

K.A.R. 28-34-145. Definitions. As used in K.A.R. 28-34-145 through 28-34-152, each of the following terms shall have the meaning specified in this regulation:

(a) "Accrediting survey" means an inspection conducted by an accrediting organization approved by the centers for medicare and medicaid services.

(b) "Administrator" means an individual who is appointed by the governing body to act on behalf of a rural emergency hospital in the overall management of a rural emergency hospital.

(c) "Applicant" means a person who has applied for a license but who has not yet been granted a license to operate a rural emergency hospital.

(d) "Change of ownership" means any transaction that results in a change of control over the capital assets of a rural emergency hospital.

(e) "Critical access hospital" has the meaning specified for "critical access hospital" in K.S.A. 2022 Supp. 65-468, and amendments thereto.

(f) "General hospital" has the meaning specified for "general hospital" in K.S.A. 65-425, and amendments thereto.

(g) "Governing body" means the individual or individuals who comprise the legal administrative structure of a rural emergency hospital and direct how business shall be conducted.

(h) "Licensee" means a person that has been granted a license to operate a rural emergency hospital.

(i) "Licensing agency" means Kansas department of health and environment.

(j) "Licensure survey" means an inspection conducted by surveyors of the licensing agency of any licensee to verify each rural emergency hospital's compliance with state statutes

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and the requirements specified in K.A.R. 28-34-146 through 28-34-152.

(k) "Person" means any individual, firm, partnership, corporation, company, association, or joint-stock association, and the legal successor of the individual, firm, partnership, corporation, company, association, or joint-stock association.

(l) "Rural emergency hospital" and "REH" have the meaning specified for "rural emergency hospital" in K.S.A. 2022 Supp. 65-483, and amendments thereto.

(m) "Rural emergency hospital services" has the meaning specified for "rural emergency hospital services" in K.S.A. 2022 Supp. 65-483, and amendments thereto.

(n) "Secretary" has the meaning specified for "secretary" in K.S.A. 65-483, and amendments thereto. (Authorized by and implementing K.S.A 2022 Supp. 65-487; effective, T-_____, _____; effective P-_____.)

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K.A.R. 28-34-146. Application process. (a) Any person wanting to operate a rural emergency hospital shall meet the eligibility requirements pursuant to K.S.A. 2022 Supp. 65-484, and amendments thereto, and shall file an application on a form provided by the licensing agency at least 90 days before the admission of patients.

(b) Each applicant for a license to operate a rural emergency hospital shall submit all of the following information to the licensing agency:

(1) An action plan for initiating rural emergency hospital services, including a transition plan that lists the specific services that the rural emergency hospital transitioning from a critical access hospital shall retain, modify, add, or discontinue;

(2) a description of services the rural emergency hospital may provide on an outpatient basis;

(3) a description of how the rural emergency hospital will use payments provided to the rural emergency hospital by the centers for medicare and medicaid services;

(4) a written verification from county and municipal authorities showing that the rural emergency hospital complies with all local codes and ordinances, including all building, fire, and zoning requirements;

(5) a written verification from the Kansas office of the state fire marshal showing that the rural emergency hospital building complies with all applicable fire codes and regulations;

(6) a plan for the removal of biomedical waste and human tissue from the rural emergency hospital; and

(7) a transfer agreement with a medicare certified level I or level II trauma center.

(c) The granting of a license to any applicant may be denied by the secretary if the

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applicant is not in compliance with all applicable laws and regulations. (Authorized by and implementing K.S.A 2022 Supp. 65-487; effective, T-_____, _____; effective P-_____.)

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K.A.R. 28-34-147. Licensing procedure; renewals. (a)(1) No earlier than 90 days before but not later than 30 days before the renewal date, each licensee wishing to renew a license shall submit an application to renew the license to the licensing agency on a form provided by the licensing agency.

(2) The licensing agency shall approve the application for renewal after the licensing agency has verified that the licensee is in compliance with the requirements specified in K.A.R. 28-34-146 through 28-34-152.

(3) A license previously issued shall be renewed after the licensee has filed an annual report. The annual report shall be filed not later than 60 days after the beginning of each calendar year. The annual report shall include information regarding the following:

- (A) Administration and ownership;
- (B) classification;
- (C) special care services;
- (D) outpatient and emergency room services; and
- (E) staff personnel.

(b) New construction, alterations, or renovations that provide space for patient services or patient room shall not be used until authorization has been received from the licensing agency. The licensing agency may give authorization orally or by telephone and shall provide the rural emergency hospital with written confirmation of the authorization.

(c) If the rural emergency hospital is found to be non-compliant with the requirements specified in K.A.R. 28-34-146 through 28-34-152, the licensing agency shall notify the licensee, in writing, of each violation and require that a plan of correction be submitted before a license

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is issued or renewed. The plan of correction shall state specifically what corrective action shall be taken and the date on which the plan of correction shall be accomplished.

(d) If during the term of the current license the rural emergency hospital is surveyed by an accrediting organization approved by the centers for medicare and medicaid services, the licensee shall submit the survey report to the licensing agency. As a result of the accrediting survey, any licensee may be subject to an additional licensing survey at the secretary's discretion.

(e) The licensing agency shall verify compliance of the rural emergency hospital with the requirements specified in K.A.R. 28-34-146 through 28-34-152 in at least one of the following ways:

- (1) A statement of the administrator or an authorized staff member; or
- (2) on-site observations by licensing agency surveyors.

