

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 236

By: Senator Hester

For An Act To Be Entitled

AN ACT TO ESTABLISH LICENSURE FOR PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS BY THE DEPARTMENT OF HEALTH; TO REQUIRE THE ARKANSAS MEDICAID PROGRAM TO REIMBURSE PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS; AND FOR OTHER PURPOSES.

Subtitle

TO ESTABLISH LICENSURE FOR PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS BY THE DEPARTMENT OF HEALTH; AND TO REQUIRE THE ARKANSAS MEDICAID PROGRAM TO REIMBURSE PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS.

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

SECTION 1. Arkansas Code Title 20, Chapter 9, is amended to add an additional subchapter to read as follows:

Subchapter 16 – Prescribed Pediatric Extended Care Centers

20-9-1601. Definitions.

As used in this subchapter:

(1) "Basic nonresidential services" includes without limitation the development, implementation, and monitoring of a comprehensive protocol of care, developed in conjunction with a parent or guardian, which specifies the medical, nursing, psychosocial, and developmental therapies required by the medically dependent or technologically dependent child served as well as



the caregiver training needs of the child's legal guardian;

(2) "Controlling person" means a person who has the ability, acting alone or in concert with others, to directly or indirectly influence, direct, or cause the direction of the management of, expenditure of money for, or policies of a prescribed pediatric extended care center, including without limitation:

(A) A management company, landlord, or other business entity that operates or contracts with another person for the operation of a prescribed pediatric extended care center;

(B) Any person who controls a management company or other business entity that operates a prescribed pediatric extended care center or that contracts with another person for the operation of a prescribed pediatric extended care center; or

(C) Any other person who is formally named as an owner, manager, director, officer, provider, consultant, or employee of the prescribed pediatric extended care center regardless of a personal, familial, or other relationship with the owner, manager, landlord, tenant, or provider of a prescribed pediatric extended care center;

(3)(A) "Medically dependent or technologically dependent child" means a child who because of a medical condition requires continuous therapeutic interventions or skilled nursing supervision prescribed by a licensed physician and administered by, or under the direct supervision of, a licensed registered nurse with three (3) to five (5) years of experience.

(B) "Medically dependent or technologically dependent child" includes without limitation a child who has or is:

(i) Born addicted to drugs;

(ii) Burns;

(iii) Congenital disorders;

(iv) End stage diseases;

(v) Failure to thrive;

(vi) Feeding disorders;

(vii) Gastrointestinal or enteral feedings;

(viii) Genetic disorders;

(ix) Metabolic and endocrine disorders including diabetes with technology assistance;

(x) Oncological and hematological disorders;

(xi) Orthopedic conditions including amputations and surgery;

(xii) Post operation care;

(xiii) Post traumatic injury; or

(xiv) Prematurity and respiratory disorders;

(4) "Minor" means an individual who is twenty-one (21) years of age or younger;

(5) "Prescribed pediatric extended care center" means any building or other facility, whether operated for profit or not, which undertakes through its ownership or management to provide basic nonresidential services to three (3) or more medically dependent or technologically dependent children who are not related to the owner or operator by blood, marriage, or adoption and who require basic nonresidential services; and

(6) "Supportive services or contracted services" means speech therapy, occupational therapy, physical therapy, social work, developmental, child life, psychological services, and other services to support the child.

20-9-1602. License required – Exemption.

(a) A person or entity shall not own or operate a prescribed pediatric extended care center in this state unless the person or entity holds a license under this subchapter.

(b)(1) A separate license is required for a prescribed pediatric extended care center maintained on separate premises, regardless of whether the prescribed pediatric extended care center is operated under the same management.

(2) A separate license is not required for separate buildings on the same grounds.

(c) A facility that is operated by the United States Government or any agency of the United States Government is exempt from licensure under this subchapter.

20-9-1603. Application – Issuance of license.

(a) An applicant for a prescribed pediatric extended care center license shall submit to the Department of Health:

(1) An application on the form prescribed by the department;

(2) A letter of credit as prescribed by the department to demonstrate the applicant's financial viability; and

(3) Application fees as determined by the department.

