

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 380**

Introduced by Jensen, 20

Read first time January 15, 2003

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to health care facilities; to amend sections  
2 71-401 and 71-403, Revised Statutes Supplement, 2002; to  
3 define terms; to provide requirements related to  
4 emergency services for hospitals and ambulatory surgical  
5 centers; to harmonize provisions; and to repeal the  
6 original sections.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 71-401, Revised Statutes Supplement,  
2 2002, is amended to read:

3           71-401. Sections 71-401 to 71-463 and sections 3 to 9 of  
4 this act shall be known and may be cited as the Health Care  
5 Facility Licensure Act.

6           Sec. 2. Section 71-403, Revised Statutes Supplement,  
7 2002, is amended to read:

8           71-403. For purposes of the Health Care Facility  
9 Licensure Act, unless the context otherwise requires, the  
10 definitions found in sections 71-404 to 71-431 and sections 3 to 6  
11 of this act shall apply.

12           Sec. 3. Emergency means:

13           (1) A medical condition manifesting itself by acute  
14 symptoms of sufficient severity, including severe pain, psychiatric  
15 disturbances, or symptoms of substance abuse, such that the absence  
16 of immediate medical attention could reasonably be expected to  
17 result in:

18           (a) Placing the health of the individual, or with respect  
19 to a pregnant woman, the health of the woman or her unborn child,  
20 in serious jeopardy;

21           (b) Serious impairment to bodily functions; or

22           (c) Serious dysfunction of any bodily organ or part; or

23           (2) With respect to a pregnant woman who is having  
24 contractions:

25           (a) That there is inadequate time to effect a safe  
26 transfer to another hospital before delivery; or

27           (b) That transfer may pose a threat to the health or  
28 safety of the woman or the unborn child.

1           Sec. 4.     Emergency services means unscheduled medical  
2 services provided to a person in an emergency.

3           Sec. 5.     Specialty hospital means a hospital that  
4 provides a limited scope of inpatient services by restricting  
5 nonemergency admissions to patients meeting narrow criteria such  
6 as:

7                     (1) Services limited to a specific specialty of medicine;

8                     (2) Age or gender of the patient;

9                     (3) Type of disease, ailment, or condition or methodology  
10 of treatment;

11                    (4) Duration of stay or qualification for particular type  
12 of coverage; or

13                    (5) Services limited to a captive population that does  
14 not have the freedom to seek medical care and treatment elsewhere.

15           Sec. 6.     Transfer agreement means an agreement providing  
16 a process for the immediate transfer of a patient requiring  
17 emergency services to a general acute hospital which meets the  
18 requirements of section 9 of this act.

19           Sec. 7.     (1) Except as otherwise provided in this  
20 section, any hospital, general acute hospital, or specialty  
21 hospital located in a city with a population of fourteen thousand  
22 or more inhabitants as determined by the most recent federal  
23 decennial census and any hospital, general acute hospital, or  
24 specialty hospital located in a county in which is located a city  
25 of the metropolitan class or in a county adjacent to such a county  
26 shall, at a minimum:

27                    (a) Provide emergency services twenty-four hours per day  
28 every day;

1           (b) Provide such emergency services in a designated area  
2 of the hospital identified by permanent exterior signage clearly  
3 denoting the availability of emergency services to the public;

4           (c) Provide a physician who is qualified to provide  
5 emergency services and is immediately available within the  
6 hospital;

7           (d) Meet or exceed the standards for personnel and  
8 equipment indicated for a general trauma center under the rules and  
9 regulations of the department. Participation in the statewide  
10 trauma system is not required;

11           (e) Maintain a roster of on-call medical staff members;  
12 and

13           (f) Implement procedures to minimize a patient's risk  
14 until the patient is transferred to another hospital if emergency  
15 services cannot be provided at the hospital to meet the needs of  
16 the patient in an emergency.

17           (2) Any such specialty hospital shall maintain a transfer  
18 agreement for situations in which the specialty hospital cannot  
19 provide continuing care for the patient because of the specialty  
20 hospital's scope of service.

21           (3) The director shall adopt and promulgate rules and  
22 regulations for emergency services which, at a minimum, require  
23 medical direction, documentation of services provided, the  
24 provision of emergency services to any person who requests such  
25 services, processes for the transfer of patients, and the  
26 maintenance of a roster of on-call medical staff members.

27           (4) This section does not apply to:

28           (a) A critical access hospital that complies with the

1 rules and regulations for emergency services availability as  
2 established for critical access hospitals;

3 (b) A specialty hospital located on the campus of a  
4 general acute hospital if the specialty hospital maintains a  
5 transfer agreement;

6 (c) A specialty hospital which is operated by and in  
7 which forty-nine percent or more of the ownership interests and  
8 forty-nine percent or more of the voting rights on the governing  
9 body are held by an entity or health care system that owns and  
10 operates at least one general acute hospital located within the  
11 same county as the specialty hospital if the specialty hospital  
12 maintains a transfer agreement;

13 (d) A specialty hospital that provides only psychiatric  
14 or mental health care, rehabilitation services, long-term care, or  
15 pediatric services; and

16 (e) A specialty hospital that provides services limited  
17 to a captive population that does not have the freedom to seek  
18 medical care and treatment elsewhere.

19 Sec. 8. An ambulatory surgical center shall have and  
20 maintain (1) a transfer agreement for situations in which a patient  
21 requires emergency care beyond the capability of the ambulatory  
22 surgical center and (2) written policies and procedures for the  
23 transfer of patients requiring emergency care beyond the capability  
24 of the ambulatory surgical center.

25 Sec. 9. A transfer agreement shall be in writing, shall  
26 be signed by representatives of both parties, and shall require, at  
27 a minimum:

28 (1) Timely and orderly transfer of patients between the

1 facilities whenever it is determined to be medically appropriate by  
2 the transferring attending physician;

3 (2) Timely transfer of medical information and other  
4 information needed to assess the capability of the receiving  
5 facility and to provide the patient's care upon admission; and

6 (3) Qualification of the transferring attending physician  
7 as an active member of the medical staff of the receiving facility  
8 with appropriate privileges in order to admit and provide  
9 continuity of care for the transferred patient.

10 Sec. 10. Original sections 71-401 and 71-403, Revised  
11 Statutes Supplement, 2002, are repealed.