

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

# A Bill

HOUSE BILL 2128

4  
5 By: Representative Verkamp

## For An Act To Be Entitled

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8  
9 AN ACT TO PROVIDE FOR APPROVAL BY THE HEALTH  
10 SERVICES PERMIT AGENCY OF THE TRANSFER OF PERMITS  
11 OF APPROVAL FOR HEALTH FACILITIES; AND FOR OTHER  
12 PURPOSES.

## Subtitle

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15 AN ACT TO PROVIDE FOR APPROVAL BY THE  
16 HEALTH SERVICES PERMIT AGENCY OF THE  
17 TRANSFER OF PERMITS OF APPROVAL FOR  
18 HEALTH FACILITIES.

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

22  
23 SECTION 1. Arkansas Code § 20-8-106 is amended to read as follows:  
24 20-8-106. Health Services Program - Permits generally.

25 ~~(a)(1) From March 8, 1989, until June 1, 1989, there shall be no new~~  
26 ~~home health care agencies or nursing homes, with the exception of~~  
27 ~~intermediate care facilities for the mentally retarded with fifteen (15) or~~  
28 ~~fewer beds and with the exception of nursing home applications under review~~  
29 ~~by the Health Services Permit Agency on June 2, 1987, and except for nursing~~  
30 ~~homes with thirty five (35) beds or fewer attached to or a part of hospitals~~  
31 ~~located in cities or towns where no nursing home exists, provided applicants~~  
32 ~~for such nursing homes must obtain a permit of approval from the proper~~  
33 ~~authority pursuant to the provisions of this subchapter, nor shall there be~~  
34 ~~any additional beds licensed for existing nursing homes or intermediate care~~  
35 ~~facilities in this state. The Health Services Permit Commission may remove~~  
36 ~~any or all of the moratoria anytime after June 1, 1988, provided the~~



1 ~~commission has duly adopted and promulgated standards for the review of the~~  
2 ~~health facility for which the moratorium is removed.~~  
3 ~~Nursing home applications under review by the agency on June 2, 1987, shall~~  
4 ~~be considered under § 20-8-101 et seq. under updated standards on a county-~~  
5 ~~by county basis.~~

6 ~~(2) No permit of approval shall be required by the agency or the~~  
7 ~~commission for any applicant to qualify for a Class "B" license, as provided~~  
8 ~~for in § 20-10-801 et seq., to operate a home health care services agency, if~~  
9 ~~the agency was serving patients on or before June 30, 1988, and if the agency~~  
10 ~~serves the residents of the county where the principal office is located.~~

11 ~~(3) Nursing home applications under review by the agency on June~~  
12 ~~2, 1987, shall be considered under the provisions of § 20-8-101 et seq. under~~  
13 ~~updated standards on a county by county basis.~~

14 (1) No health facility shall operate unless all necessary  
15 permits, licenses, and approvals for the facility have been obtained in  
16 accordance with law.

17 (2) It is the responsibility of each applicant for a permit of  
18 approval to establish the applicant's individual qualifications as well as  
19 the qualifications of the facility to be permitted.

20 (b)(1) The alteration or renovation of a health facility having an  
21 associated capital expenditure of less than five hundred thousand dollars  
22 (\$500,000) for nursing homes and not resulting in additional bed capacity  
23 shall not require a permit of approval; ~~however,~~

24 (2)(A) However, the agency Health Services Permit Agency shall  
25 not allow hospital acute care beds to be converted to or allow their license  
26 classification to be changed to long-term care beds without going through the  
27 permit of approval process. However, permits, legal title, and right of  
28 ownership may be transferred to another entity with the approval of the  
29 commission.

30 (B) The application for the permit of approval shall  
31 include, but need not be limited to, such information as is necessary to  
32 determine:

33 ~~(1)~~(i) Whether the proposed project is needed or projected as  
34 being necessary to meet the needs of the locale or area in terms of the  
35 health care required for the population or geographic region;

36 ~~(2)~~(ii) Whether the proposed project can be adequately staffed

1 and operated when completed;

2 ~~(3)(iii)~~ Whether the proposed project is economically feasible;  
3 and

4 ~~(4)(iv)~~ Whether the project will foster cost containment through  
5 improved efficiency and productivity.

6 (c)(1)(A) Approval of the Health Services Permit Agency to transfer a  
7 health facility permit of approval is required.

8 (B)(i) The transfer, assignment, or other disposition of  
9 the stock or voting rights of the owner of the health facility which results  
10 in the ownership or control of more than ten (10%) percent of the stock or  
11 voting rights of the health facility by a person, entity, or identified group  
12 who did not own or control more than ten (10%) percent of the stock or voting  
13 rights of the health facility prior to the transfer, assignment, or  
14 disposition shall be deemed a transfer of a health facility permit of  
15 approval.

