

FIRST REGULAR SESSION

SENATE BILL NO. 109

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

Pre-filed January 4, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

0680S.02I

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Section A. Sections 197.080 and 197.100, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 197.080 and 197.100, to
3 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 and associated interpretive
25 guidance;

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

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

37 (b) The scope of a departmental investigation of a complaint
38 shall be limited to the specific regulatory standard or standards raised
39 by the complaint, unless a documented immediate and serious threat,
40 as defined directly and through interpretive guidelines included in
41 hospital licensure regulations promulgated under this chapter, 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) Hospitals and hospital personnel shall have the opportunity
49 to participate in training sessions provided to state licensure
50 surveyors, which shall be provided at least annually. Hospitals and
51 hospital personnel shall assume all costs associated with facilitating
52 the training sessions and use of curriculum materials, including but not
53 limited to the location for training, food, and printing costs;

54 (5) Time lines for the department to provide responses to
55 hospitals regarding the status and outcome of pending investigations

56 **and regulatory actions and questions about interpretations of**
57 **regulations shall be identical to, to the extent practicable, the time**
58 **lines established for the federal hospital certification and enforcement**
59 **system in CMS's State Operations Manual, as amended.**

60 **3. Any rule or portion of a rule, as that term is defined in section**
61 **536.010, that is created under the authority delegated in this section**
62 **shall become effective only if it complies with and is subject to all of**
63 **the provisions of chapter 536 and, if applicable, section 536.028. This**
64 **section and chapter 536 are nonseverable and if any of the powers**
65 **vested with the general assembly pursuant to chapter 536 to review, to**
66 **delay the effective date, or to disapprove and annul a rule are**
67 **subsequently held unconstitutional, then the grant of rulemaking**
68 **authority and any rule proposed or adopted after August 28, 2013, shall**
69 **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. The department of
16 health and senior services shall accept reports of hospital inspections from
17 governmental agencies and recognized accrediting organizations [in whole or in
18 part] for licensure purposes if[:

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

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

22 (3) the **accreditation** inspection was conducted within [one year] **three**

23 **years** of the date of license renewal. The department of health and senior
24 services shall attempt to schedule inspections and evaluations required by this
25 section so as not to cause a hospital to be subject to more than one inspection in
26 any twelve-month period from the department of health and senior services or
27 any agency or accreditation organization the reports of which are accepted for
28 licensure purposes pursuant to this section, except for good cause shown.

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

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Bill

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