

SENATE SUBSTITUTE

FOR

SENATE BILL NO. 5

AN ACT

To repeal sections 188.030, 188.047, 188.075, 192.665, 192.667, 197.150, 197.152, 197.158, 197.160, 197.162, 197.165, 197.200, 197.205, 197.215, 197.220, 197.225, 197.230, 197.235, 197.240, 197.285, 197.287, 197.289, 197.293, 197.295, and 595.027, RSMo, and to enact in lieu thereof twenty-seven new sections relating to abortion, with penalty provisions and an emergency clause.

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

1 Section A. Sections 188.030, 188.047, 188.075, 192.665,
2 192.667, 197.150, 197.152, 197.158, 197.160, 197.162, 197.165,
3 197.200, 197.205, 197.215, 197.220, 197.225, 197.230, 197.235,
4 197.240, 197.285, 197.287, 197.289, 197.293, 197.295, and
5 595.027, RSMo, are repealed and twenty-seven new sections enacted
6 in lieu thereof, to be known as sections 188.030, 188.047,
7 188.075, 188.125, 188.160, 192.665, 192.667, 197.150, 197.152,
8 197.158, 197.160, 197.162, 197.165, 197.200, 197.205, 197.215,
9 197.220, 197.225, 197.230, 197.235, 197.240, 197.285, 197.287,
10 197.289, 197.293, 197.295, and 595.027, to read as follows:

11 188.030. 1. Except in the case of a medical emergency, no
12 abortion of a viable unborn child shall be performed or induced
13 unless the abortion is necessary to preserve the life of the
14 pregnant woman whose life is endangered by a physical disorder,
15 physical illness, or physical injury, including a
16 life-endangering physical condition caused by or arising from the

1 pregnancy itself, or when continuation of the pregnancy will
2 create a serious risk of substantial and irreversible physical
3 impairment of a major bodily function of the pregnant woman. For
4 purposes of this section, "major bodily function" includes, but
5 is not limited to, functions of the immune system, normal cell
6 growth, digestive, bowel, bladder, neurological, brain,
7 respiratory, circulatory, endocrine, and reproductive functions.

8 2. Except in the case of a medical emergency:

9 (1) Prior to performing or inducing an abortion upon a
10 woman, the physician shall determine the gestational age of the
11 unborn child in a manner consistent with accepted obstetrical and
12 neonatal practices and standards. In making such determination,
13 the physician shall make such inquiries of the pregnant woman and
14 perform or cause to be performed such medical examinations,
15 imaging studies, and tests as a reasonably prudent physician,
16 knowledgeable about the medical facts and conditions of both the
17 woman and the unborn child involved, would consider necessary to
18 perform and consider in making an accurate diagnosis with respect
19 to gestational age;

20 (2) If the physician determines that the gestational age of
21 the unborn child is twenty weeks or more, prior to performing or
22 inducing an abortion upon the woman, the physician shall
23 determine if the unborn child is viable by using and exercising
24 that degree of care, skill, and proficiency commonly exercised by
25 a skillful, careful, and prudent physician. In making this
26 determination of viability, the physician shall perform or cause
27 to be performed such medical examinations and tests as are
28 necessary to make a finding of the gestational age, weight, and

1 lung maturity of the unborn child and shall enter such findings
2 and determination of viability in the medical record of the
3 woman;

4 (3) If the physician determines that the gestational age of
5 the unborn child is twenty weeks or more, and further determines
6 that the unborn child is not viable and performs or induces an
7 abortion upon the woman, the physician shall report such findings
8 and determinations and the reasons for such determinations to the
9 health care facility in which the abortion is performed and to
10 the state board of registration for the healing arts, and shall
11 enter such findings and determinations in the medical records of
12 the woman and in the individual abortion report submitted to the
13 department under section 188.052;

14 (4) (a) If the physician determines that the unborn child
15 is viable, the physician shall not perform or induce an abortion
16 upon the woman unless the abortion is necessary to preserve the
17 life of the pregnant woman or that a continuation of the
18 pregnancy will create a serious risk of substantial and
19 irreversible physical impairment of a major bodily function of
20 the woman.

21 (b) Before a physician may proceed with performing or
22 inducing an abortion upon a woman when it has been determined
23 that the unborn child is viable, the physician shall first
24 certify in writing the medical threat posed to the life of the
25 pregnant woman, or the medical reasons that continuation of the
26 pregnancy would cause a serious risk of substantial and
27 irreversible physical impairment of a major bodily function of
28 the pregnant woman. Upon completion of the abortion, the

1 physician shall report the reasons and determinations for the
2 abortion of a viable unborn child to the health care facility in
3 which the abortion is performed and to the state board of
4 registration for the healing arts, and shall enter such findings
5 and determinations in the medical record of the woman and in the
6 individual abortion report submitted to the department under
7 section 188.052.

8 (c) Before a physician may proceed with performing or
9 inducing an abortion upon a woman when it has been determined
10 that the unborn child is viable, the physician who is to perform
11 the abortion shall obtain the agreement of a second physician
12 with knowledge of accepted obstetrical and neonatal practices and
13 standards who shall concur that the abortion is necessary to
14 preserve the life of the pregnant woman, or that continuation of
15 the pregnancy would cause a serious risk of substantial and
16 irreversible physical impairment of a major bodily function of
17 the pregnant woman. This second physician shall also report such
18 reasons and determinations to the health care facility in which
19 the abortion is to be performed and to the state board of
20 registration for the healing arts, and shall enter such findings
21 and determinations in the medical record of the woman and the
22 individual abortion report submitted to the department under
23 section 188.052. The second physician shall not have any legal
24 or financial affiliation or relationship with the physician
25 performing or inducing the abortion, except that such prohibition
26 shall not apply to physicians whose legal or financial
27 affiliation or relationship is a result of being employed by or
28 having staff privileges at the same hospital as the term

1 "hospital" is defined in section 197.020.

2 (d) Any physician who performs or induces an abortion upon
3 a woman when it has been determined that the unborn child is
4 viable shall utilize the available method or technique of
5 abortion most likely to preserve the life or health of the unborn
6 child. In cases where the method or technique of abortion most
7 likely to preserve the life or health of the unborn child would
8 present a greater risk to the life or health of the woman than
9 another legally permitted and available method or technique, the
10 physician may utilize such other method or technique. In all
11 cases where the physician performs an abortion upon a viable
12 unborn child, the physician shall certify in writing the
13 available method or techniques considered and the reasons for
14 choosing the method or technique employed.

15 (e) No physician shall perform or induce an abortion upon a
16 woman when it has been determined that the unborn child is viable
17 unless there is in attendance a physician other than the
18 physician performing or inducing the abortion who shall take
19 control of and provide immediate medical care for a child born as
20 a result of the abortion. During the performance of the
21 abortion, the physician performing it, and subsequent to the
22 abortion, the physician required to be in attendance, shall take
23 all reasonable steps in keeping with good medical practice,
24 consistent with the procedure used, to preserve the life or
25 health of the viable unborn child; provided that it does not pose
26 an increased risk to the life of the woman or does not pose an
27 increased risk of substantial and irreversible physical
28 impairment of a major bodily function of the woman.

1 3. Any person who knowingly performs or induces an abortion
2 of an unborn child in violation of the provisions of this section
3 is guilty of a class D felony, and, upon a finding of guilt or
4 plea of guilty, shall be imprisoned for a term of not less than
5 one year, and, notwithstanding the provisions of section 558.002,
6 shall be fined not less than ten thousand nor more than fifty
7 thousand dollars.

8 4. Any physician who pleads guilty to or is found guilty of
9 performing or inducing an abortion of an unborn child in
10 violation of this section shall be subject to suspension or
11 revocation of his or her license to practice medicine in the
12 state of Missouri by the state board of registration for the
13 healing arts under the provisions of sections 334.100 and
14 334.103.

