

SENATE BILL NO. 1527

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURGER.

6223S.011

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 192.131, 192.665, 192.667, 197.165, 197.293, and 197.294, RSMo, and to enact in lieu thereof five new sections relating to the infection control advisory panel, with penalty provisions.

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

Section A. Sections 192.131, 192.665, 192.667, 197.165,
2 197.293, and 197.294, RSMo, are repealed and five new sections
3 enacted in lieu thereof, to be known as sections 192.131,
4 192.665, 192.667, 197.293, and 197.294, to read as follows:

192.131. 1. As used in this section, the following
2 terms shall mean:

3 (1) ["Advisory panel", the infection control advisory
4 panel created by section 197.165;

5 (2) "Antibiogram", a record of the resistance of
6 microbes to various antibiotics;

7 [(3)] (2) "Antimicrobial", the ability of an agent to
8 destroy or prevent the development of pathogenic action of a
9 microorganism;

10 [(4)] (3) "Department", the department of health and
11 senior services.

12 2. Every laboratory performing culture and sensitivity
13 testing on humans in Missouri shall submit data on health
14 care associated infections to the department in accordance
15 with this section. The data to be reported shall be defined

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

16 by regulation of the department [after considering the
17 recommendations of the advisory panel]. Such data may
18 include antibiograms and, not later than July 1, 2005, shall
19 include but not be limited to the number of patients or
20 isolates by hospital, ambulatory surgical center, and other
21 facility or practice setting with methicillin-resistant
22 staphylococcus aureus (MRSA) or vancomycin-resistant
23 enterococcus (VRE).

24 3. Information on infections collected pursuant to
25 this section shall be subject to the confidentiality
26 protections of this chapter but shall be available in
27 provider-specific form to appropriate facility and
28 professional licensure authorities.

29 4. The [advisory panel] **department** shall [develop a
30 recommended plan to] use laboratory and health care provider
31 data provided pursuant to this chapter to create a system to:

32 (1) Enhance the ability of health care providers and
33 the department to track the incidence and distribution of
34 preventable infections, with emphasis on those infections
35 that are most susceptible to interventions and that pose the
36 greatest risk of harm to Missouri residents;

37 (2) Monitor trends in the development of antibiotic-
38 resistant microbes, including but not limited to methicillin-
39 resistant staphylococcus aureus (MRSA) and vancomycin-
40 resistant enterococcus (VRE) infections.

41 5. In implementing this section, the [advisory panel
42 and the] department shall conform to guidelines and
43 standards adopted by the **federal** Centers for Disease Control
44 and Prevention. [The advisory panel's plan may provide for
45 demonstration projects to assess the viability of the
46 recommended initiatives.]

192.665. As used in this section, section 192.667, and
sections 197.150 to [197.165] **197.162**, the following terms
mean:

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

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

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

(4) "Financial data", information submitted by
hospitals drawn from financial statements which includes the
balance sheet, income statement, charity care and bad debt
and charges by payer, prepared in accordance with generally
accepted accounting principles;

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

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

(7) "Nosocomial infection incidence rate", a risk-
adjusted measurement of new cases of nosocomial infections
by procedure or device within a population over a given
period of time, with such measurements defined by rule of
the department pursuant to subsection 3 of section 192.667
for use by all hospitals, ambulatory surgical centers,
abortion facilities, and other facilities in complying with

the requirements of the Missouri nosocomial infection control act of 2004;

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

(9) "Patient abstract data", data submitted by hospitals which includes but is not limited to date of birth, sex, race, zip code, county of residence, admission date, discharge date, principal and other diagnoses, including external causes, principal and other procedures, procedure dates, total billed charges, disposition of the patient and expected source of payment with sources categorized according to Medicare, Medicaid, other government, workers' compensation, all commercial payors coded with a common code, self-pay, no charge and other.

