

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR

**HOUSE BILL NO. 1790,
HOUSE BILL NO. 1805,
AND
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1546**

94TH GENERAL ASSEMBLY

Reported from the Committee on Health and Mental Health, May 1, 2008, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4329S.05C

AN ACT

To repeal sections 190.100, 190.176, 190.200, 190.241, 190.243, 190.245, 192.667, 197.150, and 354.535, RSMo, and to enact in lieu thereof ten new sections relating to health care services, with a penalty provision.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 190.100, 190.176, 190.200, 190.241, 190.243, 190.245, 192.667, 197.150, and 354.535, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 190.100, 190.176, 190.200, 190.241, 190.243, 190.245, 192.667, 197.150, 354.535, and 376.387, to read as follows:

190.100. As used in sections 190.001 to 190.245, the following words and terms mean:

(1) "Advanced life support (ALS)", an advanced level of care as provided to the adult and pediatric patient such as defined by national curricula, and any modifications to that curricula specified in rules adopted by the department pursuant to sections 190.001 to 190.245;

(2) "Ambulance", any privately or publicly owned vehicle or craft that is specially designed, constructed or modified, staffed or equipped for, and is intended or used, maintained or operated for the transportation of persons who

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

10 are sick, injured, wounded or otherwise incapacitated or helpless, or who require
11 the presence of medical equipment being used on such individuals, but the term
12 does not include any motor vehicle specially designed, constructed or converted
13 for the regular transportation of persons who are disabled, handicapped, normally
14 using a wheelchair, or otherwise not acutely ill, or emergency vehicles used
15 within airports;

16 (3) "Ambulance service", a person or entity that provides emergency or
17 nonemergency ambulance transportation and services, or both, in compliance with
18 sections 190.001 to 190.245, and the rules promulgated by the department
19 pursuant to sections 190.001 to 190.245;

20 (4) "Ambulance service area", a specific geographic area in which an
21 ambulance service has been authorized to operate;

22 (5) "Basic life support (BLS)", a basic level of care, as provided to the
23 adult and pediatric patient as defined by national curricula, and any
24 modifications to that curricula specified in rules adopted by the department
25 pursuant to sections 190.001 to 190.245;

26 (6) "Council", the state advisory council on emergency medical services;

27 (7) "Department", the department of health and senior services, state of
28 Missouri;

29 (8) "Director", the director of the department of health and senior services
30 or the director's duly authorized representative;

31 (9) "Dispatch agency", any person or organization that receives requests
32 for emergency medical services from the public, by telephone or other means, and
33 is responsible for dispatching emergency medical services;

34 (10) "Emergency", the sudden and, at the time, unexpected onset of a
35 health condition that manifests itself by symptoms of sufficient severity that
36 would lead a prudent layperson, possessing an average knowledge of health and
37 medicine, to believe that the absence of immediate medical care could result in:

38 (a) Placing the person's health, or with respect to a pregnant woman, the
39 health of the woman or her unborn child, in significant jeopardy;

40 (b) Serious impairment to a bodily function;

41 (c) Serious dysfunction of any bodily organ or part;

42 (d) Inadequately controlled pain;

43 (11) "Emergency medical dispatcher", a person who receives emergency
44 calls from the public and has successfully completed an emergency medical
45 dispatcher course, meeting or exceeding the national curriculum of the United

46 States Department of Transportation and any modifications to such curricula
47 specified by the department through rules adopted pursuant to sections 190.001
48 to 190.245;

49 (12) "Emergency medical response agency", any person that regularly
50 provides a level of care that includes first response, basic life support or advanced
51 life support, exclusive of patient transportation;

52 (13) "Emergency medical services for children (EMS-C) system", the
53 arrangement of personnel, facilities and equipment for effective and coordinated
54 delivery of pediatric emergency medical services required in prevention and
55 management of incidents which occur as a result of a medical emergency or of an
56 injury event, natural disaster or similar situation;

57 (14) "Emergency medical services (EMS) system", the arrangement of
58 personnel, facilities and equipment for the effective and coordinated delivery of
59 emergency medical services required in prevention and management of incidents
60 occurring as a result of an illness, injury, natural disaster or similar situation;

61 (15) "Emergency medical technician", a person licensed in emergency
62 medical care in accordance with standards prescribed by sections 190.001 to
63 190.245, and by rules adopted by the department pursuant to sections 190.001 to
64 190.245;

