

SENATE SUBSTITUTE

FOR

SENATE BILL NO. 53

AN ACT

To repeal section 197.318, RSMo, and to enact in lieu thereof one new section relating to certificate of need for long-term care facilities.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1           Section A. Section 197.318, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 197.318,  
3 to read as follows:

4           197.318. 1. As used in this section, the term "licensed  
5 and available" means beds which are actually in place and for  
6 which a license has been issued.

7           2. The committee shall review all letters of intent and  
8 applications for long-term care hospital beds meeting the  
9 requirements described in 42 CFR, Section 412.23(e) under its  
10 criteria and standards for long-term care beds.

11           3. Sections 197.300 to 197.366 shall not be construed to  
12 apply to litigation pending in state court on or before April 1,  
13 1996, in which the Missouri health facilities review committee is  
14 a defendant in an action concerning the application of sections  
15 197.300 to 197.366 to long-term care hospital beds meeting the  
16 requirements described in 42 CFR, Section 412.23(e).

17           4. Notwithstanding any other provision of this chapter to  
18 the contrary:

1 (1) A facility licensed pursuant to chapter 198 may  
2 increase its licensed bed capacity by:

3 (a) Submitting a letter of intent to expand to the division  
4 of regulation and licensure within the department of health and  
5 senior services and the health facilities review committee;

6 (b) Certification from the division of regulation and  
7 licensure within the department of health and senior services  
8 that the facility:

9 a. Has no patient care class I deficiencies within the last  
10 eighteen months; and

11 b. Has maintained a ninety-percent average occupancy rate  
12 for the previous six quarters;

13 (c) Has made an effort to purchase beds for eighteen months  
14 following the date the letter of intent to expand is submitted  
15 pursuant to paragraph (a) of this subdivision. For purposes of  
16 this paragraph, an "effort to purchase" means a copy certified by  
17 the offeror as an offer to purchase beds from another licensed  
18 facility in the same licensure category; and

19 (d) If an agreement is reached by the selling and  
20 purchasing entities, the health facilities review committee shall  
21 issue a certificate of need for the expansion of the purchaser  
22 facility upon surrender of the seller's license; or

23 (e) If no agreement is reached by the selling and  
24 purchasing entities, the health facilities review committee shall  
25 permit an expansion for:

26 a. A facility with more than forty beds may expand its  
27 licensed bed capacity within the same licensure category by  
28 twenty-five percent or thirty beds, whichever is greater, if that

1 same licensure category in such facility has experienced an  
2 average occupancy of ninety-three percent or greater over the  
3 previous six quarters;

4 b. A facility with fewer than forty beds may expand its  
5 licensed bed capacity within the same licensure category by  
6 twenty-five percent or ten beds, whichever is greater, if that  
7 same licensure category in such facility has experienced an  
8 average occupancy of ninety-two percent or greater over the  
9 previous six quarters;

10 c. A facility adding beds pursuant to subparagraphs a. or  
11 b. of this paragraph shall not expand by more than fifty percent  
12 of its then licensed bed capacity in the qualifying licensure  
13 category;

14 (2) Any beds sold shall, for five years from the date of  
15 relicensure by the purchaser, remain unlicensed and unused for  
16 any long-term care service in the selling facility, whether they  
17 do or do not require a license;

18 (3) The beds purchased shall, for two years from the date  
19 of purchase, remain in the bed inventory attributed to the  
20 selling facility and be considered by the department of social  
21 services as licensed and available for purposes of this section;

22 (4) Any residential care facility licensed pursuant to  
23 chapter 198 may relocate any portion of such facility's current  
24 licensed beds to any other facility to be licensed within the  
25 same licensure category if both facilities are under the same  
26 licensure ownership or control, and are located within six miles  
27 of each other;

28 (5) A facility licensed pursuant to chapter 198 may

1 transfer or sell individual long-term care licensed beds to  
2 facilities qualifying pursuant to paragraphs (a) and (b) of  
3 subdivision (1) of this subsection. Any facility which transfers  
4 or sells licensed beds shall not expand its licensed bed capacity  
5 in that licensure category for a period of five years from the  
6 date the licensure is relinquished.

7 5. Any existing licensed and operating health care facility  
8 offering long-term care services may replace one-half of its  
9 licensed beds at the same site or a site not more than thirty  
10 miles from its current location if, for at least the most recent  
11 four consecutive calendar quarters, the facility operates only  
12 fifty percent of its then licensed capacity with every resident  
13 residing in a private room. In such case:

14 (1) The facility shall report to the health and senior  
15 services vacant beds as unavailable for occupancy for at least  
16 the most recent four consecutive calendar quarters;

17 (2) The replacement beds shall be built to private room  
18 specifications and only used for single occupancy; and

19 (3) The existing facility and proposed facility shall have  
20 the same owner or owners, regardless of corporate or business  
21 structure, and such owner or owners shall stipulate in writing  
22 that the existing facility beds to be replaced will not later be  
23 used to provide long-term care services. If the facility is  
24 being operated under a lease, both the lessee and the owner of  
25 the existing facility shall stipulate the same in writing.

26 6. Nothing in this section shall prohibit a health care  
27 facility licensed pursuant to chapter 198 from being replaced in  
28 its entirety within fifteen miles of its existing site so long as

1 the existing facility and proposed or replacement facility have  
2 the same owner or owners regardless of corporate or business  
3 structure and the health care facility being replaced remains  
4 unlicensed and unused for any long-term care services whether  
5 they do or do not require a license from the date of licensure of  
6 the replacement facility.

7 7. No certificate of need shall be issued for any facility  
8 licensed under chapter 198 unless, in addition to the provisions  
9 of sections 197.300 to 197.366:

10 (1) Its application contains an analysis of the population-  
11 based need for all persons eighty years of age or older residing  
12 within the fifteen-mile radius of the proposed site of the  
13 facility; and

14 (2) The Missouri health facilities review committee finds  
15 that the applicant meets population-based need criterion based on  
16 all persons eighty years of age or older residing within the  
17 fifteen-mile radius of the proposed site of the facility.