

Senate File 75 - Introduced

SENATE FILE 75
BY REICHMAN

A BILL FOR

1 An Act relating to rural emergency hospitals, including
2 licensing requirements and fees, making penalties
3 applicable, providing emergency rulemaking authority, and
4 including applicability and effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135B.1, Code 2023, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 5. "*Rural emergency hospital*" means a
4 facility that provides rural emergency hospital services in
5 the facility twenty-four hours per day, seven days per week;
6 does not provide any acute care inpatient services with the
7 exception of any distinct part of the facility licensed as a
8 skilled nursing facility providing posthospital extended care
9 services; and meets the criteria specified in section 135B.1A
10 and the federal Consolidated Appropriations Act, Pub. L. No.
11 116-260, §125.

12 NEW SUBSECTION. 6. "*Rural emergency hospital services*"
13 means the following services provided by a rural emergency
14 hospital that do not exceed an annual per patient average of
15 twenty-four hours in such a rural emergency hospital:

16 a. Emergency department services and observation care.

17 For purposes of providing emergency department services, an
18 emergency department of a rural emergency hospital shall
19 be considered staffed if a physician, nurse practitioner,
20 clinical nurse specialist, or physician assistant is available
21 to furnish rural emergency hospital services in the facility
22 twenty-four hours per day.

23 b. At the election of the rural emergency hospital, with
24 respect to services furnished on an outpatient basis, other
25 medical and health services as specified in regulations adopted
26 by the United States secretary of health and human services.

27 Sec. 2. Section 135B.2, Code 2023, is amended to read as
28 follows:

29 **135B.2 Purpose.**

30 The purpose of [this chapter](#) is to provide for the
31 development, establishment and enforcement of basic standards
32 for the care and treatment of individuals in hospitals and
33 rural emergency hospitals and for the construction, maintenance
34 and operation of such hospitals, which, in the light of
35 existing knowledge, will promote safe and adequate treatment

1 of such individuals in such hospitals, in the interest of the
2 health, welfare and safety of the public.

3 Sec. 3. Section 135B.3, Code 2023, is amended to read as
4 follows:

5 **135B.3 Licensure.**

6 No person or governmental unit, acting severally or jointly
7 with any other person or governmental unit shall establish,
8 conduct or maintain a hospital or rural emergency hospital in
9 this state without a license.

10 Sec. 4. NEW SECTION. **135B.3A Rural emergency hospital**
11 **licensure.**

12 1. The department shall adopt rules pursuant to chapter
13 17A to establish minimum standards for the licensure of rural
14 emergency hospitals consistent with the federal Consolidated
15 Appropriations Act, Pub. L. No. 116-260, §125, and with
16 regulations issued by the United States secretary of health and
17 human services for rural emergency hospitals.

18 2. To be eligible for a rural emergency hospital license, a
19 facility shall have been, on or before December 27, 2020, one
20 of the following:

21 a. A licensed critical access hospital.

22 b. A general hospital with not more than fifty licensed
23 beds located in a county in a rural area as defined in section
24 1886(d)(2)(D) of the federal Social Security Act.

25 c. A general hospital with no more than fifty licensed beds
26 that is deemed as being located in a rural area pursuant to
27 section 1886(d)(8)(E) of the federal Social Security Act.

28 Sec. 5. Section 135B.4, Code 2023, is amended to read as
29 follows:

30 **135B.4 Application for license.**

31 Licenses shall be obtained from the department.

32 Applications shall be upon forms and shall contain information
33 as the department may reasonably require, which may include
34 affirmative evidence of ability to comply with reasonable
35 standards and rules prescribed under [this chapter](#). Each

1 application for license shall be accompanied by the license
2 fee, which shall be refunded to the applicant if the license
3 is denied and which shall be deposited into the state treasury
4 and credited to the general fund if the license is issued.
5 Hospitals and rural emergency hospitals having fifty beds or
6 less shall pay an initial license fee of fifteen dollars;
7 hospitals of more than fifty beds and not more than one hundred
8 beds shall pay an initial license fee of twenty-five dollars;
9 all other hospitals shall pay an initial license fee of fifty
10 dollars.

