

SECOND REGULAR SESSION

SENATE BILL NO. 1076

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR PARSON.

Read 1st time February 22, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6515S.02I

AN ACT

To repeal section 197.315, RSMo, and to enact in lieu thereof two new sections relating to certificates of need for long-term care facilities.

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

Section A. Section 197.315, RSMo, is repealed and two new sections
2 enacted in lieu thereof, to be known as sections 197.315 and 197.322, to read as
3 follows:

197.315. 1. Any person who proposes to develop or offer a new
2 institutional health service within the state must obtain a certificate of need from
3 the committee prior to the time such services are offered.

4 2. Only those new institutional health services which are found by the
5 committee to be needed shall be granted a certificate of need. Only those new
6 institutional health services which are granted certificates of need shall be
7 offered or developed within the state. No expenditures for new institutional
8 health services in excess of the applicable expenditure minimum shall be made
9 by any person unless a certificate of need has been granted.

10 3. After October 1, 1980, no state agency charged by statute to license or
11 certify health care facilities shall issue a license to or certify any such facility, or
12 distinct part of such facility, that is developed without obtaining a certificate of
13 need.

14 4. If any person proposes to develop any new institutional health care
15 service without a certificate of need as required by sections 197.300 to 197.366,
16 the committee shall notify the attorney general, and he shall apply for an
17 injunction or other appropriate legal action in any court of this state against that
18 person.

19 5. After October 1, 1980, no agency of state government may appropriate

20 or grant funds to or make payment of any funds to any person or health care
21 facility which has not first obtained every certificate of need required pursuant
22 to sections 197.300 to 197.366.

23 6. A certificate of need shall be issued only for the premises and persons
24 named in the application and is not transferable except by consent of the
25 committee.

26 7. Project cost increases, due to changes in the project application as
27 approved or due to project change orders, exceeding the initial estimate by more
28 than ten percent shall not be incurred without consent of the committee.

29 8. Periodic reports to the committee shall be required of any applicant
30 who has been granted a certificate of need until the project has been
31 completed. The committee may order the forfeiture of the certificate of need upon
32 failure of the applicant to file any such report.

33 9. A certificate of need shall be subject to forfeiture for failure to incur a
34 capital expenditure on any approved project within six months after the date of
35 the order. The applicant may request an extension from the committee of not
36 more than six additional months based upon substantial expenditure made.

37 10. Each application for a certificate of need must be accompanied by an
38 application fee. The time of filing commences with the receipt of the application
39 and the application fee. The application fee is one thousand dollars, or one-tenth
40 of one percent of the total cost of the proposed project, whichever is greater. All
41 application fees shall be deposited in the state treasury. Because of the loss of
42 federal funds, the general assembly will appropriate funds to the Missouri health
43 facilities review committee.

44 11. In determining whether a certificate of need should be granted, no
45 consideration shall be given to the facilities or equipment of any other health care
46 facility located more than a fifteen-mile radius from the applying facility.

47 12. When a nursing facility shifts from a skilled to an intermediate level
48 of nursing care, it may return to the higher level of care if it meets the licensure
49 requirements, without obtaining a certificate of need.

50 13. In no event shall a certificate of need be denied because the applicant
51 refuses to provide abortion services or information.

52 14. A certificate of need shall not be required for the transfer of ownership
53 of an existing and operational health facility in its entirety.

54 15. A certificate of need may be granted to a facility for an expansion, an
55 addition of services, a new institutional service, or for a new hospital facility

56 which provides for something less than that which was sought in the application.

57 16. The provisions of this section shall not apply to facilities operated by
58 the state, and appropriation of funds to such facilities by the general assembly
59 shall be deemed in compliance with this section, and such facilities shall be
60 deemed to have received an appropriate certificate of need without payment of
61 any fee or charge.

62 17. Notwithstanding other provisions of this section, a certificate of need
63 may be issued after July 1, 1983, for an intermediate care facility operated
64 exclusively for the intellectually disabled.

65 18. To assure the safe, appropriate, and cost-effective transfer of new
66 medical technology throughout the state, a certificate of need shall not be
67 required for the purchase and operation of research equipment that is to be used
68 in a clinical trial that has received written approval from a duly constituted
69 institutional review board of an accredited school of medicine or osteopathy
70 located in Missouri to establish its safety and efficacy and does not increase the
71 bed complement of the institution in which the equipment is to be located. After
72 the clinical trial has been completed, a certificate of need must be obtained for
73 continued use in such facility.

