

SECOND REGULAR SESSION

SENATE BILL NO. 621

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

Read 1st time January 9, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5052S.011

AN ACT

To repeal sections 197.080 and 197.100, RSMo, and to enact in lieu thereof two new sections relating to hospital licensure.

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

Section A. Sections 197.080 and 197.100, RSMo, are repealed and two
2 new sections enacted in lieu thereof, to be known as sections 197.080 and
3 197.100, to read as follows:

197.080. **1.** The department of health and senior services, with the advice
2 of the state advisory council and pursuant to the provisions of this section and
3 chapter 536, shall adopt, amend, promulgate and enforce such rules, regulations
4 and standards with respect to all hospitals or different types of hospitals to be
5 licensed hereunder as may be designed to further the accomplishment of the
6 purposes of this law in promoting safe and adequate treatment of individuals in
7 hospitals in the interest of public health, safety and welfare. No rule or portion
8 of a rule promulgated under the authority of sections 197.010 to 197.280 shall
9 become effective unless it has been promulgated pursuant to the provisions of
10 section 536.024.

**2. The department shall review and revise its regulations
12 governing hospital licensure and enforcement as to promote hospital
13 and regulatory efficiencies and eliminate duplicative regulation and
14 inspections by or on behalf of state and federal agencies. The hospital
15 licensure regulations adopted under this section shall incorporate
16 standards which shall include, but not be limited to, the following:**

**(1) Each citation or finding of a regulatory deficiency shall refer
17 to the specific written and publicly available standard and associated
18**

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

19 written interpretative guidance that are the basis of the citation or
20 finding;

21 (2) Subject to appropriations, the department shall ensure that
22 its hospital licensure regulatory standards are consistent with and do
23 not contradict the federal Centers for Medicare and Medicaid Services'
24 (CMS) Conditions of Participation for hospitals and associated
25 interpretative guidance;

26 (3) The department shall establish and publish a process and
27 standards for complaint investigation, including but not limited to:

28 (a) A process and standards for determining which complaints
29 warrant an onsite investigation based on a preliminary review of
30 available information from the complainant and the hospital. The
31 process and standards shall, at a minimum, provide for a departmental
32 determination independent of any recommendation for investigation by
33 or in consultation with CMS. For purposes of evaluating such process
34 and standards, the number and nature of complaints filed and the
35 recommended actions by the department and, as appropriate, CMS shall
36 be disclosed upon request to hospitals, so long as the otherwise
37 confidential identity of the complainant or the patient for whom the
38 complaint was filed is not disclosed;

39 (b) The scope of a departmental investigation of a complaint
40 shall be limited to the specific regulatory standard or standards raised
41 by the complaint, unless a threat of immediate jeopardy of safety is
42 observed or identified during such investigation;

43 (c) A hospital shall be provided with a report of all complaints
44 made against the hospital. Such report shall include the nature of the
45 complaint, the date of the complaint, the department conclusions
46 regarding the complaint, the number of investigators and days of
47 investigation resulting from each complaint;

48 (4) Subject to appropriations, the department shall designate
49 adequate and sufficient resources to the annual inspection of hospitals
50 necessary for licensure, including but not limited to resources for
51 consultation services and collaboration with hospital personnel to
52 facilitate improvements;

53 (5) Hospitals and hospital personnel shall have the opportunity
54 to participate in:

55 (a) Training sessions provided to state licensure surveyors,

56 which shall be provided at least annually. Hospitals and hospital
57 personnel shall assume all costs associated with their participation in
58 training sessions and use of curriculum materials; and

59 (b) Training of surveyors assigned to inspection of hospitals to
60 the fullest extent possible, including the training of surveyors
61 previously designated as a surveyor specific, which resulted in the
62 exclusion of all hospital personnel from such training sessions;

63 (6) The regulations shall establish specific time lines for state
64 hospital officials to provide responses to hospitals regarding the status
65 and outcome of pending investigations and regulatory actions and
66 questions about interpretations of regulations. To the extent
67 practicable, such time lines shall be identical to the time lines
68 established for the federal hospital certification and enforcement
69 system in CMS's State Operations Manual, as amended.

70 3. Any rule or portion of a rule, as that term is defined in section
71 536.010, that is created under the authority delegated in this section
72 shall become effective only if it complies with and is subject to all of
73 the provisions of chapter 536 and, if applicable, section 536.028. This
74 section and chapter 536 are nonseverable and if any of the powers
75 vested with the general assembly pursuant to chapter 536 to review, to
76 delay the effective date, or to disapprove and annul a rule are
77 subsequently held unconstitutional, then the grant of rulemaking
78 authority and any rule proposed or adopted after August 28, 2012, shall
79 be invalid and void.

197.100. 1. Any provision of chapter 198 and chapter 338 to the contrary
2 notwithstanding, the department of health and senior services shall have sole
3 authority, and responsibility for inspection and licensure of hospitals in this state
4 including, but not limited to all parts, services, functions, support functions and
5 activities which contribute directly or indirectly to patient care of any kind
6 whatsoever. The department of health and senior services shall annually inspect
7 each licensed hospital [and]; however, the department shall also accept, in
8 lieu of such required annual hospital inspection by the department,
9 licensed hospital inspection reports from other governmental and
10 recognized accrediting organizations as authorized by this
11 section. Recognized accrediting organizations shall be those that have
12 deemed status conferred by the Centers for Medicare and Medicaid
13 Services (CMS) to take the place of direct CMS oversight and

14 **enforcement. The department** shall make any other inspections and
15 investigations as it deems necessary for good cause shown; **provided that, the**
16 **scope of a departmental investigation of a complaint shall be limited to**
17 **the specific regulatory standard or standards raised by the complaint,**
18 **unless a documented threat of immediate jeopardy of safety is observed**
19 **or identified during the investigation.** The department of health and senior
20 services shall accept reports of hospital inspections from governmental agencies
21 and recognized accrediting organizations [in whole or in part] for licensure
22 purposes if[:

23 (1) The inspection is comparable to an inspection performed by the
24 department of health and senior services;

25 (2) The hospital meets minimum licensure standards; and

26 (3) the **accreditation** inspection was conducted within [one year] **three**
27 **years** of the date of license renewal. The department of health and senior
28 services shall attempt to schedule inspections and evaluations required by this
29 section so as not to cause a hospital to be subject to more than one inspection in
30 any twelve-month period from the department of health and senior services or
31 any agency or accreditation organization the reports of which are accepted for
32 licensure purposes pursuant to this section, except for good cause shown.

33 2. Other provisions of law to the contrary notwithstanding, the
34 department of health and senior services shall be the only state agency to
35 determine life safety and building codes for hospitals defined or licensed pursuant
36 to the provisions of this chapter, including but not limited to sprinkler systems,
37 smoke detection devices and other fire safety related matters so long as any new
38 standards shall apply only to new construction.

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