

FIRST REGULAR SESSION

# SENATE BILL NO. 518

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Read 1st time March 1, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

2282S.011

## AN ACT

To repeal sections 197.040, 197.050, 197.070, 197.071, 197.080, and 197.100, RSMo, and to enact in lieu thereof seven new sections relating to the licensure of hospitals, with a delayed effective date.

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

Section A. Sections 197.040, 197.050, 197.070, 197.071, 197.080, and  
2 197.100, RSMo, are repealed and seven new sections enacted in lieu thereof, to  
3 be known as sections 197.005, 197.040, 197.050, 197.070, 197.071, 197.080, and  
4 197.100, to read as follows:

**197.005. 1. As used in this section, the term "Medicare conditions  
2 of participation" shall mean federal regulatory standards established  
3 under Title XVIII of the Social Security Act and defined in 42 CFR 482,  
4 as amended, for hospitals and 42 CFR 485, as amended, for hospitals  
5 designated as critical access hospitals under 42 U.S.C. Section 1395i-4.**

**6 2. To minimize the administrative cost of enforcing and  
7 complying with duplicative regulatory standards, on and after July 1,  
8 2018, compliance with Medicare conditions of participation shall be  
9 deemed to constitute compliance with the standards for hospital  
10 licensure under sections 197.010 to 197.120 and regulations  
11 promulgated thereunder.**

**12 3. Nothing in this section shall preclude the department of health  
13 and senior services from promulgating regulations effective on or after  
14 July 1, 2018, to define separate regulatory standards that do not  
15 duplicate or contradict the Medicare conditions of participation, with  
16 specific state statutory authorization to create separate regulatory**

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

17 standards.

18           **4. Regulations promulgated by the department of health and**  
19 **senior services to establish and enforce hospital licensure regulations**  
20 **under this chapter that duplicate or conflict with the Medicare**  
21 **conditions of participation shall lapse and expire on and after July 1,**  
22 **2018.**

          197.040. After ninety days from the date this law becomes effective, no  
2 person or governmental unit, acting severally or jointly with any other person or  
3 governmental unit, shall establish, conduct or maintain a hospital in this state  
4 without a license under this law **and section 197.005** issued by the department  
5 of health and senior services.

          197.050. Application for a license shall be made to the department of  
2 health and senior services upon forms provided by it and shall contain such  
3 information as the department of health and senior services requires, which may  
4 include affirmative evidence of ability to comply with such reasonable standards,  
5 rules and regulations as are lawfully prescribed hereunder **in compliance with**  
6 **section 197.005**. Until June 30, 1989, each application for a license, except  
7 applications from governmental units, shall be accompanied by an annual license  
8 fee of two hundred dollars plus two dollars per bed for the first one hundred beds  
9 and one dollar per bed for each additional bed. Beginning July 1, 1989, each  
10 application for a license, except applications from governmental units, shall be  
11 accompanied by an annual license fee of two hundred fifty dollars plus three  
12 dollars per bed for the first four hundred beds and two dollars per bed for each  
13 additional bed. All license fees shall be paid to the director of revenue and  
14 deposited in the state treasury to the credit of the general revenue fund.

          197.070. The department of health and senior services may deny, suspend  
2 or revoke a license in any case in which it finds that there has been a substantial  
3 failure to comply with the requirements established under this law **and section**  
4 **197.005**.

          197.071. Any person aggrieved by an official action of the department of  
2 health and senior services affecting the licensed status of a person under the  
3 provisions of sections [197.010] **197.005** to 197.120, including the refusal to  
4 grant, the grant, the revocation, the suspension, or the failure to renew a license,  
5 may seek a determination thereon by the administrative hearing commission  
6 pursuant to the provisions of section 621.045, and it shall not be a condition to  
7 such determination that the person aggrieved seek a reconsideration, a rehearing,

8 or exhaust any other procedure within the department of health and senior  
9 services.

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,  
3 **section 197.005**, and chapter 536, shall adopt, amend, promulgate and enforce  
4 such rules, regulations and standards with respect to all hospitals or different  
5 types of hospitals to be licensed hereunder as may be designed to further the  
6 accomplishment of the purposes of this law in promoting safe and adequate  
7 treatment of individuals in hospitals in the interest of public health, safety and  
8 welfare. No rule or portion of a rule promulgated under the authority of sections  
9 197.010 to 197.280 shall become effective unless it has been promulgated  
10 pursuant to the provisions of section 536.024.