15 5. Any hospital licensed in the state of Missouri that
16 knowingly allows an abortion of an unborn child to be performed
17 or induced in violation of this section may be subject to
18 suspension or revocation of its license under the provisions of
19 section 197.070.

20 6. Any ~~[ambulatory surgical center]~~ abortion facility
21 licensed in the state of Missouri that knowingly allows an
22 abortion of an unborn child to be performed or induced in
23 violation of this section may be subject to suspension or
24 revocation of its license under the provisions of section
25 197.220.

26 7. A woman upon whom an abortion is performed or induced in
27 violation of this section shall not be prosecuted for a
28 conspiracy to violate the provisions of this section.

1 8. Nothing in this section shall be construed as creating
2 or recognizing a right to abortion, nor is it the intention of
3 this section to make lawful any abortion that is currently
4 unlawful.

5 9. It is the intent of the legislature that this section be
6 severable as noted in section 1.140. In the event that any
7 section, subsection, subdivision, paragraph, sentence, or clause
8 of this section be declared invalid under the Constitution of the
9 United States or the Constitution of the State of Missouri, it is
10 the intent of the legislature that the remaining provisions of
11 this section remain in force and effect as far as capable of
12 being carried into execution as intended by the legislature.

13 10. The general assembly may, by concurrent resolution,
14 appoint one or more of its members who sponsored or co-sponsored
15 this act in his or her official capacity to intervene as a matter
16 of right in any case in which the constitutionality of this law
17 is challenged.

18 188.047. 1. A representative sample of tissue removed at
19 the time of abortion shall be submitted within five business days
20 to a board eligible or certified pathologist[, who] for gross
21 and, if indicated, histopathological examination. The
22 pathologist shall file a copy of the tissue report with the state
23 department of health and senior services, and [who] shall provide
24 within seventy-two hours a copy of the report to the abortion
25 facility or hospital in which the abortion was performed or
26 induced [and]. The pathologist's report shall be made a part of
27 the patient's permanent record. If the pathological examination
28 fails to identify evidence of a completed abortion, the

1 pathologist shall notify the abortion facility or hospital within
2 twenty-four hours.

3 2. The department shall reconcile each notice of abortion
4 with its corresponding tissue report. If the department does not
5 receive the notice of abortion or the tissue report, the
6 department shall make an inquiry of the abortion facility or
7 hospital. After such inquiry, if the hospital or abortion
8 facility has not satisfactorily responded to said inquiry and the
9 department finds that the abortion facility or hospital where the
10 abortion was performed or induced was not in compliance with the
11 provisions of this section, the department shall consider such
12 noncompliance a deficiency requiring an unscheduled inspection of
13 the facility to ensure the deficiency is remedied, subject to the
14 provisions of chapter 197 regarding license suspensions, reviews,
15 and appeals.

16 3. Beginning January 1, 2018, the department shall make an
17 annual report to the general assembly. The report shall include,
18 but not be limited to, all reports and information received by
19 the department under the provisions of this section, the number
20 of any deficiencies of each abortion facility in the calendar
21 year and whether such deficiencies were remedied, and the
22 following for each abortion procedure reported to the department
23 the previous calendar year:

24 (1) The termination procedure used;

25 (2) Whether the department received the tissue report for
26 that abortion; and

27 (3) The existence and nature, if any, of any
28 inconsistencies or concerns between the abortion report submitted

1 under section 188.052 and the tissue report submitted under this
2 section.

3
4 The report shall not contain any personal patient information the
5 disclosure of which is prohibited by state or federal law.

6 4. All reports provided by the department to the general
7 assembly under this section shall maintain confidentiality of all
8 personal information of patients, facility personnel, and
9 facility physicians.

10 5. The department may adopt rules, regulations, and
11 standards governing the reports required under this section. In
12 doing so, the department shall ensure that these reports contain
13 all information necessary to ensure compliance with all
14 applicable laws and regulations. Any rule or portion of a rule,
15 as that term is defined in section 536.010 that is created under
16 the authority delegated in this section shall become effective
17 only if it complies with and is subject to all of the provisions
18 of chapter 536, and, if applicable, section 536.028. This
19 section and chapter 536 are nonseverable and if any of the powers
20 vested with the general assembly pursuant to chapter 536, to
21 review, to delay the effective date, or to disapprove and annul a
22 rule are subsequently held unconstitutional, then the grant of
23 rulemaking authority and any rule proposed or adopted after the
24 effective date of this act, shall be invalid and void.

25 188.075. 1. Any person who contrary to the provisions of
26 sections 188.010 to 188.085 and section 188.160 knowingly
27 performs, induces, or aids in the performance or inducing of any
28 abortion or knowingly fails to perform any action required by

1 sections 188.010 to 188.085 and section 188.160 shall be guilty
2 of a class A misdemeanor, unless a different penalty is provided
3 for in state law, and, upon conviction, shall be punished as
4 provided by law.

5 2. It shall be an affirmative defense for any person
6 alleged to have violated any provision of this chapter that the
7 person performed an action or did not perform an action because
8 of a medical emergency. This affirmative defense shall be
9 available in criminal, civil, and administrative actions or
10 proceedings. The defendant shall have the burden of persuasion
11 that the defense is more probably true than not.

12 3. The attorney general shall have concurrent original
13 jurisdiction throughout the state, along with each prosecuting
14 attorney and circuit attorney within their respective
15 jurisdictions, to commence actions for a violation of any
16 provision of this chapter, for a violation of any state law on
17 the use of public funds for an abortion, or for a violation of
18 any state law which regulates an abortion facility or a person
19 who performs or induces an abortion, in which the prosecuting or
20 circuit attorney has yet to commence any action by filing a
21 motion, information, indictment, or any other such action with a
22 court and the attorney general shall first send written notice to
23 the prosecuting or circuit attorney by certified mail of his or
24 her intent to commence an action under this section in the
25 prosecuting or circuit attorney's respective jurisdiction. The
26 attorney general may only commence an action under this section
27 if, within ten business days following the prosecuting or circuit
28 attorney's receipt of the written notice, the prosecuting or

1 circuit attorney fails to commence the action by filing a motion,
2 information, indictment, or any other such action with a court.
3 The attorney general, or prosecuting attorney or circuit attorney
4 within their respective jurisdictions, may seek injunctive or
5 other relief against any person who, or entity which, is in
6 violation of any provision of this chapter, misuses public funds
7 for an abortion, or violates any state law which regulates an
8 abortion facility or a person who performs or induces an
9 abortion. The provisions of this subsection shall only apply to
10 such violations that occur on or after the effective date of this
11 act.

12 188.125. 1. It is the intent of the general assembly to
13 acknowledge the right of an alternatives to abortion agency to
14 operate freely and engage in speech without governmental
15 interference as protected by the constitution of the United
16 States and the constitution and laws of Missouri, the right of a
17 person not to be compelled by the government to participate in
18 abortion contrary to his, her, or its religious beliefs or moral
19 convictions, and that the constitution of the United States and
20 the constitution and laws of Missouri shall be interpreted,
21 construed, applied, and enforced to fully protect such rights.

22 2. A political subdivision of this state is preempted from
23 enacting, adopting, maintaining, or enforcing any order,
24 ordinance, rule, regulation, policy, or other similar measure
25 that prohibits, restricts, limits, controls, directs, interferes
26 with, or otherwise adversely affects an alternatives to abortion
27 agency or its officers', agents', employees', or volunteers'
28 operations or speech including, but not limited to, counseling,

1 referrals, or education of, advertising or information to, or
2 other communications with, clients, patients, other persons, or
3 the public.

