

HOUSE BILL No. 2677

By Committee on Rural Revitalization

2-13

1 AN ACT concerning health and healthcare; relating to hospitals and
2 healthcare-related facilities; establishing primary health centers as a
3 rural healthcare provider type and enacting the primary health center
4 pilot program act contingent upon state acceptance into a demonstration
5 program under the centers for medicare and medicaid innovation;
6 amending K.S.A. 65-425 and 65-431 and repealing the existing
7 sections.
8

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

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

25 New Sec. 2. As used in the primary health center pilot program act:

26 (a) "Act" means the primary health center pilot program act.

27 (b) "Coordinating entity of the primary health center program" or
28 "coordinating entity" means the Kansas department of health and
29 environment, the Kansas hospital association or other entity authorized by
30 the primary health center pilot program act and created by the secretary in
31 accordance with the act to receive and administer grant funding for and to
32 operate and manage a primary health center program in Kansas.
33 Operational and management duties of the "coordinating entity" may
34 include, but not be limited to: Forming a coalition of participating
35 hospitals; collecting applicable data from coalition members to determine
36 appropriate reimbursement and quality indicators; disseminating

1 information to coalition members regarding reimbursement and quality
2 indicators; managing data and coordinating with the relevant federal
3 program sponsor; providing ongoing technical and clerical support to
4 coalition members to ensure regulatory compliance; and any other
5 responsibilities necessary for implementation of the primary health center
6 program.

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

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

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

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

27 (1) A licensed critical access hospital;
28 (2) a general hospital with not more than 50 licensed beds located in a
29 county in a rural area as defined in § 1886(d)(2)(D) of the social security
30 act;

31 (3) a general hospital with not more than 50 licensed beds that is
32 being treated as being located in a rural area pursuant to § 1886(d)(8)(E) of
33 the social security act; or

34 (4) was a hospital described in paragraphs (1) through (3) that ceased
35 operations within the prior five years.

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

41 (c) (1) After one year of operation and until the end of the fifth year
42 of operation as a primary health center, a primary health center may make
43 a one-time election to revert to its original licensure as a general or critical

1 access hospital, as applicable, without being required to reapply for
2 licensure, but subject to survey to assure that licensure requirements are
3 satisfied.

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

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

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

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

33 (b) If required by the primary health center program, or deemed
34 advisable by the secretary, the secretary shall adopt rules and regulations to
35 create and define a quasi-governmental coordinating entity of the primary
36 health center program. At a minimum, the rules and regulations for a
37 coordinating entity of the primary health center program shall establish a
38 governing board, the method of selection and appointment of members of
39 the governing board, a statement of the mission of the coordinating entity
40 of the primary health center program, required meeting schedule,
41 requirements for regular reporting to the secretary, and such other
42 requirements imposed by the primary health center program. If the
43 secretary deems such rules and regulations to be necessary or advisable,

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1 the secretary shall adopt such rules and regulations not later than one year
 2 following the date of such determination.

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

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

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

18 (a) ~~"General hospital" means an establishment with an organized~~
 19 ~~medical staff of physicians; with permanent facilities that include inpatient~~
 20 ~~beds; and with medical services, including physician services, and~~
 21 ~~continuous registered professional nursing services for not less than 24~~
 22 ~~hours of every day, to provide diagnosis and treatment for patients who~~
 23 ~~have a variety of medical conditions"~~*Ambulatory surgical center" means*
 24 *an establishment: With an organized medical staff of one or more*
 25 *physicians; with permanent facilities that are equipped and operated*
 26 *primarily for the purpose of performing surgical procedures; with*
 27 *continuous physician services during surgical procedures and until the*
 28 *patient has recovered from the obvious effects of anesthesia and at all*
 29 *other times with physician services available whenever a patient is in the*
 30 *facility; with continuous registered professional nursing services whenever*
 31 *a patient is in the facility; and that does not provide services or other*
 32 *accommodations for a patient to stay more than 24 hours. Before*
 33 *discharge from an ambulatory surgical center, each patient shall be*
 34 *evaluated by a physician for proper anesthesia recovery. Nothing in this*
 35 *section shall be construed to require the office of a physician or physicians*
 36 *to be licensed under this act as an ambulatory surgical center.*

37 (b) ~~"Special hospital" means an establishment with an organized~~
 38 ~~medical staff of physicians; with permanent facilities that include inpatient~~
 39 ~~beds; and with medical services, including physician services, and~~
 40 ~~continuous registered professional nursing services for not less than 24~~
 41 ~~hours of every day, to provide diagnosis and treatment for patients who~~
 42 ~~have specified medical conditions"~~*Critical access hospital" means the*
 43 *same as defined in K.S.A. 65-468, and amendments thereto.*

The primary health center shall have formal policies and systems in place to ensure the treatment of the uninsured and the underinsured.

1 (c) ~~"Person" means any individual, firm, partnership, corporation,~~
2 ~~company, association, or joint-stock association, and the legal successor~~
3 ~~thereof.~~ *"General hospital" means an establishment with an organized*
4 *medical staff of physicians; with permanent facilities that include inpatient*
5 *beds; and with medical services, including physician services, and*
6 *continuous registered professional nursing services for not less than 24*
7 *hours of every day, to provide diagnosis and treatment for patients who*
8 *have specified medical conditions.*

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

12 (e) *"Hospital" means "general hospital," "critical access hospital,"*
13 *"special hospital," or "primary health center."*

14 (f) "Licensing agency" means the department of health and
15 environment.

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

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

38 ~~(h) "Medical care facility" means a hospital, ambulatory surgical~~
39 ~~center or recuperation center, but shall does not include a hospice which~~
40 ~~that is certified to participate in the medicare program under 42 code of~~
41 ~~federal regulations, chapter IV, section C.F.R. 418.1 et seq. and~~
42 ~~amendments thereto, and which that provides services only to hospice~~
43 ~~patients.~~

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

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

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

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

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

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

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

35 (b) No rule or regulation shall be made by the licensing agency ~~which~~
36 *that* would discriminate against any practitioner of the healing arts who is
37 licensed to practice medicine and surgery in this state. Boards of trustees
38 or directors of facilities licensed pursuant to the provisions of this act shall
39 have the right, in accordance with law, to select the professional staff
40 members of such facilities and to select and employ interns, nurses and
41 other personnel, and no rules and regulations or standards of the licensing
42 agency shall be valid ~~which~~ *that*, if enforced, would interfere in such
43 selection or employment. In the selection of professional staff members,

1 no hospital licensed under K.S.A. 65-425 et seq., *and amendments thereto*,
2 shall discriminate against any practitioner of the healing arts who is
3 licensed to practice medicine and surgery in this state for reasons based
4 solely upon the practitioner's branch of the healing arts or the school or
5 health care facility in which the practitioner received medical schooling or
6 postgraduate training.

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

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

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

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

17 (i) Continuous nursing service;;

18 (ii) continuous physician coverage on duty or on call;;

19 (iii) basic diagnostic radiological and laboratory facilities;;

20 (iv) drug room;;

21 (v) emergency services;;

22 (vi) food service; and

23 (vii) patient isolation.

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

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

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