AN ACT concerning health and healthcare; relating to hospitals and healthcare-related facilities; establishing primary health centers as a rural healthcare provider type and enacting the primary health center pilot program act contingent upon state acceptance into a demonstration program under the centers for medicare and medicaid innovation; amending K.S.A. 65-425 and 65-431 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. The legislature of the state of Kansas recognizes the importance and necessity of providing and regulating the system whereby healthcare services are structured and integrated to promote the availability of, and access to, necessary and appropriate healthcare to protect the general health, safety and welfare of Kansas's rural residents. The legislature of the state of Kansas seeks to: Improve the health of Kansas's rural population, preserve access to healthcare, encourage collaboration among rural healthcare providers, promote delivery of quality rural healthcare, promote efficiency and efficacy of rural healthcare, embrace technology in the delivery of rural healthcare and promote adequate and fair reimbursement for rural healthcare services. To that end, it is the policy of the state of Kansas to encourage development of and participation in the primary health center program. Implementation of a primary health center program under the provisions of this act effectuates these policies.

New Sec. 2. As used in the primary health center pilot program act:
(a) "Act" means the primary health center pilot program act.
(b) "Coordinating entity of the primary health center program" or "coordinating entity" means the Kansas department of health and environment, the Kansas hospital association or other entity authorized by the primary health center pilot program act and created by the secretary in accordance with the act to receive and administer grant funding for and to operate and manage a primary health center program in Kansas. Operational and management duties of the "coordinating entity" may include, but not be limited to: Forming a coalition of participating hospitals; collecting applicable data from coalition members to determine appropriate reimbursement and quality indicators; disseminating
information to coalition members regarding reimbursement and quality
indicators; managing data and coordinating with the relevant federal
program sponsor; providing ongoing technical and clerical support to
coalition members to ensure regulatory compliance; and any other
responsibilities necessary for implementation of the primary health center
program.

(c) "Primary health center" means an establishment: That meets the
eligibility requirements described in section 3, and amendments thereto,
and has an organized medical staff of physicians; with permanent facilities
that include observation beds for transitional care, emergency services,
owned or contracted emergent and non-emergent transportation; and
provide services to include outpatient and ambulatory services including
primary care, prenatal care, minor medical procedures, diagnostic testing,
population health services and telemedicine services. Services may also
include: Swing beds for extended, non-acute skilled care; behavioral
health services; dental services; and other services required or permitted
by a primary health center program. A primary health center shall not have
inpatient beds.

(d) "Primary health center program" means a demonstration program
under the centers for medicare and medicaid innovation or any other
federal initiative that provides for payment or reimbursement to a primary
health center.

(e) "Secretary" means the secretary of the Kansas department of
health and environment.

New Sec. 3. (a) Entities eligible to apply for a primary health center
license include:

(1) A licensed critical access hospital;
(2) A general hospital with not more than 50 licensed beds located in a
county in a rural area as defined in § 1886(d)(2)(D) of the social security
act;
(3) A general hospital with not more than 50 licensed beds that is
being treated as being located in a rural area pursuant to § 1886(d)(8)(E) of
the social security act; or
(4) was a hospital described in paragraphs (1) through (3) that ceased
operations within the prior five years.

(b) A licensed general hospital or critical access hospital that applies
for and receives licensure as a primary health center and elects to operate
as a primary health center shall retain its original license as a general
hospital or critical access hospital. Such original license shall remain
inactive while the primary health center license is in effect.

(c) (1) After one year of operation and until the end of the fifth year
of operation as a primary health center, a primary health center may make
a one-time election to revert to its original licensure as a general or critical
access hospital, as applicable, without being required to reapply for licensure, but subject to survey to assure that licensure requirements are satisfied.

(2) If a primary health center ceases to be a participant in a primary health center program, the primary health center will revert to its original licensure as a general hospital or critical access hospital, as applicable, but subject to survey to ensure that licensure requirements are satisfied.