4 3. Nothing in subsection 2 of this section shall preclude
5 or preempt a political subdivision of this state from exercising
6 its lawful authority to regulate zoning or land use or to enforce
7 a building or fire code regulation; provided that, such political
8 subdivision treats an alternatives to abortion agency in the same
9 manner as a similarly situated agency and that such authority is
10 not used to circumvent the intent of subsection 2 of this
11 section.

12 4. A political subdivision of this state is preempted from
13 enacting, adopting, maintaining, or enforcing any order,
14 ordinance, rule, regulation, policy, or other similar measure
15 that has the purpose or effect of requiring a person to directly
16 or indirectly participate in abortion if such participation is
17 contrary to the religious beliefs or moral convictions of such
18 person.

19 5. A political subdivision of this state is preempted from
20 enacting, adopting, maintaining, or enforcing any order,
21 ordinance, rule, regulation, policy, or other similar measure
22 requiring a real estate broker, real estate salesperson, real
23 estate broker-salesperson, appraisal firm, appraiser, as such
24 terms are defined in chapter 339, a property owner, or any other
25 person to buy, sell, exchange, purchase, rent, lease, advertise
26 for, or otherwise conduct real estate transactions for, to, or
27 with an abortion facility or for, to, or with a person for the
28 purpose of performing or inducing an abortion not necessary to

1 save the life of the mother, if such requirement is contrary to
2 the religious beliefs or moral convictions of such real estate
3 broker, real estate salesperson, real estate broker-salesperson,
4 appraisal firm, appraiser, property owner, or other person.

5 6. A political subdivision of this state is preempted from
6 enacting, adopting, maintaining, or enforcing any order,
7 ordinance, rule, regulation, policy, or other similar measure
8 requiring an employer, employee, health plan provider, health
9 plan sponsor, health care provider, or any other person to
10 provide coverage for or to participate in a health plan that
11 includes benefits that are not otherwise required by state law.

12 7. In any action to enforce the provisions of this section,
13 a court of competent jurisdiction may order injunctive or other
14 equitable relief, recovery of damages or other legal remedies, or
15 both, as well as payment of reasonable attorney's fees, costs,
16 and expenses. The relief and remedies set forth shall not be
17 deemed exclusive and shall be in addition to any other relief or
18 remedies permitted by law.

19 8. In addition to a private cause of action by a person
20 whose rights are violated contrary to the provisions of this
21 section, the attorney general is also authorized to bring a cause
22 of action to defend the rights guaranteed under this section.

23 9. Nothing in this section shall be construed to prohibit a
24 political subdivision from enacting, adopting, maintaining, or
25 enforcing any order, ordinance, rule, regulation, policy, or
26 other similar measure to assist pregnant women to carry their
27 unborn children to term or to assist women in caring for their
28 dependent children or placing their children for adoption

1 including, but not limited to, by funding or otherwise assisting
2 an alternatives to abortion agency to provide services to such
3 women and children.

4 10. As used in this section, the following terms mean:

5 (1) "Alternatives to abortion agency":

6 (a) A maternity home as defined in section 135.600;

7 (b) A pregnancy resource center as defined in section
8 135.630; or

9 (c) An agency or entity that has the primary purpose of
10 providing services or counseling to pregnant women to assist such
11 women in carrying their unborn children to term instead of having
12 abortions and to assist such women in caring for their dependent
13 children or placing their children for adoption, as described in
14 section 188.325, regardless of whether such agency or entity is
15 receiving funding or reimbursement from the state for such
16 purposes;

17 (2) "Participate in abortion":

18 (a) To undergo an abortion; or

19 (b) To perform or induce, assist in, refer or counsel for,
20 advocate for, promote, procure, reimburse for, or provide health
21 plan coverage for an abortion not necessary to save the life of
22 the mother.

23 188.160. 1. Every hospital, abortion facility, pathology
24 lab, medical research entity, and any other facility involved in
25 performing or inducing an abortion shall establish and implement
26 a written policy relating to the protections for employees who
27 disclose information concerning actual, potential, or alleged
28 violations of applicable federal or state laws or administrative

1 rules, regulations, or standards.

2 2. The department of health and senior services is
3 authorized to adopt rules, regulations, and standards regarding
4 the establishment and implementation of policies created under
5 this section. Any rule or portion of a rule, as that term is
6 defined in section 536.010 that is created under the authority
7 delegated in this section shall become effective only if it
8 complies with and is subject to all of the provisions of chapter
9 536, and, if applicable, section 536.028. This section and
10 chapter 536 are nonseverable and if any of the powers vested with
11 the general assembly pursuant to chapter 536, to review, to delay
12 the effective date, or to disapprove and annul a rule are
13 subsequently held unconstitutional, then the grant of rulemaking
14 authority and any rule proposed or adopted after the effective
15 date of this act, shall be invalid and void.

16 192.665. As used in this section, section 192.667, and
17 sections 197.150 to 197.165, the following terms mean:

18 (1) "Charge data", information submitted by health care
19 providers on current charges for leading procedures and
20 diagnoses;

21 (2) "Charges by payer", information submitted by hospitals
22 on amount billed to Medicare, Medicaid, other government sources
23 and all nongovernment sources combined as one data element;

24 (3) "Department", the department of health and senior
25 services;

26 (4) "Financial data", information submitted by hospitals
27 drawn from financial statements which includes the balance sheet,
28 income statement, charity care and bad debt and charges by payer,

1 prepared in accordance with generally accepted accounting
2 principles;

3 (5) "Health care provider", hospitals as defined in section
4 197.020 and ambulatory surgical centers and abortion facilities
5 as defined in section 197.200;

6 (6) "Nosocomial infection", as defined by the [national]
7 federal Centers for Disease Control and Prevention and applied to
8 infections within hospitals, ambulatory surgical centers,
9 abortion facilities, and other facilities;

10 (7) "Nosocomial infection incidence rate", a risk-adjusted
11 measurement of new cases of nosocomial infections by procedure or
12 device within a population over a given period of time, with such
13 measurements defined by rule of the department pursuant to
14 subsection 3 of section 192.667 for use by all hospitals,
15 ambulatory surgical centers, abortion facilities, and other
16 facilities in complying with the requirements of the Missouri
17 nosocomial infection control act of 2004;

18 (8) "Other facility", a type of facility determined to be a
19 source of infections and designated by rule of the department
20 pursuant to subsection 11 of section 192.667;

21 (9) "Patient abstract data", data submitted by hospitals
22 which includes but is not limited to date of birth, sex, race,
23 zip code, county of residence, admission date, discharge date,
24 principal and other diagnoses, including external causes,
25 principal and other procedures, procedure dates, total billed
26 charges, disposition of the patient and expected source of
27 payment with sources categorized according to Medicare, Medicaid,
28 other government, workers' compensation, all commercial payors

1 coded with a common code, self-pay, no charge and other.

2 192.667. 1. All health care providers shall at least
3 annually provide to the department charge data as required by the
4 department. All hospitals shall at least annually provide
5 patient abstract data and financial data as required by the
6 department. Hospitals as defined in section 197.020 shall report
7 patient abstract data for outpatients and inpatients. Ambulatory
8 surgical centers and abortion facilities as defined in section
9 197.200 shall provide patient abstract data to the department.
10 The department shall specify by rule the types of information
11 which shall be submitted and the method of submission.

12 2. The department shall collect data on the incidence of
13 health care-associated infections from hospitals, ambulatory
14 surgical centers, abortion facilities, and other facilities as
15 necessary to generate the reports required by this section.
16 Hospitals, ambulatory surgical centers, abortion facilities, and
17 other facilities shall provide such data in compliance with this
18 section.

