

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

A Bill

SENATE BILL 663

4
5 By: Senator Irvin

For An Act To Be Entitled

8 AN ACT TO MODIFY THE AUTHORITY OF THE DEPARTMENT OF
9 HEALTH; TO DEFER THE AUTHORITY OF THE DEPARTMENT OF
10 HEALTH TO THE CENTERS FOR MEDICARE & MEDICAID
11 SERVICES CONCERNING THE HOSPITALS WITHOUT WALLS
12 PROGRAM; TO DECLARE AN EMERGENCY; AND FOR OTHER
13 PURPOSES.

Subtitle

14
15
16
17 TO MODIFY AND DEFER THE AUTHORITY OF THE
18 DEPARTMENT OF HEALTH TO THE CENTERS FOR
19 MEDICARE & MEDICAID SERVICES CONCERNING
20 THE HOSPITALS WITHOUT WALLS PROGRAM; AND
21 TO DECLARE AN EMERGENCY.

22
23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Arkansas Code Title 20, Chapter 9, Subchapter 3, is amended
27 to add an additional section to read as follows:

28 20-9-312. Deferral of authority of Department of Health to Centers for
29 Medicare & Medicaid Services – Hospitals Without Walls program – Legislative
30 findings and intent – Authority.

31 (a) The General Assembly finds that:

32 (1) The Centers for Medicare & Medicaid Services’ Hospitals
33 Without Walls program allows:

34 (A) Participating ambulatory surgery centers to convert to
35 licensed hospitals during the period of the coronavirus 2019 (COVID-19)
36 public health emergency; and



1 (B) Existing hospitals to provide healthcare services at
2 the patient's home and other selected sites;

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 Orders 20-06 and
6 20-16, and any future executive orders that extend the public health
7 emergency, to allow for the regulatory flexibilities to facilities
8 participating in the Centers for Medicare & Medicaid Services' Hospitals
9 Without Walls program; and

10 (3) Legislative clarification is necessary to clarify that the
11 department has the regulatory authority necessary to continue the regulatory
12 flexibilities for the duration of the Centers for Medicare & Medicaid
13 Services' Hospitals Without Walls program for the purpose of promoting public
14 health in this state.

15 (b) It is the intent of the General Assembly, for the benefit of the
16 citizens of this state, that the department have the authority to:

17 (1) Allow all facilities participating in the Centers for
18 Medicare & Medicaid Services' Hospitals Without Walls program to continue to
19 do so until:

20 (A) The Centers for Medicare & Medicaid Services
21 terminates the Centers for Medicare & Medicaid Services' Hospitals Without
22 Walls program; or

23 (B) The national public health emergency is declared over;
24 and

25 (2) Administer this section.

26 (c)(1) The department have the authority to defer to the Centers for
27 Medicare & Medicaid Services as to when the Centers for Medicare & Medicaid
28 Services' Hospitals Without Walls program is terminated.

29 (2) The authority described in subdivision (c)(1) of this
30 section shall include the ability to suspend portions of its Rules for
31 Hospitals and Related Institutions to allow regulatory flexibilities to
32 facilities participating in the Centers for Medicare & Medicaid Services'
33 Hospitals Without Walls program.

34 (d) The department shall exercise the authority granted under
35 subsection (c) of this section to suspend portions of its Rules for Hospitals
36 and Related Institutions as necessary to allow regulatory flexibilities to

1 facilities participating in the Centers for Medicare & Medicaid Services'
2 Hospitals Without Walls program.

3 (e)(1) This section applies to any future public health emergency if
4 the Centers for Medicare & Medicaid Services implements a program similar to
5 the Centers for Medicare & Medicaid Services' Hospitals Without Walls
6 program.

7 (2) Upon the implementation of a program described in
8 subdivision (e)(1) of this section, the department shall seek any applicable
9 waivers to implement any future programs similar to the Centers for Medicare
10 & Medicaid Services' Hospitals Without Walls program during the period of any
11 future public health emergency.

12
13 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
14 General Assembly of the State of Arkansas that the coronavirus 2019 (COVID-
15 19) pandemic has caused great uncertainty and anxiety in the operation of
16 participating ambulatory surgery centers converted to hospitals under the
17 Centers for Medicare & Medicaid Services' Hospitals Without Walls program;
18 that by providing legislative clarity concerning the regulatory authority of
19 the Department of Health the uncertainty will resolved and the continued
20 operation of participating ambulatory surgery centers converted to hospitals
21 under the Centers for Medicare & Medicaid Services' Hospitals Without Walls
22 program can continue; and that this act is immediately necessary to protect
23 the public health and safety in order to provide legislative clarity for the
24 Department of Health's regulatory authority concerning the Centers for
25 Medicare & Medicaid Services' Hospitals Without Walls program. Therefore, an
26 emergency is declared to exist, and this act being immediately necessary for
27 the preservation of the public peace, health, and safety shall become
28 effective on:

29 (1) The date of its approval by the Governor;

30 (2) If the bill is neither approved nor vetoed by the Governor,
31 the expiration of the period of time during which the Governor may veto the
32 bill; or

33 (3) If the bill is vetoed by the Governor and the veto is
34 overridden, the date the last house overrides the veto.

35
36