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Bill Analysis
Legislative Service Commission

S.B. 120

127th General Assembly
(As Introduced)

Sens. Goodman, Stivers, Austria

BILL SUMMARY

- Requires generally that a hospital operate an emergency department offering emergency medical services 24 hours a day, seven days a week.
- Establishes exemptions from the requirements for certain hospitals, including (1) hospitals that primarily provide specialized care for alcoholism, chemical dependency, rehabilitation, physical restoration, and mental illness, (2) hospitals classified as long-term care hospitals, and (3) hospitals that have not, since August 8, 2006, begun providing specified high-technology or specialized services or added more than 10% to their bed capacity.

CONTENT AND OPERATION

Hospital emergency departments

(R.C. 3727.50)

The bill requires each hospital¹ in which medical services are provided to patients to operate an emergency department that offers emergency medical services to the general public 24 hours a day, seven days a week, unless one of a number of exceptions to this requirement applies to the hospital. A hospital subject to the emergency department requirement must do all of the following:

¹ "Hospital" means an institution classified as a hospital by the Ohio Department of Health that provides inpatient diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care for a continuous period longer than 24 hours or a hospital operated by a health maintenance organization. (R.C. 3727.01, not in the bill.)

(1) Ensure that at least one physician² and an adequate number of nursing personnel and other health care professionals are on duty and attending to the emergency department at all times;

(2) Ensure that the emergency department has a designated space in the hospital that is readily accessible to the general public;

(3) Post a clear and easily readable sign on the exterior of the hospital indicating the location of the emergency department;

(4) Designate a medical staff member³ to direct the operations of the emergency department;

(5) Integrate emergency department services with the services provided by other departments of the hospital;

(6) Ensure that policies and procedures governing medical care provided by staff in the emergency department are established and regularly updated by the medical staff;

(7) Maintain provider agreements with the Medicare and Medicaid programs.

Exceptions

(R.C. 3727.51)

The following are exempt from the bill's requirement that hospitals operate emergency departments:

(1) A hospital engaged primarily in providing specialized care to inpatients with alcoholism or chemical dependency rehabilitative service needs;

(2) A hospital classified under federal regulations as a long-term care hospital that is engaged primarily in providing specialized acute hospital care for medically complex patients who are critically ill or have multi-system complications or failures, and have an average length of stay greater than 25 days;

² Under the bill, "physician" means an individual authorized to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

³ "Medical staff member" is defined as a physician or dentist who has been granted staff membership and holds active professional privileges at a hospital as determined by the hospital's governing body in accordance with existing law.

(3) A hospital engaged primarily in providing specialized care to inpatients with intensive, multi-disciplinary physical restorative service needs;

(4) A hospital engaged primarily in providing specialized care to inpatients diagnosed with mental illness;

(5) A hospital in which medical services were provided prior to August 8, 2006, and that has not, since that date, begun offering specified high-technology or other specialized services;⁴

(6) A hospital in which medical services were provided prior to August 8, 2006, and that has not, since that date, added more than 10% of the bed capacity that existed on that date;

(7) A hospital that is physically attached to another hospital if the hospital to which it is attached operates an emergency department in compliance with the bill.

Enforcement

(R.C. 3727.05)

The bill authorizes the Director of Health to petition the court of common pleas of the county in which the hospital is located for an order enjoining any person or political subdivision, agency, or instrumentality of the state from operating a hospital in violation of the bill.

COMMENT

The bill's emergency department requirement is applicable primarily to hospitals that began or will begin offering medical services on or after August 8, 2006, which was the expiration date of the moratorium on specialty hospitals that had been in effect under federal Medicare laws since 2003.⁵ Because the bill

⁴ The high-technology and other specialized services specified by the bill are the same services that are subject to existing laws requiring the Director of Health to adopt rules establishing safety and quality-of-care standards (R.C. 3702.11, not in the bill). These services are solid organ and bone marrow transplantation; stem cell harvesting and reinfusion; cardiac catheterization; open-heart surgery; obstetric and newborn care; pediatric intensive care; operation of linear accelerators; operation of cobalt radiation therapy units; and operation of gamma knives.

⁵ The federal moratorium on specialty hospitals resulted from provisions included in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and the Deficit Reduction Act of 2005. On August 8, 2006, the Centers for Medicare and

applies to a limited class of hospitals, there may be issues involving its constitutionality under the Ohio and United States Constitutions. Unless a rational basis can be shown for the bill's applicability to only a limited class of hospitals, a court could find it unconstitutional on equal protection grounds.

HISTORY

ACTION	DATE
Introduced	03-20-07

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Medicaid Services issued a report to Congress regarding the issue of specialty hospitals (*Final Report to Congress Implementing the DRA Provision Affecting Specialty Hospitals*, last visited April 14, 2007, at <<http://www.cms.hhs.gov/apps/media/press/release.asp?Counter=1941>>).