19 3. The department shall promulgate rules specifying the
20 standards and procedures for the collection, analysis, risk
21 adjustment, and reporting of the incidence of health
22 care-associated infections and the types of infections and
23 procedures to be monitored pursuant to subsection 13 of this
24 section. In promulgating such rules, the department shall:

25 (1) Use methodologies and systems for data collection
26 established by the federal Centers for Disease Control and
27 Prevention's National Healthcare Safety Network, or its
28 successor; and

1 (2) Consider the findings and recommendations of the
2 infection control advisory panel established pursuant to section
3 197.165.

4 4. By January 1, 2017, the infection control advisory panel
5 created by section 197.165 shall make recommendations to the
6 department regarding the Centers for Medicare and Medicaid
7 Services' health care-associated infection data collection,
8 analysis, and public reporting requirements for hospitals,
9 ambulatory surgical centers, and other facilities in the federal
10 Centers for Disease Control and Prevention's National Healthcare
11 Safety Network, or its successor, in lieu of all or part of the
12 data collection, analysis, and public reporting requirements of
13 this section. The advisory panel recommendations shall address
14 which hospitals shall be required as a condition of licensure to
15 use the National Healthcare Safety Network for data collection;
16 the use of the National Healthcare Safety Network for risk
17 adjustment and analysis of hospital submitted data; and the use
18 of the Centers for Medicare and Medicaid Services' Hospital
19 Compare website, or its successor, for public reporting of the
20 incidence of health care-associated infection metrics. The
21 advisory panel shall consider the following factors in developing
22 its recommendation:

23 (1) Whether the public is afforded the same or greater
24 access to facility-specific infection control indicators and
25 metrics;

26 (2) Whether the data provided to the public is subject to
27 the same or greater accuracy of risk adjustment;

28 (3) Whether the public is provided with the same or greater

1 specificity of reporting of infections by type of facility
2 infections and procedures;

3 (4) Whether the data is subject to the same or greater
4 level of confidentiality of the identity of an individual
5 patient;

6 (5) Whether the National Healthcare Safety Network, or its
7 successor, has the capacity to receive, analyze, and report the
8 required data for all facilities;

9 (6) Whether the cost to implement the National Healthcare
10 Safety Network infection data collection and reporting system is
11 the same or less.

12 5. After considering the recommendations of the infection
13 control advisory panel, and provided that the requirements of
14 subsection 13 of this section can be met, the department shall
15 implement guidelines from the federal Centers for Disease Control
16 and Prevention's National Healthcare Safety Network, or its
17 successor. It shall be a condition of licensure for hospitals
18 that meet the minimum public reporting requirements of the
19 National Healthcare Safety Network and the Centers for Medicare
20 and Medicaid Services to participate in the National Healthcare
21 Safety Network, or its successor. Such hospitals shall permit
22 the National Healthcare Safety Network, or its successor, to
23 disclose facility-specific infection data to the department as
24 required under this section, and as necessary to provide the
25 public reports required by the department. It shall be a
26 condition of licensure for any ambulatory surgical center or
27 abortion facility which does not voluntarily participate in the
28 National Healthcare Safety Network, or its successor, to submit

1 facility-specific data to the department as required under this
2 section, and as necessary to provide the public reports required
3 by the department.

4 6. The department shall not require the resubmission of
5 data which has been submitted to the department of health and
6 senior services or the department of social services under any
7 other provision of law. The department of health and senior
8 services shall accept data submitted by associations or related
9 organizations on behalf of health care providers by entering into
10 binding agreements negotiated with such associations or related
11 organizations to obtain data required pursuant to section 192.665
12 and this section. A health care provider shall submit the
13 required information to the department of health and senior
14 services:

15 (1) If the provider does not submit the required data
16 through such associations or related organizations;

17 (2) If no binding agreement has been reached within ninety
18 days of August 28, 1992, between the department of health and
19 senior services and such associations or related organizations;
20 or

21 (3) If a binding agreement has expired for more than ninety
22 days.

23 7. Information obtained by the department under the
24 provisions of section 192.665 and this section shall not be
25 public information. Reports and studies prepared by the
26 department based upon such information shall be public
27 information and may identify individual health care providers.
28 The department of health and senior services may authorize the

1 use of the data by other research organizations pursuant to the
2 provisions of section 192.067. The department shall not use or
3 release any information provided under section 192.665 and this
4 section which would enable any person to determine any health
5 care provider's negotiated discounts with specific preferred
6 provider organizations or other managed care organizations. The
7 department shall not release data in a form which could be used
8 to identify a patient. Any violation of this subsection is a
9 class A misdemeanor.

10 8. The department shall undertake a reasonable number of
11 studies and publish information, including at least an annual
12 consumer guide, in collaboration with health care providers,
13 business coalitions and consumers based upon the information
14 obtained pursuant to the provisions of section 192.665 and this
15 section. The department shall allow all health care providers
16 and associations and related organizations who have submitted
17 data which will be used in any publication to review and comment
18 on the publication prior to its publication or release for
19 general use. The publication shall be made available to the
20 public for a reasonable charge.

21 9. Any health care provider which continually and
22 substantially, as these terms are defined by rule, fails to
23 comply with the provisions of this section shall not be allowed
24 to participate in any program administered by the state or to
25 receive any moneys from the state.

26 10. A hospital, as defined in section 197.020, aggrieved by
27 the department's determination of ineligibility for state moneys
28 pursuant to subsection 9 of this section may appeal as provided

1 in section 197.071. An ambulatory surgical center or abortion
2 facility as defined in section 197.200 aggrieved by the
3 department's determination of ineligibility for state moneys
4 pursuant to subsection 9 of this section may appeal as provided
5 in section 197.221.

6 11. The department of health may promulgate rules providing
7 for collection of data and publication of the incidence of health
8 care-associated infections for other types of health facilities
9 determined to be sources of infections; except that, physicians'
10 offices shall be exempt from reporting and disclosure of such
11 infections.

12 12. By January 1, 2017, the advisory panel shall recommend
13 and the department shall adopt in regulation with an effective
14 date of no later than January 1, 2018, the requirements for the
15 reporting of the following types of infections as specified in
16 this subsection:

17 (1) Infections associated with a minimum of four surgical
18 procedures for hospitals and a minimum of two surgical procedures
19 for ambulatory surgical centers that meet the following criteria:

20 (a) Are usually associated with an elective surgical
21 procedure. An "elective surgical procedure" is a planned,
22 nonemergency surgical procedure that may be either medically
23 required such as a hip replacement or optional such as breast
24 augmentation;

25 (b) Demonstrate a high priority aspect such as affecting a
26 large number of patients, having a substantial impact for a
27 smaller population, or being associated with substantial cost,
28 morbidity, or mortality; or

1 (c) Are infections for which reports are collected by the
2 National Healthcare Safety Network or its successor;

3 (2) Central line-related bloodstream infections;

4 (3) Health care-associated infections specified for
5 reporting by hospitals, ambulatory surgical centers, and other
6 health care facilities by the rules of the Centers for Medicare
7 and Medicaid Services to the federal Centers for Disease Control
8 and Prevention's National Healthcare Safety Network, or its
9 successor; and

10 (4) Other categories of infections that may be established
11 by rule by the department.

12
13 The department, in consultation with the advisory panel, shall be
14 authorized to collect and report data on subsets of each type of
15 infection described in this subsection.

16 13. In consultation with the infection control advisory
17 panel established pursuant to section 197.165, the department
18 shall develop and disseminate to the public reports based on data
19 compiled for a period of twelve months. Such reports shall be
20 updated quarterly and shall show for each hospital, ambulatory
21 surgical center, abortion facility, and other facility metrics on
22 risk adjusted health care-associated infections under this
23 section.

24 14. The types of infections under subsection 12 of this
25 section to be publicly reported shall be determined by the
26 department by rule and shall be consistent with the infections
27 tracked by the National Healthcare Safety Network, or its
28 successor.

