

Act 422 of the 1989 Regular Session.

Act 422

SB327

By: Senate Committee on Public Health, Welfare and Labor

"AN ACT TO AMEND AND REPEAL CERTAIN SECTIONS OF ARK. CODE ANN. SECTION 20-8-101, THE HEALTH SERVICES COMMISSION ACT; AND FOR OTHER PURPOSES."

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

SECTION 1. Subsection (2) of Arkansas Code 20-8-101 is hereby amended to read as follows:

"(2) 'Category of services' or 'health services' means 'home health care services' as defined by Ark. Code Ann. Section 20-10-801, the Home Health Care Services act;"

SECTION 2. Subsection (6) of Arkansas Code 20-8-101 is hereby amended to read as follows:

"(6) 'Health facility' or 'health facilities' means 'long-term care facility' as defined by Ark. Code Ann. Section 20-10-101(7), the Long Term Care Facilities and Services Act, or a 'home health care services agency' as defined by Ark. Code Ann. Section 20-10-801, the Home Health Care Services act. The terms 'health facility' or 'health facilities' shall not mean, and nothing in this Act shall be deemed to require a permit of approval for or otherwise regulate the licensure of in any manner, a 'hospital', as defined by and licensed pursuant to Ark. Code Ann. Section 20-9-201(3) the Hospital and Health Facilities Licensure Act, except when a hospital seeks to add long-term care beds or convert acute beds to long-term care beds, offices of private physicians and surgeons, outpatient surgery or imaging centers, post acute head injury retraining and residential care facilities or establishments operated by the federal government or any agency thereof, or free-standing radiation therapy centers, or any facility which is conducted by and for those who rely exclusively upon treatment by prayer alone for healing in accordance with the tenets or practices of any recognized religious denomination;

SECTION 3. Subsection (a) of Arkansas Code 20-8-103 is hereby amended to read as follows:

"(a) The Health Services Commission shall evaluate the availability and adequacy of health facilities and health services as they relate to long-term care facilities and home health care service agencies in this state."

SECTION 4. Subsection (d) of Arkansas Code 20-8-103 is hereby amended to read as follows:

"(d) The Commission shall develop policy and adopt criteria, including time limitations, to be utilized by the Agency in the review of applications and the issuing of permits of approval for a long-term care facility or a home health care service agency as provided herein."

SECTION 5. Subsection (f) of Arkansas Code 20-8-103 is hereby amended to read as follows:

"(f) The Commission shall review the recommendations of the Agency concerning action on applications by long-term care facilities or home health care service agencies for permits of approval and endorse or reject the same."

SECTION 6. Subsections (a) and (b) of Arkansas 20-8-106 are hereby amended to read as follows:

"(a) From the effective date hereof until June 1, 1989, there shall be no new home health care agencies, or nursing homes, with the exceptions of Intermediate Care Facilities for the mentally retarded with fifteen (15) or fewer beds and with the exception of nursing home applications under review by the Arkansas Health Services Agency on June 2, 1987, and except for nursing homes with 35 beds or less attached to or a part of hospitals located in cities or towns where no nursing home exists provided applicants for such nursing homes must obtain a permit of approval from the proper authority pursuant to the provisions of this Act, nor shall there be any additional beds licensed for existing nursing homes, or intermediate care facilities in this State. The Commission may remove any or all of the moratoria anytime after June 1, 1988, provided the Commission has duly adopted and promulgated standards for the review of the health facility for which the moratorium is removed. Nursing home applications under review by the Arkansas Health Services Agency on June 2, 1987 shall be considered under Ark. Code Ann. Section 20-8-101 under updated standards on a county by county basis.

(b) The alteration or renovation of a health facility having an associated capital expenditure of less than five hundred thousand dollars (\$500,000) for nursing homes and not resulting in additional bed capacity shall not require a permit of approval; however, the Commission shall not allow hospital acute care beds to be converted to or allow their license classification to be changed to long-term care beds without going through the permit of approval process, and licenses are not transferable from one entity to another. The application for the permit of approval shall include but need not be limited to such information as necessary to determine:

(1) whether the proposed project is needed or projected as necessary to meet the needs of the locale or area in terms of the health care required for the population or geographic region;

(2) whether the proposed project can be adequately staffed and operated when completed;

(3) whether the proposed project is economically feasible; and

(4) whether the project will foster cost containment through improved efficiency and productivity."

SECTION 7. Subsection (7) of Arkansas Code 20-8-101 is hereby repealed.

SECTION 8. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 9. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 10. Emergency. It is hereby found and determined by the General Assembly that there is an immediate and urgent need to effect revisions in the health planning system of the State; that the federal government has repealed the Federal Health Planning Law; that fourteen states have also repealed their state health planning laws; that the current state law unduly restricts the development of hospital services in the State of Arkansas; that health planning for hospital services has a detrimental impact on the public health, welfare and safety; that health planning has not been shown to be an effective means of controlling hospital costs; that it is in the best interests of the people of this state that providers have the freedom to develop additional hospital services and beds without necessary of permit of

approval review, so that access to quality health care services can be enhanced. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: March 8, 1989
