

SENATE AMENDMENT NO. _____

Offered by _____ Of _____

Amend SS/SCS/Senate Bill No. 841, Page 38, Section 196.990, Line 131,

2 by inserting after all of said line the following:

3 "197.305. As used in sections 197.300 to [197.366]
4 197.367, the following terms mean:

5 (1) "Affected persons", the person proposing the
6 development of a new institutional health service, the
7 public to be served, and health care facilities within the
8 service area in which the proposed new health care service
9 is to be developed;

10 (2) "Agency", the certificate of need program of the
11 Missouri department of health and senior services;

12 (3) "Capital expenditure", an expenditure by or on
13 behalf of a health care facility which, under generally
14 accepted accounting principles, is not properly chargeable
15 as an expense of operation and maintenance;

16 (4) "Certificate of need", a written certificate
17 issued by the committee setting forth the committee's
18 affirmative finding that a proposed project sufficiently
19 satisfies the criteria prescribed for such projects by
20 sections 197.300 to [197.366] 197.367;

21 (5) "Committee", the Missouri health facilities review
22 committee;

23 (6) "Department", the Missouri department of health
24 and senior services;

25 (7) "Develop", to undertake those activities which on
26 their completion will result in the offering of a new
27 institutional health service or the incurring of a financial
28 obligation in relation to the offering of such a service;

29 [(6)] (8) "Expenditure minimum" shall mean:

30 (a) For beds in existing or proposed health care
31 facilities licensed pursuant to chapter 198 and long-term
32 care beds in a hospital as described in subdivision (3) of
33 subsection 1 of section 198.012, six hundred thousand
34 dollars in the case of capital expenditures[, or four
35 hundred thousand dollars in the case of major medical
36 equipment,]; provided, [however,] that prior to January 1,
37 2003, the expenditure minimum for beds in such a facility
38 and long-term care beds in a hospital described in section
39 198.012 shall be zero, subject to the provisions of
40 subsection 7 of section 197.318;

41 (b) For beds [or equipment] in a long-term care
42 hospital meeting the requirements described in 42 CFR[,
43 Section] 412.23(e), the expenditure minimum shall be zero;
44 and

45 (c) For health care facilities, new institutional
46 health services or beds not described in paragraph (a) or
47 (b) of this subdivision one million dollars in the case of
48 capital expenditures[, excluding major medical equipment,
49 and one million dollars in the case of medical equipment];

50 (9) "Health care facilities":

51 (a) Facilities licensed under chapter 198;

52 (b) Long-term care beds in a hospital, as described in
53 subdivision (3) of subsection 1 of section 198.012; and

54 (c) Long-term care hospitals or beds in a long-term
55 care hospital meeting the requirements described in 42 CFR
56 412.23(e);

57 [(7)] (10) "Health service area", a geographic region
58 appropriate for the effective planning and development of
59 health services, determined on the basis of factors
60 including population and the availability of resources,
61 consisting of a population of not less than five hundred
62 thousand or more than three million;

63 [(8) "Major medical equipment", medical equipment used
64 for the provision of medical and other health services;

65 (9)] (11) "New institutional health service":

66 (a) The development of a new health care facility
67 costing in excess of the applicable expenditure minimum;

68 (b) The acquisition, including acquisition by lease,
69 of any health care facility[, or major medical equipment]
70 costing in excess of the expenditure minimum;

71 (c) Any capital expenditure by or on behalf of a
72 health care facility in excess of the expenditure minimum;

73 (d) Predevelopment activities [as defined in
74 subdivision (12) hereof] costing in excess of one hundred
75 fifty thousand dollars;

76 (e) Any change in licensed bed capacity of a health
77 care facility licensed under chapter 198 which increases the
78 total number of beds by more than ten or more than ten
79 percent of total bed capacity, whichever is less, over a two-
80 year period, provided that any such health care facility
81 seeking a nonapplicability review for an increase in total
82 beds or total bed capacity in an amount less than described
83 in this paragraph shall be eligible for such review only if
84 the facility has had no patient care class I deficiencies
85 within the last eighteen months and has maintained at least
86 an eighty-five percent average occupancy rate for the
87 previous six quarters;