1 15. Reports published pursuant to subsection 13 of this
2 section shall be published and readily accessible on the
3 department's internet website. The reports shall be distributed
4 at least annually to the governor and members of the general
5 assembly. The department shall make such reports available to
6 the public for a period of at least two years.

7 16. The Hospital Industry Data Institute shall publish a
8 report of Missouri hospitals' [and], ambulatory surgical
9 centers', and abortion facilities' compliance with standardized
10 quality of care measures established by the federal Centers for
11 Medicare and Medicaid Services for prevention of infections
12 related to surgical procedures. If the Hospital Industry Data
13 Institute fails to do so by July 31, 2008, and annually
14 thereafter, the department shall be authorized to collect
15 information from the Centers for Medicare and Medicaid Services
16 or from hospitals [and], ambulatory surgical centers, and
17 abortion facilities and publish such information in accordance
18 with this section.

19 17. The data collected or published pursuant to this
20 section shall be available to the department for purposes of
21 licensing hospitals [and], ambulatory surgical centers, and
22 abortion facilities pursuant to chapter 197.

23 18. The department shall promulgate rules to implement the
24 provisions of section 192.131 and sections 197.150 to 197.160.
25 Any rule or portion of a rule, as that term is defined in section
26 536.010, that is created under the authority delegated in this
27 section shall become effective only if it complies with and is
28 subject to all of the provisions of chapter 536 and, if

1 applicable, section 536.028. This section and chapter 536 are
2 nonseverable and if any of the powers vested with the general
3 assembly pursuant to chapter 536 to review, to delay the
4 effective date, or to disapprove and annul a rule are
5 subsequently held unconstitutional, then the grant of rulemaking
6 authority and any rule proposed or adopted after August 28, 2004,
7 shall be invalid and void.

8 19. No later than August 28, 2017, each hospital, excluding
9 mental health facilities as defined in section 632.005, and each
10 ambulatory surgical center and abortion facility as defined in
11 section 197.200, shall in consultation with its medical staff
12 establish an antimicrobial stewardship program for evaluating the
13 judicious use of antimicrobials, especially antibiotics that are
14 the last line of defense against resistant infections. The
15 hospital's stewardship program and the results of the program
16 shall be monitored and evaluated by hospital quality improvement
17 departments and shall be available upon inspection to the
18 department. At a minimum, the antimicrobial stewardship program
19 shall be designed to evaluate that hospitalized patients receive,
20 in accordance with accepted medical standards of practice, the
21 appropriate antimicrobial, at the appropriate dose, at the
22 appropriate time, and for the appropriate duration.

23 20. Hospitals described in subsection 19 of this section
24 shall meet the National Healthcare Safety Network requirements
25 for reporting antimicrobial usage or resistance by using the
26 Centers for Disease Control and Prevention's Antimicrobial Use
27 and Resistance (AUR) Module when regulations concerning Stage 3
28 of the Medicare and Medicaid Electronic Health Records Incentive

1 Programs promulgated by the Centers for Medicare and Medicaid
2 Services that enable the electronic interface for such reporting
3 are effective. When such antimicrobial usage or resistance
4 reporting takes effect, hospitals shall authorize the National
5 Healthcare Safety Network, or its successor, to disclose to the
6 department facility-specific information reported to the AUR
7 Module. Facility-specific data on antibiotic usage and
8 resistance collected under this subsection shall not be disclosed
9 to the public, but the department may release case-specific
10 information to other facilities, physicians, and the public if
11 the department determines on a case-by-case basis that the
12 release of such information is necessary to protect persons in a
13 public health emergency.

14 21. The department shall make a report to the general
15 assembly beginning January 1, 2018, and on every January first
16 thereafter on the incidence, type, and distribution of
17 antimicrobial-resistant infections identified in the state and
18 within regions of the state.

19 197.150. The department shall require that each hospital,
20 ambulatory surgical center, abortion facility, and other facility
21 have in place procedures for monitoring and enforcing compliance
22 with infection control regulations and standards. Such
23 procedures shall be coordinated with administrative staff,
24 personnel staff, and the quality improvement program. Such
25 procedures shall include, at a minimum, requirements for the
26 facility's infection control program to conduct surveillance of
27 personnel with a portion of the surveillance to be done in such
28 manner that employees and medical staff are observed without

1 their knowledge of such observation, provided that this
2 unobserved surveillance requirement shall not be considered to be
3 grounds for licensure enforcement action by the department until
4 the department establishes clear and verifiable criteria for
5 determining compliance. Such surveillance also may include
6 monitoring of the rate of use of hand hygiene products.

7 197.152. 1. Infection control officers as defined in
8 federal regulation and other hospital [and], ambulatory surgical
9 center, and abortion facility employees shall be protected
10 against retaliation by the hospital [or], ambulatory surgical
11 center, or abortion facility for reporting infection control
12 concerns pursuant to section 197.285 and shall be entitled to the
13 full benefits of that section. Such infection control officers
14 shall report any interference in the performance of their duties
15 by their supervisors to the hospital [or], ambulatory surgical
16 center, or abortion facility compliance officer established by
17 and empowered to act pursuant to section 197.285.

18 2. Infection control officers as defined in federal
19 regulation shall also have the authority to order the cessation
20 of a practice that falls outside accepted practices as defined by
21 appropriate state and federal regulatory agencies, accreditation
22 organizations, or the standards adopted by the Centers for
23 Disease Control and Prevention or the Association of
24 Professionals in Infection Control and Epidemiology. The
25 hospital [or], ambulatory surgical center, or abortion facility
26 may require that such a cessation order of an infection control
27 officer be endorsed by the hospital [or], ambulatory surgical
28 center, or abortion facility chief executive officer or his or

1 her designee before taking effect. The hospital [or], ambulatory
2 surgical center, or abortion facility infection control committee
3 shall convene as soon as possible to review such cessation order
4 and may overrule or sustain the directive of the infection
5 control officer. The department shall promulgate rules governing
6 documentation of such events.

7 3. Members of the medical staff who report in good faith
8 infection control concerns to the hospital [or], ambulatory
9 surgical center, or abortion facility administration or medical
10 staff leadership shall not be subject to retaliation or
11 discrimination for doing so. Nothing in this section shall
12 prevent or shield medical staff members from being subject to
13 professional review actions for substandard care or breach of
14 standards established in hospital policy, rules, or medical staff
15 bylaws.

16 197.158. Every hospital [and], ambulatory surgery center,
17 and abortion facility shall, beginning June 1, 2006, provide each
18 patient an opportunity to submit to the hospital [or], ambulatory
19 surgical center, or abortion facility administration complaints,
20 comments, and suggestions related to the care they received or
21 their personal observations related to the quality of care
22 provided. The department shall promulgate rules to implement
23 this section.

24 197.160. The department of health and senior services shall
25 have access to all data and information held by hospitals,
26 ambulatory surgical centers, abortion facilities, and other
27 facilities related to their infection control practices, rates,
28 or treatments of infections. Failure to provide such access

1 shall be grounds for full or partial licensure suspension or
2 revocation pursuant to section 197.293, sections 197.010 to
3 197.100, or sections 197.200 to 197.240. If the department
4 determines that the hospital, ambulatory surgical center,
5 abortion facility, or other facility is willfully impeding access
6 to such information, the department shall be authorized to direct
7 all state agencies to suspend all or a portion of state payments
8 to such [hospital] entity until such time as the desired
9 information is obtained by the department.

10 197.162. The department shall in its licensure of hospitals
11 [and], ambulatory surgical centers, and abortion facilities give
12 special attention to infection control practices and shall direct
13 hospitals [and], ambulatory surgical centers, and abortion
14 facilities to set quantifiable measures of performance for
15 reducing the incidence of nosocomial infections in Missouri. The
16 department shall prepare an annual report on infection control
17 standards and compliance, which shall be shared with the governor
18 and the general assembly.

