

State of Wisconsin



1995 Assembly Bill 520

Date of enactment: **December 1, 1995**
Date of publication*: **December 15, 1995**

1995 WISCONSIN ACT 98

AN ACT to repeal 50.02 (6); to amend 20.435 (1) (gm); and to create subchapter III of chapter 50 [precedes 50.50], 146.81 (1) (p) and 146.82 (2) (a) 17. of the statutes; relating to: regulating rural medical centers, granting rule-making authority, making an appropriation and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (1) (gm) of the statutes is amended to read:

20.435 (1) (gm) *Licensing, review and certifying activities.* The amounts in the schedule for the purposes specified in ss. 50.135, 50.49 (2) (b), 50.52 (2) (a), 146.50 (8), 250.05 (6), 252.22 (7), 254.176, 254.178, 254.20 (5) and (8), 254.31 to 254.39, 254.47, 254.61 to 254.89 and 255.08 (2), subch. IV of ch. 50 and ch. 150. All moneys received under ss. 50.135, 50.49 (2) (b), 50.52 (2) (a), 50.93 (1) (c), 146.50 (8) (d), 150.13, 250.05 (6), 252.22 (7), 254.176, 254.178, 254.20 (5) and (8), 254.31 to 254.39, 254.47, 254.61 to 254.89 and 255.08 (2) (b), less the amounts appropriated under s. 20.488 (1) (g), shall be credited to this appropriation.

SECTION 2. 50.02 (6) of the statutes is repealed.

SECTION 3. Subchapter III of chapter 50 [precedes 50.50] of the statutes is created to read:

CHAPTER 50

SUBCHAPTER III

RURAL MEDICAL CENTERS

50.50 Definitions. In this subchapter:

(1) "Ambulatory surgery center" has the meaning given in s. 49.45 (6r) (a) 1.

(2) "End-stage renal disease services" has the meaning given under 42 CFR 405.2102.

(3) "Health care services" means any of the following:

(a) Care that is provided in or by any of the following:

1. A hospital.
2. A nursing home.
3. A hospice.
4. A rural health clinic.
5. An ambulatory surgery center.
6. A rural primary care hospital.

(b) Home health services.

(c) Outpatient physical therapy services.

(cm) Outpatient occupational therapy services.

(d) End-stage renal disease services.

(e) Services that are specified in rules that the department promulgates.

(4) "Home health services" has the meaning given in s. 50.49 (1) (b).

(5) "Hospice" has the meaning given in s. 50.90 (1).

(6) "Hospital" has the meaning given in s. 50.33 (2) (a) or (b), except that "hospital" does not include a rural primary care hospital.

(7) "Medicare" has the meaning given in s. 49.45 (3) (L) 1. b.

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

(7m) “Occupational therapy” has the meaning given in s. 448.01 (2m).

(8) “Outpatient physical therapy services” has the meaning given under 42 USC 1395x (p).

(9) “Patient” means an individual who receives services from a rural medical center.

(10) “Rural health clinic” has the meaning given under 42 USC 1395x (aa) (2).

(11) “Rural medical center” means an arrangement of facilities, equipment, services and personnel that is all of the following:

(a) Organized under a single governing and corporate structure.

(b) Capable of providing or assuring health care services, including appropriate referral, treatment and follow-up services, at one or more locations in a county, city, town or village that has a population of less than 15,000 and that is in an area that is not an urbanized area, as defined by the federal bureau of the census.

(c) A provider of at least 2 health care services under the arrangement or through a related corporate entity.

(12) “Rural primary care hospital” means a facility that is currently designated by the federal health care financing administration as meeting the applicable requirements of 42 USC 1395i-4 (i) (2) and of 42 CFR 485, Subpart F.

50.51 Departmental powers. The department shall do all of the following:

(1) Provide uniform, statewide licensing, inspection and regulation of rural medical centers as specified in this subchapter.

(2) Promulgate rules that establish all of the following:

(a) For the operation of licensed rural medical centers, standards that are designed to protect and promote the health, safety, rights and welfare of patients who receive health care services in rural medical centers.

(b) Minimum requirements for issuance of a provisional license, a regular initial license or a license renewal to rural medical centers.

(c) Fees for rural medical center provisional licensure and regular initial licensure and licensure renewal. The amounts of the fees shall be based on the health care services provided by the rural medical center.

(d) A procedure and criteria for waiver of or variance from standards under par. (a) or minimum requirements under par. (b).

50.52 Licensing procedure and requirements. (1) No person may be required to obtain licensure as a rural medical center, except that no person may conduct, maintain, operate or permit to be conducted, maintained or operated health care services as a rural medical center unless the rural medical center is licensed by the department.

(2) The department shall issue a provisional license, a regular initial license or a license renewal as a rural

medical center to an applicant if all of the following are first done:

(a) The applicant pays the appropriate license fee, as established under s. 50.51 (2) (c). Fees collected under this paragraph shall be credited to the appropriation under s. 20.435 (1) (gm) for licensing and inspection activities.

(b) Except as provided in par. (c), the department inspects the health care services provided by the applying rural medical center and finds that the applicant is fit and qualified and meets the requirements and standards of this subchapter and the rules promulgated under this subchapter.

(c) In lieu of conducting the inspection under par. (b), the department accepts evidence that an applicant meets one of the following requirements:

1. Has applicable current, valid state licensure or approval as a hospital, a nursing home, a hospice or a home health agency.