New Sec. 4. A primary health center shall participate in any primary health center program established for the benefit of healthcare providers in the state of Kansas. A primary health center shall comply with the requirements for participation in the primary health center program, including, but not limited to, entering into an agreement for clinical and administrative assistance with a general hospital or critical access hospital, establishing transfer protocols and transfer agreements with general hospitals or critical access hospitals and submitting data as requested by the coordinating entity. All primary health centers, including those that are city, county, hospital district or other governmental or quasi-governmental hospitals shall be authorized to enter into any such contracts as required for participation in a primary health center program.

New Sec. 5. In addition to the provisions of K.S.A. 65-4909, and amendments thereto, participants in the primary health center program and officers, agents, representatives, employees and directors thereof, while participating in the primary health center program and contracting with hospitals and other providers, shall be considered to be acting pursuant to clearly expressed state policy as established in this act under the supervision of the state and shall not be subject to state or federal antitrust laws while so acting.

New Sec. 6. (a) If the state of Kansas or Kansas healthcare providers are accepted to participate in a primary health center program, the secretary shall adopt rules and regulations setting minimum standards for the establishment and operation of primary health centers and the primary health center program, including licensure of primary health centers.

(b) If required by the primary health center program, or deemed advisable by the secretary, the secretary shall adopt rules and regulations to create and define a quasi-governmental coordinating entity of the primary health center program. At a minimum, the rules and regulations for a coordinating entity of the primary health center program shall establish a governing board, the method of selection and appointment of members of the governing board, a statement of the mission of the coordinating entity of the primary health center program, required meeting schedule, requirements for regular reporting to the secretary, and such other requirements imposed by the primary health center program. If the secretary deems such rules and regulations to be necessary or advisable,
the secretary shall adopt such rules and regulations not later than one year
following the date of such determination.

New Sec. 7. Each individual and group policy of accident and
sickness insurance, each contract issued by health maintenance
organizations, each managed care contract for the state program of medical
assistance authorized by K.S.A. 39-709, and amendments thereto, the
children's health insurance program, authorized under K.S.A. 38-2001, and
amendments thereto, all coverage maintained by an entity authorized
under K.S.A. 40-2222, and amendments thereto, or by a municipal group
funded pool authorized under K.S.A. 12-2618, and amendments thereto,
shall provide benefits for services when performed by a primary health
center if such services would be covered under such policies or contracts if
performed by a general hospital or critical access hospital.

New Sec. 8. Sections 1 through 8, and amendments thereto, shall be
known and may be cited as the primary health center pilot program act.

Sec. 9. K.S.A. 65-425 is hereby amended to read as follows: 65-425.
As used in this act:
(a) "General hospital" means an establishment with an organized
medical staff of physicians; with permanent facilities that include inpatient
beds; and with medical services, including physician services, and
continuous registered professional nursing services for not less than 24
hours of every day, to provide diagnosis and treatment for patients who
have a variety of medical conditions."Ambulatory surgical center" means
an establishment: With an organized medical staff of one or more
physicians; with permanent facilities that are equipped and operated
primarily for the purpose of performing surgical procedures; with
continuous physician services during surgical procedures and until the
patient has recovered from the obvious effects of anesthesia and at all
other times with physician services available whenever a patient is in the
facility; with continuous registered professional nursing services whenever
a patient is in the facility; and that does not provide services or other
accommodations for a patient to stay more than 24 hours. Before
discharge from an ambulatory surgical center, each patient shall be
evaluated by a physician for proper anesthesia recovery. Nothing in this
section shall be construed to require the office of a physician or physicians
to be licensed under this act as an ambulatory surgical center.
(b) "Special hospital" means an establishment with an organized
medical staff of physicians; with permanent facilities that include inpatient
beds; and with medical services, including physician services, and
continuous registered professional nursing services for not less than 24
hours of every day, to provide diagnosis and treatment for patients who
have specified medical conditions."Critical access hospital" means the
same as defined in K.S.A. 65-468, and amendments thereto.
"Person" means any individual, firm, partnership, corporation, company, association, or joint-stock association, and the legal successor thereof. "General hospital" means an establishment with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than 24 hours of every day, to provide diagnosis and treatment for patients who have specified medical conditions.

"Governmental unit" means the state, or any county, municipality, or other political subdivision thereof; or any department, division, board or other agency of any of the foregoing.

"Hospital" means "general hospital," "critical access hospital," "special hospital," or "primary health center."

"Licensing agency" means the department of health and environment.