74 **19. Notwithstanding any other provision of law to the contrary,**
75 **no additional beds in any facility as defined in subdivision (11) of**
76 **section 198.006 shall be licensed by the department of health and senior**
77 **services or the department of mental health unless and until the**
78 **average occupancy rate of all such facilities shall be at least ninety**
79 **percent, except as provided in subsection 20 of this section, paragraph**
80 **(e) of subdivision (9) of section 197.305, section 197.318, or pursuant to**
81 **a certificate of need issued by the committee prior to August 28, 2016.**

82 **20. Notwithstanding the provisions of this section to the**
83 **contrary, any facility as defined in subdivision (11) of section 198.006**
84 **may transfer any of its licensed beds to any other facility which has a**
85 **license in the same category as the transferring facility, provided that:**

86 **(1) The facility to which the beds are transferred has an**
87 **occupancy rate equal to or greater than ninety percent over the**
88 **previous four calendar quarters based upon data published by the**
89 **committee;**

90 **(2) The transferring facility shall surrender to the department**
91 **of health and senior services its license for the number of beds**

92 transferred and notify the department and committee of the transfer;
93 and

94 (3) Upon receipt of the surrendered license, the department of
95 health and senior services shall review the transaction and, if found to
96 be in compliance with this section, shall issue a license for the same
97 number and category of beds surrendered to the facility to which the
98 beds were transferred.

99 21. The provisions of subsections 19 and 20 of this section shall
100 expire on December 31, 2019.

197.322. 1. There is hereby created within the department of
2 health and senior services the "Missouri Task Force on Certificate of
3 Need" to develop a comprehensive proposal to reform existing
4 certificate of need law.

5 2. The task force shall consist of thirteen members:

6 (1) Two members of the senate from different political parties,
7 appointed by the president pro tempore of the senate;

8 (2) Two members of the house of representatives from different
9 political parties, appointed by the speaker of the house of
10 representatives;

11 (3) The director of the department of health and senior services,
12 or the director's designee;

13 (4) The director of the department of social services, or the
14 director's designee;

15 (5) One representative of an organization of operators of long-
16 term care facilities organized primarily as for-profit entities;

17 (6) One representative of an organization of operators of long-
18 term care facilities organized primarily as non-profit or benevolent
19 entities;

20 (7) One representative of an organization of operators of assisted
21 living facilities and residential care facilities;

22 (8) One member who has expertise in achieving the highest level
23 of health for Missourians in need of long-term care services through
24 cost containment, reasonable access, and public accountability;

25 (9) One member who has expertise in banking or other financial
26 institutions;

27 (10) One member who is a certified public accountant with
28 expertise in providing financial cost reporting and related services to

29 providers of long-term care services; and

30 (11) One member who is licensed as a real estate appraiser under
31 chapter 339, and who has expertise in appraising long-term care
32 properties.

33 Members of the task force, other than the legislative members and
34 department directors, shall be appointed by the governor with the
35 advice and consent of the senate.

36 3. No business of the task force shall be performed without a
37 majority of the full body.

38 4. The committee shall elect a chair and vice-chair at its first
39 meeting, which shall be convened by the director of the department of
40 health and senior services, or his or her designee, no later than March
41 1, 2017. The task force shall meet at least quarterly. Meeting may be
42 held by telephone or video conference at the discretion of the chair.

43 5. Members shall serve on the task force without compensation
44 but may, subject to appropriations, be reimbursed for actual and
45 necessary expenses incurred in the performance of their official duties
46 as members of the task force. Subject to appropriations, the task force
47 may engage the services of a consulting firm with expertise in
48 consulting for providers of long-term care regarding quality and
49 efficiency of care.

50 6. The task force shall:

51 (1) Review practices in other states regarding certificates of
52 need for long-term care facilities to gain information about best
53 practices regarding quality of care, cost containment, reasonable
54 access, and public accountability;

55 (2) Review the current occupancy and utilization of long-term
56 care beds in the state as compared to other states;

57 (3) Develop appropriate factors to determine need for new or
58 additional long-term care beds; and

59 (4) Issue findings and propose to the appropriate public and
60 private organizations goals, objectives, strategies, and tactics designed
61 to improve the certificate of need process.

62 7. On or before December 31, 2019, the task force shall submit a
63 report on its findings to the governor and general assembly. The report
64 shall include any dissenting opinions in addition to any majority
65 opinions.

66 8. The task force shall expire on December 31, 2019, or upon
67 submission of a report as provided for under subsection 7 of this
68 section.

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Unofficial

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