88 (f) Health services, excluding home health services,
89 which are offered in a health care facility and which were

90 not offered on a regular basis in such health care facility
91 within the twelve-month period prior to the time such
92 services would be offered;

93 (g) A reallocation by an existing health care facility
94 of licensed beds among major types of service or
95 reallocation of licensed beds from one physical facility or
96 site to another by more than ten beds or more than ten
97 percent of total licensed bed capacity, whichever is less,
98 over a two-year period;

99 [(10)] (12) "Nonsubstantive projects", projects which
100 do not involve the addition, replacement, modernization or
101 conversion of beds or the provision of a new health service
102 but which include a capital expenditure which exceeds the
103 expenditure minimum and are due to an act of God or a normal
104 consequence of maintaining health care services, facility or
105 equipment;

106 [(11)] (13) "Person", any individual, trust, estate,
107 partnership, corporation, including associations and joint
108 stock companies, state or political subdivision or
109 instrumentality thereof, including a municipal corporation;

110 [(12)] (14) "Predevelopment activities", expenditures
111 for architectural designs, plans, working drawings and
112 specifications, and any arrangement or commitment made for
113 financing; but excluding submission of an application for a
114 certificate of need.

115 197.315. 1. Any person who proposes to develop or
116 offer a new institutional health service within the state
117 [must] shall obtain a certificate of need from the committee
118 prior to the time such services are offered.

119 2. Only those new institutional health services which
120 are found by the committee to be needed shall be granted a
121 certificate of need. Only those new institutional health
122 services which are granted certificates of need shall be

123 offered or developed within the state. No expenditures for
124 new institutional health services in excess of the
125 applicable expenditure minimum shall be made by any person
126 unless a certificate of need has been granted.

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

132 4. If any person proposes to develop any new
133 institutional health care service without a certificate of
134 need as required by sections 197.300 to ~~[197.366]~~ 197.367,
135 the committee shall notify the attorney general, and he
136 shall apply for an injunction or other appropriate legal
137 action in any court of this state against that person.

138 5. After October 1, 1980, no agency of state
139 government may appropriate or grant funds to or make payment
140 of any funds to any person or health care facility which has
141 not first obtained every certificate of need required
142 pursuant to sections 197.300 to ~~[197.366]~~ 197.367.

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

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

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

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

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

172 11. In determining whether a certificate of need
173 should be granted, no consideration shall be given to the
174 facilities [or equipment] of any other health care facility
175 located more than a fifteen-mile radius from the applying
176 facility.

177 12. When a [nursing] long-term care facility shifts
178 from a skilled to an intermediate level of nursing care, it
179 may return to the higher level of care if it meets the
180 licensure requirements, without obtaining a certificate of
181 need.

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

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

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

193 16. The provisions of this section shall not apply to
194 facilities operated by the state, and appropriation of funds
195 to such facilities by the general assembly shall be deemed
196 in compliance with this section, and such facilities shall
197 be deemed to have received an appropriate certificate of
198 need without payment of any fee or charge. The provisions
199 of this subsection shall not apply to hospitals offering
200 long-term care services operated by the state and licensed
201 under this chapter, except for department of mental health
202 state-operated psychiatric hospitals.

203 17. Notwithstanding other provisions of this section,
204 a certificate of need may be issued after July 1, 1983, for
205 an intermediate care facility operated exclusively for the
206 intellectually disabled.

