

CABINET FOR HEALTH AND FAMILY SERVICES

Office of Inspector General

Division of Health Care

(Amended After Comments)

902 KAR 20:490. Rural emergency hospitals.

RELATES TO: KRS 2.015, 42 C.F.R. 485.500—485.546, 42 C.F.R. 485.618, 45 C.F.R. Part 160, Part 164, 42 U.S.C. 1320d-2 – 1320d-8

STATUTORY AUTHORITY: KRS 216B.042

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires the Cabinet for Health and Family Services to promulgate administrative regulations necessary for the proper administration of the licensure function, which includes establishing licensure standards and procedures to ensure safe, adequate, and efficient health facilities and health services. This administrative regulation establishes the minimum requirements for licensure as a rural emergency hospital.

Section 1. Definitions. "Rural emergency hospital (REH)" is defined by 42 C.F.R. 485.502 as an entity that:

- (1) Operates for the purpose of providing emergency department services, observation care, and other outpatient medical and health services specified by the secretary of the U.S. Department of Health and Human Services in which the annual per patient average length of stay does not exceed twenty-four (24) hours; and
- (2) Shall not provide inpatient services, except those furnished in a unit that is a distinct part licensed as a skilled nursing facility to furnish post-REH or post-hospital extended care services.

Section 2. Licensure.

(1) A facility shall be eligible to apply for a license as an REH if the facility was, as of December 27, 2020:

(a) Licensed as a critical access hospital pursuant to 906 KAR 1:110; or

(b)

1. Licensed as a general acute care hospital pursuant to 902 KAR 20:016;

2. Had fifty (50) or fewer beds; and

3. Was considered rural or treated as being located in a rural area in accordance with 42 C.F.R. 485.506(b) or (c).

(2) Except for beds the REH maintains in a distinct part unit licensed as a skilled nursing facility, the facility's inpatient beds shall be delicensed.

Section 3. Application and Fees.

(1) A facility that applies for initial licensure or annual renewal as an REH shall submit to the Office of Inspector General:

(a) A completed Application for Licensure to Operate a Rural Emergency Hospital; and

(b) An accompanying fee in the amount of \$1,000, made payable to the Kentucky State Treasurer.

(2) As a condition of annual renewal, the application required by subsection (1) of this section shall be submitted to the cabinet at least sixty (60) days prior to the date of expiration of the REH's licensure.

Section 4. Change of Status.

(1) An REH shall report a change of:

- (a) Name or location in accordance with the requirements of 902 KAR 20:008, Section 3(3); or
 - (b) Ownership in accordance with the requirements of 902 KAR 20:008, Section 2(16).
- (2) Failure to renew a license by the annual renewal date shall result in a late penalty pursuant to 902 KAR 20:008, Section 3(4).

Section 5. Services and Basic Requirements.

- (1) An REH shall comply with applicable federal, state, and local laws and regulations pertaining to the operation of the facility, including compliance with 42 C.F.R. 485.506 – 485.546.
- (2) An REH shall:
 - (a) Provide emergency department services and observation care, including compliance with the requirements of:
 - 1. 42 C.F.R. 485.516; and
 - 2. 42 C.F.R. 485.618 with respect to:
 - a. Twenty-four (24) hour availability of emergency services;
 - b. Equipment, supplies, and medication;
 - c. Blood and blood products;
 - d. Personnel; and
 - e. Coordination with emergency response systems;
 - (b) Provide basic laboratory services in accordance with 42 C.F.R. 485.518;
 - (c) Maintain, or have available, diagnostic radiologic services in accordance with 42 C.F.R. 485.520;
 - (d) Have pharmaceutical services that meet the needs of its patients in accordance with 42 C.F.R. 485.522; and
 - (e) In accordance with 42 C.F.R. 485.538, have in effect a transfer agreement with at least one (1) hospital that is a level I or level II trauma center for the referral and transfer of patients requiring emergency medical care beyond the capabilities of the REH.
- (3) In accordance with 42 C.F.R. 485.524(a), an REH may provide outpatient and medical health diagnostic and therapeutic items and services that are commonly furnished in a physician's office or at another entry point into the health care delivery system, including:
 - (a) Therapeutic radiologic services;
 - (b) Laboratory services;
 - (c) Outpatient rehabilitation;
 - (d) Surgical services;
 - (e) Maternal health services; or
 - (f) Behavioral health services.
- (4) An REH may provide skilled nursing facility services in a distinct part unit in accordance with 42 C.F.R. 485.546.

Section 6. Personnel. An REH shall assure that licensed personnel meet the applicable standards required by the appropriate professional licensing board and provide services within the applicable scope of practice.

Section 7. Patient Records.

- (1) Ownership.
 - (a) Medical records shall be the property of the REH.
 - (b) The original medical record shall not be removed except by court order.
 - (c) Copies of medical records or portions thereof may be used and disclosed in accordance with the requirements established in this administrative regulation.
- (2) Confidentiality and Security: Use and Disclosure.

(a) The REH shall maintain the confidentiality and security of patient records in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, as amended, including the security requirements mandated by subparts A and C of 45 C.F.R. Part 164, or as provided by applicable federal or state law.

(b) The REH may use and disclose patient records. Use and disclosure shall be as established or required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164, or as established in this administrative regulation.

(c) An REH may establish higher levels of confidentiality and security than those required by HIPAA, 42 U.S.C. 1320d-2 to 1320d-8, and 45 C.F.R. Parts 160 and 164.

(d) Retention of records. After a patient's death or discharge, the completed medical record shall be placed in an inactive file and retained for at least:

1. Six (6) years; or

2. Three (3) years after the patient reaches the age of majority in accordance with KRS 2.015, whichever is longer.

(3) The REH shall:

(a) Designate a specific location for the maintenance and storage of the agency's medical records;

(b) Have provisions for storage of medical records in the event the agency ceases to operate; and

(c) Safeguard the record and its content against loss, defacement, or tampering.

Section 8. Incorporation by Reference.

(1) The form, OIG-20:490, "Application for Licensure to Operate a Rural Emergency Hospital", December 2022 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the Office of Inspector General's Web site at: <https://chfs.ky.gov/agencies/os/oig/dhc/Pages/lcapplications.aspx>. 902 KAR 20:490

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