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

2. The department shall collect data on the incidence of health care-associated infections from hospitals, ambulatory surgical centers, abortion facilities, and other facilities as necessary to generate the reports required by this section. Hospitals, ambulatory surgical centers, abortion facilities, and other facilities shall provide such

18 data in compliance with this section. In order to
19 streamline government and to eliminate duplicative reporting
20 requirements, if the Centers for Medicare and Medicaid
21 Services, or its successor entity, requires hospitals to
22 submit health care-associated infection data, then hospitals
23 and the department shall not be required to comply with the
24 health care-associated infection data reporting requirements
25 of subsections 2 to 17 of this section applicable to
26 hospitals, except that the department shall post a link on
27 its website to publicly reported data by hospitals on the
28 Centers for Medicare and Medicaid Services' Hospital Compare
29 website, or its successor.

30 3. The department shall promulgate rules specifying
31 the standards and procedures for the collection, analysis,
32 risk adjustment, and reporting of the incidence of health
33 care-associated infections and the types of infections and
34 procedures to be monitored pursuant to subsection 13 of this
35 section. In promulgating such rules, the department shall[:

36 (1)] use methodologies and systems for data collection
37 established by the federal Centers for Disease Control and
38 Prevention's National Healthcare Safety Network, or its
39 successor[; and

40 (2) Consider the findings and recommendations of the
41 infection control advisory panel established pursuant to
42 section 197.165].

43 4. [By January 1, 2017, the infection control advisory
44 panel created by section 197.165 shall make recommendations
45 to] The department [regarding] **shall assess** the Centers for
46 Medicare and Medicaid Services' health care-associated
47 infection data collection, analysis, and public reporting
48 requirements for hospitals, ambulatory surgical centers, and
49 other facilities in the federal Centers for Disease Control

50 and Prevention's National Healthcare Safety Network, or its
51 successor, in lieu of all or part of the data collection,
52 analysis, and public reporting requirements of this
53 section. The [advisory panel recommendations] **department**
54 shall address which hospitals shall be required as a
55 condition of licensure to use the National Healthcare Safety
56 Network for data collection; the use of the National
57 Healthcare Safety Network for risk adjustment and analysis
58 of hospital submitted data; and the use of the Centers for
59 Medicare and Medicaid Services' Hospital Compare website, or
60 its successor, for public reporting of the incidence of
61 health care-associated infection metrics. [The advisory
62 panel shall consider the following factors in developing its
63 recommendation:

64 (1) Whether the public is afforded the same or greater
65 access to facility-specific infection control indicators and
66 metrics;

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

69 (3) Whether the public is provided with the same or
70 greater specificity of reporting of infections by type of
71 facility infections and procedures;

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

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

78 (6) Whether the cost to implement the National
79 Healthcare Safety Network infection data collection and
80 reporting system is the same or less.]

81 5. [After considering the recommendations of the
82 infection control advisory panel, and provided that the
83 requirements of subsection 13 of this section can be met,]

84 The department shall implement guidelines from the federal
85 Centers for Disease Control and Prevention's National
86 Healthcare Safety Network, or its successor. It shall be a
87 condition of licensure for hospitals that meet the minimum
88 public reporting requirements of the National Healthcare
89 Safety Network and the Centers for Medicare and Medicaid
90 Services to participate in the National Healthcare Safety
91 Network, or its successor. Such hospitals shall permit the
92 National Healthcare Safety Network, or its successor, to
93 disclose facility-specific infection data to the department
94 as required under this section, and as necessary to provide
95 the public reports required by the department. It shall be
96 a condition of licensure for any ambulatory surgical center
97 or abortion facility which does not voluntarily participate
98 in the National Healthcare Safety Network, or its successor,
99 to submit facility-specific data to the department as
100 required under this section, and as necessary to provide the
101 public reports required by the department.

