

FIRST REGULAR SESSION

SENATE BILL NO. 470

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WIGGINS.

Read 1st time February 18, 1999, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

L1837.011

AN ACT

To repeal sections 197.317 and 197.318, RSMo Supp. 1998, relating to certificate of need law, 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Section A. Sections 197.317 and 197.318, RSMo Supp. 1998, are repealed and two new sections enacted in lieu thereof, to be known as sections 197.317 and 197.318, to read as follows:

197.317. After July 1, 1983, no certificate of need shall be issued for the following:

(1) Additional residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility beds above the number then licensed by this state;

(2) Beds in a licensed hospital to be reallocated on a temporary or permanent basis to nursing care or beds in a long-term care hospital meeting the requirements described in 42 C.F.R., section 412.23(e), excepting those which are not subject to a certificate of need pursuant to paragraphs (e) and (g) of subdivision (12) of section 197.305; nor

(3) The reallocation of intermediate care facility or skilled nursing facility beds of existing licensed beds by transfer or sale of licensed beds between a hospital licensed **[under] pursuant to this chapter [or] and** a nursing care facility licensed **[under] pursuant to** chapter 198, RSMo; except for beds in counties in which there is no existing nursing care facility. [No certificate of need shall be issued for the reallocation of existing residential care facility I or II, or intermediate care facilities operated exclusively for the mentally retarded to intermediate care or skilled nursing facilities or beds.] However, after [July 1, 1999] **December 31, 2001**, nothing in this

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

section shall prohibit the Missouri health [facilities] **services** review committee from issuing a certificate of need for additional beds in existing health [care] facilities or for new beds in new health [care] facilities or for the reallocation of licensed beds[, provided that no construction shall begin prior to July 1, 2000]. The provisions of subsections 16 and 17 of section 197.315 shall apply to the provisions of this section.

197.318. 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 because the average occupancy of all licensed and available residential care facility I, residential care facility II, intermediate care facility and skilled nursing facility beds exceeds ninety percent for at least three consecutive calendar quarters, in a particular county, and within a fifteen-mile radius of the proposed facility, and the facility otherwise appears to qualify for a certificate of need. The department's certification that there is no need for additional beds shall serve as the final determination and decision of the committee. In determining ninety percent occupancy, residential care facility I and II shall be one separate classification and intermediate care and skilled nursing facilities are another separate classification. [The provisions of sections 197.300 to 197.366 shall not apply to any of the following:

(1) A residential care facility I or residential care facility II which has received approval by the division of aging of plans for construction of such facility by August 1, 1995, and is licensed by the division of aging by August 1, 1996;

(2) A combined skilled nursing facility and residential care facility I and II located in a tax increment financing district which has received approval by the division of aging of plans for construction of the residential care facility I and II beds by August 1, 1995;

(3) A residential care facility I or residential care facility II which has received approval by the division of aging of plans for construction of such facility by August 1, 1995, and is located in any county of the first classification without a charter form of government with an assessed valuation of at least one billion dollars but not more than one billion five hundred million dollars;

(4) A residential care facility I or residential care facility II which has received approval by the division of aging of plans for construction of such facility by August 1, 1995, and is located in a nursing home district which is contiguous to a public hospital district located in a county of the third classification.]

2. The Missouri health services review committee may, for any residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility certified to it by the department of social services, consider the addition of up to twenty-five percent of its licensed capacity, not to exceed thirty new beds, to a facility having in excess of ninety percent occupancy for at least four consecutive calendar

quarters, or allow the conversion of up to twenty-five percent of its licensed capacity, not to exceed thirty beds, once every five years in order to accomplish a continuum of care.

3. The Missouri health services review committee may, for any facility certified to it by the department of social services, consider allowing the transfer of beds, regardless of level of service, from a residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility having less than eighty percent occupancy of licensed capacity for at least four consecutive quarters to a residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility having in excess of ninety percent occupancy of licensed capacity for at least four consecutive calendar quarters within a particular regional planning commission area or within a thirty-mile radius from the proposed site. A facility from which beds are transferred shall not add beds for at least five years thereafter.

4. The Missouri health facilities review committee may, for any facility certified to it by the department, consider the predominant ethnic or religious composition of the residents to be served by that facility in considering whether to grant a certificate of need.

[3.] 5. There shall be no expenditure minimum for facilities, beds, or services referred to in subdivisions (1), (2) and (3) of section 197.317. The provisions of this subsection shall expire December 31, 1999.

[4.] 6. As used in this section, the term "licensed and available" means beds which are actually in place and for which a license has been issued.

[5. The provisions of section 197.317 shall not apply to any facility where at least ninety-five percent of the patients require diets meeting the dietary standards defined by section 196.165, RSMo.

6.] 7. The committee shall review all letters of intent and applications for long-term care hospital beds meeting the requirements described in 42 C.F.R., section 412.23(e) under its criteria and standards for long-term care beds.

[7.] 8. Sections 197.300 to 197.366 shall not be construed to apply to litigation pending in state court on or before April 1, 1996, in which the Missouri health [facilities] **services** review committee is a defendant in an action concerning the application of sections 197.300 to 197.366 to long-term care hospital beds meeting the requirements described in 42 C.F.R., section 412.23(e).

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