16 (ii) The transferee of the stock or voting rights  
17 shall submit an application for approval prior to the completion of the  
18 transfer of stock or voting rights in accordance with this subsection (c).

19 (2) Prior to the transfer of a health facility permit of  
20 approval or the deemed transfer of a permit as described in subdivision  
21 (c)(1)(B) of this section, an application for approval shall be filed with  
22 the agency by the transferee.

23 (3) The application for approval shall include, but not be  
24 limited to, information needed by the agency to determine whether:

25 (A) Following the transfer of the permit of approval or  
26 the transfer of stock or voting rights, the health facility will continue to  
27 be able to meet the needs of the locale or area in terms of the health care  
28 required for the population or geographic region;

29 (B) The health facility can be adequately staffed and  
30 operated when the transfer of the permit of approval or transfer of stock or  
31 voting rights is completed;

32 (C) The proposed transfer of the permit of approval or  
33 transfer of stock or voting rights and operation of the health facility  
34 following the transfer is economically feasible;

35 (D) The health facility will foster cost containment  
36 through improved efficiency and productivity following the transfer of the

1 permit of approval or transfer of stock or voting rights; and

2 (E) Following the transfer of the permit of approval or  
3 transfer of stock or voting rights the applicant can be expected to provide a  
4 substantially consistent high level of care at the health facility based on:

5 (i) The facility's past operation and violation  
6 history; and

7 (ii) The Health Services Permit Commission's  
8 assessment of the applicant's character and competence to operate the  
9 facility, including a review of the applicant's experience, past performance  
10 in operating a health care service, if any, and compliance with applicable  
11 laws and practices pertinent to the applicant's professional experience.

12 (d)(1) The agency by rule or order may exempt from the application  
13 requirements in subsection (c) of this section the transfer of one (1) or  
14 more permits of approval if:

15 (A) The permits of approval to be transferred in the  
16 aggregate cover three hundred ninety-nine (399) or fewer beds in one (1) or  
17 more health facilities;

18 (B) The transfer of the permits of approval is to occur in  
19 a single transaction; and

20 (C) The agency determines that the application for  
21 approval to transfer a permit of approval is not necessary or appropriate in  
22 the public interest.

23 (2) Before any transfer of a permit of approval may be executed  
24 as an exempt transfer under this subsection (d), the proposed transferee  
25 shall file a proof of exemption with the agency containing the following:

26 (A) A statement of the grounds upon which the exemption is  
27 claimed;

28 (B) The identity of and contact information for the current  
29 permit holder;

30 (C) The location of the proposed facility or facilities to  
31 be transferred;

32 (D) The number of beds authorized under the current  
33 permit;

34 (E) If the time frames on the current permit need to be  
35 extended;

36 (F) If the location of the health facility will be

1 transferred out of the city limits of the town or city where it is currently  
 2 located and whether the mayor and county judge have been notified of the  
 3 proposed move; and

4 (G) Information regarding the applicant, including the  
 5 applicant's contact information, organization and corporate structure, and  
 6 its ownership interest in or management of any other health facility in  
 7 Arkansas.

8 (3) Within ten (10) business days after the proof of exemption  
 9 is filed, the agency shall review the proof of exemption and notify the  
 10 applicant whether the proof of exemption is approved, denied, or deficient.  
 11 The proof of exemption shall be deemed approved if the agency does not notify  
 12 the applicant that it denied the proof of exemption or determined that the  
 13 proof of exemption was deficient.

14 (4) If the proof of exemption is deficient, the applicant shall  
 15 have a reasonable opportunity to correct the deficiencies.

16 (5) A deficient proof of exemption which has not been corrected  
 17 within a period of one hundred eighty (180) days after the initial filing  
 18 with the agency shall be deemed abandoned and considered withdrawn by the  
 19 applicant.

20 ~~(e)(e)(1)~~ If the application is granted, the The agency shall issue a  
 21 permit of approval, if it finds that the proposed project meets the criteria  
 22 for approval as set by the commission.

23 (2) If the application is denied, the:

24 (A) The agency shall send written notice of the denial to  
 25 the applicant which sets forth the criteria that the ~~proposed project~~  
 26 application failed to meet; and

27 (B) The applicant shall not perform any of the actions  
 28 that were denied.

29 ~~(d)(f)~~ Any applicant or interested party seeking review of a final  
 30 agency decision regarding permits of approval, movement of beds, or transfer  
 31 of permits of approval shall file a written appeal for hearing before the  
 32 commission on an approved form within thirty (30) days of the receipt of the  
 33 agency decision.

34 ~~(e)(g)~~ Appeals to the commission shall be conducted in accordance with  
 35 the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

