direct service worker can perform the prescribed tasks shall not be liable for any civil damages as a result of any act or omission of the direct service worker.

* * *

F. Direct service workers ~~performing~~ with a finding on the Department of Health and Hospital's Direct Service Worker Registry shall not perform tasks ~~under~~ pursuant to this Part. ~~shall maintain current registration with the Department of Health and Hospital's Direct Service Worker Registry.~~

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H. ~~During the thirty-six month training period required by Subsection B of this Section, the~~ The Department of Health and Hospitals and the Louisiana State Board of Nursing shall meet ~~quarterly~~ at least annually to review data collected by the Department of Health and Hospitals that is relevant to the administration of health care tasks authorized by this Part. The Department of Health and Hospitals and the Louisiana State Board of Nursing shall use the data to evaluate the efficiency of this program and shall make joint recommendations to the secretary of the Department of Health and Hospitals and the executive director of the Louisiana State Board of Nursing for any needed revisions.

§1034. Termination of authorization

Authorization for a direct service worker to perform any of the tasks specified in R.S. 37:1032 shall be terminated for any of the following reasons:

* * *

(3) The direct service worker ~~no longer maintains current registration in~~ has a finding against him placed on the Direct Service Worker Registry.

* * *

Section 2. R.S. 40:2120.4(B)(1), 2120.5(D), and 2179(C) are hereby amended and reenacted and R.S. 40:2119 is hereby enacted to read as follows:

§2119. Comprehensive plan

A. The Department of Health and Hospitals is hereby directed to develop a comprehensive plan to address the delivery of quality services to a person receiving home- and community-based services and the department shall submit a written report to the House Committee on Health and Welfare and the Senate Committee on Health and Welfare by January 15, 2012.

B. The plan shall be developed with input from stakeholders and shall include action steps, recommended timelines, and identified necessary resources for implementation, and shall address the following:

(1) Accreditation - accreditation of home- and community-based service providers.

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(2) Compliance - assurance that all home- and community-based service providers meet the standards for licensure, and plan for monitoring to ensure ongoing compliance.

(3) Billing - appropriate revisions to streamline the procedures for the billing of home- and community-based services and monitoring to reduce fraud and errors.

(4) Cost reporting - mandatory cost reporting by providers of home- and community-based services to verify expenditures and for use in determining appropriate reimbursement rates.

(5) Support coordination - appropriate revisions to streamline the delivery of support coordination and ensure that these services are timely, cost-effective, and efficient.

(6) Rate reimbursement - review of reimbursement rate methodologies to promote administrative efficiencies and reflect the cost of providing quality home- and community-based services.

(7) Technology - utilization of technology to simplify the training, delivery, monitoring, and payment for home- and community-based services.

(8) Medicaid enrollment - revision to requirements for Medicaid enrollment to promote sustainable quality home- and community-based services.

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§2120.4. Rules and regulations; licensing standards

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B. The licensing agency of the department shall prescribe, promulgate, and publish rules, regulations, and licensing standards to include but not be limited to the following:

(1) Licensure application and renewal application procedures and requirements. Licensure procedures and requirements ~~may~~ shall include provisions for granting deemed status to home- and community-based service providers that either obtain accreditation through a recognized national, not-for-profit accrediting body approved by the department, or comply with any other procedure developed by

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the department to ensure that every home- and community-based provider meets minimum standards for the delivery of services and is in compliance with all applicable federal and state regulations; the licensure procedures and requirements may include provisions for denying and revoking deemed status, for complaint surveys and investigations of providers holding deemed status, and for approved accreditation organizations. Deemed status shall not be available to persons or entities seeking initial licensure with the department.

* * *

§2120.5. License issuance; application; onsite inspection

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D. As a condition for a renewal of a license, the licensee ~~must~~ shall submit to the licensing agency a completed annual renewal application on forms prescribed by the licensing agency and shall contain such information as required by the agency; additionally, the annual renewal licensing fee ~~must~~ shall be submitted with the annual renewal application. Upon receipt of the completed annual renewal application and the annual renewal licensing fee, the licensing agency shall determine if the facility or provider continues to meet the requirements established ~~under~~ pursuant to this Part and the licensing standards adopted pursuant to this Part. The licensing agency may perform an onsite survey and inspection upon annual renewal. If the facility or provider continues to meet the requirements established ~~under~~ pursuant to this Part and the licensing standards adopted pursuant to this Part, a license shall be issued which is valid for one year.