65 (16) "Emergency medical technician-basic" or "EMT-B", a person who has
66 successfully completed a course of instruction in basic life support as prescribed
67 by the department and is licensed by the department in accordance with
68 standards prescribed by sections 190.001 to 190.245 and rules adopted by the
69 department pursuant to sections 190.001 to 190.245;

70 (17) "Emergency medical technician-intermediate" or "EMT-I", a person
71 who has successfully completed a course of instruction in certain aspects of
72 advanced life support care as prescribed by the department and is licensed by the
73 department in accordance with sections 190.001 to 190.245 and rules and
74 regulations adopted by the department pursuant to sections 190.001 to 190.245;

75 (18) "Emergency medical technician-paramedic" or "EMT-P", a person who
76 has successfully completed a course of instruction in advanced life support care
77 as prescribed by the department and is licensed by the department in accordance
78 with sections 190.001 to 190.245 and rules adopted by the department pursuant
79 to sections 190.001 to 190.245;

80 (19) "Emergency services", health care items and services furnished or
81 required to screen and stabilize an emergency which may include, but shall not

82 be limited to, health care services that are provided in a licensed hospital's
83 emergency facility by an appropriate provider or by an ambulance service or
84 emergency medical response agency;

85 (20) "First responder", a person who has successfully completed an
86 emergency first response course meeting or exceeding the national curriculum of
87 the United States Department of Transportation and any modifications to such
88 curricula specified by the department through rules adopted pursuant to sections
89 190.001 to 190.245 and who provides emergency medical care through
90 employment by or in association with an emergency medical response agency;

91 (21) "Health care facility", a hospital, nursing home, physician's office or
92 other fixed location at which medical and health care services are performed;

93 (22) "Hospital", an establishment as defined in the hospital licensing law,
94 subsection 2 of section 197.020, RSMo, or a hospital operated by the state;

95 (23) "Medical control", supervision provided by or under the direction of
96 physicians to providers by written or verbal communications;

97 (24) "Medical direction", medical guidance and supervision provided by a
98 physician to an emergency services provider or emergency medical services
99 system;

100 (25) "Medical director", a physician licensed pursuant to chapter 334,
101 RSMo, designated by the ambulance service or emergency medical response
102 agency and who meets criteria specified by the department by rules pursuant to
103 sections 190.001 to 190.245;

104 (26) "Memorandum of understanding", an agreement between an
105 emergency medical response agency or dispatch agency and an ambulance service
106 or services within whose territory the agency operates, in order to coordinate
107 emergency medical services;

108 (27) "Patient", an individual who is sick, injured, wounded, diseased, or
109 otherwise incapacitated or helpless, or dead, excluding deceased individuals being
110 transported from or between private or public institutions, homes or cemeteries,
111 and individuals declared dead prior to the time an ambulance is called for
112 assistance;

113 (28) "Person", as used in these definitions and elsewhere in sections
114 190.001 to 190.245, any individual, firm, partnership, copartnership, joint
115 venture, association, cooperative organization, corporation, municipal or private,
116 and whether organized for profit or not, state, county, political subdivision, state
117 department, commission, board, bureau or fraternal organization, estate, public

118 trust, business or common law trust, receiver, assignee for the benefit of creditors,
119 trustee or trustee in bankruptcy, or any other service user or provider;

120 (29) "Physician", a person licensed as a physician pursuant to chapter 334,
121 RSMo;

122 (30) "Political subdivision", any municipality, city, county, city not within
123 a county, ambulance district or fire protection district located in this state which
124 provides or has authority to provide ambulance service;

125 (31) "Professional organization", any organized group or association with
126 an ongoing interest regarding emergency medical services. Such groups and
127 associations could include those representing volunteers, labor, management,
128 firefighters, EMT-B's, nurses, EMT-P's, physicians, communications specialists
129 and instructors. Organizations could also represent the interests of ground
130 ambulance services, air ambulance services, fire service organizations, law
131 enforcement, hospitals, trauma centers, communication centers, pediatric
132 services, labor unions and poison control services;

133 (32) "Proof of financial responsibility", proof of ability to respond to
134 damages for liability, on account of accidents occurring subsequent to the effective
135 date of such proof, arising out of the ownership, maintenance or use of a motor
136 vehicle in the financial amount set in rules promulgated by the department, but
137 in no event less than the statutory minimum required for motor vehicles. Proof
138 of financial responsibility shall be used as proof of self-insurance;

139 (33) "Protocol", a predetermined, written medical care guideline, which
140 may include standing orders;