"Ambulatory surgical center" means an establishment with an organized medical staff of one or more physicians; with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures; with continuous physician services during surgical procedures and until the patient has recovered from the obvious effects of anesthetic and at all other times with physician services available whenever a patient is in the facility; with continuous registered professional nursing services whenever a patient is in the facility; and which does not provide services or other accommodations for patient to stay more than 24 hours. Before discharge from an ambulatory surgical center, each patient shall be evaluated by a physician for proper anesthesia recovery. Nothing in this section shall be construed to require the office of a physician or physicians to be licensed under this act as an ambulatory surgical center.

"Recuperation center" means an establishment with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than 24 hours of every day, to provide treatment for patients who require inpatient care but are not in an acute phase of illness, who currently require primary convalescent or restorative services, and who have a variety of medical conditions.

"Medical care facility" means a hospital, ambulatory surgical center or recuperation center, but shall does not include a hospice which is certified to participate in the medicare program under 42 code of federal regulations, chapter IV, section C.F.R. 418.1 et seq.—and—amendments thereto, and—which that provides services only to hospice patients.
(h) "Person" means any individual, firm, partnership, corporation, company, association or joint-stock association and the legal successor thereof.

(i) "Critical access hospital" shall have the meaning ascribed to such term under K.S.A. 65-468 and amendments thereto. "Physician" means a person licensed to practice medicine and surgery in this state.

(j) "Hospital" means "general hospital," "critical access hospital," or "special hospital." "Primary health center" means the same as defined in section 2, and amendments thereto.

(k) "Physician" means a person licensed to practice medicine and surgery in this state. "Recuperation center" means an establishment: With an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than 24 hours of every day, to provide treatment for patients who require inpatient care but are not in an acute phase of illness, who currently require primary convalescent or restorative services, and who have a variety of medical conditions.

(l) "Special hospital" means an establishment: With an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than 24 hours of every day to provide diagnosis and treatment for patients who have specified medical conditions.

Sec. 10. K.S.A. 65-431 is hereby amended to read as follows: 65-431.

(a) The licensing agency shall adopt, amend, promulgate and enforce such rules and regulations and standards with respect to the different types of medical care facilities to be licensed hereunder as may be designed to further the accomplishment of the purposes of this law in promoting safe and adequate treatment of individuals in medical care facilities in the interest of public health, safety and welfare. The licensing agency shall not adopt, amend, promulgate or enforce rules and regulations for primary health centers unless the state is accepted in a primary health center program, as defined in section 2, and amendments thereto.

(b) No rule or regulation shall be made by the licensing agency which would discriminate against any practitioner of the healing arts who is licensed to practice medicine and surgery in this state. Boards of trustees or directors of facilities licensed pursuant to the provisions of this act shall have the right, in accordance with law, to select the professional staff members of such facilities and to select and employ interns, nurses and other personnel, and no rules and regulations or standards of the licensing agency shall be valid which, if enforced, would interfere in such selection or employment. In the selection of professional staff members,
no hospital licensed under K.S.A. 65-425 et seq., and amendments thereto, shall discriminate against any practitioner of the healing arts who is licensed to practice medicine and surgery in this state for reasons based solely upon the practitioner's branch of the healing arts or the school or health care facility in which the practitioner received medical schooling or postgraduate training.

(c) In formulating rules and regulations, the agency shall give due consideration to the size of the medical care facility, the type of service it is intended to render, the scope of such service and the financial resources in and the needs of the community which such facility serves.

(d) (1) A hospital consisting of more than one establishment shall be considered in compliance with the rules and regulations of the licensing agency if:

   (A) All basic services required by the agency are available as a part of the combined operation; and
   (B) if the following basic services are available at each establishment:

   (i) Continuous nursing service;
   (ii) continuous physician coverage on duty or on call;
   (iii) basic diagnostic radiological and laboratory facilities;
   (iv) drug room;
   (v) emergency services;
   (vi) food service; and
   (vii) patient isolation.

(2) The requirements of subparagraphs (A) and (B) shall be deemed to be satisfied by a primary health center if such primary health center meets the licensing requirements established by the licensing agency.

Sec. 11. K.S.A. 65-425 and 65-431 are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.