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Neutral Testimony on House Bill 2249
Senate Committee on Public Health and Welfare
Jerry Smith, Director of the Bureau of Facilities and Licensing
Kansas Department of Health and Environment
March 11, 2025

Chair Gossage and Members of the Committee:

I am Jerry Smith, Director of the Bureau of Facilities and Licensing with the Kansas Department of Health and Environment (KDHE). I am here today to offer testimony regarding House Bill 2249, which addresses the establishment of Rural Emergency Hospitals (REHs) in Kansas.

First, I would like to provide clarity on a key issue that has come up in discussions surrounding the REH designation. The Centers for Medicare & Medicaid Services (CMS) has informed us that there is no available waiver to allow facilities that do not meet the specific eligibility criteria to become an REH. Therefore, Kansas facilities must comply with the established requirements set by CMS, which limit the types of services these facilities can provide.

To become an REH, a facility must meet the following criteria:

1. **Facility Eligibility:** The hospital must have been a Critical Access Hospital (CAH) or a rural hospital with fewer than 50 beds before converting to an REH.
2. **Service Requirements:** Once a hospital converts to an REH, it must close its inpatient services but can continue to offer emergency and outpatient services. This includes 24/7 emergency care, observation services, lab tests, radiology, and certain surgeries.
3. **Staffing and Location:** The facility must be located in a rural area and have staff available around the clock, including a physician, nurse practitioner, clinical nurse specialist, or physician assistant.
4. **Transfer Agreements:** REHs must have formal agreements with trauma centers or other hospitals for transferring patients who require inpatient care.
5. **Compliance:** REHs must meet federal REH Conditions of Participation (CoPs) and comply with state licensing regulations.

A critical point to note is that REHs are not allowed to offer traditional inpatient care, such as skilled nursing services and or swing bed services. The REH can only offer skilled nursing services under a separately licensed skilled nursing facility (SNF) unit (also called a Distinct Part Unit, or DPU) if they meet Medicare's skilled nursing facility requirements.

This means that while REHs may offer outpatient therapy and rehabilitation services, they cannot maintain traditional inpatient skilled nursing beds, which are associated with Critical Access Hospitals. Additionally, REHs cannot operate swing beds under Medicare's Skilled Nursing Facility (SNF) benefits.

The distinction here is important because REHs cannot use **swing beds** as part of their operation. While they may offer certain types of skilled nursing services, these must be strictly outpatient-based, and **REHs cannot have traditional SNF beds**.

I hope this provides clarity on the limitations and opportunities within the REH framework. Thank you for your time and attention to this matter. I am happy to answer any questions.

Respectfully submitted,
Jerry Smith
Director
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