

HOUSE BILL No. 2261

By Committee on Health and Human Services

2-8

1 AN ACT concerning health and healthcare; relating to hospitals and
2 healthcare-related facilities; establishing rural emergency hospitals as a
3 rural healthcare licensure category; requirements for licensure; enacting
4 the rural emergency hospital act; amending K.S.A. 65-425 and 65-431
5 and repealing the existing sections.
6

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

8 New Section 1. Sections 1 through 8, and amendments thereto, shall
9 be known and may be cited as the rural emergency hospital act.

10 New Sec. 2. The legislature of the state of Kansas recognizes the
11 importance and necessity of providing and regulating the system by which
12 healthcare services are structured and integrated to promote the availability
13 of and access to necessary and appropriate healthcare to protect the general
14 health, safety and welfare of the rural residents of Kansas. The legislature
15 of the state of Kansas seeks to: Improve the health of the rural population
16 of Kansas; preserve access to healthcare; encourage collaboration among
17 rural healthcare providers; promote delivery of quality rural healthcare;
18 promote efficiency and efficacy of rural healthcare; embrace technology in
19 the delivery of rural healthcare; and promote adequate and fair
20 reimbursement for rural healthcare services. To this end, it is the policy of
21 the state of Kansas to create a category of licensure to enable certain
22 Kansas hospitals to receive federal healthcare reimbursement as rural
23 emergency hospitals, and the implementation of this act facilitates such
24 policy.

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

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

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

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

30 (2) provides rural emergency hospital services;

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

35 (4) has a transfer agreement in effect with a level I or level II trauma
36 center; and

1 (5) meets such other requirements as the department of health and
2 environment finds necessary in the interest of the health and safety of
3 individuals who are provided rural emergency hospital services and to
4 implement state licensure that satisfies requirements for reimbursement by
5 federal healthcare programs as a rural emergency hospital.

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

9 (1) Emergency department services and observation care; and

10 (2) at the election of the rural emergency hospital, for services
11 provided on an outpatient basis, other medical and health services as
12 specified in regulations adopted by the United States secretary of health
13 and human services and authorized by the department of health and
14 environment.

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

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

19 (1) Licensed critical access hospital;

20 (2) general hospital with not more than 50 licensed beds located in a
21 county in a rural area as defined in section 1886(d)(2)(D) of the federal
22 social security act; or

23 (3) general hospital with not more than 50 licensed beds that is
24 deemed as being located in a rural area pursuant to section 1886(d)(8)(E)
25 of the federal social security act.

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

28 (1) An action plan for initiating rural emergency hospital services,
29 including a detailed transition plan that lists the specific services that the
30 facility will retain, modify, add and discontinue;

31 (2) a description of services that the facility intends to provide on an
32 outpatient basis; and

33 (3) such other information as required by rules and regulations
34 adopted by the department of health and environment.

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

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

41 (e) A licensed general hospital or critical access hospital that applies
42 for and receives licensure as a rural emergency hospital and elects to
43 operate as a rural emergency hospital shall retain its original license as a

1 general hospital or critical access hospital. Such original license shall
2 remain inactive while the rural emergency hospital license is in effect.

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

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

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

19 New Sec. 8. Each individual and group policy of accident and
20 sickness insurance, each contract issued by a health maintenance
21 organization, each managed care contract for the state program of medical
22 assistance authorized by K.S.A. 39-709, and amendments thereto, the
23 children's health insurance program authorized under K.S.A. 38-2001, and
24 amendments thereto, any coverage maintained by an entity authorized
25 under K.S.A. 40-2222, and amendments thereto, or by a municipal group-
26 funded pool authorized under K.S.A. 12-2618, and amendments thereto,
27 shall provide benefits for services when performed by a rural emergency
28 hospital if such services would be covered under such policies, contracts
29 or coverage if performed by a general hospital or critical access hospital.

30 Sec. 9. K.S.A. 65-425 is hereby amended to read as follows: 65-425.
31 As used in this act:

32 (a) "General hospital" means an establishment with an organized
33 medical staff of physicians; with permanent facilities that include inpatient
34 beds; and with medical services, including physician services, and
35 continuous registered professional nursing services for not less than 24
36 hours of every day, to provide diagnosis and treatment for patients who
37 have a variety of medical conditions.

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

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

4 (d) "Governmental unit" means the state, or any county, municipality,
5 or other political subdivision thereof; or any department, division, board or
6 other agency of any of the foregoing.

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

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

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

31 (h) "Medical care facility" means a hospital, ambulatory surgical
32 center or recuperation center, ~~but shall~~ *except that "medical care facility"*
33 *does not include a hospice* ~~which~~ *that is certified to participate in the*
34 *medicare program under 42 code of federal regulations, chapter IV, section*
35 *C.F.R. § 418.1 et seq. and amendments thereto and which* *that provides*
36 *services only to hospice patients.*

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

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

42 (k) "Physician" means a person licensed to practice medicine and
43 surgery in this state.

1 (l) "*Rural emergency hospital*" means the same as defined in section
2 2, and amendments thereto.

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

4 (a) The licensing agency shall adopt, amend, promulgate and enforce such
5 rules and regulations and standards with respect to the different types of
6 medical care facilities to be licensed hereunder as may be designed to
7 further the accomplishment of the purposes of this law in promoting safe
8 and adequate treatment of individuals in medical care facilities in the
9 interest of public health, safety and welfare.

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

25 (c) In formulating rules and regulations, the agency shall give due
26 consideration to the size of the medical care facility, the type of service it
27 is intended to render, the scope of such service, *requirements for the*
28 *receipt of federal reimbursement for the type of medical care facility* and
29 the financial resources in and the needs of the community which such
30 facility serves.

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

34 (A) All basic services required by the agency are available as a part of
35 the combined operation; and if

36 (B) the following basic services are available at each establishment:

37 (i) Continuous nursing service;:

38 (ii) continuous physician coverage on duty or on call;:

39 (iii) basic diagnostic radiological and laboratory facilities;:

40 (iv) drug room;:

41 (v) emergency services;:

42 (vi) food service;: and

43 (vii) patient isolation.

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

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

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