

SECOND REGULAR SESSION

SENATE BILL NO. 855

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS SIMS, JOHNSON, WIGGINS, YECKEL,
BENTLEY, HOUSE, CLAY, MAXWELL AND ROHRBACH.

Read 1st time February 2, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

L1901.04I

AN ACT

To repeal section 197.315, RSMo 1994, relating to the development of skilled nursing and residential care facilities, and to enact in lieu thereof two new sections relating to the same subject.

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

Section A. Section 197.315, RSMo 1994, is repealed and two new sections enacted in lieu thereof, to be known as sections 197.315 and 197.324, to read as follows:

197.315. 1. Any person who proposes to develop or offer a new institutional health service within the state **[must]** **shall** obtain a certificate of need from the committee prior to the time such services are offered.

2. Only those new institutional health services which are found by the committee to be needed shall be granted a certificate of need. Only those new institutional health services which are granted certificates of need shall be offered or developed within the state. No expenditures for new institutional health services in excess of the expenditure minimum shall be made by any person unless a certificate of need has been granted.

3. After October 1, 1980, no state agency charged by statute to license or certify health care facilities shall issue a license to or certify any such facility, or distinct part of such facility, that is developed without obtaining a certificate of need.

4. If any person proposes to develop any new institutional health care service without a certificate of need as required by sections 197.300 to 197.365, the committee shall notify the attorney general, and **[he]** **the attorney general** shall apply for an injunction or other appropriate legal action in any court of this state against that person.

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

5. After October 1, 1980, no agency of state government may appropriate or grant funds to or make payment of any funds to any person or health care facility which has not first obtained every certificate of need required [under] **pursuant to** sections 197.300 to 197.365.

6. A certificate of need shall be issued only for the premises and persons named in the application and is not transferable except by consent of the committee.

7. Project cost increases, due to changes in the project application as approved or due to project change orders, exceeding the initial estimate by more than ten percent shall not be incurred without consent of the committee.

8. Periodic reports to the committee shall be required of any applicant who has been granted a certificate of need until the project has been completed. The committee may order the forfeiture of the certificate of need upon failure of the applicant to file any such report.

9. A certificate of need shall be subject to forfeiture for failure to incur a capital expenditure on any approved project within six months after the date of the order. The applicant may request an extension from the committee of not more than six additional months based upon substantial expenditure made.

10. Each application for a certificate of need [must] **shall** be accompanied by an application fee. The time of filing commences with the receipt of the application and the application fee. The application fee is one thousand dollars, or one-tenth of one percent of the total cost of the proposed project, whichever is greater. All application fees shall be deposited in the state treasury. Because of the loss of federal funds, the general assembly will appropriate funds to the Missouri health facilities review committee.

11. **Except as provided in subsection 19 of this section**, in determining whether a certificate of need should be granted, no consideration shall be given to the facilities or equipment of any other health care facility located more than a fifteen-mile radius from the applying facility.

12. When a nursing facility shifts from a professional to a practical level of nursing care, it may return to the higher level of care if it meets the licensure requirements, without obtaining a certificate of need.

13. In no event shall a certificate of need be denied because the applicant refuses to provide abortion services or information.

14. A certificate of need shall not be required for the transfer of ownership of an existing and operational health facility in its entirety.

15. A certificate of need may be granted to a facility for an expansion, an addition of services, a new institutional service, or for a new hospital facility which provides for something less than that which was sought in the application.

16. The provisions of this section shall not apply to facilities operated by the state, and appropriation of funds to such facilities by the general assembly shall be deemed in compliance with this section, and such facilities shall be deemed to have received an appropriate certificate

of need without payment of any fee or charge.

17. Notwithstanding other provisions of this section, a certificate of need may be issued after July 1, 1983, for an intermediate care facility operated exclusively for the mentally retarded.

18. To assure the safe, appropriate, and cost-effective transfer of new medical technology throughout the state, a certificate of need shall not be required for the purchase and operation of research equipment that is to be used in a clinical trial that has received written approval from a duly constituted institutional review board of an accredited school of medicine or osteopathy located in Missouri to establish its safety and efficacy and does not increase the bed complement of the institution in which the equipment is to be located. After the clinical trial has been completed, a certificate of need must be obtained for continued use in such facility.

19. Notwithstanding the provisions of section 197.317 to the contrary, any facility, as defined in section 198.006, RSMo, which has an occupancy rate of less than ninety percent may transfer the ownership of any of its licensed beds to any other facility similarly licensed pursuant to chapter 198, RSMo. Such beds shall only be operated as they are currently licensed. Such transfers shall not require a certificate of need, review or approval, provided that:

(1) The transferring facility shall surrender to the department of social services its license for the number of beds transferred and upon receipt of the surrendered license, the department of social services shall issue a license for the same number of beds surrendered to the facility to which the beds were transferred; and

(2) Only a skilled nursing facility to which at least sixty beds are transferred may aggregate all transferred beds together with its currently licensed beds to obtain a replacement certificate of need for the entire facility pursuant to the provisions of sections 198.003 to 198.336, RSMo, and implementing regulations;

(3) Only a residential care facility I and II to which at least twenty beds are transferred may aggregate all transferred beds together with its currently licensed beds to obtain a replacement certificate of need for the entire facility pursuant to the provisions of sections 198.003 to 198.336, RSMo, and implementing regulations.

197.324. 1. The provisions of section 197.317 shall not apply to a residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility only where the department of social services has first determined that there presently exists a need for additional beds of that classification in such facility because the average aggregate occupancy over the last four consecutive calendar quarters of all licensed beds in the subject facility of the category proposed to be added equals or exceeds ninety percent, and the facility otherwise appears to qualify for a certificate of need. Any facility that presents a need for additional beds pursuant to this section shall be allowed to expand its licensed bed capacity in the qualifying category by the greater of twenty-five percent of its then current licensed capacity in such category or

thirty such beds, provided that no increase shall be greater than one hundred percent of its current licensed capacity in such category.

2. Notwithstanding the provisions of subsection 1 of this section, any facility qualified hereunder that receives a certificate of need for additional beds pursuant to this section shall not be allowed to apply for additional beds pursuant to the authority of this section for a period of twenty-four months from the date such certificate was issued, and, in any event, such facility shall be prohibited from transferring any beds of such licensed category for a period of five years.

3. Notwithstanding any other provision of this chapter to the contrary, any residential care facility I or residential care facility II, as defined in section 198.066, RSMo, may reallocate any portion of such facility's current licensed beds to any other facility within the same licensure category if both facilities are under the same licensure ownership and are located within five miles of each other.

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Bill

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