102 6. The department shall not require the resubmission
103 of data which has been submitted to the department of health
104 and senior services or the department of social services
105 under any other provision of law. The department of health
106 and senior services shall accept data submitted by
107 associations or related organizations on behalf of health
108 care providers by entering into binding agreements
109 negotiated with such associations or related organizations
110 to obtain data required pursuant to section 192.665 and this
111 section. A health care provider shall submit the required
112 information to the department of health and senior services:

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

115 (2) If no binding agreement has been reached within
116 ninety days of August 28, 1992, between the department of
117 health and senior services and such associations or related
118 organizations; or

119 (3) If a binding agreement has expired for more than
120 ninety days.

121 7. Information obtained by the department under the
122 provisions of section 192.665 and this section shall not be
123 public information. Reports and studies prepared by the
124 department based upon such information shall be public
125 information and may identify individual health care
126 providers. The department of health and senior services may
127 authorize the use of the data by other research
128 organizations pursuant to the provisions of section
129 192.067. The department shall not use or release any
130 information provided under section 192.665 and this section
131 which would enable any person to determine any health care
132 provider's negotiated discounts with specific preferred
133 provider organizations or other managed care organizations.
134 The department shall not release data in a form which could
135 be used to identify a patient. Any violation of this
136 subsection is a class A misdemeanor.

137 8. The department shall undertake a reasonable number
138 of studies and publish information, including at least an
139 annual consumer guide, in collaboration with health care
140 providers, business coalitions and consumers based upon the
141 information obtained pursuant to the provisions of section
142 192.665 and this section. The department shall allow all
143 health care providers and associations and related
144 organizations who have submitted data which will be used in

any publication to review and comment on the publication prior to its publication or release for general use. The publication shall be made available to the public for a reasonable charge.

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

10. A hospital, as defined in section 197.020, aggrieved by the department's determination of ineligibility for state moneys pursuant to subsection 9 of this section may appeal as provided in section 197.071. An ambulatory surgical center or abortion facility as defined in section 197.200 aggrieved by the department's determination of ineligibility for state moneys pursuant to subsection 9 of this section may appeal as provided in section 197.221.

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

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

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

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

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

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

(2) Central line-related bloodstream infections;

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

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

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

13. [In consultation with the infection control advisory panel established pursuant to section 197.165,] The department shall develop and disseminate to the public reports based on data compiled for a period of twelve months. Such reports shall be updated [quarterly] **at least annually** and shall show for each hospital, ambulatory surgical center, abortion facility, and other facility

metrics on risk-adjusted health care-associated infections under this section.

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

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

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

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

[18.] 17. The department shall promulgate rules to implement the provisions of section 192.131 and sections

197.150 to 197.160. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

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

[20.] 19. Hospitals described in subsection [19] 18 of this section shall meet the National Healthcare Safety Network requirements for reporting antimicrobial usage or

271 resistance by using the Centers for Disease Control and
272 Prevention's Antimicrobial Use and Resistance (AUR) Module
273 when conditions of participation promulgated by the Centers
274 for Medicare and Medicaid Services requiring the electronic
275 reporting of antibiotic use or antibiotic resistance by
276 hospitals become effective. When such antimicrobial usage
277 or resistance reporting takes effect, hospitals shall
278 authorize the National Healthcare Safety Network, or its
279 successor, to disclose to the department facility-specific
280 information reported to the AUR Module. Facility-specific
281 data on antibiotic usage and resistance collected under this
282 subsection shall not be disclosed to the public, but the
283 department may release case-specific information to other
284 facilities, physicians, and the public if the department
285 determines on a case-by-case basis that the release of such
286 information is necessary to protect persons in a public
287 health emergency. Nothing in this section shall prohibit a
288 hospital from voluntarily reporting antibiotic use or
289 antibiotic resistance data through the National Healthcare
290 Safety Network, or its successor, prior to the effective
291 date of the conditions of participation requiring the
292 reporting.

293 [21.] 20. The department shall make a report to the
294 general assembly beginning January 1, 2018, and on every
295 January first thereafter on the incidence, type, and
296 distribution of antimicrobial-resistant infections
297 identified in the state and within regions of the state.

