

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 603

By: Senator Irvin

For An Act To Be Entitled

AN ACT TO CLARIFY THE LAW CONCERNING A HEALTHCARE INSURER'S CONTRACTING WITH A TEMPORARY HOSPITAL FACILITY; TO REGULATE HEALTHCARE CONTRACTS TO REQUIRE GOOD-FAITH COOPERATION; AND FOR OTHER PURPOSES.

Subtitle

TO CLARIFY THE LAW CONCERNING A HEALTHCARE INSURER'S CONTRACTING WITH A TEMPORARY HOSPITAL FACILITY; AND TO REGULATE HEALTHCARE CONTRACTS TO REQUIRE GOOD-FAITH COOPERATION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an additional subchapter to read as follows:

Subchapter 14 – Temporary Hospital Facility Act

23-99-1401. Title.

This subchapter shall be known and may be cited as the "Temporary Hospital Facility Act".

23-99-1402. Legislative findings and intent.

(a) The General Assembly finds that:

(1) The Centers for Medicare & Medicaid Services' Hospitals Without Walls Program allows participating ambulatory surgery centers to



convert to licensed hospitals during the period of the coronavirus 2019 (COVID-19) public health emergency;

(2) In cooperation and in an effort to promote public health, the Department of Health suspended portions of its Rules for Hospitals and Related Institutions according to the Governor's Executive Order 20-06 and 20-16 to allow the issuance of hospital licenses to facilities previously licensed as ambulatory surgery centers in this state that enrolled as a hospital under the Centers for Medicare & Medicaid Services Hospitals Without Walls Program; and

(3) Legislative clarification is necessary to clarify the obligations of a healthcare insurer in negotiating and contracting with healthcare providers in order to prohibit anticompetitive practices and to promote public health in this state.

(b) It is the intent of the General Assembly that healthcare insurers shall cooperate with healthcare providers as described in this subchapter in good faith for the benefit of the citizens of this state.

23-99-1403. Definitions.

As used in this subchapter:

(1) "Contracting entity" means a healthcare insurer or a subcontractor, affiliate, or other entity that contracts directly or indirectly with a healthcare provider for the delivery of healthcare services to enrollees;

(2) "Healthcare contract" means a contract entered into, materially amended, or renewed between a contracting entity and a healthcare provider for the delivery of healthcare services to enrollees;

(3)(A) "Healthcare insurer" means an entity that is subject to state insurance regulation and provides health insurance in this state.

(B) "Healthcare insurer" includes:

(i) An insurance company;

(ii) A health maintenance organization;

(iii) A hospital and medical service corporation;

(iv) A risk-based provider organization; and

(v) A sponsor of a nonfederal self-funded

governmental plan;

(4) "Healthcare provider" means a person or entity that is

licensed, certified, or otherwise authorized by the laws of this state to provide healthcare services; and

(5) "Temporary hospital facility" means a facility that was previously licensed as an ambulatory surgery center that has:

(A) Received a hospital license from the Department of Health; and

(B) Enrolled as a hospital under the Centers for Medicare & Medicaid Services Hospitals Without Walls Program.

23-99-1404. Healthcare contract – Good-faith cooperation.

(a) A healthcare insurer shall cooperate in good faith with a temporary hospital facility in timely executing a healthcare contract.

(b) A healthcare insurer shall cooperate in good faith as required in subsection (a) of this section by timely offering a temporary hospital facility a healthcare contract that is reflective of the healthcare insurer's standard and reasonable terms and conditions, including without limitation rates of reimbursement.

(c) A healthcare contract shall be effective as of the date the temporary hospital facility is licensed as a hospital by the Department of Health.

(d) The time period for a healthcare insurer to respond as stated in § 23-99-411 does not apply if the request for a healthcare contract is made by a temporary hospital facility.

23-99-1405. Converting back to ambulatory surgery center.

(a) If a temporary hospital facility converts back to an ambulatory surgery center, a healthcare insurer shall not delay in providing a contract for an ambulatory surgery center based on the healthcare insurer's standard and reasonable terms and conditions.

(b) The effective date of an ambulatory surgery center contract shall be the same as the effective date of the conversion from a temporary hospital facility back to an ambulatory surgery center.

23-99-1406. Applicability.

This subchapter shall apply to any future public health emergencies if the Centers for Medicare & Medicaid Services and the Department of Health

have implemented similar programs as described in § 23-99-1402(a)(2).

23-99-1407. Penalty.

A violation of this subchapter is a violation of § 23-99-804 and the Healthcare Contracting Simplification Act, § 23-99-1201 et seq.

APPROVED: 4/15/21