19 197.165. 1. The department shall appoint an "Infection
20 Control Advisory Panel" for the purposes of implementing sections
21 192.131 and 192.667.

22 2. Members of the infection control advisory panel shall
23 include:

24 (1) Two public members;

25 (2) Three board-certified or board-eligible physicians
26 licensed pursuant to chapter 334 who are affiliated with a
27 Missouri hospital or medical school, active members of the
28 Society for Health Care Epidemiology of America, and have

1 demonstrated interest and expertise in health facility infection
2 control;

3 (3) One physician licensed pursuant to chapter 334 who is
4 active in the practice of medicine in Missouri and who holds
5 medical staff privileges at a Missouri hospital;

6 (4) Four infection control practitioners certified by the
7 certification board of infection control and epidemiology, at
8 least two of whom shall be practicing in a rural hospital or
9 setting and at least two of whom shall be registered professional
10 nurses licensed under chapter 335;

11 (5) A medical statistician with an advanced degree in such
12 specialty;

13 (6) A clinical microbiologist with an advanced degree in
14 such specialty;

15 (7) Three employees of the department, representing the
16 functions of hospital [and], ambulatory surgical center, and
17 abortion facility licensure, epidemiology and health data
18 analysis, who shall serve as ex officio nonvoting members of the
19 panel.

20 3. Reasonable expenses of the panel shall be paid from
21 private donations made specifically for that purpose to the
22 "Infection Control Advisory Panel Fund", which is hereby created
23 in the state treasury. If such donations are not received from
24 private sources, then the provisions of this act shall be
25 implemented without the advisory panel.

26 197.200. As used in sections 197.200 to 197.240, unless the
27 context clearly indicates otherwise, the following terms mean:

28 (1) "Abortion facility", any establishment operated for the

1 purpose of performing or inducing any second- or third-trimester
2 abortions or five or more first-trimester abortions per month,
3 and which does not provide services or other accommodations for
4 patients to stay more than twenty-three hours within the
5 establishment;

6 (2) "Ambulatory surgical center", any public or private
7 establishment operated primarily for the purpose of performing
8 surgical procedures or primarily for the purpose of performing
9 childbirths, [or any establishment operated for the purpose of
10 performing or inducing any second or third-trimester abortions or
11 five or more first-trimester abortions per month,] and which does
12 not provide services or other accommodations for patients to stay
13 more than twenty-three hours within the establishment, provided,
14 however, that nothing in this definition shall be construed to
15 include the offices of dentists currently licensed pursuant to
16 chapter 332;

17 [(2)] (3) "Dentist", any person currently licensed to
18 practice dentistry pursuant to chapter 332;

19 [(3)] (4) "Department", the department of health and senior
20 services;

21 [(4)] (5) "Governmental unit", any city, county or other
22 political subdivision of this state, or any department, division,
23 board or other agency of any political subdivision of this state;

24 [(5)] (6) "Person", any individual, firm, partnership,
25 corporation, company, or association and the legal successors
26 thereof;

27 [(6)] (7) "Physician", any person currently licensed to
28 practice medicine pursuant to chapter 334;

1 [(7)] (8) "Podiatrist", any person currently licensed to
2 practice podiatry pursuant to chapter 330.

3 197.205. 1. No person or governmental unit acting
4 severally or jointly with any other person or governmental unit
5 shall establish, conduct or maintain an ambulatory surgical
6 center or abortion facility in this state without a license under
7 sections 197.200 to 197.240 issued by the department of health
8 and senior services.

9 2. Nothing in sections 197.200 to 197.240 shall be
10 construed to impair or abridge the authority of a governmental
11 unit to license ambulatory surgical centers or abortion
12 facilities, provided that any ordinance of a governmental unit
13 shall require compliance with all rules, regulations, and
14 standards adopted by the department to implement the provisions
15 of sections 197.200 to 197.240.

16 197.215. 1. Upon receipt of an application for a license,
17 the department of health and senior services shall issue a
18 license if the applicant and ambulatory surgical center
19 facilities or abortion facilities meet the requirements
20 established under sections 197.200 to 197.240, and have provided
21 affirmative evidence that:

22 (1) Each member of the surgical staff is a physician,
23 dentist or podiatrist currently licensed to practice in Missouri,
24 and each person authorized to perform or induce abortions is a
25 physician currently licensed to practice in Missouri;

26 (2) Surgical procedures in ambulatory surgical centers
27 shall be performed only by physicians, dentists or podiatrists,
28 who at the time are privileged to perform surgical procedures in

1 at least one licensed hospital in the community in which the
2 ambulatory surgical center is located, thus providing assurance
3 to the public that patients treated in the center shall receive
4 continuity of care should the services of a hospital be required;
5 alternatively, applicant shall submit a copy of a current working
6 agreement with at least one licensed hospital in the community in
7 which the ambulatory surgical center is located, guaranteeing the
8 transfer and admittance of patients for emergency treatment
9 whenever necessary;

10 (3) Continuous physician services or registered
11 professional nursing services are provided whenever a patient is
12 in the facility;

13 (4) Adequate medical records for each patient are to be
14 maintained.

15 2. Upon receipt of an application for a license, or the
16 renewal thereof, the department shall issue or renew the license
17 if the applicant and program meet the requirements established
18 under sections 197.200 to 197.240. Each license shall be issued
19 only for the persons and premises named in the application. A
20 license, unless sooner suspended or revoked, shall be issued for
21 a period of one year.

22 3. Each license shall be issued only for the premises and
23 persons or governmental units named in the application, and shall
24 not be transferable or assignable except with the written consent
25 of the department. Licenses shall be posted in a conspicuous
26 place on the licensed premises.

27 4. If, during the period in which an ambulatory surgical
28 center license or an abortion facility license is in effect, the

1 license holder or operator legally transfers operational
2 responsibilities by any process to another person as defined in
3 section 197.200, an application shall be made for the issuance of
4 a new license to become effective on the transfer date.

5 197.220. The department of health and senior services may
6 deny, suspend or revoke a license in any case in which the
7 department finds that there has been a substantial failure to
8 comply with the requirements of sections 197.200 to 197.240, or
9 in any case in which the director of the department makes a
10 finding that:

11 (1) The applicant, or if the applicant is a firm,
12 partnership or association, any of its members, or if a
13 corporation, any of its officers or directors, or the person
14 designated to manage or supervise the facility, has been finally
15 adjudicated and found guilty, or entered a plea of guilty or nolo
16 contendere, in a criminal prosecution under the laws of any state
17 or of the United States, for any offense reasonably related to
18 the qualifications, functions, or duties of an ambulatory
19 surgical center or of an abortion facility, or for any offense an
20 essential element of which is fraud, dishonesty, or an act of
21 violence, or for any offense involving moral turpitude, whether
22 or not sentence is imposed;

23 (2) The licensure status or record of the applicant, or if
24 the applicant is a firm, partnership or association, of any of
25 its members, or if a corporation, of any of its officers or
26 directors, or of the person designated to manage or supervise the
27 facility, from any other state, federal district or land,
28 territory or commonwealth of the United States, or of any foreign

1 country where the applicant has done business in a similar
2 capacity indicates that granting a license to the applicant would
3 be detrimental to the interests of the public.