(b) The application under subsection (a) of this section shall contain:

(1) The location of the premises of the prescribed pediatric extended care center for which the license is sought;

(2) Documentation, signed by the appropriate local government official, stating that the location and use of the premises meet local zoning requirements;

(3) The name, address, and Social Security number of and criminal background check information for:

(A) The applicant;

(B) The administrator responsible for daily operations of the prescribed pediatric extended care center;

(C) The financial officer responsible for financial operations of the prescribed pediatric extended care center; and

(D) Each controlling person;

(4) The name, address, and federal employer identification number or taxpayer identification number of the applicant and of each controlling person, if the applicant or controlling person is not an individual;

(5) The business name of the prescribed pediatric extended care center;

(6) The maximum patient capacity requested for the prescribed pediatric extended care center;

(7) A sworn affidavit that the applicant has complied with this subchapter and rules adopted under this subchapter; and

(8) Documentation that the applicant has at least one (1) person on staff with a degree in accounting or finance from an accredited institution of higher education and has at least five (5) years' experience.

(c)(1) The department shall issue a license to a prescribed pediatric extended care center under this subchapter if the department determines that the applicant and the prescribed pediatric extended care center meet the requirements of this subchapter and comply with the rules and standards adopted under this subchapter.

(2) The license shall include:

(A) The license holder's name;

(B) The location of the premises of the prescribed pediatric extended care center; and

(C) A statement indicating that the prescribed pediatric extended care center provides services to minors for twelve (12) hours or less in a twenty-four-hour period and does not provide twenty-four-hour care.

(d) A county-operated or municipally operated prescribed pediatric extended care center applying for licensure under this subchapter is exempt from the payment of license fees.

(e) A license under this subchapter is issued to the license holder named on the license at the location of the premises listed on the license and is not transferable or assignable.

20-9-1604. License term – Renewal.

(a) A license issued under this subchapter expires on the second anniversary of the date of issuance.

(b) A person applying to renew a prescribed pediatric extended care center license shall:

(1) Submit a renewal application to the Department of Health on the form prescribed by the department at least sixty (60) days but not more than one hundred twenty (120) days before expiration of the license;

(2) Submit the renewal fee in the amount required by the department; and

(3) Comply with any other requirements specified by rule.

(c)(1) The department shall assess a fifty dollar (\$50) per day late fee to a license holder who submits a renewal application after the date required by subdivision (b)(1) of this section.

(2) However, the total amount of a late fee shall not exceed the lesser of fifty percent (50%) of the license renewal fee or five hundred dollars (\$500).

(d) At least one hundred twenty (120) days before expiration of a prescribed pediatric extended care center license, the department shall notify the owner or operator of the prescribed pediatric extended care center of the license expiration.

20-9-1605. Denial, suspension, or revocation of licensure –
Disciplinary action grounds.

(a) The Department of Health may deny, revoke, and suspend a license and impose an administrative fine for a violation of this subchapter or applicable rules.

(b) Any of the following actions by a prescribed pediatric extended care center or a controlling person or employee of a prescribed pediatric extended care center is grounds for disciplinary and administrative action by the department:

(1) An intentional or negligent act materially affecting the health or safety of children in the prescribed pediatric extended care center;

(2) A violation of this subchapter or applicable rules; or

(3) Multiple and repeated violations of this subchapter or of minimum standards or rules adopted under this subchapter.

20-9-1606. Administrative fines – Corrective action plan.

(a) If the Department of Health determines that a prescribed pediatric extended care center is not in compliance with this subchapter or applicable rules, the department may request that the prescribed pediatric extended care center submit a corrective action plan that demonstrates a good-faith effort to remedy each violation by a specific date, subject to the approval of the department.

(b)(1) The department may fine a prescribed pediatric extended care center or employee found in violation of this subchapter or applicable rules, in an amount not to exceed five hundred dollars (\$500) for each violation.

(2) The fine described in subdivision (b)(1) of this section shall not exceed five thousand dollars (\$5,000) in the aggregate.

(c) The failure to correct a violation by the date set by the department, or the failure to comply with an approved corrective action plan, is a separate violation for each day such failure continues, unless the department approves an extension to a specific date.

(d) In determining if a fine is to be imposed and in fixing the amount of any fine, the department shall consider the following factors:

(1) The gravity of the violation, including the probability that death or serious physical or emotional harm to a child will result or has

resulted, the severity of the actual or potential harm, and the extent to which this subchapter or rules were violated;

(2) Actions taken by the owner, operator, or controlling person to correct violations;

(3) Any previous violations; and

(4) The financial benefit to the prescribed pediatric extended care center of committing or continuing the violation.

