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Phone: 615-741-2650
Email: publications.information@tn.gov

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Sequence Number: _____
Rule ID(s): _____
File Date: _____
Last Effective Day: _____

Emergency Rule Filing Form

Emergency rules are effective from date of filing, unless otherwise stated in the rule, for a period of up to 180 days.

Agency/Board/Commission:	Board for Licensing Health Care Facilities
Division:	N/A
Contact Person:	Logan Grant
Address:	Andrew Jackson Bldg., 9th Fl., 502 Deaderick St., Nashville, TN
Zip:	37243
Phone:	(615) 741-2364
Email:	Logan.Grant@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Statement of Necessity:

Rural Emergency Hospitals (REHs) are a new provider type established by the Consolidated Appropriations Act, 2021 to address the growing concern over closures of rural hospitals. The REH designation provides an opportunity for Critical Access Hospitals (CAHs) and certain rural hospitals to avert potential closure and continue to provide essential services for the communities they serve. Conversion to an REH allows for the provision of emergency services, observation care, and additional medical and health outpatient services, if elected by the REH, that do not exceed an annual per patient average of 24 hours. This new provider type, effective January 1, 2023, will promote equity in health care for those living in rural communities by facilitating access to needed services. Emergency Rules are appropriate as the Act takes effect January 1, 2023.

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0720-14	Standards for Hospitals
Rule Number	Rule Title
0720-14-.01	Definitions
0720-14-.06	Basic Hospital Functions

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter Number 0720-14
Standards for Hospitals

Rule 0720-14-.01 Definitions is amended by deleting paragraph (23) in its entirety and substituting instead the following language, and is further amended by adding new paragraphs (82) and (83), and renumbering the remaining paragraphs accordingly, so that as amended, the new paragraphs shall read:

- (23) Designation. An official finding and recognition by the Commission that an acute care hospital meets Tennessee State Rural Health Care Plan requirements to be a Critical Access Hospital or Rural Emergency Hospital.
- (82) Rural Emergency Hospital. A Rural Emergency Hospital (“REH”) is a facility that:
- (a) meets the eligibility requirements for a licensed hospital in Tennessee pursuant to Tenn. Comp. R. & Regs. 0720-14-.01(37), and the following:
1. is enrolled for reimbursement as a rural emergency hospital by the federal Centers for Medicare Services pursuant to 42 U.S.C. 1395x(kkk) et. seq. and 42 U.S.C. §1395cc(j), or any successor statute;
 2. provides rural emergency hospital services;
 3. provides an emergency department which maintains:
 - (i) availability twenty-four (24) hours a day seven (7) days per week.
 - (ii) a physician, physician assistant, nurse practitioner, who performs such services as such individual is legally authorized to perform in accordance with state law and who meets such training, education, and experience requirements.
 - (iii) such clinician must be on call at all times and available on-site within thirty (30) minutes to sixty (60) minutes depending on the facility’s location.
 - (iv) staffed twenty-four (24) hours per day and (7) seven days per week by individuals competent in the skills needed to address emergency medical care and must be able to receive patients and activate appropriate medical resources to meet the care needed by patients.
 4. has a transfer agreement in effect with a level I or level II trauma center;
 5. meets such other licensure, staff training and education requirements as the Health Facilities Commission finds necessary in the interest of the health and safety of individuals who are provided rural emergency hospital services; and
 6. A rural Emergency hospital does not have inpatient beds or provide any acute inpatient services, other than those which are rendered by a licensed skilled nursing facility to furnish post-hospital extended care services, which is a distinct unit of the rural emergency hospital.
 7. Nothing in this part expands on the scope a licensed healthcare professional's ability to practice under their respective regulated profession.
- (83) Rural Emergency Hospital Services. The term "rural emergency hospital services" means the following services, provided by a rural emergency hospital, that do not require in excess of an annual per-patient average of twenty-four (24) hours in such rural emergency hospital:

- (a) Emergency department services, and observation care; and
- (b) At the election of the rural emergency hospital, for services provided on an outpatient basis, other medical and health services as specified in regulations adopted by the United States Secretary of Health and Human Services and authorized by the applicable rules or statutes of the Health Facilities Commission.