* * *

§2179. Establishment of Direct Service Worker Registry

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C. The provisions of this Part shall apply ~~only~~ to direct service workers who are compensated ~~through state or federal funds~~, regardless of the setting, and specifically do not apply to those direct service workers listed on the Certified Nurse

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Aide Registry established under rules promulgated by the Department of Health and Hospitals.

* * *

Section 3. R.S. 37:1033(G) is hereby repealed in its entirety.

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)]

Burford HB No. 642

Abstract: Amends provisions relative to the licensing standards, rules, and regulations and quality of services applicable to home- and community-based providers.

Present law (R.S. 37:1031(A)) provides that the provisions of present law apply to all direct service workers employed by a licensed agency, or employed as part of an authorized departmental self-directed program, and who attend to individuals receiving state or federally funded home and community-based long-term services. Establishes criteria which must be met for an individual being served by direct service workers.

Proposed law specifies that the provisions of present law apply to direct service workers receiving any home- and community-based long-term services who are not authorized to perform these tasks under other state laws or regulations. Also adds to the list of criteria in present law that an individual being served must require assistance with medication administration or other non-complex medical tasks.

Proposed law (R.S. 37:1031(D)) authorizes a registered nurse as used in present law, to delegate to a licensed practical nurse components of the training and supervision of the direct service worker provided that the registered nurse shall retain the responsibility and accountability for all acts of delegation and ensuring authorization and competency validation.

Present law (R.S. 37:1033(A)(3)) provides that as a condition of being authorized to perform the procedures specified in R.S. 37:1032, a direct service worker must be employed by a licensed agency or employed as part of an authorized departmental self-directed program and must receive at least 6 hours of person-specific training from a registered nurse who has assessed the health status of the individual in the residence where the services are to be performed and determined that the direct service worker can perform the tasks in a safe, appropriate manner, with additional person-specific training by a registered nurse whenever the tasks to be performed or the types of medications to be administered are changed. Written documentation of training provided by the registered nurse must be submitted to and maintained by the direct service worker's employing agency. Also requires the direct service worker to receive training in current cardio-pulmonary resuscitation certification.

Proposed law modifies present law by adding a provision that requires a direct service worker receive complete didactic training, and demonstrate competency in accordance with guidelines established and approved by the Department of Health and Hospitals and the Louisiana Board of Nursing in order to administer non-complex tasks. Also specifies that a direct service worker must receive appropriate person-specific training from a registered nurse who has assessed the health status of the individual receiving services and determined that the direct service worker can perform the tasks in a safe, appropriate manner, with additional person-specific training by a registered nurse whenever the tasks to be performed

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or the types of medications to be administered are changed. Deletes a requirement that a direct service worker receive training in current cardio-pulmonary resuscitation certification. Also, makes technical changes.

Present law (R.S. 37:1033(B)) requires all unlicensed people performing the procedures authorized by present law to complete the required training no later than 36 months after promulgation of the regulations required by this Part.

Proposed law modifies present law by specifying that all required training must be completed with 12 months after the promulgation of regulations.

Present law (R.S. 37:1033(D)(1)) provides that any registered nurse who has properly trained and documented that a direct service worker can perform the prescribed tasks shall not be liable for any civil damages as a result of any act or omission of the direct service worker.

Proposed law changes the term "registered nurse" to "licensed nurse."

Present law (R.S. 37:1033(F)) requires direct service workers performing tasks under present law to maintain current registration with the Department of Health and Hospital's Direct Service Worker Registry.

Proposed law modifies present law by prohibiting direct service workers with a finding on the Department of Health and Hospital's Direct Service Worker Registry from performing tasks pursuant present law.

Present law (R.S. 37:1033(H)) provides that during the 36 month training period required by present law, the Department of Health and Hospitals and the Louisiana State Board of Nursing must meet quarterly to review data collected by the Department of Health and Hospitals that is relevant to the administration of health care tasks.