11 Sec. 6. Section 135B.5, subsection 1, Code 2023, is amended
12 to read as follows:

13 1. Upon receipt of an application for license and the
14 license fee, the department shall issue a license if the
15 applicant and hospital facilities comply with [this chapter](#),
16 chapter 135, and the rules of the department. Each licensee
17 shall receive annual reapproval upon payment of five hundred
18 dollars and upon filing of an application form which is
19 available from the department. The annual licensure fee shall
20 be dedicated to support and provide educational programs on
21 regulatory issues for hospitals and rural emergency hospitals
22 licensed under [this chapter](#). Licenses shall be either general
23 or restricted in form. Each license shall be issued only
24 for the premises and persons or governmental units named in
25 the application and is not transferable or assignable except
26 with the written approval of the department. Licenses shall
27 be posted in a conspicuous place on the licensed premises as
28 prescribed by rule of the department.

29 Sec. 7. Section 135B.5A, Code 2023, is amended to read as
30 follows:

31 **135B.5A Conversion of a hospital relative to certain**
32 **hospitals.**

33 1. A conversion of a long-term acute care hospital,
34 rehabilitation hospital, or psychiatric hospital as defined by
35 federal regulations to a general hospital or to a specialty

1 hospital of a different type is a permanent change in bed
2 capacity and shall require a certificate of need pursuant to
3 section 135.63.

4 2. A conversion of a critical access hospital or general
5 hospital to a rural emergency hospital or a conversion of a
6 rural emergency hospital to a critical access hospital or
7 general hospital shall not require a certificate of need
8 pursuant to section 135.63.

9 Sec. 8. Section 135B.7, Code 2023, is amended to read as
10 follows:

11 **135B.7 Rules and enforcement.**

12 1. *a.* The department, with the approval of the state
13 board of health, shall adopt rules setting out the standards
14 for the different types of hospitals and for rural emergency
15 hospitals to be licensed under [this chapter](#). The department
16 shall enforce the rules.

17 *b.* Rules or standards shall not be adopted or enforced
18 which would have the effect of denying a license to a hospital,
19 rural emergency hospital, or other institution required to be
20 licensed, solely by reason of the school or system of practice
21 employed or permitted to be employed by physicians in the
22 hospital, rural emergency hospital, or other institution if the
23 school or system of practice is recognized by the laws of this
24 state.

25 2. *a.* The rules shall state that a hospital or rural
26 emergency hospital shall not deny clinical privileges to
27 physicians and surgeons, podiatric physicians, osteopathic
28 physicians and surgeons, dentists, certified health service
29 providers in psychology, physician assistants, or advanced
30 registered nurse practitioners licensed under [chapter 148](#),
31 [148C](#), [149](#), [152](#), or [153](#), or [section 154B.7](#), solely by reason of
32 the license held by the practitioner or solely by reason of
33 the school or institution in which the practitioner received
34 medical schooling or postgraduate training if the medical
35 schooling or postgraduate training was accredited by an

1 organization recognized by the council on higher education
2 accreditation or an accrediting group recognized by the United
3 States department of education.

4 *b.* A hospital or rural emergency hospital may establish
5 procedures for interaction between a patient and a
6 practitioner. The rules shall not prohibit a hospital or
7 rural emergency hospital from limiting, restricting, or
8 revoking clinical privileges of a practitioner for violation
9 of hospital rules, regulations, or procedures established
10 under this paragraph, when applied in good faith and in a
11 nondiscriminatory manner.

12 *c.* **This subsection** shall not require a hospital or rural
13 emergency hospital to expand the ~~hospital's~~ current scope of
14 service delivery solely to offer the services of a class of
15 providers not currently providing services at the hospital
16 or rural emergency hospital. **This section** shall not be
17 construed to require a hospital or rural emergency hospital
18 to establish rules which are inconsistent with the scope of
19 practice established for licensure of practitioners to whom
20 this subsection applies.

21 *d.* **This section** shall not be construed to authorize the
22 denial of clinical privileges to a practitioner or class of
23 practitioners solely because a hospital or rural emergency
24 hospital has as employees of the hospital or rural emergency
25 hospital identically licensed practitioners providing the same
26 or similar services.

27 3. The rules shall require that a hospital or rural
28 emergency hospital establish and implement written criteria
29 for the granting of clinical privileges. The written criteria
30 shall include but are not limited to consideration of all of
31 the following:

32 *a.* The ability of an applicant for privileges to provide
33 patient care services independently and appropriately in the
34 hospital or rural emergency hospital.

35 *b.* The license held by the applicant to practice.

1 *c.* The training, experience, and competence of the
2 applicant.

3 *d.* The relationship between the applicant's request for the
4 granting of privileges and the hospital's or rural emergency
5 hospital's current scope of patient care services, as well as
6 the hospital's or rural emergency hospital's determination of
7 the necessity to grant privileges to a practitioner authorized
8 to provide comprehensive, appropriate, and cost-effective
9 services.