4 197.225. 1. The department of health and senior services
5 may adopt such reasonable rules, regulations, and standards for
6 the types of services provided as are necessary to carry out the
7 provisions of sections 197.200 to 197.240, and to assure quality
8 patient care and patient safety, which shall include, but not be
9 limited to:

10 (1) Construction of the facility including, but not limited
11 to, plumbing, heating, lighting, and ventilation which should
12 insure the health, safety, comfort, and privacy of patients and
13 protection from fire hazard;

14 (2) Number, qualifications, and organization of all
15 personnel, having responsibility for any part of the care
16 provided to the patients;

17 (3) Equipment essential to the health, welfare, and safety
18 of the patients;

19 (4) Facilities, programs, and services to be provided in
20 connection with the care of patients in ambulatory surgical
21 centers; and

22 (5) Procedures for peer review and for receiving and
23 investigating complaints regarding any ambulatory surgical center
24 or any physician, dentist, podiatrist, nurse, assistant, manager,
25 supervisor, or employee practicing or working in any such
26 facility.

27 2. The department of health and senior services may adopt
28 separate rules, regulations, or standards to apply to ambulatory

1 surgical centers and to apply to abortion facilities.

2 197.230. 1. The department of health and senior services
3 shall make, or cause to be made, such inspections and
4 investigations as it deems necessary. The department may
5 delegate its powers and duties to investigate and inspect
6 ambulatory surgical centers or abortion facilities to an official
7 of a political subdivision having a population of at least four
8 hundred fifty thousand if such political subdivision is deemed
9 qualified by the department to inspect and investigate ambulatory
10 surgical centers. The official so designated shall submit a
11 written report of his or her findings to the department and the
12 department may accept the recommendations of such official if it
13 determines that the facility inspected meets minimum standards
14 established pursuant to sections 197.200 to 197.240.

15 2. In the case of any abortion facility, the department
16 shall make or cause to be made an unannounced on-site inspection
17 and investigation at least annually. Such on-site inspection and
18 investigation shall include, but not be limited to, the following
19 areas:

20 (1) Compliance with all statutory and regulatory
21 requirements for an abortion facility, including requirements
22 that the facility maintain adequate staffing and equipment to
23 respond to medical emergencies;

24 (2) Compliance with the requirements of section 188.047;

25 (3) Compliance with sections 188.205, 188.210, and 188.215
26 prohibiting the use of public funds, facilities, and employees to
27 perform or to assist a prohibited abortion or to encourage or to
28 counsel a woman to have a prohibited abortion; and

1 (4) Compliance with the requirement in section 197.215 that
2 continuous physician services or registered professional nursing
3 services be provided whenever a patient is in the facility.

4 3. Inspection, investigation, and quality assurance reports
5 shall be made available to the public. Any portion of a report
6 may be redacted when made publicly available if such portion
7 would disclose information that is not subject to disclosure
8 under the law.

9 197.235. 1. Any person operating, conducting, managing, or
10 establishing an ambulatory surgical center or abortion facility
11 without a license required by sections 197.200 to 197.240 is
12 guilty of a class A misdemeanor and, upon conviction, shall be
13 subject to a fine of not more than five hundred dollars. Each
14 day of continuing violation shall constitute a separate offense.

15 2. The attorney general shall represent the department of
16 health and senior services and shall institute an action in the
17 name of the state for injunctive or other relief against any
18 person or governmental unit to restrain or prevent the
19 establishment, conduct, management, or operation of an ambulatory
20 surgical center or abortion facility without a license issued
21 pursuant to the provisions of sections 197.200 to 197.240.

22 3. Any person operating, conducting, managing, or
23 establishing an ambulatory surgical center or abortion facility
24 who, in the course of advertising, promoting, or otherwise
25 publicizing the activities, business, location, or any other
26 matter concerning the operations of said ambulatory surgical
27 center or abortion facility, uses or employs in any manner the
28 words "State, Missouri, State of Missouri, Department of Health

1 and Senior Services, the initials 'Mo.'," or any emblem of the
2 state of Missouri or the department of health and senior
3 services, for the purpose of conveying or in any manner
4 reasonably calculated to convey the false impression that the
5 state of Missouri or any department, agency, bureau, or
6 instrumentality thereof is involved in the business of said
7 ambulatory surgical center or abortion facility, or took part in
8 said advertisement, promotion, publicity, or other statement,
9 shall be subject to a fine of one hundred dollars per day for
10 each day during the period beginning with the day said
11 advertisement, promotion, publication, or statement first appears
12 and ending on the day on which it is withdrawn.

13 197.240. After September 28, 1975, no individual or group
14 health insurance policy of insurance providing coverage on an
15 expense incurred basis, nor individual or group service or
16 indemnity type contract issued by a nonprofit corporation, nor
17 any self-insured group health benefit plan or trust, of any kind
18 or description, shall be issued or payment accepted therefor in
19 renewal or continuation thereof unless coverage for any service
20 performed in an ambulatory surgical center or abortion facility
21 is provided for therein if such service would have been covered
22 under the terms of the policy or contract as an eligible
23 inpatient service, except as provided in section 376.805.
24 Nothing in this section shall apply to a group contract, plan or
25 trust which provides health care and surgical care directly to
26 its members and their dependents. Nothing in this section shall
27 be construed to mandate coverage under an individual or group
28 health insurance policy of insurance providing coverage on an

1 expense incurred basis, or an individual or group service or
2 indemnity type contract issued by a nonprofit corporation, or any
3 self-insured group health benefit plan or trust, of any kind or
4 description, to provide health insurance for services which are
5 usually performed in a physician's office.

6 197.285. 1. Hospitals [and], ambulatory surgical centers,
7 and abortion facilities shall establish and implement a written
8 policy adopted by each hospital [and], ambulatory surgical
9 center, and abortion facility relating to the protections for
10 employees who disclose information pursuant to subsection 2 of
11 this section. This policy shall include a time frame for
12 completion of investigations related to complaints, not to exceed
13 thirty days, and a method for notifying the complainant of the
14 disposition of the investigation. This policy shall be submitted
15 to the department of health and senior services to verify
16 implementation. At a minimum, such policy shall include the
17 following provisions:

18 (1) No supervisor or individual with authority to hire or
19 fire in a hospital [or], ambulatory surgical center, or abortion
20 facility shall prohibit employees from disclosing information
21 pursuant to subsection 2 of this section;

22 (2) No supervisor or individual with authority to hire or
23 fire in a hospital [or], ambulatory surgical center, or abortion
24 facility shall use or threaten to use his or her supervisory
25 authority to knowingly discriminate against, dismiss, penalize or
26 in any way retaliate against or harass an employee because the
27 employee in good faith reported or disclosed any information
28 pursuant to subsection 2 of this section, or in any way attempt

1 to dissuade, prevent or interfere with an employee who wishes to
2 report or disclose such information;

3 (3) Establish a program to identify a compliance officer
4 who is a designated person responsible for administering the
5 reporting and investigation process and an alternate person
6 should the primary designee be implicated in the report.

7 2. This section shall apply to information disclosed or
8 reported in good faith by an employee concerning:

9 (1) Alleged facility mismanagement or fraudulent activity;

10 (2) Alleged violations of applicable federal or state laws
11 or administrative rules concerning patient care, patient safety
12 or facility safety; or

13 (3) The ability of employees to successfully perform their
14 assigned duties.

15
16 All information disclosed, collected and maintained pursuant to
17 this subsection and pursuant to the written policy requirements
18 of this section shall be accessible to the department of health
19 and senior services at all times and shall be reviewed by the
20 department of health and senior services at least annually.

21 Complainants shall be notified of the department of health and
22 senior services' access to such information and of the
23 complainant's right to notify the department of health and senior
24 services of any information concerning alleged violations of
25 applicable federal or state laws or administrative rules
26 concerning patient care, patient safety or facility safety.

27 3. Prior to any disclosure to individuals or agencies other
28 than the department of health and senior services, employees

1 wishing to make a disclosure pursuant to the provisions of this
2 section shall first report to the individual or individuals
3 designated by the hospital [or], ambulatory surgical center, or
4 abortion facility pursuant to subsection 1 of this section.