141 (34) "Regional EMS advisory committee", a committee formed within an
142 emergency medical services (EMS) region to advise ambulance services, the state
143 advisory council on EMS and the department;

144 (35) "Specialty care transportation", the transportation of a patient
145 requiring the services of an emergency medical technician-paramedic who has
146 received additional training beyond the training prescribed by the
147 department. Specialty care transportation services shall be defined in writing in
148 the appropriate local protocols for ground and air ambulance services and
149 approved by the local physician medical director. The protocols shall be
150 maintained by the local ambulance service and shall define the additional
151 training required of the emergency medical technician-paramedic;

152 (36) "Stabilize", with respect to an emergency, the provision of such
153 medical treatment as may be necessary to attempt to assure within reasonable

154 medical probability that no material deterioration of an individual's medical
155 condition is likely to result from or occur during ambulance transportation unless
156 the likely benefits of such transportation outweigh the risks;

157 (37) "State advisory council on emergency medical services", a committee
158 formed to advise the department on policy affecting emergency medical service
159 throughout the state;

160 (38) "State EMS medical directors advisory committee", a subcommittee
161 of the state advisory council on emergency medical services formed to advise the
162 state advisory council on emergency medical services and the department on
163 medical issues;

164 (39) **"STEMI" or "ST-elevation myocardial infarction", a type of**
165 **heart attack in which impaired blood flow to the patient's heart muscle**
166 **is evidenced by ST-segment elevation in electrocardiogram analysis,**
167 **and as further defined in rules promulgated by the department under**
168 **sections 190.001 to 190.250;**

169 (40) **"STEMI center", a hospital that is currently designated as**
170 **such by the department to care for patients with ST-segment elevation**
171 **myocardial infarctions;**

172 (41) **"STEMI care", includes education and prevention emergency**
173 **transport, triage, and acute care and rehabilitative services for STEMI**
174 **that requires immediate medical or surgical intervention or treatment;**

175 (42) **"Stroke", a condition of impaired blood flow to a patient's**
176 **brain as defined by the department;**

177 (43) **"Stroke care", includes emergency transport, triage, and**
178 **acute intervention and other acute care services for stroke that**
179 **potentially require immediate medical or surgical intervention or**
180 **treatment, and may include education, primary prevention, acute**
181 **intervention, acute and subacute management, prevention of**
182 **complications, secondary stroke prevention, and rehabilitative services;**

183 (44) **"Stroke center", a hospital that is currently designated as**
184 **such by the department;**

185 [(39)] (45) **"Trauma", an injury to human tissues and organs resulting**
186 **from the transfer of energy from the environment;**

187 [(40)] (46) **"Trauma care" includes injury prevention, triage, acute care**
188 **and rehabilitative services for major single system or multisystem injuries that**
189 **potentially require immediate medical or surgical intervention or treatment;**

190 [(41)] **(47)** "Trauma center", a hospital that is currently designated as
191 such by the department.

190.176. 1. The department shall develop and administer a uniform data
2 collection system on all ambulance runs and injured patients, pursuant to rules
3 promulgated by the department for the purpose of injury etiology, patient care
4 outcome, injury **and disease** prevention and research purposes. The department
5 shall not require disclosure by hospitals of data elements pursuant to this section
6 unless those data elements are required by a federal agency or were submitted
7 to the department as of January 1, 1998, pursuant to:

- 8 (1) Departmental regulation of trauma centers; or
- 9 (2) The Missouri head and spinal cord injury registry established by
10 sections 192.735 to 192.745, RSMo; or
- 11 (3) Abstracts of inpatient hospital data; or
- 12 (4) If such data elements are requested by a lawful subpoena or subpoena
13 duces tecum.

14 2. All information and documents in any civil action, otherwise
15 discoverable, may be obtained from any person or entity providing information
16 pursuant to the provisions of sections 190.001 to 190.245.

190.200. 1. The department of health and senior services in cooperation
2 with local and regional EMS systems and agencies may provide public and
3 professional information and education programs related to emergency medical
4 services systems including trauma, **STEMI, and stroke** systems and emergency
5 medical care and treatment. The department of health and senior services may
6 also provide public information and education programs for informing residents
7 of and visitors to the state of the availability and proper use of emergency
8 medical services, of the value and nature of programs to involve citizens in the
9 administering of prehospital emergency care, including cardiopulmonary
10 resuscitation, and of the availability of training programs in emergency care for
11 members of the general public.