10 4. The department shall also adopt rules requiring
11 hospitals and rural emergency hospitals to establish and
12 implement protocols for responding to the needs of patients who
13 are victims of domestic abuse, as defined in [section 236.2](#).

14 5. The department shall also adopt rules requiring
15 hospitals and rural emergency hospitals to establish and
16 implement protocols for responding to the needs of patients who
17 are victims of elder abuse, as defined in [section 235F.1](#).

18 Sec. 9. Section 135B.7A, Code 2023, is amended to read as
19 follows:

20 **135B.7A Procedures — orders.**

21 The department shall adopt rules that require hospitals
22 and rural emergency hospitals to establish procedures for
23 authentication of all verbal orders by a practitioner within
24 a period not to exceed thirty days following a patient's
25 discharge.

26 Sec. 10. Section 135B.8, Code 2023, is amended to read as
27 follows:

28 **135B.8 Effective date of rules.**

29 Any hospital or rural emergency hospital which is in
30 operation at the time of promulgation of any applicable
31 rules or minimum standards under [this chapter](#) shall be given
32 a reasonable time, not to exceed one year from the date of
33 such promulgation, within which to comply with such rules and
34 minimum standards.

35 Sec. 11. Section 135B.9, Code 2023, is amended to read as

1 follows:

2 **135B.9 Inspections and qualifications for hospital and rural**
3 **emergency hospital inspectors — protection and advocacy agency**
4 **investigations.**

5 1. The department shall make or cause to be made inspections
6 as it deems necessary in order to determine compliance with
7 applicable rules. Hospital and rural emergency hospital
8 inspectors shall meet the following qualifications:

9 a. Be free of conflicts of interest. A hospital or rural
10 emergency hospital inspector shall not participate in an
11 inspection or complaint investigation of a hospital or rural
12 emergency hospital in which the inspector or a member of the
13 inspector's immediate family works or has worked within the
14 last two years. For purposes of this paragraph, "*immediate*
15 *family member*" means a spouse; natural or adoptive parent,
16 child, or sibling; or stepparent, stepchild, or stepsibling.

17 b. Complete a yearly conflict of interest disclosure
18 statement.

19 c. Biennially, complete a minimum of ten hours of continuing
20 education pertaining to hospital or rural emergency hospital
21 operations including but not limited to quality and process
22 improvement standards, trauma system standards, and regulatory
23 requirements.

24 2. In the state resource centers and state mental health
25 institutes operated by the department of human services, the
26 designated protection and advocacy agency as provided in
27 section 135C.2, subsection 4, shall have the authority to
28 investigate all complaints of abuse and neglect of persons
29 with developmental disabilities or mental illnesses if the
30 complaints are reported to the protection and advocacy agency
31 or if there is probable cause to believe that the abuse has
32 occurred. Such authority shall include the examination of all
33 records pertaining to the care provided to the residents and
34 contact or interview with any resident, employee, or any other
35 person who might have knowledge about the operation of the

1 institution.

2 Sec. 12. Section 135B.12, Code 2023, is amended to read as
3 follows:

4 **135B.12 Confidentiality.**

5 The department's final findings or the final survey findings
6 of the joint commission on the accreditation of health care
7 organizations or the American osteopathic association with
8 respect to compliance by a hospital or rural emergency hospital
9 with requirements for licensing or accreditation shall be made
10 available to the public in a readily available form and place.
11 Other information relating to a hospital or rural emergency
12 hospital obtained by the department which does not constitute
13 the department's findings from an inspection of the hospital
14 or rural emergency hospital or the final survey findings of
15 the joint commission on the accreditation of health care
16 organizations or the American osteopathic association shall
17 not be made available to the public, except in proceedings
18 involving the denial, suspension, or revocation of a license
19 under [this chapter](#). The name of a person who files a complaint
20 with the department shall remain confidential and shall not
21 be subject to discovery, subpoena, or other means of legal
22 compulsion for its release to a person other than department
23 employees or agents involved in the investigation of the
24 complaint.

25 Sec. 13. Section 135B.14, Code 2023, is amended to read as
26 follows:

27 **135B.14 Judicial review.**

28 Judicial review of the action of the department may be sought
29 in accordance with [chapter 17A](#). Notwithstanding the terms of
30 chapter 17A, the Iowa administrative procedure Act, petitions
31 for judicial review may be filed in the district court of the
32 county in which the hospital or rural emergency hospital is
33 located or to be located, and the status quo of the petitioner
34 or licensee shall be preserved pending final disposition of the
35 matter in the courts.