5 4. If the compliance officer, compliance committee or
6 management official discovers credible evidence of misconduct
7 from any source and, after a reasonable inquiry, has reason to
8 believe that the misconduct may violate criminal, civil or
9 administrative law, then the hospital [or], ambulatory surgical
10 center, or abortion facility shall report the existence of
11 misconduct to the appropriate governmental authority within a
12 reasonable period, but not more than seven days after determining
13 that there is credible evidence of a violation.

14 5. Reports made to the department of health and senior
15 services shall be subject to the provisions of section 197.477,
16 provided that the restrictions of section 197.477 shall not be
17 construed to limit the employee's ability to subpoena from the
18 original source the information reported to the department
19 pursuant to this section.

20 6. Each written policy shall allow employees making a
21 report who wish to remain anonymous to do so, and shall include
22 safeguards to protect the confidentiality of the employee making
23 the report, the confidentiality of patients and the integrity of
24 data, information and medical records.

25 7. Each hospital [and], ambulatory surgical center, and
26 abortion facility shall, within forty-eight hours of the receipt
27 of a report, notify the employee that his or her report has been
28 received and is being reviewed.

1 197.287. By July 1, 2001, all hospitals and ambulatory
2 surgical centers, and by July 1, 2018, all abortion facilities
3 shall provide training programs, with measurable minimal training
4 outcomes relating to quality of patient care and patient safety,
5 to all unlicensed staff providing patient care in their facility
6 within ninety days of the beginning date of employment.
7 Standards for such training shall be established by the
8 department of health and senior services by rule. It shall be a
9 requirement of hospital [and], ambulatory surgical center, and
10 abortion facility licensure pursuant to this chapter that all
11 hospitals [and], ambulatory surgical centers, and abortion
12 facilities submit documentation to the department of health and
13 senior services on the training program used.

14 197.289. 1. All hospitals [and], ambulatory surgical
15 centers, and abortion facilities shall develop and implement a
16 methodology which ensures adequate nurse staffing that will meet
17 the needs of patients. At a minimum, there shall be on duty at
18 all times a sufficient number of licensed registered nurses to
19 provide patient care requiring the judgment and skills of a
20 licensed registered nurse and to oversee the activities of all
21 nursing personnel.

22 2. There shall be sufficient licensed and ancillary nursing
23 personnel on duty on each nursing unit to meet the needs of each
24 patient in accordance with accepted standards of quality patient
25 care.

26 197.293. 1. In addition to the powers established in
27 sections 197.070 and 197.220, the department of health and senior
28 services shall use the following standards for enforcing hospital

1 [and], ambulatory surgical center, and abortion facility
2 licensure regulations promulgated to enforce the provisions of
3 sections 197.010 to 197.120, sections 197.150 to 197.165, and
4 sections 197.200 to 197.240:

5 (1) Upon notification of a deficiency in meeting regulatory
6 standards, the hospital [or], ambulatory surgical center, or
7 abortion facility shall develop and implement a plan of
8 correction approved by the department which includes, but is not
9 limited to, the specific type of corrective action to be taken
10 and an estimated time to complete such action;

11 (2) If the plan as implemented does not correct the
12 deficiency, the department may either:

13 (a) Direct the hospital [or], ambulatory surgical center,
14 or abortion facility to develop and implement a plan of
15 correction pursuant to subdivision (1) of this subsection; or

16 (b) Require the hospital [or], ambulatory surgical center,
17 or abortion facility to implement a plan of correction developed
18 by the department;

19 (3) If there is a continuing deficiency after
20 implementation of the plan of correction pursuant to subdivision
21 (2) of this subsection and the hospital [or], ambulatory surgical
22 center, or abortion facility has had an opportunity to correct
23 such deficiency, the department may restrict new inpatient
24 admissions or outpatient entrants to the service or services
25 affected by such deficiency;

26 (4) If there is a continuing deficiency after the
27 department restricts new inpatient admissions or outpatient
28 entrants to the service or services pursuant to subdivision (3)

1 of this subsection and the hospital [or], ambulatory surgical
2 center, or abortion facility has had an opportunity to correct
3 such deficiency, the department may suspend operations in all or
4 part of the service or services affected by such deficiency;

5 (5) If there is a continuing deficiency after suspension of
6 operations pursuant to subdivision (4) of this subsection, the
7 department may deny, suspend or revoke the hospital's [or],
8 ambulatory surgical center's, or abortion facility's license
9 pursuant to section 197.070 or section 197.220.

10 2. Notwithstanding the provisions of subsection 1 of this
11 section to the contrary, if a deficiency in meeting licensure
12 standards presents an immediate and serious threat to the
13 patients' health and safety, the department may, based on the
14 scope and severity of the deficiency, restrict access to the
15 service or services affected by the deficiency until the hospital
16 [or], ambulatory surgical center, or abortion facility has
17 developed and implemented an approved plan of correction.
18 Decisions as to whether a deficiency constitutes an immediate and
19 serious threat to the patients' health and safety shall be made
20 in accordance with guidelines established pursuant to regulation
21 of the department of health and senior services and such
22 decisions shall be approved by the bureau of health facility
23 licensing in the department of health and senior services, or its
24 successor agency, or by a person authorized by the regulations to
25 approve such decisions in the absence of the director.

26 197.295. 1. A hospital [or], ambulatory surgical center,
27 or abortion facility aggrieved by a decision of the department
28 pursuant to the provisions of paragraph (b) of subdivision (2)

1 and subdivisions (3), (4) and (5) of subsection 1 of section
2 197.293 may appeal such decision to the administrative hearing
3 commission pursuant to section 197.071 or section 197.221, and
4 seek judicial review pursuant to section 621.145. An appeal of
5 an action to restrict new inpatient admissions or outpatient
6 entrants, suspend operations or revoke a license shall be heard
7 on an expedited basis by the administrative hearing commission.
8 The hospital [or], ambulatory surgical center, or abortion
9 facility may apply to the administrative hearing commission for
10 an order to stay or suspend any such departmental action pending
11 the commission's findings and ruling as authorized by section
12 621.035.

13 2. If both the department and the hospital [or], ambulatory
14 surgical center, or abortion facility agree to do so, prior to an
15 appeal to the administrative hearing commission pursuant to
16 section 197.071 or section 197.221, an official action of the
17 department made pursuant to sections 197.010 to 197.120 or
18 sections 197.200 to 197.240 may be appealed to a departmental
19 hearing officer. The department of health and senior services
20 shall promulgate rules specifying the qualifications of such a
21 hearing officer, establish procedures to ensure impartial
22 decisions and provide for comparable appeal remedies when a
23 departmental hearing officer is unavailable.

24 595.027. 1. Upon request by the department for
25 verification of injuries of victims, medical providers shall
26 submit the information requested by the department within twenty
27 working days of the request at no cost to the fund.

28 2. For purposes of this section, "medical providers" means

1 physicians, dentists, clinical psychologists, optometrists,
2 podiatrists, registered nurses, physician's assistants,
3 chiropractors, physical therapists, hospitals, ambulatory
4 surgical centers, abortion facilities, and nursing homes.

5 3. Failure to submit the information as required by this
6 section shall be an infraction.

7 Section B. In accordance with the provisions of section
8 1.140, the provisions of section A are severable. If any
9 provision of section A is found by a court of competent
10 jurisdiction to be invalid, the remaining provisions shall remain
11 valid and enforceable.

12 Section C. Because of the immediate need to protect the
13 right to life of persons in this state, section A of this act is
14 deemed necessary for the immediate preservation of the public
15 health, welfare, peace, and safety, and is hereby declared to be
16 an emergency act within the meaning of the constitution, and
17 section A of this act shall be in full force and effect upon its
18 passage and approval.