12 **2. The department shall, for STEMI care and stroke care**
13 **respectively:**

14 **(1) Compile and assess peer-reviewed and evidence-based clinical**
15 **research and guidelines that provide or support recommended**
16 **treatment standards;**

17 **(2) Assess the capacity of the emergency medical services system**
18 **and hospitals to deliver recommended treatments in a timely fashion;**

19 **(3) Use the research, guidelines, and assessment to promulgate**
20 **rules establishing protocols for transporting STEMI patients to a**
21 **STEMI center or stroke patients to a stroke center. Such transport**
22 **protocols shall direct patients to STEMI centers and stroke centers**
23 **under section 190.243 based on the centers' capacities to deliver**
24 **recommended acute care treatments within time limits suggested by**
25 **clinical research;**

26 **(4) Define regions within the state for purposes of coordinating**
27 **the delivery of STEMI care and stroke care, respectively;**

28 **(5) Promote the development of regional or community-based**
29 **plans for transporting STEMI or stroke patients via ground or air**
30 **ambulance to STEMI centers or stroke centers, respectively, in**
31 **accordance with section 190.243; and**

32 **(6) Establish procedures for the submission of community-based**
33 **or regional plans for department approval.**

34 **3. A community-based or regional plan shall be submitted to the**
35 **department for approval. Such plan shall be based on the clinical**
36 **research and guidelines and assessment of capacity described in**
37 **subsection 1 of this section and shall include a mechanism for**
38 **evaluating its effect on medical outcomes. Upon approval of a plan, the**
39 **department shall waive the requirements of rules promulgated under**
40 **sections 190.100 to 190.245 that are inconsistent with the community-**
41 **based or regional plan. A community-based or regional plan shall be**
42 **developed by or in consultation with the representatives of hospitals,**
43 **physicians, and emergency medical services providers in the**
44 **community or region.**

190.241. 1. The department shall designate a hospital as an adult,
2 pediatric or adult and pediatric trauma center when a hospital, upon proper
3 application submitted by the hospital and site review, has been found by the
4 department to meet the applicable level of trauma center criteria for designation
5 in accordance with rules adopted by the department **as prescribed by section**
6 **190.185.**

7 **2. The department shall designate a hospital as a STEMI or**
8 **stroke center when such hospital, upon proper application and site**
9 **review, has been found by the department to meet the applicable level**
10 **of STEMI or stroke center criteria for designation in accordance with**

11 rules adopted by the department as prescribed by section 190.185. In
12 developing STEMI center and stroke center designation criteria, the
13 department shall use, as it deems practicable, appropriate peer-
14 reviewed or evidence-based research on such topics including, but not
15 limited to, the most recent guidelines of the American College of
16 Cardiology and American Heart Association for STEMI centers, the
17 Joint Commission's Primary Stroke Center Certification program
18 criteria for stroke centers, or Primary and Comprehensive Stroke
19 Center Recommendations as published by the American Stroke
20 Association.

21 3. The department of health and senior services shall, not less than once
22 every five years, conduct an on-site review of every trauma, **STEMI, and stroke**
23 center through appropriate department personnel or a qualified contractor. **On-**
24 **site reviews shall be coordinated for the different types of centers to**
25 **the extent practicable with hospital licensure inspections conducted**
26 **under chapter 197, RSMo.** No person shall be a qualified contractor for
27 purposes of this subsection who has a substantial conflict of interest in the
28 operation of any trauma, **STEMI, or stroke** center under review. The
29 department may deny, place on probation, suspend or revoke [a trauma center]
30 **such** designation in any case in which it has reasonable cause to believe that
31 there has been a substantial failure to comply with the provisions of this chapter
32 or any rules or regulations promulgated pursuant to this chapter. If the
33 department of health and senior services has reasonable cause to believe that a
34 hospital is not in compliance with such provisions or regulations, it may conduct
35 additional announced or unannounced site reviews of the hospital to verify
36 compliance. If a trauma, **STEMI, or stroke** center fails two consecutive on-site
37 reviews because of substantial noncompliance with standards prescribed by
38 sections 190.001 to 190.245 or rules adopted by the department pursuant to
39 sections 190.001 to 190.245, its trauma center designation shall be revoked.

40 [3.] 4. The department of health and senior services may establish
41 appropriate fees to offset the costs of trauma, **STEMI, and stroke** center
42 reviews.

43 [4.] 5. No hospital shall hold itself out to the public as [an adult,
44 pediatric or adult and pediatric trauma center] **a STEMI center, stroke**
45 **center, adult trauma center, pediatric trauma center, or an adult and**
46 **pediatric trauma center** unless it is designated as such by the department of

47 health and senior services.

