

2019 Regular Session

SENATE BILL NO. 36

BY SENATOR MILLS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH CARE. Provides relative to emergency departments. (8/1/19)

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AN ACT

To enact Subpart C of Part II of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:2115.31 through 2115.33, relative to emergency departments; to provide for legislative intent; to provide for definitions; to provide for a prohibition on freestanding emergency departments; to provide for licensure of hospital off-campus emergency departments; to provide for geographical prohibitions within rural hospital primary service areas; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart C of Part II of Chapter 11 of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:2115.31 through 2115.33 is hereby enacted to read as follows:

**SUBPART C. EMERGENCY DEPARTMENTS**

**§2115.31. Legislative intent**

**A. The legislature finds and declares that in order to protect the health and welfare of the public it is imperative to regulate and control entities that hold themselves out to the public as providing emergency medical care.**

1           **B. The legislature further finds and declares that emergency medical**  
2           **services should be provided in a licensed hospital.**

3           **C. The legislature finds and declares that rural hospitals are an essential**  
4           **part of our state's healthcare delivery safety net and their sustainability**  
5           **warrants protections from competing offsite emergency departments with no**  
6           **inpatient hospital services encroaching into their primary service area.**

7           **§2115.32. Emergency department; definitions**

8           **For purposes of this Subpart, the following definitions shall apply:**

9           **(1) "Department" means the Louisiana Department of Health.**

10          **(2) "Emergency medical services" means those medical services**  
11          **necessary to screen, evaluate, and stabilize an emergency medical condition of**  
12          **recent onset and severity, including severe pain, that would lead a prudent**  
13          **layperson, acting reasonably and possessing an average knowledge of health and**  
14          **medicine, to believe that the absence of immediate medical attention could**  
15          **reasonably be expected to result in placing the health of the individual in serious**  
16          **jeopardy, serious impairment to bodily function, or serious dysfunction of any**  
17          **bodily organ or part.**

18          **(3) "Freestanding emergency department" means a healthcare facility**  
19          **that holds itself out to the public as providing emergency medical services and**  
20          **is not licensed as part of the main campus of a hospital or as an off-site campus**  
21          **of a hospital.**

22          **(4) "Healthcare facility" means a facility, including but not limited to a**  
23          **hospital, or an office where a healthcare provider furnishes care to patients for**  
24          **health needs or medical conditions.**

25          **(5) "Healthcare provider" means a person who is licensed, certified, or**  
26          **otherwise authorized by the laws of this state to provide healthcare or medical**  
27          **treatment in the ordinary course of business or practice of a profession.**

28          **(6) "Hospital" means an entity as defined in R.S. 40:2102(2).**

29          **(7) "Off-site campus" means all licensed premises where emergency,**

1 inpatient, or outpatient hospital services are provided and that are not a part  
 2 of or adjoining to the main hospital building or grounds. For licensing purposes,  
 3 an off-site campus shall be located within thirty-five miles of the main hospital  
 4 campus.

5 (8) "Rural hospital" means an entity as defined in R.S. 40:1189.3(7).

6 §2115.33. Emergency department; licensure; prohibitions

7 A. Each emergency department operating in Louisiana shall be licensed  
 8 by the department as a part of a hospital under the Hospital Licensing Law,  
 9 R.S. 40:2100, et seq., either as a part of the hospital's main campus or as a  
 10 separate off-site campus of an existing licensed hospital.

11 B. Freestanding emergency departments shall be prohibited in  
 12 Louisiana.

13 C. The department shall not issue a license to any off-site campus  
 14 emergency department within the primary service area of a rural hospital. For  
 15 purposes of this Section, primary service area shall have the same meaning as  
 16 set forth in R.S. 37:1307(6). However, the prohibition in this Subsection shall  
 17 not apply to a nonprofit licensed hospital that complies with the provisions of  
 18 Subsection A of this Section and that has obtained a building or construction  
 19 permit for a new off-site campus prior to April 1, 2019.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

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DIGEST

SB 36 Reengrossed

2019 Regular Session

Mills

Proposed law provides legislative intent regarding the need to regulate emergency departments including to protect the public health and welfare and to preserve our rural hospitals.

Proposed law provides definitions.

Proposed law provides that an emergency department shall be licensed by the Department of Health as part of a hospital's main campus or as a separate off-site campus of the existing licensed hospital.

Proposed law provides that freestanding emergency departments shall be prohibited in Louisiana.

Proposed law provides that no license shall be granted to a hospital off-site campus emergency department within the primary service area of a rural hospital as defined by present law. Provides that such prohibition shall not apply to a nonprofit hospital licensed by the Department of Health and that has obtained a building or construction permit for a new off-site campus prior to April 1, 2019.

Effective August 1, 2019.

(Adds R.S. 40:2115.31 through 2115.33)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Removes legislative intent declaring that the public health and welfare is not promoted by freestanding emergency departments which are not part of a licensed hospital and do not have inpatient hospital services.
2. Makes technical corrections.

Senate Floor Amendments to engrossed bill

1. Specifies that such prohibition shall not apply to a nonprofit hospital licensed by the Department of Health and that has obtained a building or construction permit for a new off-site campus prior to April 1, 2019.