1 Sec. 14. Section 135B.15, Code 2023, is amended to read as
2 follows:

3 **135B.15 Penalties.**

4 Any person establishing, conducting, managing, or operating
5 any hospital or rural emergency hospital without a license
6 shall be guilty of a serious misdemeanor, and each day of
7 continuing violation after conviction shall be considered a
8 separate offense.

9 Sec. 15. Section 135B.16, Code 2023, is amended to read as
10 follows:

11 **135B.16 Injunction.**

12 Notwithstanding the existence or pursuit of any other
13 remedy, the department may, in the manner provided by law,
14 maintain an action in the name of the state for injunction
15 or other process against any person or governmental unit to
16 restrain or prevent the establishment, conduct, management or
17 operation of a hospital or rural emergency hospital without a
18 license.

19 Sec. 16. Section 135B.20, subsection 3, Code 2023, is
20 amended to read as follows:

21 3. "*Hospital*" ~~shall mean~~ means all hospitals and rural
22 emergency hospitals licensed under this chapter.

23 Sec. 17. Section 135B.33, subsection 1, unnumbered
24 paragraph 1, Code 2023, is amended to read as follows:

25 Subject to availability of funds, the Iowa department of
26 public health shall provide technical planning assistance to
27 local boards of health and hospital or rural emergency hospital
28 governing boards to ensure access to ~~hospital~~ such services in
29 rural areas. The department shall encourage the local boards
30 of health and hospital or rural emergency hospital governing
31 boards to adopt a long-term community health services and
32 developmental plan including the following:

33 Sec. 18. Section 135B.34, subsection 7, Code 2023, is
34 amended to read as follows:

35 7. For the purposes of this section, ~~"comprehensive~~

1 ~~preliminary background check~~:

2 a. "Comprehensive preliminary background check" means the
3 same as defined in [section 135C.1](#).

4 b. "Hospital" means a hospital or rural emergency hospital
5 licensed under this chapter.

6 Sec. 19. EMERGENCY RULEMAKING AUTHORITY. The department
7 may adopt emergency rules under section 17A.4, subsection 3,
8 and section 17A.5, subsection 2, paragraph "b", to implement
9 the provisions of this Act and the rules shall be effective
10 immediately upon filing unless a later date is specified in the
11 rules. Any rules adopted in accordance with this section shall
12 also be published as a notice of intended action as provided
13 in section 17A.4.

14 Sec. 20. APPLICABILITY. This Act applies to a facility
15 that was, on or before December 27, 2020, a general hospital
16 with no more than fifty licensed beds, located in a county in a
17 rural area as specified in section 135B.3A, as enacted in this
18 Act, with a population between thirty thousand and thirty-five
19 thousand according to the 2020 federal decennial census,
20 operating under a valid certificate of need on and prior to
21 September 1, 2022. Notwithstanding any provision to the
22 contrary, and in accordance with section 135B.5A, as amended
23 in this Act, the conversion of a general hospital as specified
24 under this section to a rural emergency hospital under this
25 Act shall not be subject to certificate of need requirements
26 pursuant to section 135.63.

27 Sec. 21. EFFECTIVE DATE. This Act, being deemed of
28 immediate importance, takes effect upon enactment.

29

EXPLANATION

30 The inclusion of this explanation does not constitute agreement with
31 the explanation's substance by the members of the general assembly.

32 This bill provides for state licensure of rural emergency
33 hospitals. Under the federal Consolidated Appropriations Act
34 of 2021 (federal Act), rural emergency hospitals (REHs) were
35 established as a new provider type. Effective January 1, 2023,

1 REHs will be eligible to enroll in Medicare and to receive an
2 enhanced reimbursement rate for eligible services consisting
3 of the outpatient prospective payment system rate plus a 5
4 percent add-on and a fixed monthly payment. In order to be
5 classified as an REH under the federal Act, a facility must
6 meet certain requirements, including applicable state licensing
7 requirements. The bill provides a process for such licensure.

8 The bill provides emergency rulemaking authority to
9 implement the bill.

10 The bill includes applicability provisions. The bill
11 applies to a facility that was, on or before December 27, 2020,
12 a general hospital with no more than 50 licensed beds, located
13 in a county in a rural area as specified in the bill with a
14 population between 30,000 and 35,000 according to the 2020
15 federal decennial census, operating under a valid certificate
16 of need on and prior to September 1, 2022. Notwithstanding
17 any provision to the contrary, the conversion of the specified
18 general hospital to a rural emergency hospital shall not be
19 subject to certificate of need requirements.

20 The bill takes effect upon enactment.