48 [5.] 6. Any person aggrieved by an action of the department of health and
49 senior services affecting the trauma, **STEMI, or stroke** center designation
50 pursuant to this chapter, including the revocation, the suspension, or the
51 granting of, refusal to grant, or failure to renew a designation, may seek a
52 determination thereon by the administrative hearing commission [pursuant to the
53 provisions of chapter 536] **under chapter 621**, RSMo. It shall not be a condition
54 to such determination that the person aggrieved seek a reconsideration, a
55 rehearing, or exhaust any other procedure within the department.

190.243. 1. Severely injured patients shall be transported to a trauma
2 center. **Patients who suffer a STEMI, as defined in section 190.100, shall**
3 **be transported to a STEMI center. Patients who suffer a stroke, as**
4 **defined in section 190.100, shall be transported to a stroke center.**

5 2. A physician or registered nurse authorized by a physician who has
6 established verbal communication with ambulance personnel shall instruct the
7 ambulance personnel to transport a severely **ill or** injured patient to the closest
8 hospital or designated trauma, **STEMI, or stroke** center, as determined
9 according to estimated transport time whether by ground ambulance or air
10 ambulance, in accordance with transport protocol approved by the medical
11 director and the department of health and senior services, even when the hospital
12 is located outside of the ambulance service's primary service area. When initial
13 transport from the scene of **illness or** injury to a trauma, **STEMI, or stroke**
14 center would be prolonged, the **STEMI, stroke, or** severely injured patient may
15 be transported to the nearest appropriate facility for stabilization prior to
16 transport to a trauma, **STEMI, or stroke** center.

17 [2.] 3. Transport of the **STEMI, stroke, or** severely injured patient shall
18 be governed by principles of timely and medically appropriate care; consideration
19 of reimbursement mechanisms shall not supersede those principles.

20 [3.] 4. Patients who [are not severely injured] **do not meet the criteria**
21 **for direct transport to a trauma, STEMI, or stroke center** shall be
22 transported to and cared for at the hospital of their choice so long as such
23 ambulance service is not in violation of local protocols.

190.245. The department shall require hospitals, as defined by chapter
2 197, RSMo, designated as trauma, **STEMI, or stroke** centers to provide for a
3 peer review system, approved by the department, for trauma, **STEMI, and**
4 **stroke** cases [pursuant to the provisions of], **respective to their**

5 **designations, under** section 537.035, RSMo. For purposes of sections 190.241
6 to 190.245, the department of health and senior services shall have the same
7 powers and authority of a health care licensing board pursuant to subsection 6
8 of section 537.035, RSMo. Failure of a hospital to provide all medical records
9 necessary for the department to implement provisions of sections 190.241 to
10 190.245 shall result in the revocation of the hospital's designation as a trauma,
11 **STEMI, or stroke** center. Any medical records obtained by the department or
12 peer review committees shall be used only for purposes of implementing the
13 provisions of sections 190.241 to 190.245 and the names of hospitals, physicians
14 and patients shall not be released by the department or members of review
15 committees.

192.667. 1. All health care providers shall at least annually provide to
2 the department charge data as required by the department. All hospitals shall
3 at least annually provide patient abstract data and financial data as required by
4 the department. Hospitals as defined in section 197.020, RSMo, shall report
5 patient abstract data for outpatients and inpatients. Within one year of August
6 28, 1992, ambulatory surgical centers as defined in section 197.200, RSMo, shall
7 provide patient abstract data to the department. The department shall specify
8 by rule the types of information which shall be submitted and the method of
9 submission.

10 2. The department shall collect data on required nosocomial infection
11 incidence rates from hospitals, ambulatory surgical centers, and other facilities
12 as necessary to generate the reports required by this section. Hospitals,
13 ambulatory surgical centers, and other facilities shall provide such data in
14 compliance with this section.

15 3. No later than July 1, 2005, the department shall promulgate rules
16 specifying the standards and procedures for the collection, analysis, risk
17 adjustment, and reporting of nosocomial infection incidence rates and the types
18 of infections and procedures to be monitored pursuant to subsection 12 of this
19 section. In promulgating such rules, the department shall:

20 (1) Use methodologies and systems for data collection established by the
21 federal Centers for Disease Control and Prevention National [Nosocomial
22 Infection Surveillance System] **Healthcare Safety Network**, or its successor;
23 and

24 (2) Consider the findings and recommendations of the infection control
25 advisory panel established pursuant to section 197.165, RSMo.