20-9-1607. Closing of a prescribed pediatric extended care center.

Whenever a prescribed pediatric extended care center voluntarily discontinues operation, the prescribed pediatric extended care center shall, at least thirty (30) days before the discontinuance of operation, inform each child's legal guardian of the fact and the proposed time of such discontinuance.

20-9-1608. Construction and renovation.

The requirements for the construction or renovation of a prescribed pediatric extended care center shall comply with:

(1) The provisions of law, which pertain to building construction standards, including plumbing, electrical code, glass, manufactured buildings, and accessibility for individuals with physical disabilities;

(2) The minimum standards for physical facilities in the child care facilities; and

(3) The standards or rules adopted pursuant to this subchapter.

20-9-1609. License display – Maintenance of records.

A prescribed pediatric extended care center licensed under this subchapter shall:

(1) Display the license issued under this subchapter in a conspicuous location readily visible to a person entering the prescribed pediatric extended care center; and

(2) Maintain at the center the medical and other records required by this subchapter and by rules adopted under this subchapter.

20-9-1610. Admission criteria for minors.

(a) A prescribed pediatric extended care center shall not admit a minor unless:

(1) The client is a medically dependent or technologically dependent minor;

(2) The minor's prescribing physician issues a prescription ordering care at a prescribed pediatric extended care center;

(3) The minor's parent or legal guardian consents to the minor's admission to the prescribed pediatric extended care center; and

(4) The admission is voluntary based on the parent's or legal guardian's preference in both managed care and nonmanaged care service delivery systems.

(b) An admission authorized under this section does not supplant the right to a Medicaid private duty nursing benefit when medically necessary.

20-9-1611. Complaints.

(a) A person may file a complaint with the Department of Health against a prescribed pediatric extended care center licensed or required to be licensed under this subchapter.

(b) The department shall investigate the complaint in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

20-9-1612. Penalty.

(a) Any person who violates this subchapter is upon conviction guilty of an unclassified misdemeanor subject to a fine of ten thousand dollars (\$10,000).

(b) Each day of continuing violation is a separate offense.

20-9-1613. Rules and standards.

(a) The Department of Health shall adopt and publish rules to implement this subchapter, which shall include reasonable and fair standards.

(b) Any conflict between the standards set by the department and standards that may be set forth in local, county, or city ordinances shall be resolved in favor of those having statewide effect.

(c) The department shall include standards that relate to:

(1) The assurance that services provided by a prescribed pediatric extended care center are family centered and provide individualized

medical, developmental, and family training services;

(2) The maintenance of prescribed pediatric extended care centers, based upon the size of the structure and number of children, relating to plumbing, heating, lighting, ventilation, and other building conditions, including adequate space, which will ensure the health, safety, comfort, and protection from fire of the children served;

(3) The appropriate provisions of the most recent edition of the National Fire Protection Association 101 Life Safety Code shall be applied;

(4) The number and qualifications of all personnel who have responsibility for the care of the children served;

(5) All sanitary conditions within the prescribed pediatric extended care center and its surroundings, including water supply, sewage disposal, food handling and general hygiene, and maintenance;

(6) Programs and basic services promoting and maintaining the health and development of the children served and meeting the training needs of the children's parents or legal guardians;

(7) Supportive, contracted, other operational and transportation services; and

(8) Maintenance of appropriate medical records, data, and information relative to the children and programs.

(d) The department shall adopt rules to ensure that a:

(1) Child does not attend a prescribed pediatric extended care center for more than twelve (12) hours within a twenty-four-hour period; and

(2) Prescribed pediatric extended care center does not provide services other than those provided to medically or technologically dependent children.

SECTION 2. Arkansas Code Title 20, Chapter 77, Subchapter 1, is amended to add an additional section to read as follows:

20-77-148. Prescribed pediatric extended care center.

(a) The Arkansas Medicaid Program shall:

(1) Provide reimbursement for services provided through a prescribed pediatric extended care center licensed in this state; and

(2) Develop a new Medicaid provider type for a prescribed pediatric extended care center.

(b) The Department of Human Services shall apply for any federal

waiver, Medicaid state plan amendment, or other authorization necessary to implement this section.