

SECOND REGULAR SESSION

SENATE BILL NO. 654

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAAF.

Pre-filed December 1, 2015, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4586S.011

AN ACT

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Section A. Section 197.318, RSMo, is repealed and one new section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

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

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

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

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

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

14 (a) Submitting a letter of intent to expand to the **division of regulation**
15 **and licensure within the** department of health and senior services and the
16 health facilities review committee;

17 (b) Certification from the **division of regulation and licensure with**
18 **the** department of health and senior services that the facility:

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

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

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

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

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

33 a. A facility with more than forty beds may expand its licensed bed
34 capacity within the same licensure category by twenty-five percent or thirty beds,
35 whichever is greater, if that same licensure category in such facility has
36 experienced an average occupancy of ninety-three percent or greater over the
37 previous six quarters;

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

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

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

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

53 (4) Any residential care facility licensed pursuant to chapter 198 may
54 relocate any portion of such facility's current licensed beds to any other facility
55 to be licensed within the same licensure category if both facilities are under the
56 same licensure ownership or control, and are located within six miles of each

57 other;

58 (5) A facility licensed pursuant to chapter 198 may transfer or sell
59 individual long-term care licensed beds to facilities qualifying pursuant to
60 paragraphs (a) and (b) of subdivision (1) of this subsection. Any facility which
61 transfers or sells licensed beds shall not expand its licensed bed capacity in that
62 licensure category for a period of five years from the date the licensure is
63 relinquished.

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

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

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

75 (3) The existing facility and proposed facility shall have the same owner
76 or owners, regardless of corporate or business structure, and such owner or
77 owners shall stipulate in writing that the existing facility beds to be replaced will
78 not later be used to provide long-term care services. If the facility is being
79 operated under a lease, both the lessee and the owner of the existing facility shall
80 stipulate the same in writing.

81 6. Nothing in this section shall prohibit a health care facility licensed
82 pursuant to chapter 198 from being replaced in its entirety within fifteen miles
83 of its existing site so long as the existing facility and proposed or replacement
84 facility have the same owner or owners regardless of corporate or business
85 structure and the health care facility being replaced remains unlicensed and
86 unused for any long-term care services whether they do or do not require a license
87 from the date of licensure of the replacement facility.

88 **7. No certificate of need shall be issued for any facility licensed**
89 **under chapter 198 unless, in addition to the provisions of sections**
90 **197.300 to 197.366:**

91 **(1) Its application contains an analysis of the population-based**
92 **need for all persons eighty years of age or older residing within the**

93 fifteen-mile radius of the proposed site of the facility; and

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

✓

Unofficial

Bill

Copy