

Regular Session, 2008

SENATE BILL NO. 32

BY SENATOR DORSEY

HEALTH/HOSPITALS DEPT. Provides for the licensure of adult day health care providers.  
(8/15/08)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17

AN ACT

To amend and reenact R.S. 40:2120.43(A), (B), (D), (E), and (G), 2120.44(A), the introductory paragraph of (B), and (C), and 2120.46, and to repeal R.S. 40:2120.42, 2120.45, and 2120.47, relative to adult day health care providers; to provide for licensure of adult day health care providers; to provide for rules and regulations; to provide for penalties for operation without a license; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 40:2120.43(A), (B), (D), (E), and (G), 2120.44(A), the introductory paragraph of (B), and (C), and 2120.46 are hereby amended and reenacted to read as follows:

§2120.43. Licensure of adult day health care providers

A. No agency, institution, society, corporation, person or persons, or any other group providing adult day health care services may be established or operated or be reimbursed under the Medicaid program for such services unless licensed to perform such services by the ~~department~~ **Department of Health and Hospitals**.

B. A license issued to an adult day health care provider, **as defined by the Department of Health and Hospitals' rules and regulations promulgated in**

1 **accordance with the Administrative Procedure Act**, shall be valid for only one  
2 geographic location and shall be issued only for the person and premises named in  
3 the license application.

4 \* \* \*

5 D. A license issued under this Part shall expire on the last day of the twelfth  
6 month after the date of issuance, unless otherwise renewed, or as set forth in rules  
7 promulgated by the ~~department~~ **Department of Health and Hospitals in**  
8 **accordance with the Administrative Procedure Act**.

9 E. A license issued under this Part shall be on a form prescribed by the  
10 ~~department~~ **Department of Health and Hospitals**.

11 \* \* \*

12 G. A license issued to an adult day health care provider, **as defined by the**  
13 **Department of Health and Hospitals' rules and regulations promulgated in**  
14 **accordance with the Administrative Procedure Act**, shall be posted in a  
15 conspicuous place on the licensed premises.

16 §2120.44. Rules and regulations; licensing standards

17 A. The ~~department~~ **Department of Health and Hospitals** is hereby  
18 authorized and directed to promulgate and publish rules, regulations, and licensing  
19 standards, in accordance with the Administrative Procedure Act, to provide for the  
20 licensure of adult day health care providers, **as defined by the Department of**  
21 **Health and Hospitals' rules and regulations**, and to provide for the health, safety,  
22 and welfare of persons receiving services from such providers or programs, and to  
23 provide for the safe operation of such providers or programs. The rules, regulations,  
24 and licensing standards shall become effective upon approval by the secretary of the  
25 ~~department~~ **Department of Health and Hospitals** in accordance with the  
26 Administrative Procedure Act. These rules, regulations, and licensing standards shall  
27 have the effect of law.

28 B. The ~~department~~ **Department of Health and Hospitals** shall prescribe,  
29 promulgate, and publish rules, regulations, and licensing standards relative to adult

1 day health care providers, **as defined by the Department of Health and Hospitals'**  
2 **rules and regulations promulgated in accordance with the Administrative**  
3 **Procedure Act**, to include but not be limited to the following:

4 \* \* \*

5 C. The ~~department~~ **Department of Health and Hospitals** may promulgate  
6 and publish other rules it deems necessary to streamline the application process and  
7 maximize participation of adults in need of adult day health care services. The rules,  
8 regulations, and licensing standards shall become effective upon approval by the  
9 secretary of the ~~department~~ **Department of Health and Hospitals** in accordance  
10 with the Administrative Procedure Act. These rules and regulations shall have the  
11 effect of law.

12 §2120.46. Operation without license; penalty

13 A. An adult day health care provider, **as defined by the Department of**  
14 **Health and Hospitals' rules and regulation promulgated in accordance with the**  
15 **Administrative Procedure Act**, shall not operate without a license issued by the  
16 ~~department~~ **Department of Health and Hospitals**. Any such provider operating  
17 without a license shall be guilty of a misdemeanor and upon conviction shall be fined  
18 no less than one hundred nor more than five hundred dollars for each such offense.  
19 It shall be the responsibility of the ~~department~~ **Department of Health and Hospitals**  
20 to inform the appropriate district attorney of the alleged violation to assure  
21 enforcement.

22 B. If an adult day health care provider, **as defined by the Department of**  
23 **Health and Hospitals' rules and regulation promulgated in accordance with the**  
24 **Administrative Procedure Act**, is operating without a license issued by the  
25 ~~department~~ **Department of Health and Hospitals**, the ~~department~~ **Department of**  
26 **Health and Hospitals** shall have the authority to issue an immediate cease and desist  
27 order to that provider. Any such provider receiving such a cease and desist order  
28 from the ~~department~~ **Department of Health and Hospitals** shall immediately cease  
29 operation until such time as that provider is issued a license by the ~~department~~

**Department of Health and Hospitals.**

C. The ~~department~~ **Department of Health and Hospitals** shall seek an injunction in the Nineteenth Judicial District Court against any provider who receives a cease and desist order from the ~~department~~ **Department of Health and Hospitals** under Subsection B of this Section and who does not cease operations immediately. Any such provider against whom an injunction is granted shall be liable to the ~~department~~ **Department of Health and Hospitals** for attorney fees, costs, and damages.

Section 2. R.S. 40:2120.42, 2120.45, and 2120.47 are hereby repealed.

---

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Greg Waddell.

---

## DIGEST

Present law provides for the licensing of adult day health care providers and for the related definitions of "adult day health care," "adult day health care provider," "department," and "functionally impaired adults." In addition, present law provides for the application and issuance of licenses and for onsite inspections of license holders. Present law also provides for penalties for operating an adult day health care facility without a license and for a moratorium on the enrollment of adult day health care providers enrolled in the Title XIX program.

Proposed law provides that the Department of Health and Hospitals through the rulemaking process in accordance with the Administrative Procedure Act shall provide for the licensing and related definitions of adult day health care providers. In addition, proposed law repeals the statutory provisions which provide for application and issuance of licenses, and onsite inspections of license holders. Proposed law also repeals the statutory moratorium on adult day health care providers enrollment into the Title XIX program.

Effective August 15, 2008.

(Amends R.S. 40:2120.43(A), (B), (D), (E), and (G), 2120.44(A), (B)(intro para), and (C), and 2120.46; repeals R.S. 40:2120.42, 2120.45, and 2120.47)