Authority: 42 U.S.C. 1395x(kkk); 42 U.S.C. §1395cc(j); T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-255, 68-11-1802, 68-57-101, 68-57-102, and 68-57-105.

Rule 0720-14-.06 is amended by adding new paragraph (11), the new paragraph shall read:

(11) Rural Emergency Hospital.

- (a) A hospital shall be eligible to apply for a Rural Emergency Health (“REH”) designation as such and conversion to a rural emergency hospital, if the facility, as of December 27th, 2020, was a:
 1. Critical Access Hospital as defined under Tenn. Comp. R. & Regs. 0720-14-.01(19); or
 2. General hospital with no more than 50 licensed beds located in an area designated by State or federal law as a rural area; or
 3. General hospital with no more than 50 licensed beds located in an area designated as rural under 42 U.S.C. §1935ww(d)(8)(E), or any successor statute.
- (b) A facility applying for designation as a rural emergency hospital shall include in its licensure application:
 1. a detailed transition plan that lists the services that the facility will retain, modify, add, and discontinue.
 2. a description of services that the facility intends to furnish on an outpatient basis pursuant to Tenn. Comp. R. & Regs. 0720-14-.01(83)(b).
 3. a description of any additional services the hospital would be supporting, such as furnishing telehealth services and ambulance services, including operating the facility and maintaining the emergency department to provide such services covered by these rules.
 4. any such other information as the rules and regulations of the Health Facilities Commission may require.
- (c) A rural emergency hospital may be allowed to own and operate an entity that provides ambulance services.
- (d) A licensed general hospital or critical access hospital that applies for and receives licensure as a rural emergency hospital and elects to operate as a rural emergency hospital shall retain its original license as a general hospital or critical access hospital. Such original license shall remain inactive while the rural emergency hospital license is in effect.
- (e) A licensed rural emergency hospital may enter into any contracts required to be eligible for federal reimbursement as a rural emergency hospital.

Authority: 42 U.S.C. 1395x(kkk); 42 U.S.C. §1395cc(j); T.C.A. §§ 4-5-202, 4-5-204, 39-11-106, 68-11-202, 68-11-204, 68-11-207, 68-11-209, 68-11-210, 68-11-211, 68-11-213, 68-11-224, 68-11-255, 68-11-1802, 68-57-101, 68-57-102, and 68-57-105.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Jennifer Tatum-Cranford, Pharm.D.					
Monica Warhaftig, D.O.					
Patricia P. Ketterman					
Louis F. Caputo					
Howard Daniel Clark, D.D.S					
Julie Jeter, M.D.					
Sherry Robbins, M.D.					
Patsy E. Crichfield					
Bobby G. Meadows					
Roger L. Mynatt					
Tom Marshall					
Joshua A. Crisp					
Gina Throneberry					
Paul C. Boyd					
Christopher Wilson, M.D., Chairman					
James Dunn, Executive Director Commission on Aging and Disability					

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: _____

Signature: _____

Name of Officer: Logan Grant

Title of Officer: Executive Director

Agency/Board/Commission: Board for Licensing Health Care Facilities

Rule Chapter Number(s): 0720-14

All emergency rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Jonathan Skrmetti
Attorney General and Reporter

Date

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Filed with the Department of State on: _____

Effective for: _____ **days*

Effective through: _____

** Emergency rule(s) may be effective for up to 180 days from the date of filing.*

Tre Hargett
Secretary of State

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

These emergency rules should have no impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These rules add the definition of Rural Emergency Hospital (REH) to Rule 0720-14-.01 and detail criteria which hospitals must meet to apply for this designation. These rules amend the definition of "designation" to reflect the addition of the new designation type.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

42 U.S.C. 1395x(kkk) et. seq. and 42 U.S.C. §1395cc(j).

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Tennessee Hospital Association (THA), hospital corporations, critical access hospitals, and hospitals operating in rural areas would urge adoption of this rule.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

N/A

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Logan Grant, Executive Director

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Logan Grant, Executive Director

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

None.