

An Act

ENROLLED SENATE
BILL NO. 1748

By: Kidd of the Senate

and

Bush and Pittman of the
House

An Act relating to hospitals; amending 63 O.S. 2011, Section 1-701, which relates to definitions; adding certain definition; establishing certain requirements for hospitals; providing for certain determination, evaluation and consideration by the State Department of Health; providing certain criteria; providing exception; providing certain calculation methodology; providing for certain surveys; amending 63 O.S. 2011, Section 1-704, which relates to licensure; requiring certain review by the State Commissioner of Health; providing certain criteria; amending 63 O.S. 2011, Section 1-706, which relates to licensure; establishing certain requirements for hospitals with an emergency department; providing certain procedures for renewal, non-renewal, surrender and revocation of license; specifying certain criteria for issuance; updating statutory language; and providing an effective date.

SUBJECT: Hospitals

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 63 O.S. 2011, Section 1-701, is amended to read as follows:

Section 1-701. For the purposes of ~~this article~~ Section 1-701 et seq. of this title:

1. "Hospital" means any institution, place, building or agency, public or private, whether organized for profit or not, ~~devoted primarily to~~ primarily engaged in the maintenance and operation of facilities for the diagnosis, treatment or care of patients admitted for overnight stay or longer in order to obtain medical care, surgical care, obstetrical care, or nursing care for illness, disease, injury, infirmity, or deformity. Except as otherwise provided by paragraph 5 of this subsection, places where pregnant females are admitted and receive care incident to pregnancy, abortion or delivery shall be considered to be a "hospital" within the meaning of this article, regardless of the number of patients received or the duration of their stay. The term "hospital" includes general medical surgical hospitals, specialized hospitals, critical access and emergency hospitals, and birthing centers;

2. "General medical surgical hospital" means a hospital maintained for the purpose of providing hospital care in a broad category of illness and injury;

3. "Specialized hospital" means a hospital maintained for the purpose of providing hospital care in a certain category, or categories, of illness and injury;

4. "Critical access hospital" means a hospital determined by the State Department of Health to be a necessary provider of health care services to residents of a rural community;

5. "Emergency hospital" means a hospital that provides emergency treatment and stabilization services on a ~~24-hour~~ twenty-four-hour basis that has the ability to admit and treat patients for short periods of time;

6. "Birthing center" means any facility, place or institution, which is maintained or established primarily for the purpose of providing services of a certified midwife or licensed medical doctor to assist or attend a woman in delivery and birth, and where a woman is scheduled in advance to give birth following a normal, uncomplicated, low-risk pregnancy. Provided, however, licensure for a birthing center shall not be compulsory; ~~and~~

7. "Day treatment program" means nonresidential, partial hospitalization programs, day treatment programs, and day hospital programs as defined by subsection A of Section 175.20 of Title 10 of the Oklahoma Statutes; and

8. a. "Primarily engaged" means a hospital shall be primarily engaged, defined by this section and as determined by the State Department of Health, in providing to inpatients the following care by or under the supervision of physicians:

(1) diagnostic services and therapeutic services for medical diagnosis, treatment and care of injured, disabled or sick persons, or

(2) rehabilitation services for the rehabilitation of injured, disabled or sick persons.

b. In reaching a determination as to whether an entity is primarily engaged in providing inpatient hospital services to inpatients of a hospital, the Department shall evaluate the total facility operations and consider multiple factors as provided in subparagraphs c and d of this subsection.

c. In evaluating the total facility operations, the Department shall review the actual provision of care and services to two or more inpatients, and the effects of that care, to assess whether the care provided meets the needs of individual patients by way of patient outcomes.

d. The factors that the Department shall consider for determination of whether an entity meets the definition of primarily engaged include, but are not limited to:

(1) a minimum of four inpatient beds,

(2) the entity's average daily census (ADC),

(3) the average length of stay (ALOS),

- (4) the number of off-site campus outpatient locations,
 - (5) the number of provider-based emergency departments for the entity,
 - (6) the number of inpatient beds related to the size of the entity and the scope of the services offered,
 - (7) the volume of outpatient surgical procedures compared to the inpatient surgical procedures, if surgical services are provided,
 - (8) staffing patterns, and
 - (9) patterns of ADC by day of the week.
- e. Notwithstanding any other provision of this section, an entity shall be considered primarily engaged in providing inpatient hospital services to inpatients if the hospital has had an ADC of at least two (2) and an ALOS of at least two (2) midnights over the past twelve (12) months. A critical access hospital shall be exempt from the ADC and ALOS determination. ADC shall be calculated by adding the midnight daily census for each day of the twelve-month period and then dividing the total number by days in the year. A facility that has been operating for less than (12) months at the time of the survey shall calculate its ADC based on the number of months the facility has been operational, but not less than three (3) months. If a first survey finds noncompliance with the ADC and ALOS, a second survey may be required by the Department to demonstrate compliance with state licensure.

