AN ACT concerning health and healthcare; relating to hospitals and healthcare-related facilities; establishing rural emergency hospitals as a rural healthcare licensure category; requirements for licensure; enacting the rural emergency hospital act; 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. Sections 1 through 8, and amendments thereto, shall be known and may be cited as the rural emergency hospital act.

New Sec. 2. The legislature of the state of Kansas recognizes the importance and necessity of providing and regulating the system by which 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 the rural residents of Kansas. The legislature of the state of Kansas seeks to: Improve the health of the rural population of Kansas; 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 this end, it is the policy of the state of Kansas to create a category of licensure to enable certain Kansas hospitals to receive federal healthcare reimbursement as rural emergency hospitals, and the implementation of this act facilitates such policy.

New Sec. 3. As used in the rural emergency hospital act:

(a) "Act" means the rural emergency hospital act.

(b) "Rural emergency hospital" means an establishment that:

(1) Meets the eligibility requirements described in section 4, and amendments thereto;

(2) provides rural emergency hospital services;

(3) provides rural emergency hospital services in the facility 24 hours per day by maintaining an emergency department that is staffed 24 hours per day, 7 days per week, with a physician, nurse practitioner, clinical nurse specialist or physician assistant;

(4) has a transfer agreement in effect with a level I or level II trauma center; and
(5) meets such other requirements as the department of health and
environment finds necessary in the interest of the health and safety of
individuals who are provided rural emergency hospital services and to
implement state licensure that satisfies requirements for reimbursement by
federal healthcare programs as a rural emergency hospital.

(c) "Rural emergency hospital services" means the following services,
provided by a rural emergency hospital, that do not require in excess of an
annual per-patient average of 24 hours in such rural emergency hospital:

(1) Emergency department services and observation care; and
(2) at the election of the rural emergency hospital, for services
provided on an outpatient basis, other medical and health services as
specified in regulations adopted by the United States secretary of health
and human services and authorized by the department of health and
environment.

(d) "Secretary" means the secretary of health and environment.

New Sec. 4. (a) A facility shall be eligible to apply for a rural
emergency hospital license if such facility, as of December 27, 2020, was
a:

(1) Licensed critical access hospital;
(2) general hospital with not more than 50 licensed beds located in a
county in a rural area as defined in section 1886(d)(2)(D) of the federal
social security act; or
(3) general hospital with not more than 50 licensed beds that is
deemed as being located in a rural area pursuant to section 1886(d)(8)(E)
of the federal social security act.

(b) A facility applying for licensure as a rural emergency hospital
shall include with the licensure application:

(1) An action plan for initiating rural emergency hospital services,
including a detailed transition plan that lists the specific services that the
facility will retain, modify, add and discontinue;
(2) a description of services that the facility intends to provide on an
outpatient basis; and
(3) such other information as required by rules and regulations
adopted by the department of health and environment.

(c) A rural emergency hospital shall not have inpatient beds, except
that such hospital may have a unit that is a distinct part of such hospital
and that is licensed as a skilled nursing facility to provide post-hospital
extended care services.

(d) A rural emergency hospital may own and operate an entity that
provides ambulance services.

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

New Sec. 5. All rural emergency hospitals, including city, county,
hospital district or other governmental or quasi-governmental hospitals,
shall be authorized to enter into any contracts required to be eligible for
federal reimbursement as a rural emergency hospital.

New Sec. 6. In addition to the provisions of K.S.A. 65-4909, and
amendments thereto, entities engaging in activities and entering into
contracts required to meet the requirements for licensure and
reimbursement as a rural emergency hospital, and officers, agents,
representatives, employees and directors thereof, shall be considered to be
acting pursuant to clearly expressed state policy as established in this act
under the supervision of the state. Such entities shall not be subject to state
or federal antitrust laws while acting in such manner.

New Sec. 7. The secretary shall adopt rules and regulations
establishing minimum standards for the establishment and operation of
rural emergency hospitals in accordance with this act, including licensure
of rural emergency hospitals.

New Sec. 8. Each individual and group policy of accident and
sickness insurance, each contract issued by a health maintenance
organization, 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, any 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 rural emergency
hospital if such services would be covered under such policies, contracts
or coverage if performed by a general hospital or critical access hospital.

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.
(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.
(c) "Person" means any individual, firm, partnership, corporation, company, association, or joint-stock association, and the legal successor thereof.

(d) "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.

(e) "Licensing agency" means the department of health and environment.

(f) "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.

(g) "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.

(h) "Medical care facility" means a hospital, ambulatory surgical center or recuperation center, but shall except that "medical care facility" does not include a hospice—which is certified to participate in the medicare program under 42 CFR § 418.1 et seq. —and amendments thereto and which provides services only to hospice patients.

(i) "Critical access hospital" shall have the meaning ascribed to such term under means the same as defined in K.S.A. 65-468 and amendments thereto.

(j) "Hospital" means "general hospital," "critical access hospital," or "special hospital."

(k) "Physician" means a person licensed to practice medicine and surgery in this state.
(l) "Rural emergency hospital" means the same as defined in section 2, and amendments thereto.

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.

(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, requirements for the receipt of federal reimbursement for the type of medical care facility 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 if

(B) 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.
The requirements of paragraphs (1)(A) and (B) shall be deemed to be satisfied by a rural emergency hospital if such rural emergency hospital meets the licensing requirements established for such hospital 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.