26 4. The infection control advisory panel created by section 197.165, RSMo,
27 shall make a recommendation to the department regarding the appropriateness
28 of implementing all or part of the nosocomial infection data collection, analysis,
29 and public reporting requirements of this act by authorizing hospitals,
30 ambulatory surgical centers, and other facilities to participate in the federal
31 Centers for Disease Control and Prevention's National [Nosocomial Infection
32 Surveillance System] **Healthcare Safety Network**, or its successor. The
33 advisory panel shall consider the following factors in developing its
34 recommendation:

35 (1) Whether the public is afforded the same or greater access to
36 facility-specific infection control indicators and rates than would be provided
37 under subsections 2, 3, and 6 to 12 of this section;

38 (2) Whether the data provided to the public are subject to the same or
39 greater accuracy of risk adjustment than would be provided under subsections 2,
40 3, and 6 to 12 of this section;

41 (3) Whether the public is provided with the same or greater specificity of
42 reporting of infections by type of facility infections and procedures than would be
43 provided under subsections 2, 3, and 6 to 12 of this section;

44 (4) Whether the data are subject to the same or greater level of
45 confidentiality of the identity of an individual patient than would be provided
46 under subsections 2, 3, and 6 to 12 of this section;

47 (5) Whether the National [Nosocomial Infection Surveillance System]
48 **Healthcare Safety Network**, or its successor, has the capacity to receive,
49 analyze, and report the required data for all facilities;

50 (6) Whether the cost to implement the nosocomial infection data collection
51 and reporting system is the same or less than under subsections 2, 3, and 6 to 12
52 of this section.

53 5. Based on the affirmative recommendation of the infection control
54 advisory panel, and provided that the requirements of subsection 12 of this
55 section can be met, the department may or may not implement the federal
56 Centers for Disease Control and Prevention [Nosocomial Infection Surveillance
57 System] **National Healthcare Safety Network**, or its successor, as an
58 alternative means of complying with the requirements of subsections 2, 3, and 6
59 to 12 of this section. If the department chooses to implement the use of the
60 federal Centers for Disease Control Prevention [Nosocomial Infection Surveillance
61 System] **National Healthcare Safety Network**, or its successor, as an

62 alternative means of complying with the requirements of subsections 2, 3, and 6
63 to 12 of this section, it shall be a condition of licensure for hospitals and
64 ambulatory surgical centers which opt to participate in the federal program to
65 permit the federal program to disclose facility-specific data to the department as
66 necessary to provide the public reports required by the department. Any hospital
67 or ambulatory surgical center which does not voluntarily participate in the
68 National [Nosocomial Infection Surveillance System] **Healthcare Safety**
69 **Network**, or its successor, shall be required to abide by all of the requirements
70 of subsections 2, 3, and 6 to 12 of this section.

71 6. The department shall not require the resubmission of data which has
72 been submitted to the department of health and senior services or the department
73 of social services under any other provision of law. The department of health and
74 senior services shall accept data submitted by associations or related
75 organizations on behalf of health care providers by entering into binding
76 agreements negotiated with such associations or related organizations to obtain
77 data required pursuant to section 192.665 and this section. A health care
78 provider shall submit the required information to the department of health and
79 senior services:

80 (1) If the provider does not submit the required data through such
81 associations or related organizations;

82 (2) If no binding agreement has been reached within ninety days of
83 August 28, 1992, between the department of health and senior services and such
84 associations or related organizations; or

85 (3) If a binding agreement has expired for more than ninety days.

86 7. Information obtained by the department under the provisions of section
87 192.665 and this section shall not be public information. Reports and studies
88 prepared by the department based upon such information shall be public
89 information and may identify individual health care providers. The department
90 of health and senior services may authorize the use of the data by other research
91 organizations pursuant to the provisions of section 192.067. The department
92 shall not use or release any information provided under section 192.665 and this
93 section which would enable any person to determine any health care provider's
94 negotiated discounts with specific preferred provider organizations or other
95 managed care organizations. The department shall not release data in a form
96 which could be used to identify a patient. Any violation of this subsection is a
97 class A misdemeanor.

98 8. The department shall undertake a reasonable number of studies and
99 publish information, including at least an annual consumer guide, in
100 collaboration with health care providers, business coalitions and consumers based
101 upon the information obtained pursuant to the provisions of section 192.665 and
102 this section. The department shall allow all health care providers and
103 associations and related organizations who have submitted data which will be
104 used in any report to review and comment on the report prior to its publication
105 or release for general use. The department shall include any comments of a
106 health care provider, at the option of the provider, and associations and related
107 organizations in the publication if the department does not change the publication
108 based upon those comments. The report shall be made available to the public for
109 a reasonable charge.