2. Has an applicable, current agreement to participate as an eligible provider in medicare.

3. Is a rural primary care hospital.

4. Satisfies qualifications that are specified by the department by rule.

(3) Each license shall bear the name of the owner of the rural medical center, the name and address of the rural medical center and the health care services that the department licenses the rural medical center to provide.

(4) Unless sooner revoked or suspended, a regular initial license or a license renewal issued to a rural medical center is valid for 24 months from the date of issuance and a provisional license issued to a rural medical center is valid for 6 months from the date of issuance.

(5) Each license shall be issued only for the rural medical center and owner that are named in the license application and may not be transferred or assigned.

50.53 Inspections and investigations. (1) The department may conduct unannounced inspections or investigations of a rural medical center as the department considers necessary.

(2) A rural medical center that is inspected or investigated under this section shall provide the department with access to patient health care records, regardless of the source of patient health care payment, to fulfill the purpose of any inspections or investigations that the department conducts.

50.54 Prohibitions. (1) An entity that is not licensed as a rural medical center under this subchapter may not designate itself as a “rural medical center” or use the phrase “rural medical center” to represent or tend to represent the entity as a rural medical center or services provided by the entity as health care services provided by a rural medical center.

(2) No person may do any of the following:

(a) Intentionally prevent, interfere with or impede an investigation by the department of an alleged violation or

enforcement by the department of a requirement of this subchapter or the rules promulgated under this subchapter.

(b) Intentionally retaliate or discriminate against a patient or rural medical center employe for doing any of the following:

1. Contacting or providing information to a state agency, as defined in s. 16.004 (12) (a).
2. Initiating, participating in or testifying in an action to enforce any provision of this subchapter or rules promulgated under this subchapter.

(c) Intentionally destroy or modify the original report of an inspection that the department conducts under this subchapter or the rules promulgated under this subchapter.

50.55 Penalties and remedies. (1) FORFEITURES. (a) Any person who violates this subchapter or any rule promulgated under this subchapter, except s. 50.54 (2), may be required to forfeit not less than \$100 nor more than \$500 for each offense. Each day of continued violation constitutes a separate offense.

(b) In determining whether a forfeiture is to be imposed and in fixing the amount of the forfeiture to be imposed, if any, for a violation, the department shall consider all of the following factors:

1. The gravity of the violation.
2. Good faith exercised by the licensee.
3. Any previous violations committed by the licensee.
4. The financial benefit to the rural medical center of committing or continuing to commit the violation.

(c) The department may directly assess forfeitures provided for under par. (a). If the department determines that a forfeiture should be assessed for a particular violation or for failure to correct it, the department shall send a notice of assessment to the rural medical center. The notice shall specify the amount of the forfeiture assessed, the violation, and the statute or rule alleged to have been violated, and shall inform the licensee of the right to a hearing under par. (d).

(d) A rural medical center may contest an assessment of forfeiture by sending, within 10 days after receipt of notice under par. (c), a written request for hearing under s. 227.44 to the division of hearings and appeals under s. 15.103 (1). The division shall commence the hearing within 30 days after receipt of the request for hearing and shall issue a final decision within 15 days after the close of the hearing. Proceedings before the division are governed by ch. 227.

(e) All forfeitures shall be paid to the department within 10 days after receipt of notice of assessment or, if the forfeiture is contested under par. (d), within 10 days after receipt of the final decision, unless the final decision is appealed and the decision is in favor of the appellant.

The department shall remit all forfeitures paid to the state treasurer for deposit in the school fund.

(2) OTHER PENALTY. Whoever violates s. 50.54 (2) may be fined not more than \$1,000 or imprisoned for not more than 6 months or both.

(3) INJUNCTION. The department may, upon the advice of the attorney general, who shall represent the department in all proceedings under this subsection, institute an action in the name of the state in the circuit court for Dane County for injunctive relief or other process against any licensee, owner, operator, administrator or representative of any owner of a rural medical center for the violation of any of the provisions of this subchapter or rules promulgated under this subchapter if the department determines that the violation seriously affects the care, treatment, health, safety, rights, welfare or comfort of patients.

50.56 Applicability. (1) Any of the following facilities or entities is not required to obtain licensure or a certificate of approval under the following statutes or to pay initial or renewal license fees under the following statutes if all of the services of the facility or entity are provided as a part of a rural medical center that holds a current, valid license under this subchapter:

- (a) A hospital, under ss. 50.135 (2) (a) and (b) and 50.35.
- (b) A nursing home, under ss. 50.03 (1) and 50.135 (2) (a) and (b).
- (c) A hospice, under ss. 50.92 (1) and 50.93 (1) (c).
- (d) A home health agency, under s. 50.49 (2) (b) and (8).

(2) Subsection (1) may not be construed to apply to limit the authority of the department to develop, establish or enforce any statutes and rules for the care, treatment, health, safety, rights, welfare and comfort of patients or residents of facilities or entities that are specified in sub. (1) (a) to (d) and for the construction, general hygiene, maintenance or operation of those facilities or entities.

(3) Notwithstanding sub. (2), insofar as a conflict exists between this subchapter, or the rules promulgated under this subchapter, and subch. I, II or IV, or the rules promulgated under subch. I, II or IV, the provisions of this subchapter and the rules promulgated under this subchapter control.

SECTION 4. 146.81 (1) (p) of the statutes is created to read:

146.81 (1) (p) A rural medical center, as defined in s. 50.50 (11).

SECTION 5. 146.82 (2) (a) 17. of the statutes is created to read:

146.82 (2) (a) 17. To the department under s. 50.53 (2).

SECTION 6. Effective date.

(1) This act takes effect on July 1, 1996.