SECTION 2. AMENDATORY 63 O.S. 2011, Section 1-704, is amended to read as follows:

Section 1-704. A. 1. The application by any person for a license to operate a hospital within the meaning of ~~this article~~ Section 1-701 et seq. of this title shall be accompanied by a fee to be determined by the number of beds available for patients, to be established by the State ~~Board~~ Commissioner of Health, but not to exceed Ten Dollars (\$10.00) for each bed included in the maximum bed capacity at such facility.

2. For the purpose of determining the fee, the total number of beds shall include cribs and bassinets.

B. No such fee shall be refunded unless licensure is refused. All licenses shall be for a period of twelve (12) months from the date of issue. Provided that licenses may be issued for a period of more than twelve (12) months, but not more than twenty-four (24) months, for the license period immediately following the enactment of this provision in order to permit an equitable distribution of license expiration dates to all months of the year.

C. Fees for such extended licensure period shall be prorated according to the total months to be licensed, with such amounts to be calculated to the nearest dollar.

D. All licenses:

1. Shall be on a form prescribed by the ~~State Commissioner of Health~~ Commissioner and shall not be transferable or assignable;

2. Shall be issued only for the premises named in the application;

3. Shall be posted in a conspicuous place on the licensed premises; and

4. May be renewed for twelve-month periods upon application, investigation and payment of license fee, as in the case of procurement of an original license.

E. The Commissioner shall review current law and rules promulgated by the Commissioner that mandate that a hospital post a notice, poster or sign in public spaces. The purpose of this review shall be to coordinate the placement, format and language required

in mandatory signage. All signage shall be reviewed for the following:

1. Duplication of information;
2. Reduce the potential for confusion to patients, families of patients and others; and
3. Administrative burden of compliance.

SECTION 3. AMENDATORY 63 O.S. 2011, Section 1-706, is amended to read as follows:

Section 1-706. A. The State Commissioner of Health shall issue licenses for the operation of hospitals found to comply with the provisions of ~~this article~~ Section 1-701 et seq. of this title and rules and standards of the ~~State Board of Health~~ Commissioner.

B. A hospital with an emergency department shall take the following measures:

1. Adopt and enforce policies and procedures to comply with the requirements of the Emergency Medical Treatment and Labor Act, 42 U.S.C., Section 1395dd (2012), even if the facility does not participate in the federal Medicare program;

2. Post signs in the dedicated emergency department specifying the rights of individuals with emergency medical conditions who come to the dedicated emergency department for health care services in compliance with 42 CFR, Section 489.20(q), and indicate on the signs whether the facility does not participate in Medicare, Medicaid or other federally sponsored health insurance such as Tricare; and

3. Post the information required under paragraph 2 of this subsection on the facility's Internet website.

C. The Commissioner may suspend or revoke any such license on any of the following grounds:

1. Violation of any of the provisions of ~~this article~~ Section 1-701 et seq. of this title, or rules or standards promulgated pursuant thereto;

2. Permitting, aiding or abetting the commission of any illegal act in the licensed hospital or institution; or

3. Conduct or practices deemed by the Commissioner to be detrimental to the welfare of the patients of the hospital or institution.

D. Upon notice of non-renewal and expiration of the opportunity to respond, a license shall be deemed to be surrendered. However, if a licensee has filed noticed with intent to renew the license within the time frame established by the State Department of Health, the license shall not be deemed to be surrendered by the Department.

~~E.~~ E. If a license is revoked, a new application for license shall be considered by the Commissioner on receipt of evidence that the conditions upon which revocation was based have been corrected. A new license may then be granted after proper inspection has been made and all provisions of ~~this article~~ Section 1-701 et seq. of this title and rules and standards of the State Board of Health Commissioner have been satisfied. The application for a new license after revocation or surrender shall result in a new license number from the Department. Issuance of the license shall be based on compliance with all applicable laws and rules for licensure and shall not be based on a correction upon which a revocation was based.

SECTION 4. This act shall become effective November 1, 2020.

Passed the Senate the 4th day of March, 2020.

Stephanie L. Bice
Presiding Officer of the Senate

Passed the House of Representatives the 15th day of May, 2020.

[Signature]
Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 16th
day of May, 2020, at 1:53 o'clock a. M.
By: Quimer Curry

Approved by the Governor of the State of Oklahoma this 21st
day of May, 2020, at 9:28 o'clock a. M.

[Signature]
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 21st
day of May, 2020, at 1:41 o'clock P. M.
By: Michael Rogers