(f) If a licensed general hospital or critical access hospital applies for and receives licensure as a rural emergency hospital and elects to operate as a rural emergency hospital, the rural emergency hospital shall retain its original state license as a general hospital or critical access hospital. The original state license of the rural emergency hospital shall remain inactive and the reporting requirements of the general hospital or critical access hospital shall be waived while the rural emergency hospital license is in effect. (Authorized by and implementing K.S.A. 2022 Supp. 65-487; effective, T-_____, _____; effective P-_____.)

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K.A.R. 28-34-148. Terms of a license; amendments. (a) Each rural emergency hospital license shall be effective for one year following the date of issuance.

(b) Each license shall be valid for the licensee and the address specified on the license. When an initial, renewed, or amended license becomes effective, all previous rural emergency hospital licenses granted to licensee at the same address shall become invalid.

(c) Only one physical location shall be described in each license.

(d) Any applicant may withdraw the application for a license.

(e) Any licensee may submit, at any time, a request to close the rural emergency hospital permanently and to surrender the license. Unless notified by the licensee in writing, if a licensee closes a rural emergency hospital and surrenders the license, any state general hospital license or state critical access hospital license that the licensee also holds shall be surrendered to the licensing agency.

(f) If a rural emergency hospital is closed, any license granted for that rural emergency hospital shall become void.

(g) Each licensee shall submit a request for an amended license to the licensing agency within 30 days after either of the following:

(1) A change of ownership by purchase or by lease; or

(2) a change in the name or address.

(h) If a licensee that also holds a state-issued license as a general hospital or a critical access hospital submits a request for an amended license for a rural emergency hospital, the licensee shall ensure that the amendment to the license does not affect the status of the state-issued license for a general hospital or a critical access hospital. (Authorized by and

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implementing K.S.A 2022 Supp. 65-487; effective, T-_____, _____; effective
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K.A.R. 28-34-149. Rural emergency hospital services. Each rural emergency hospital shall provide only services pursuant to K.S.A. 65-483, and amendments thereto. (Authorized by and implementing K.S.A. 2022 Supp. 65-487; effective, T-_____, _____; effective P-_____.)

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K.A.R. 28-34-150. Conditions of participation. (a) The following sections of 42 C.F.R., part 485, subpart E, as in effect on January 1, 2023, are hereby adopted by reference:

- (1) 485.508;
- (2) 485.510;
- (3) 485.512;
- (4) 485.514;
- (5) 485.516;
- (6) 485.520;
- (7) 485.522;
- (8) 485.524;
- (9) 485.526;
- (10) 485.528;
- (11) 485.530;
- (12) 485.532;
- (13) 485.534;
- (14) 485.536;
- (15) 485.538; and
- (16) 485.540.

(b) The following changes shall be made to the sections specified:

(1) 485.516(c) shall be deleted.

(2) In 485.524(d)(1)(i), the text “including an osteopathic practitioner recognized under section 1101(a)(7) of the Act” shall be deleted.

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(3) In 485.524(d)(3)(i)(B), the text “including an osteopathic practitioner recognized under section 1101(a)(7) of the Act” shall be deleted.

(4) In 485.524(d)(3)(i)(E), the text “as defined in § 410.69(b) of this chapter” shall be deleted.

(5) In 485.524(d)(3)(i)(F), the text “as defined in § 410.69(b) of this chapter” shall be deleted.

(6) In 485.524(d)(3)(i)(G), the text “as described in § 413.85 or §§ 413.76 through 413.83 of this chapter” shall be deleted.

(7) 485.524(d)(3)(ii) shall be deleted.

(8) 485.524(d)(4) shall be deleted.

(9) 485.524(d)(5) shall be deleted.

(10) 485.526(e) shall be deleted.

(11) 485.526(f) shall be deleted.

(12) 485.526(g) shall be deleted.

(13) In 485.534(b)(3), the text “in accordance with §§ 489.100, 489.102, and 489.104 of this chapter” shall be deleted.

(14) In 485.534(g), the term “CMS” shall be replaced with “CMS and the licensing agency.”

(15) In 485.536, the term “CMS” shall be replaced with “CMS and the licensing agency.”

(16) 485.540(d) shall be replaced with the following text: “If the REH utilizes an electronic medical records system or other electronic administrative system, the REH shall

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submit an attestation of the REH's conformance with 45 C.F.R. 170.205(d)(2) to the licensing agency. Then the REH shall demonstrate that:"

(c) All outside references contained in the adoptions in (a)(2), (3), (4) and (5) of this regulation shall refer to those versions adopted in this regulation. (Authorized by and implementing K.S.A. 2022 Supp. 65-487; effective, T-_____, _____; effective P-_____.)

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K.A.R. 28-34-151. Construction standards. Each rural emergency hospital construction, including new buildings and additions or alterations to existing buildings, shall be in accordance with the requirements specified in K.A.R. 28-34-32b. (Authorized by and implementing K.S.A. 2022 Supp. 65-487; effective, T-_____, _____; effective P-_____.)

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K.A.R. 28-34-152. Laboratory services. Each rural emergency hospital shall provide laboratory services in accordance with the requirements specified in K.A.R. 28-34-11.

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