Proposed law modifies present law by removing the 36 month training requirement period and instead requires the Department of Health and Hospitals and the Louisiana State Board of Nursing to meet at least annually to review data collected by the Department of Health and Hospitals that is relevant to the administration of health care tasks authorized by this Part.

Present law (R.S. 37:1034(3)) authorizes a direct service worker to be terminated if he no longer maintains a current registration in the Direct Service Worker Registry.

Proposed law modifies present law by specifying that a direct service worker shall be terminated if he has a finding against him placed on the Direct Service Worker Registry.

Proposed law (R.S. 40:2119) requires the Department of Health and Hospitals to develop a comprehensive plan to address the delivery of quality services to a person receiving a home- and community-based services and to submit a written report to the House Committee on Health and Welfare and the Senate Committee on Health and Welfare by January 15, 2012.

Specifies that the plan must be developed with input from stakeholders and include action steps, recommended timelines, and identified necessary resources for implementation, and address the following:

(1) Accreditation - accreditation of home- and community-based service providers.

(2) Compliance - assurance that all home- and community-based service providers meet the standards for licensure, and plan for monitoring to ensure ongoing compliance.

(3) Billing - appropriate revisions to streamline the procedures for the billing of home- and community-based services and monitoring to reduce fraud and errors.

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(4) Cost reporting - mandatory cost reporting by providers of home- and community-based services to verify expenditures and for use in determining appropriate reimbursement rates.

(5) Support coordination - appropriate revisions to streamline the delivery of support coordination and ensure that these services are timely, cost-effective, and efficient.

(6) Rate reimbursement - review of reimbursement rate methodologies to promote administrative efficiencies and reflect the cost of providing quality home- and community-based services.

(7) Technology - utilization of technology to simplify the training, delivery, monitoring, and payment for home- and community-based services.

(8) Medicaid enrollment - revision to requirements for Medicaid enrollment to promote sustainable quality home- and community-based services.

Present law (R.S. 40:2120.4(B)(1)) requires the department to establish and publish rules, regulations, and licensing standards that include licensure application and renewal application procedures and requirements. These licensure procedures and requirements may include provisions for granting deemed status to home- and community-based service providers that obtain accreditation through a recognized national, not-for-profit accrediting body, the licensure procedures and requirements may include provisions for denying and revoking deemed status, for complaint surveys and investigations of providers holding deemed status, and for approved accreditation organizations.

Proposed law requires licensure procedures and requirements to include provisions for the granting of deemed status based to home- and community-based providers that either obtain accreditation through a recognized national, not-for-profit accrediting body approved by the department, or comply with any other procedure developed by the department to ensure that every home- and community-based provider meets minimum standards for the delivery of services and is in compliance with all applicable federal and state regulations.

Present law (R.S. 40:2120.5(D)) provides that in order to renew a license, the licensee must submit to the licensing agency a completed annual renewal application on forms prescribed by the licensing agency and shall contain such information as required by the agency additionally, the annual renewal licensing fee must be submitted with the annual renewal application. Also, provides that upon receipt of the completed annual renewal application and the annual renewal licensing fee, the licensing agency shall determine if the facility or provider continues to meet the requirements established under this Part and the licensing standards adopted pursuant to this Part. Provides that the licensing agency may perform an onsite survey and inspection upon annual renewal. Also, provides that if the facility or provider continues to meet the requirements established under this Part and the licensing standards adopted pursuant to this Part, a license shall be issued which is valid for 1 year.

Proposed law makes technical changes.

Present law (R.S. 40:2179(C)) provides that the provisions of present law apply only to direct service workers who are compensated through state or federal funds, regardless of the setting, and specifically do not apply to those direct service workers listed on the Certified Nurse Aide Registry established under rules promulgated by the Department of Health and Hospitals.

Proposed law modifies present law by extending its application to all direct service workers who are compensated in any form.

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(Amends R.S. 37:1031(A)(intro. para.) and (D), 1033(A)(3) and (4), (B), (D)(1), (F), and (H) and 1034(3), and R.S. 40:2120.4(B)(1), 2120.5(D), and 2179(C); Adds R.S. 37:1031(A)(5) and (E) and R.S. 40:2119; Repeals R.S. 37:1033(G))

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