110 9. Any health care provider which continually and substantially, as these
111 terms are defined by rule, fails to comply with the provisions of this section shall
112 not be allowed to participate in any program administered by the state or to
113 receive any moneys from the state.

114 10. A hospital, as defined in section 197.020, RSMo, aggrieved by the
115 department's determination of ineligibility for state moneys pursuant to
116 subsection 9 of this section may appeal as provided in section 197.071, RSMo. An
117 ambulatory surgical center as defined in section 197.200, RSMo, aggrieved by the
118 department's determination of ineligibility for state moneys pursuant to
119 subsection 9 of this section may appeal as provided in section 197.221, RSMo.

120 11. The department of health may promulgate rules providing for
121 collection of data and publication of nosocomial infection incidence rates for other
122 types of health facilities determined to be sources of infections; except that,
123 physicians' offices shall be exempt from reporting and disclosure of infection
124 incidence rates.

125 12. In consultation with the infection control advisory panel established
126 pursuant to section 197.165, RSMo, the department shall develop and disseminate
127 to the public reports based on data compiled for a period of twelve months. Such
128 reports shall be updated quarterly and shall show for each hospital, ambulatory
129 surgical center, and other facility a risk-adjusted nosocomial infection incidence
130 rate for the following types of infection:

131 (1) Class I surgical site infections;

132 (2) Ventilator-associated pneumonia; **provided that, upon the**
133 **recommendation of the infection control advisory panel one or more**

134 **other quality indicators designed to better measure the risk of**
135 **acquiring ventilator-associated pneumonia can be substituted for a**
136 **risk-adjusted nosocomial infection incidence rate;**

137 (3) Central line-related bloodstream infections;

138 (4) Other categories of infections that may be established by rule by the
139 department.

140 The department, in consultation with the advisory panel, shall be authorized to
141 collect and report data on subsets of each type of infection described in this
142 subsection.

143 13. In the event the provisions of this act are implemented by requiring
144 hospitals, ambulatory surgical centers, and other facilities to participate in the
145 federal Centers for Disease Control and Prevention National [Nosocomial
146 Infection Surveillance System] **Healthcare Safety Network**, or its successor,
147 the types of infections to be publicly reported shall be determined by the
148 department by rule and shall be consistent with the infections tracked by the
149 National Nosocomial Infection Surveillance System, or its successor.

150 14. Reports published pursuant to subsection 12 of this section shall be
151 published on the department's Internet web site. The initial report shall be
152 issued by the department not later than December 31, 2006. The reports shall
153 be distributed at least annually to the governor and members of the general
154 assembly.

155 15. The Hospital Industry Data Institute shall publish a report of
156 Missouri hospitals' and ambulatory surgical centers' compliance with
157 standardized quality of care measures established by the federal Centers for
158 Medicare and Medicaid Services for prevention of infections related to surgical
159 procedures. If the Hospital Industry Data Institute fails to do so by July 31,
160 2008, and annually thereafter, the department shall be authorized to collect
161 information from the Centers for Medicare and Medicaid Services or from
162 hospitals and ambulatory surgical centers and publish such information in
163 accordance with subsection 14 of this section.

164 16. The data collected or published pursuant to this section shall be
165 available to the department for purposes of licensing hospitals and ambulatory
166 surgical centers pursuant to chapter 197, RSMo.

167 17. The department shall promulgate rules to implement the provisions
168 of section 192.131 and sections 197.150 to 197.160, RSMo. Any rule or portion of
169 a rule, as that term is defined in section 536.010, RSMo, that is created under the

170 authority delegated in this section shall become effective only if it complies with
171 and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
172 section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
173 and if any of the powers vested with the general assembly pursuant to chapter
174 536, RSMo, to review, to delay the effective date, or to disapprove and annul a
175 rule are subsequently held unconstitutional, then the grant of rulemaking
176 authority and any rule proposed or adopted after August 28, 2004, shall be
177 invalid and void.

