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SHORT TITLE: Public health and safety; development of new hospitals and ambulatory surgical centers; codification; effective date; emergency.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 479

By: Robinson

AS INTRODUCED

An Act relating to public health and safety;

requiring permit and application for certain new hospital or ambulatory surgical center development; providing for contents of application; requiring certain filing fee; requiring notice be published within certain time frame; stating contents of notice; allowing submission of certain written materials in certain time frame; specifying conditions under which certain permit may be issued; providing for issuance, denial and effective date of permit; providing for appeal and venue; requiring decision be upheld with exceptions; allowing establishment of additional standards for certain purpose; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-708.1 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No new hospital shall be developed, either through construction or conversion of existing space, in a municipality with a population in excess of twenty-five thousand (25,000) people

unless a permit therefor has been issued by the State Commissioner of Health.

B. Before developing a facility for use as a newly licensed hospital, the person proposing to operate the hospital shall apply to the State Commissioner of Health for a permit to start construction or conversion work. The application for permit shall be in such form as the Commissioner shall prescribe and shall include a demonstration of the hospital's probable impact on the existing hospital and surgical services in the municipality where the hospital is to be located.

C. The application for permit shall be accompanied by a filing fee equal to one percent (1%) of the capital cost of the proposed hospital, with a minimum fee of One Thousand Dollars (\$1,000.00).

D. Within thirty (30) days after receiving a completed application for a permit, the State Commissioner of Health shall cause a paid public notice to be published in a newspaper of general circulation in the area where the hospital is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and proposed location of the facility, a brief description of the proposal, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered by the Commissioner.

E. Any person may submit written evidence and argument regarding the proposed hospital to the State Commissioner of Health. Written materials shall be submitted to the Commissioner within thirty (30) days after publication of the paid notice. The applicant shall have forty-five (45) days after publication of the paid notice to respond in writing to materials timely filed by other persons.

F. No permit to establish a hospital shall be issued by the State Commissioner of Health unless, after reviewing the application

and timely filed written materials and responses, the State Commissioner of Health makes the following findings:

1. The proposed hospital will contribute to the orderly development of hospital and surgical services in the municipality; and

2. The proposed hospital will not cause an undue financial or staffing hardship on any existing provider of essential hospital or surgical services in the municipality.

G. The Commissioner shall issue or deny the permit within seventy-five (75) days after publication of the paid notice. A permit shall be effective for thirty-six (36) months from the date of issue, during which time an applicant shall start construction or conversion work on the hospital. If construction or conversion work is not started within the time required by this section, the permit shall be null and void.

H. Any final determination to issue or deny a permit may be appealed by the applicant or by any other aggrieved party under Sections 317 and 318 of Article II of the Administrative Procedures Act; provided, that the venue for such appeal shall be in Oklahoma County or in the county in which the facility at issue in the application is located. The decision of the Commissioner shall be upheld by the court unless it is arbitrary or capricious or is not in accordance with applicable law.

I. The State Board of Health and the State Commissioner of Health may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2666 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No new ambulatory surgical center shall be developed, either through construction or conversion of existing space, in a

municipality with a population in excess of fifty thousand (50,000) people unless a permit therefor has been issued by the State Commissioner of Health.

B. Before developing a facility for use as a newly licensed ambulatory surgical center, the person proposing to operate the ambulatory surgical center shall apply to the State Commissioner of Health for a permit to start construction or conversion work. The application for permit shall be in such form as the Commissioner shall prescribe and shall include a demonstration of the ambulatory surgical center's probable impact on the existing surgical services in the municipality where the ambulatory surgical center is to be located.

C. The application for permit shall be accompanied by a filing fee equal to one percent (1%) of the capital cost of the proposed ambulatory surgical center, with a minimum fee of One Thousand Dollars (\$1,000.00).

D. Within thirty (30) days after receiving a completed application for a permit, the State Commissioner of Health shall cause a paid public notice to be published in a newspaper of general circulation in the area where the ambulatory surgical center is to be located and in a newspaper of general circulation in the area where the application is available for inspection. The notice shall include the name and proposed location of the facility, a brief description of the proposal, information on where the original application can be viewed, and an explanation of how parties may file materials to be considered by the Commissioner.

E. Any person may submit written evidence and argument regarding the proposed ambulatory surgical center to the State Commissioner of Health. Written materials shall be submitted to the Commissioner within thirty (30) days after publication of the paid notice. The applicant shall have forty-five (45) days after

publication of the paid notice to respond in writing to materials timely filed by other persons.

F. No permit to establish an ambulatory surgical center shall be issued by the State Commissioner of Health unless, after reviewing the application and timely filed written materials and responses, the State Commissioner of Health makes the following findings:

1. The proposed ambulatory surgical center will contribute to the orderly development of surgical services in the municipality; and

2. The proposed ambulatory surgical center will not cause an undue financial or staffing hardship on any existing provider of essential surgical services in the municipality.

G. The Commissioner shall issue or deny the permit within seventy-five (75) days after publication of the paid notice. A permit shall be effective for thirty-six (36) months from the date of issue, during which time an applicant shall start construction or conversion work on the ambulatory surgical center. If construction or conversion work is not started within the time required by this section, the permit shall be null and void.

H. Any final determination to issue or deny a permit may be appealed by the applicant or by any other aggrieved party under Sections 317 and 318 of Article II of the Administrative Procedures Act; provided, that the venue for such appeal shall be in Oklahoma County or in the county in which the facility at issue in the application is located. The decision of the Commissioner shall be upheld by the court unless it is arbitrary or capricious or is not in accordance with applicable law.

I. The State Board of Health and the State Commissioner of Health may establish standards for review and approval of detailed building plans and specifications that are in addition to the requirements for a permit under this section.

SECTION 3. This act shall become effective July 1, 1997.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-1-0265

CJ