

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 603

5 By: Senator Irvin
6

For An Act To Be Entitled

8 AN ACT TO CLARIFY THE LAW CONCERNING A HEALTHCARE
9 INSURER'S CONTRACTING WITH A TEMPORARY HOSPITAL
10 FACILITY; TO REGULATE HEALTHCARE CONTRACTS TO REQUIRE
11 GOOD-FAITH COOPERATION; AND FOR OTHER PURPOSES.
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Subtitle

14 TO CLARIFY THE LAW CONCERNING A
15 HEALTHCARE INSURER'S CONTRACTING WITH A
16 TEMPORARY HOSPITAL FACILITY; AND TO
17 REGULATE HEALTHCARE CONTRACTS TO REQUIRE
18 GOOD-FAITH COOPERATION.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code Title 23, Chapter 99, is amended to add an
25 additional subchapter to read as follows:
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Subchapter 14 – Temporary Hospital Facility Act

23-99-1401. Title.

29 This subchapter shall be known and may be cited as the "Temporary
30 Hospital Facility Act".
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23-99-1402. Legislative findings and intent.

33 (a) The General Assembly finds that:

34 (1) The Centers for Medicare & Medicaid Services' Hospitals
35 Without Walls Program allows participating ambulatory surgery centers to
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1 convert to licensed hospitals during the period of the coronavirus 2019
 2 (COVID-19) public health emergency;

3 (2) In cooperation and in an effort to promote public health,
 4 the Department of Health suspended portions of its Rules for Hospitals and
 5 Related Institutions according to the Governor's Executive Order 20-06 and
 6 20-16 to allow the issuance of hospital licenses to facilities previously
 7 licensed as ambulatory surgery centers in this state that enrolled as a
 8 hospital under the Centers for Medicare & Medicaid Services Hospitals Without
 9 Walls Program; and

10 (3) Legislative clarification is necessary to clarify the
 11 obligations of a healthcare insurer in negotiating and contracting with
 12 healthcare providers in order to prohibit anticompetitive practices and to
 13 promote public health in this state.

14 (b) It is the intent of the General Assembly that healthcare insurers
 15 shall cooperate with healthcare providers as described in this subchapter in
 16 good faith for the benefit of the citizens of this state.

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 18 23-99-1403. Definitions.

19 As used in this subchapter:

20 (1) "Contracting entity" means a healthcare insurer or a
 21 subcontractor, affiliate, or other entity that contracts directly or
 22 indirectly with a healthcare provider for the delivery of healthcare services
 23 to enrollees;

24 (2) "Healthcare contract" means a contract entered into,
 25 materially amended, or renewed between a contracting entity and a healthcare
 26 provider for the delivery of healthcare services to enrollees;

27 (3)(A) "Healthcare insurer" means an entity that is subject to
 28 state insurance regulation and provides health insurance in this state.

29 (B) "Healthcare insurer" includes:

30 (i) An insurance company;
 31 (ii) A health maintenance organization;
 32 (iii) A hospital and medical service corporation;
 33 (iv) A risk-based provider organization; and
 34 (v) A sponsor of a nonfederal self-funded
 35 governmental plan;

36 (4) "Healthcare provider" means a person or entity that is

1 licensed, certified, or otherwise authorized by the laws of this state to
2 provide healthcare services; and

3 (5) "Temporary hospital facility" means a facility that was
4 previously licensed as an ambulatory surgery center that has:

5 (A) Received a hospital license from the Department of
6 Health; and

7 (B) Enrolled as a hospital under the Centers for Medicare
8 & Medicaid Services Hospitals Without Walls Program.

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10 23-99-1404. Healthcare contract – Good-faith cooperation.

11 (a) A healthcare insurer shall cooperate in good faith with a
12 temporary hospital facility in timely executing a healthcare contract.

13 (b) A healthcare insurer shall cooperate in good faith as required in
14 subsection (a) of this section by timely offering a temporary hospital
15 facility a healthcare contract that is reflective of the healthcare insurer's
16 standard and reasonable terms and conditions, including without limitation
17 rates of reimbursement.

18 (c) A healthcare contract shall be effective as of the date the
19 temporary hospital facility is licensed as a hospital by the Department of
20 Health.

21 (d) The time period for a healthcare insurer to respond as stated in §
22 23-99-411 does not apply if the request for a healthcare contract is made by
23 a temporary hospital facility.

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25 23-99-1405. Converting back to ambulatory surgery center.

26 (a) If a temporary hospital facility converts back to an ambulatory
27 surgery center, a healthcare insurer shall not delay in providing a contract
28 for an ambulatory surgery center based on the healthcare insurer's standard
29 and reasonable terms and conditions.

30 (b) The effective date of an ambulatory surgery center contract shall
31 be the same as the effective date of the conversion from a temporary hospital
32 facility back to an ambulatory surgery center.

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34 23-99-1406. Applicability.

35 This subchapter shall apply to any future public health emergencies if
36 the Centers for Medicare & Medicaid Services and the Department of Health

1 have implemented similar programs as described in § 23-99-1402(a)(2).

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3 23-99-1407. Penalty.

4 A violation of this subchapter is a violation of § 23-99-804 and the
5 Healthcare Contracting Simplification Act, § 23-99-1201 et seq.

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