11 2. The department shall review and revise regulations governing hospital  
12 licensure and enforcement to promote hospital and regulatory efficiencies  
13 [and]. **The department shall** eliminate **all** duplicative regulations and  
14 inspections by or on behalf of state agencies and the Centers for Medicare and  
15 Medicaid Services (CMS). The hospital licensure regulations adopted under this  
16 [section] **chapter** shall incorporate standards which shall include, but not be  
17 limited to, the following:

18 (1) Each citation or finding of a regulatory deficiency shall refer to the  
19 specific written regulation, any state associated written interpretive guidance  
20 developed by the department and any publicly available, professionally recognized  
21 standards of care that are the basis of the citation or finding;

22 (2) Subject to appropriations, the department shall ensure that its  
23 hospital licensure regulatory standards are consistent with and do not contradict  
24 the CMS Conditions of Participation (COP) and associated interpretive  
25 guidance. However, this shall not preclude the department from enforcing  
26 standards produced by the department which exceed the federal CMS' COP and  
27 associated interpretive guidance, so long as such standards produced by the  
28 department promote a higher degree of patient safety and do not contradict the  
29 federal CMS' COP and associated interpretive guidance;

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

32 (a) The department's process for reviewing and determining which  
33 complaints warrant an on-site investigation based on a preliminary review of  
34 available information from the complainant, other appropriate sources, and when

35 not prohibited by CMS, the hospital. For purposes of providing hospitals with  
36 information necessary to improve processes and patient care, the number and  
37 nature of complaints filed and the recommended actions by the department and,  
38 as appropriate CMS, shall be disclosed upon request to hospitals so long as the  
39 otherwise confidential identity of the complainant or the patient for whom the  
40 complaint was filed is not disclosed;

41 (b) A departmental investigation of a complaint shall be focused on the  
42 specific regulatory standard and departmental written interpretive guidance and  
43 publicly available professionally recognized standard of care related to the  
44 complaint. During the course of any complaint investigation, the department  
45 shall cite any serious and immediate threat discovered that may potentially  
46 jeopardize the health and safety of patients;

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

51 (4) Hospitals and hospital personnel shall have the opportunity to  
52 participate in annual continuing training sessions when such training is provided  
53 to state licensure surveyors with prior approval from the department director and  
54 CMS when appropriate. Hospitals and hospital personnel shall assume all costs  
55 associated with facilitating the training sessions and use of curriculum materials,  
56 including but not limited to the location for training, food, and printing costs;

57 (5) Time lines for the department to provide responses to hospitals  
58 regarding the status and outcome of pending investigations and regulatory  
59 actions and questions about interpretations of regulations shall be identical to,  
60 to the extent practicable, the time lines established for the federal hospital  
61 certification and enforcement system in the CMS State Operations Manual, as  
62 amended. These time lines shall be the guide for the department to  
63 follow. Every reasonable attempt shall be made to meet the time lines. However,  
64 failure to meet the established time lines shall in no way prevent the department  
65 from performing any necessary inspections to ensure the health and safety of  
66 patients.

67 3. Any rule or portion of a rule, as that term is defined in section 536.010,  
68 that is created under the authority delegated in this section shall become effective  
69 only if it complies with and is subject to all of the provisions of chapter 536 and,  
70 if applicable, section 536.028. This section and chapter 536 are nonseverable and

71 if any of the powers vested with the general assembly pursuant to chapter 536 to  
72 review, to delay the effective date, or to disapprove and annul a rule are  
73 subsequently held unconstitutional, then the grant of rulemaking authority and  
74 any rule proposed or adopted after August 28, 2013, shall 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 shall make any other inspections and investigations  
8 as it deems necessary for good cause shown. The department of health and senior  
9 services shall accept reports of hospital inspections from **or on behalf of**  
10 governmental agencies, the joint commission, and the American Osteopathic  
11 Association Healthcare Facilities Accreditation Program, provided the  
12 accreditation inspection was conducted within one year of the date of license  
13 renewal. Prior to granting acceptance of any other accrediting organization  
14 reports in lieu of the required licensure survey, the accrediting organization's  
15 survey process must be deemed appropriate and found to be comparable to the  
16 department's licensure survey. It shall be the accrediting organization's  
17 responsibility to provide the department any and all information necessary to  
18 determine if the accrediting organization's survey process is comparable and fully  
19 meets the intent of the licensure regulations. The department of health and  
20 senior services shall attempt to schedule inspections and evaluations required by  
21 this section so as not to cause a hospital to be subject to more than one inspection  
22 in any twelve-month period from the department of health and senior services or  
23 any agency or accreditation organization reports of which are accepted for  
24 licensure purposes pursuant to this section, except for good cause shown.

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

Section B. The enactment of section 197.005 and the repeal and  
2 reenactment of sections 197.040, 197.050, 197.070, 197.071, 197.080, and 197.100

3 of this act shall become effective on July 1, 2018.

✓

Unofficial

Bill

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