

SENATE BILL NO. 36

BY SENATOR MILLS

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

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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.**

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

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

**§2115.32. Emergency department; definitions**

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

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

2           (2) "Emergency medical services" means those medical services  
3           necessary to screen, evaluate, and stabilize an emergency medical condition of  
4           recent onset and severity, including severe pain, that would lead a prudent  
5           layperson, acting reasonably and possessing an average knowledge of health and  
6           medicine, to believe that the absence of immediate medical attention could  
7           reasonably be expected to result in placing the health of the individual in serious  
8           jeopardy, serious impairment to bodily function, or serious dysfunction of any  
9           bodily organ or part.

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

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

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

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

21           (7) "Off-site campus" means all licensed premises where emergency,  
22           inpatient, or outpatient hospital services are provided and that are not a part  
23           of or adjoining to the main hospital building or grounds. For licensing purposes,  
24           an off-site campus shall be located within thirty-five miles of the main hospital  
25           campus.

26           (8) "Rural hospital" means an entity as defined in R.S. 40:1189.3(7) or,  
27           for purposes of this Subpart, a hospital that is in a parish with a population of  
28           greater than seventy thousand but less than ninety thousand as of the latest  
29           federal decennial census.

30           §2115.33. Emergency department; licensure; prohibitions

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

5           **B. Freestanding emergency departments shall be prohibited in**  
 6           **Louisiana.**

7           **C. The department shall not issue a license to any off-site campus**  
 8           **emergency department within the primary service area of a rural hospital. For**  
 9           **purposes of this Section, "primary service area" for a rural hospital created or**  
 10          **ratified pursuant to laws providing for hospital service districts, R.S. 46:1051**  
 11          **et seq., shall be coterminous with the boundaries of its hospital service district.**  
 12          **For all other rural hospitals, the primary service area shall have the same**  
 13          **meaning as set forth in R.S. 37:1307(6). However, the prohibition in this**  
 14          **Subsection shall not apply to a nonprofit licensed hospital that complies with the**  
 15          **provisions of Subsection A of this Section and that has obtained a building or**  
 16          **construction permit for a new off-site campus or hospital prior to April 1, 2019.**

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_