

INTERIM STUDY PROPOSAL 2023-057

State of Arkansas
94th General Assembly
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A Bill

SENATE BILL 236

By: Senator Hester

Filed with: Senate Committee on Public Health, Welfare, and Labor
pursuant to A.C.A. §10-3-217.

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

1 the medical, nursing, psychosocial, and developmental therapies required by
2 the medically dependent or technologically dependent child served as well as
3 the caregiver training needs of the child's legal guardian;

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

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

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

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

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

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

28 (i) Born addicted to drugs;

29 (ii) Burns;

30 (iii) Congenital disorders;

31 (iv) End stage diseases;

32 (v) Failure to thrive;

33 (vi) Feeding disorders;

34 (vii) Gastrointestinal or enteral feedings;

35 (viii) Genetic disorders;

- 1 (ix) Metabolic and endocrine disorders including
2 diabetes with technology assistance;
- 3 (x) Oncological and hematological disorders;
- 4 (xi) Orthopedic conditions including amputations and
5 surgery;
- 6 (xii) Post operation care;
- 7 (xiii) Post traumatic injury; or
- 8 (xiv) Prematurity and respiratory disorders;

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

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

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

21
22 20-9-1602. License required – Exemption.

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

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

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

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

35
36 20-9-1603. Application – Issuance of license.

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

- 3 (1) An application on the form prescribed by the department;
4 (2) A letter of credit as prescribed by the department to
5 demonstrate the applicant's financial viability; and
6 (3) Application fees as determined by the department.

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

- 9 (1) The location of the premises of the prescribed pediatric
10 extended care center for which the license is sought;
11 (2) Documentation, signed by the appropriate local government
12 official, stating that the location and use of the premises meet local zoning
13 requirements;
14 (3) The name, address, and Social Security number of and
15 criminal background check information for:
16 (A) The applicant;
17 (B) The administrator responsible for daily operations of
18 the prescribed pediatric extended care center;
19 (C) The financial officer responsible for financial
20 operations of the prescribed pediatric extended care center; and
21 (D) Each controlling person;
22 (4) The name, address, and federal employer identification
23 number or taxpayer identification number of the applicant and of each
24 controlling person, if the applicant or controlling person is not an
25 individual;
26 (5) The business name of the prescribed pediatric extended care
27 center;
28 (6) The maximum patient capacity requested for the prescribed
29 pediatric extended care center;
30 (7) A sworn affidavit that the applicant has complied with this
31 subchapter and rules adopted under this subchapter; and
32 (8) Documentation that the applicant has at least one (1) person
33 on staff with a degree in accounting or finance from an accredited
34 institution of higher education and has at least five (5) years' experience.

35 (c)(1) The department shall issue a license to a prescribed pediatric
36 extended care center under this subchapter if the department determines that

1 the applicant and the prescribed pediatric extended care center meet the
2 requirements of this subchapter and comply with the rules and standards
3 adopted under this subchapter.

4 (2) The license shall include:

5 (A) The license holder's name;

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

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

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

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

17
18 20-9-1604. License term – Renewal.

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

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

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

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

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

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

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

35 (d) At least one hundred twenty (120) days before expiration of a
36 prescribed pediatric extended care center license, the department shall

1 notify the owner or operator of the prescribed pediatric extended care center
2 of the license expiration.

3
4 20-9-1605. Denial, suspension, or revocation of licensure –
5 Disciplinary action grounds.

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

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

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

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

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

19
20 20-9-1606. Administrative fines – Corrective action plan.

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

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

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

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

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

3 (1) The gravity of the violation, including the probability that
4 death or serious physical or emotional harm to a child will result or has
5 resulted, the severity of the actual or potential harm, and the extent to
6 which this subchapter or rules were violated;

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

9 (3) Any previous violations; and

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

12
13 20-9-1607. Closing of a prescribed pediatric extended care center.

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

19
20 20-9-1608. Construction and renovation.

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

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

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

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

30
31 20-9-1609. License display – Maintenance of records.

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

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

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

3
4 20-9-1610. Admission criteria for minors.

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

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

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

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

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

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

18
19 20-9-1611. Complaints.

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

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

25
26 20-9-1612. Penalty.

27 (a) Any person who violates this subchapter is upon conviction guilty
28 of an unclassified misdemeanor subject to a fine of ten thousand dollars
29 (\$10,000).

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

31
32 20-9-1613. Rules and standards.

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

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

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

5 (1) The assurance that services provided by a prescribed
6 pediatric extended care center are family centered and provide individualized
7 medical, developmental, and family training services;

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

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

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

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

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

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

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

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

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

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

33
34 SECTION 2. Arkansas Code Title 20, Chapter 77, Subchapter 1, is
35 amended to add an additional section to read as follows:

36 20-77-148. Prescribed pediatric extended care center.

1 (a) The Arkansas Medicaid Program shall:

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

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

6 (b) The Department of Human Services shall apply for any federal
7 waiver, Medicaid state plan amendment, or other authorization necessary to
8 implement this section.

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10
11 Referred requested by the Arkansas Senate

12 Prepared by: JMB/SJA

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