

SESSION OF 2025

SUPPLEMENTAL NOTE ON SENATE BILL NO. 82

As Recommended by Senate Committee on
Public Health and Welfare

Brief*

SB 82 would add provisions that would become part of and supplemental to the Rural Emergency Hospital Act (Act). The bill would authorize the Secretary for Aging and Disability Services (Secretary), upon application by a rural emergency hospital (REH) and compliance with certain requirements, to grant a physical environment waiver (waiver) for existing nursing facilities to a REH to provide skilled nursing facility care.

Requirements for Waiver

The bill would authorize the Secretary, after application by a REH, to grant a waiver to the REH to transition a maximum of 10 swing beds to skilled nursing facility beds if the REH met the following requirements:

- Licensed as a REH under the Act;
- Licensed as a hospital immediately prior to licensure as a REH; and
- During licensure as a hospital, the REH provided skilled nursing facility services or critical access hospital swing bed services to patients for a minimum of one year without an immediate jeopardy finding.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

Definitions

The bill would define the following terms per existing statutes:

- “Critical access hospital” would mean a member of a rural health network that:
 - Makes available 24-hour emergency care services;
 - Provides not more than 25 acute care inpatient beds or, in the case of a facility with an approved swing-bed agreement, a combined total of extended care and acute care beds that does not exceed 25 beds;
 - Provides acute inpatient care for a period that does not exceed, on an annual average basis, 96 hours per patient; and
 - Provides nursing services under the direction of a licensed professional nurse and continuous licensed professional nursing services for not less than 24 hours of every day when any bed is occupied or the facility is open to provide services for patients unless an exemption is granted by the licensing agency pursuant to rules and regulations.

The critical access hospital may provide:

- Any services otherwise required to be provided by a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off-site basis under written agreements or arrangements with one or more providers or suppliers recognized under Medicare; and
- Inpatient services by a physician assistant, advanced practice registered nurse, or a clinical nurse specialist subject to the

oversight of a physician who need not be present in the facility.

In addition to the facility's 25 acute beds or swing beds, or both, the critical access hospital may have a psychiatric unit or a rehabilitation unit, or both. Each unit shall not exceed 10 beds and neither unit shall count toward the 25-bed limit or be subject to the average 96-hour length of stay restriction [KSA 65-468]; and

- "Hospital" would mean a general hospital, critical access hospital, or special hospital [KSA 65-425].

Background

The bill was introduced by the Senate Committee on Public Health and Welfare at the request of Senator Owens on behalf of the Kansas Hospital Association.

[*Note:* A companion bill, HB 2249, has been introduced in the House.]

Senate Committee on Public Health and Welfare

At the Senate Committee meeting, **proponent** testimony was provided by representatives of the Kansas Hospital Association, LeadingAge Kansas, and Mercy Hospital, Inc. The conferees generally stated the bill is needed to authorize the Kansas Department for Aging and Disability Services (KDADS) to grant a waiver for existing nursing facilities to a REH with skilled nursing units operating under hospital licensure. Without a waiver, a REH would have to meet the physical environment standards of a new skilled nursing facility to continue operating its skilled nursing unit, which would be cost prohibitive for many older hospital buildings. The conferees stated allowing such a waiver would help prevent the closure of needed beds in long-term care units of hospitals and retain a valuable service to the community. The Mercy Hospital representative provided details regarding the

financial impact the denial of a waiver had on the hospital that resulted in the closure of its long-term care unit to avoid jeopardizing its REH designation. The Mercy Hospital representative noted the closure directly impacted care for its numerous long-term care residents.

Neutral testimony was provided by a representative of KDADS who stated the agency is aware of only one REH that would meet the criteria to request the waiver. The representative stated the waiver would allow REHs to transition up to 10 beds from swing beds to skilled nursing facility beds. The representative noted enactment of the bill would have no fiscal effect on the agency unless the Centers for Medicare and Medicaid Services (CMS) allows REHs to be certified for Medicare or Medicaid services (Title 18 and Title 19 of the Social Security Act, respectively).

No other testimony was provided.

Fiscal Information

According to the fiscal note prepared by the Division of Budget on the bill, KDADS indicates that enactment of the bill would have a negligible fiscal effect on the agency. KDADS is aware of only one REH that meets the criteria to request the physical environment waiver. The bill would have no impact on providers unless the CMS would allow for this newly created entity to be certified for Title 18 and Title 19 services. The bill could increase Medicare or Medicaid payments for these ten skilled nursing facility beds. KDADS has not had regulatory oversight over this facility and does not have information on the utilization of the long-term beds in the facility before the transition to REH. Granting the waiver from the physical environment standards for a facility that meets the requirements of the bill would allow the provider to continue providing long-term care services as it did before the transition from a Critical Access Hospital to a REH.

Rural Emergency Hospital Act; rural emergency hospital; critical access hospital; skilled nursing facility beds; swing beds; physical environment waiver; Secretary for Aging and Disability Services