197.150. 1. The department shall require that each hospital, ambulatory
2 surgical center, and other facility have in place procedures for monitoring and
3 enforcing compliance with infection control regulations and standards. Such
4 procedures shall be coordinated with administrative staff, personnel staff, and the
5 quality improvement program. Such procedures shall include, at a minimum,
6 requirements for the facility's infection control program to conduct surveillance
7 of personnel with a portion of the surveillance to be done in such manner that
8 employees and medical staff are observed without their knowledge of such
9 observation, provided that this unobserved surveillance requirement shall not be
10 considered to be grounds for licensure enforcement action by the department until
11 the department establishes clear and verifiable criteria for determining
12 compliance. Such surveillance also may include monitoring of the rate of use of
13 hand hygiene products.

14 **2. Beginning January 1, 2009, the department shall require every**
15 **hospital licensed in this state to establish a methicillin-resistant**
16 **staphylococcus aureus (MRSA) control program. The program shall be**
17 **developed by the hospital's administrative staff, medical staff, and**
18 **quality improvement program, and shall:**

19 **(1) Establish procedures to isolate identified MRSA-colonized**
20 **and MRSA-infected patients or use alternative methods to reduce the**
21 **risk of MRSA transmission when private rooms are not available;**

22 **(2) Establish procedures, protocols, and education for staff**
23 **known to be MRSA-colonized or MRSA-infected;**

24 **(3) Establish an infection-control intervention protocol that**
25 **includes at a minimum the following elements:**

26 **(a) Infection control precautions, based on nationally recognized**
27 **standards, for general surveillance of infected or colonized patients;**

28 **(b) Intervention protocols based on evidence-based standards;**

29 **(c) Physical plant operations related to infection control and**
30 **environmental cleaning;**

31 **(d) Strict hand washing hygiene protocols and the use of contact**
32 **barriers;**

33 **(e) Appropriate use of antimicrobial agents; and**

34 **(f) Mandatory educational programs for personnel.**

354.535. 1. If a pharmacy, operated by or contracted with by a health
2 maintenance organization, is closed or is unable to provide health care services
3 to an enrollee in an emergency, a pharmacist may take an assignment of such
4 enrollee's right to reimbursement, if the policy or contract provides for such
5 reimbursement, for those goods or services provided to an enrollee of a health
6 maintenance organization. No health maintenance organization shall refuse to
7 pay the pharmacist any payment due the enrollee under the terms of the policy
8 or contract.

9 2. No health maintenance organization, conducting business in the state
10 of Missouri, shall contract with a pharmacy, pharmacy distributor or wholesale
11 drug distributor, nonresident or otherwise, unless such pharmacy or distributor
12 has been granted a permit or license from the Missouri board of pharmacy to
13 operate in this state.

14 3. Every health maintenance organization shall apply the same
15 coinsurance, co-payment and deductible factors to all drug prescriptions filled by
16 a pharmacy provider who participates in the health maintenance organization's
17 network if the provider meets the contract's explicit product cost determination.
18 If any such contract is rejected by any pharmacy provider, the health
19 maintenance organization may offer other contracts necessary to comply with any
20 network adequacy provisions of this act. However, nothing in this section shall
21 be construed to prohibit the health maintenance organization from applying
22 different coinsurance, co-payment and deductible factors between generic and
23 brand name drugs.

24 4. **If the co-payment applied by a health maintenance**
25 **organization exceeds the usual and customary retail price of the**
26 **prescription drug, enrollees shall only be required to pay the usual and**
27 **customary retail price of the prescription drug.**

28 5. Health maintenance organizations shall not set a limit on the quantity
29 of drugs which an enrollee may obtain at any one time with a prescription, unless
30 such limit is applied uniformly to all pharmacy providers in the health

31 maintenance organization's network.

32 [5.] 6. Health maintenance organizations shall not insist or mandate any
33 physician or other licensed health care practitioner to change an enrollee's
34 maintenance drug unless the provider and enrollee agree to such change. For the
35 purposes of this provision, a maintenance drug shall mean a drug prescribed by
36 a practitioner who is licensed to prescribe drugs, used to treat a medical condition
37 for a period greater than thirty days. Violations of this provision shall be subject
38 to the penalties provided in section 354.444. Notwithstanding other provisions
39 of law to the contrary, health maintenance organizations that change an
40 enrollee's maintenance drug without the consent of the provider and enrollee
41 shall be liable for any damages resulting from such change. Nothing in this
42 subsection, however, shall apply to the dispensing of generically equivalent
43 products for prescribed brand name maintenance drugs as set forth in section
44 338.056, RSMo.

376.387. If the co-payment for prescription drugs applied by a
2 **health insurer exceeds the usual and customary retail price of the**
3 **prescription drug, enrollees shall only be required to pay the usual and**
4 **customary retail price of the prescription drug.**

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