

ACT No. 381

Regular Session, 2009

HOUSE BILL NO. 728

BY REPRESENTATIVE SCHRODER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

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AN ACT

To amend and reenact R.S. 40:1300.51(3), 2116(B)(1), 2166.2, 2166.3, 2166.4(A), 2166.5(C)(introductory paragraph), and 2166.7(A), to enact R.S. 40:1300.51(2)(n), 2166.4(H) and (I), and 2166.5(B)(11) and (C)(4) and (5), and to repeal Part V of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:2151 through 2163, relative to licensing of adult residential care homes and adult residential care providers; to provide a statement of legislative intent; to provide for definitions; to require licensure of all adult residential care providers; to provide for the criteria for the review of beds for adult residential care providers; to provide for the transfer of licensing authority for adult residential care homes from the Department of Social Services to the Department of Health and Hospitals; to provide for waivers granted to adult residential care facilities; to establish the levels of adult residential care providers; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:1300.51(3) is hereby amended and reenacted and R.S. 40:1300.51(2)(n) is hereby enacted to read as follows:

§1300.51. Definitions

For the purposes of this Part:

* * *

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

* * *

(n) An adult residential care provider, as defined in R.S. 40:2166.3.

1 of choice, independence, and an opportunity to continue to live as integral members
2 of the community, aging with dignity, privacy, and respect.

3 §2166.3. Definitions

4 As used in this Part, the following terms shall have the following meanings:

5 (1) "Adult residential care home" means a publicly or privately operated
6 residence that provides personal assistance, lodging, and meals for compensation to
7 two or more adults who are unrelated to the residence licensee, operator, or
8 administrator.

9 ~~(1)~~ (2) "Adult residential care provider" means a facility, agency, institution,
10 society, corporation, partnership, company, entity, residence, person or persons, or
11 any other group which provides adult residential care for compensation to two or
12 more adults who are unrelated to the licensee or operator. Adult residential care
13 ~~includes~~ may include but is not limited to the following services: lodging, meals,
14 medication administration, intermittent nursing services, assistance with self
15 administration of medications, assistance with personal hygiene, assistance with
16 transfers and ambulation, assistance with dressing, housekeeping, and laundry.
17 There shall be four modules of adult residential care providers as described in R.S.
18 40:2166.5(B)(11). The department shall promulgate rules and regulations for each
19 module, governing the scope of services to be provided thereunder.

20 ~~(2)~~ (3) "Department" means the Louisiana Department of Health and
21 Hospitals.

22 ~~(3)~~ (4) "Financial viability" means the provider or facility seeking licensure
23 is able to provide at least one of the following:

24 (a) Verification of sufficient assets equal to one hundred thousand dollars or
25 the cost of three months of operation, whichever is less.

26 (b) A letter of credit equal to one hundred thousand dollars or the cost of
27 three months of operation, whichever is less.

28 ~~(4)~~ (5) "License" means a license issued by the department to an adult
29 residential care provider.

1 §2166.4. Licensure of adult residential care providers

2 A. All adult residential care providers, whether facilities, agencies,
3 providers, institutions, societies, corporations, partnerships, entities, residences,
4 person or persons, or any other group or groups providing adult residential care, shall
5 be licensed. No facility, agency, provider, institution, society, corporation,
6 partnership, company, entity, residence, person or persons, or any other group
7 providing adult residential care may be established, operated, or reimbursed under
8 the Medicaid program for such care unless licensed to perform such care by the
9 department.

10 * * *

11 H. Effective July 1, 2010, the authority to license adult residential care
12 homes shall transfer from the Department of Social Services to the Department of
13 Health and Hospitals. Each adult residential care home which has a valid license
14 issued by the Department of Social Services shall apply to the Department of Health
15 and Hospitals to become an adult residential care provider sixty days prior to the
16 expiration of the current adult residential care home license. The adult residential
17 care home license shall be valid until its expiration date, unless otherwise revoked,
18 suspended, or terminated. Effective July 1, 2010, the Department of Health and
19 Hospitals shall have authority to monitor, survey, and regulate the adult residential
20 care home under the existing Department of Social Services regulations until the
21 Department of Health and Hospitals publishes minimum licensing standards for all
22 modules of adult residential care providers.

23 I. All waivers in effect on the effective date of this Act granted to adult
24 residential care facilities licensed by the Department of Social Services shall remain
25 in effect when those facilities are transferred to the Department of Health and
26 Hospitals subject to licensing rules and regulations. However, any physical space
27 waiver in effect on the effective date of this Act granted to adult residential care
28 facilities licensed by the Department of Social Services shall remain in effect when
29 those facilities are transferred to the Department of Health and Hospitals unless there

1 is a renovation, new construction, or relocation of the physical space which is subject
2 to such waiver.

3 §2166.5. Rules and regulations; licensing standards; fees

4 * * *

5 B. The department shall prescribe, promulgate, and publish rules,
6 regulations, and licensing standards including but not limited to the following:

7 * * *

8 (11) Modules of adult residential care providers with varying levels of
9 services. The modules for adult residential care providers shall be as follows:

10 (a) Level 1 personal care homes.

11 (b) Level 2 shelter care homes.

12 (c) Level 3 assisted living facilities.

13 (d) Level 4 adult residential care providers.

14 C. The secretary of the department is further authorized to set and collect
15 fees and fines for the licensure of adult residential care providers as follows:

16 * * *

17 (4) Effective July 1, 2010, an adult residential care provider which had
18 previously been licensed by the Department of Social Services as an adult residential
19 care home as of June 30, 2010, shall continue to pay the existing fee of two hundred
20 fifty dollars for license renewal. The license fee shall be due once a year for renewal
21 of license.

22 (5) Effective July 1, 2010, an adult residential care provider which had
23 previously been licensed by the Department of Social Services as an adult residential
24 care home as of June 30, 2010, which operates without a valid license or which
25 operates in violation of state law or department regulations shall be fined by the
26 department in accordance with the existing schedule of fines and enforcement
27 procedures promulgated by rules of the department, not to exceed two hundred fifty
28 dollars for each day of such offense.

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