207 [18. To assure the safe, appropriate, and cost-
208 effective transfer of new medical technology throughout the
209 state, a certificate of need shall not be required for the
210 purchase and operation of:

211 (1) Research equipment that is to be used in a
212 clinical trial that has received written approval from a
213 duly constituted institutional review board of an accredited
214 school of medicine or osteopathy located in Missouri to
215 establish its safety and efficacy and does not increase the
216 bed complement of the institution in which the equipment is
217 to be located. After the clinical trial has been completed,
218 a certificate of need must be obtained for continued use in
219 such facility; or

220 (2) Equipment that is to be used by an academic health
221 center operated by the state in furtherance of its research
222 or teaching missions.]

223 197.320. The committee shall have the power to
224 promulgate reasonable rules, regulations, criteria and
225 standards in conformity with this section and chapter 536 to
226 meet the objectives of sections 197.300 to ~~[197.366]~~ 197.367
227 including the power to establish criteria and standards to
228 review new types of ~~[equipment or service]~~ services. Any
229 rule or portion of a rule, as that term is defined in
230 section 536.010, that is created under the authority
231 delegated in sections 197.300 to ~~[197.366]~~ 197.367 shall
232 become effective only if it complies with and is subject to
233 all of the provisions of chapter 536 and, if applicable,
234 section 536.028. All rulemaking authority delegated prior to
235 August 28, 1999, is of no force and effect and repealed.
236 Nothing in this section shall be interpreted to repeal or
237 affect the validity of any rule filed or adopted prior to
238 August 28, 1999, if it fully complied with all applicable
239 provisions of law. This section and chapter 536 are
240 nonseverable and if any of the powers vested with the
241 general assembly pursuant to chapter 536 to review, to delay
242 the effective date or to disapprove and annul a rule are
243 subsequently held unconstitutional, then the grant of
244 rulemaking authority and any rule proposed or adopted after
245 August 28, 1999, shall be invalid and void."; and

246 Further amend said bill, page 119, section 345.050,
247 line 30, by inserting after all of said line the following:

248 "354.095. 1. A corporation subject to the provisions
249 of sections 354.010 to 354.380 may, in the discretion of its
250 board of directors, limit or define the classes of persons
251 who shall be eligible to become members or beneficiaries,
252 limit and define the benefits which it will furnish, and may

253 define such benefits as it undertakes to furnish into
254 classes or kinds. It may make available to its members or
255 beneficiaries such health services, or reimbursement
256 therefor, as the board of directors of any such corporation
257 may approve; if maternity benefits are provided to any
258 members of any plan, then maternity benefits shall be
259 provided to any member of such plan without discrimination
260 as to whether the member is married or unmarried, and if
261 maternity benefits are provided to a beneficiary of any
262 plan, then maternity benefits shall be provided to such
263 beneficiary of such plan without discrimination as to
264 whether the beneficiary is married or unmarried.

265 2. [If an ambulatory surgical facility as defined by
266 subdivision (2) of section 197.200, has received a
267 certificate of need as provided in chapter 197,] A health
268 services corporation shall provide benefits to [the
269 facility] an ambulatory surgical center, as defined by
270 section 197.200, on the same basis as it does to all other
271 health care facilities, whether contracting members or
272 noncontracting members. A health services corporation shall
273 use the same standards that are applied to any other health
274 care facility within the same health services area in
275 defining the benefits that the corporation will furnish to
276 the ambulatory surgical facility, the classes to which such
277 benefits will be furnished, and the amount of
278 reimbursement."; and

279 Further amend said bill, page 140, section 632.305,
280 line 83, by inserting after all of said line the following:

281 "[197.366. The term "health care
282 facilities" in sections 197.300 to 197.366 shall
283 mean:

284 (1) Facilities licensed under chapter 198;

285 (2) Long-term care beds in a hospital as
286 described in subdivision (3) of subsection 1 of
287 section 198.012;

288 (3) Long-term care hospitals or beds in a
289 long-term care hospital meeting the requirements
290 described in 42 CFR, section 412.23(e); and

291 (4) Construction of a new hospital as
292 defined in chapter 197.]" ; and

293 Further amend the title and enacting clause accordingly.