

CORRECTED

STATE OF OKLAHOMA

2nd Session of the 57th Legislature (2020)

SENATE BILL 1748

By: Kidd

AS INTRODUCED

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; providing for codification; and providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

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

- 19 (1) a minimum of four inpatient beds,
20 (2) the entity's average daily census (ADC),
21 (3) the average length of stay (ALOS),
22 (4) the number of off-site campus outpatient
23 locations,

- 1 (5) the number of provider-based emergency
2 departments for the entity,
3 (6) the number of inpatient beds related to the size
4 of the entity and the scope of the services
5 offered,
6 (7) the volume of outpatient surgical procedures
7 compared to the inpatient surgical procedures, if
8 surgical services are provided,
9 (8) staffing patterns, and
10 (9) patterns of ADC by day of the week.

11 e. Notwithstanding any other provision of this section,
12 an entity shall be considered primarily engaged in
13 providing inpatient hospital services to inpatients if
14 the hospital has had an ADC of at least two (2) and an
15 ALOS of at least two (2) midnights over the past
16 twelve (12) months. A critical access hospital shall
17 exempt from the ADC and ALOS determination. ADC shall
18 be calculated by adding the midnight daily census for
19 each day of the twelve-month period and then dividing
20 the total number by days in the year. A facility that
21 has been operating for less than (12) months at the
22 time of the survey shall calculate its ADC based on
23 the number of months the facility has been
24 operational, but not less than three (3) months. If a

1 first survey finds noncompliance with the ADC and
2 ALOS, a second survey may be required by the
3 Department to demonstrate compliance with state
4 licensure.

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

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

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

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

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

4 D. All licenses:

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

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

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

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

14 E. The Commissioner shall review current law and rules
15 promulgated by the Commissioner that mandate that a hospital post a
16 notice, poster, or sign in public spaces. The purpose of this
17 review shall be to coordinate the placement, format and language
18 required in mandatory signage. All signage shall be reviewed for
19 the following:

20 1. Duplication of information;

21 2. Reduce the potential for confusion to patients, families of
22 patients and others; and

23 3. Administrative burden of compliance.
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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 1. Violation of any of the provisions of ~~this article~~ Section
2 1-701 et seq. of this title, or rules or standards promulgated
3 pursuant thereto;

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

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

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

15 E. If a license is revoked, a new application for license shall
16 be considered by the Commissioner on receipt of evidence that the
17 conditions upon which revocation was based have been corrected. A
18 new license may then be granted after proper inspection has been
19 made and all provisions of ~~this article~~ Section 1-701 et seq. of
20 this title and rules and standards of the ~~State Board of Health~~
21 Commissioner have been satisfied. The application for a new license
22 after revocation or surrender shall result in a new license number
23 from the Department. Issuance of the license shall be based on
24 compliance with all applicable laws and rules for licensure and

1 shall not be based on a correction upon which a revocation was
2 based.

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