

LEGISLATIVE BILL 61

Approved by the Governor April 19, 1985

Introduced by Pappas, 42; Smith, 33

AN ACT relating to health care; to state intent; to define terms; to authorize public hospitals to enter into cooperative ventures and similar undertakings; to provide powers, duties, and restrictions; and to provide severability.
Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature finds that the market for hospital and health care services is becoming increasingly competitive, that hospitals and other health care providers are contracting to engage in economic joint ventures to form partnerships to offer integrated health care services to the public, and that this increasing competition is forcing hospitals and other health care providers to develop market strategies and strategic plans to effectively compete. The purpose of this act is to enhance the ability of public hospitals to compete effectively and equally in the market for health care services.

Sec. 2. As used in this act, unless the context otherwise requires:

(1) Hospital health services shall mean, but not be limited to, any clinical, diagnostic, or rehabilitation service and any administrative, managerial, or operational service incident to such service;

(2) Market strategy shall mean any plan, strategy, or device developed or intended to promote, sell, or offer to sell any hospital health service;

(3) Strategic plan shall mean any plan, strategy, or device developed or intended to construct, operate, or maintain a health facility or to engage in providing, promoting, or selling a hospital health service; and

(4) Tangible benefit shall mean, but not be limited to, any (a) reasonable expectation of a demonstrable increase in or maintenance of usage of the provider's services, (b) contractual provision requiring quality control of patient care and participation in a resource monitoring procedure, or (c) reasonable expectation of prompt payment for any service rendered.

Sec. 3. In addition to powers and duties otherwise provided by law, a hospital which is owned or operated by a political subdivision, state agency, or other governmental entity may develop marketing strategies for its existing hospital health services or any hospital

health service to be provided in the future and may develop strategic plans for the development of any future hospital health service or facility. Market strategies and strategic plans may be developed in cooperation with other health care providers.

Sec. 4. A political subdivision, state agency, or other governmental entity which owns or operates a hospital or hospital health service shall, relative to the delivery of health care services, have the authority to:

(1) Enter into agreements with other health care providers to share services or provide a tangible benefit to the hospital and into other cooperative ventures;

(2) Join or sponsor membership in organizations or associations intended to benefit the hospital or hospitals in general;

(3) Enter into partnerships;

(4) Create or merge with other corporations;

(5) Have members of its governing authority or its officers or administrators serve without pay as directors or officers of any such venture, organization, association, partnership, or corporation; and

(6) Offer, directly or indirectly, products and services of the hospital or any such venture, organization, association, partnership, or corporation to the general public.

Sec. 5. The conversion of public funds intended for or contributed to an undertaking authorized by section 4 of this act for the benefit of any individual shall constitute grounds for review and action by the Attorney General or the county attorney pursuant to sections 28-509 to 28-518.

Sec. 6. (1) All agreements and obligations undertaken and all securities issued, as permitted under this act, by a hospital which is owned or operated by a political subdivision, state agency, or other governmental entity shall be exclusively an obligation of the hospital and shall not create an obligation or debt of the state or any political subdivision, state agency, or other governmental entity. The full faith and credit of the state or of any political subdivision, state agency, or other governmental entity shall not be pledged for the payment of any securities issued by such a hospital, nor shall the state or any political subdivision, state agency, or other governmental entity be liable in any manner for the payment of the principal of or interest on any securities of such a hospital or for the performance of any pledge, mortgage, obligation, or agreement of any kind that may be undertaken by such a hospital.

(2) Expenditures permitted by this act to be made by or on behalf of a hospital shall be for operating and maintaining public hospitals and public facilities for a public purpose. No such expenditure shall be considered to be a giving or lending of the credit of the state, or a

granting of public money or a thing of value, in aid of any individual, association, or corporation within the meaning of any constitutional or statutory provision.

Sec. 7. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.