197.293. 1. In addition to the powers established in
2 sections 197.070 and 197.220, the department of health and
3 senior services shall use the following standards for
4 enforcing hospital, ambulatory surgical center, and abortion
5 facility licensure regulations promulgated to enforce the

6 provisions of sections 197.010 to 197.120, sections 197.150
7 to [197.165] **197.162**, and sections 197.200 to 197.240:

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

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

17 (a) Direct the hospital, ambulatory surgical center,
18 or abortion facility to develop and implement a plan of
19 correction pursuant to subdivision (1) of this subsection; or

20 (b) Require the hospital, ambulatory surgical center,
21 or abortion facility to implement a plan of correction
22 developed by the department;

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

30 (4) If there is a continuing deficiency after the
31 department restricts new inpatient admissions or outpatient
32 entrants to the service or services pursuant to subdivision
33 (3) of this subsection and the hospital, ambulatory surgical
34 center, or abortion facility has had an opportunity to
35 correct such deficiency, the department may suspend
36 operations in all or part of the service or services
37 affected by such deficiency;

38 (5) If there is a continuing deficiency after
39 suspension of operations pursuant to subdivision (4) of this
40 subsection, the department may deny, suspend or revoke the
41 hospital's, ambulatory surgical center's, or abortion
42 facility's license pursuant to section 197.070 or section
43 197.220.

44 2. Notwithstanding the provisions of subsection 1 of
45 this section to the contrary, if a deficiency in meeting
46 licensure standards presents an immediate and serious threat
47 to the patients' health and safety, the department may,
48 based on the scope and severity of the deficiency, restrict
49 access to the service or services affected by the deficiency
50 until the hospital, ambulatory surgical center, or abortion
51 facility has developed and implemented an approved plan of
52 correction. Decisions as to whether a deficiency
53 constitutes an immediate and serious threat to the patients'
54 health and safety shall be made in accordance with
55 guidelines established pursuant to regulation of the
56 department of health and senior services and such decisions
57 shall be approved by the bureau of health facility licensing
58 in the department of health and senior services, or its
59 successor agency, or by a person authorized by the
60 regulations to approve such decisions in the absence of the
61 director.

 197.294. No information disclosed by the department to
2 the public pursuant to sections 192.019, 192.020, 192.067,
3 192.131, 192.138, 192.665, and 192.667, and sections
4 197.150, 197.152, 197.154, 197.156, 197.158, 197.160,
5 197.162, [197.165,] and 197.293 shall be used to establish a
6 standard of care in a private civil action.

 [197.165. 1. The department shall appoint
2 an "Infection Control Advisory Panel" for the

3 purposes of implementing sections 192.131 and
4 192.667.

5 2. Members of the infection control
6 advisory panel shall include:

7 (1) Two public members;

8 (2) Three board-certified or board-
9 eligible physicians licensed pursuant to chapter
10 334 who are affiliated with a Missouri hospital
11 or medical school, active members of the Society
12 for Health Care Epidemiology of America, and
13 have demonstrated interest and expertise in
14 health facility infection control;

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

19 (4) Four infection control practitioners
20 certified by the certification board of
21 infection control and epidemiology, at least two
22 of whom shall be practicing in a rural hospital
23 or setting and at least two of whom shall be
24 registered professional nurses licensed under
25 chapter 335;

26 (5) A medical statistician with an
27 advanced degree in such specialty;

28 (6) A clinical microbiologist with an
29 advanced degree in such specialty;

30 (7) Three employees of the department,
31 representing the functions of hospital,
32 ambulatory surgical center, and abortion
33 facility licensure, epidemiology and health data
34 analysis, who shall serve as ex officio
35 nonvoting members of the panel.

36 3. Reasonable expenses of the panel shall
37 be paid from private donations made specifically
38 for that purpose to the "Infection Control
39 Advisory Panel Fund", which is hereby created in
40 the state treasury. If such donations are not
41 received from private sources, then the
42 provisions of this act shall be implemented
43 without the advisory panel.]

✓