

FIRST REGULAR SESSION

HOUSE BILL NO. 579

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FREDERICK (Sponsor), RICHARDSON,
LICHTENEGGER AND BURLISON (Co-sponsors).

1496L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 197.071, 197.080, 197.100, and 536.031, RSMo, and to enact in lieu thereof four new sections relating to hospital licensure law.

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

Section A. Sections 197.071, 197.080, 197.100, and 536.031, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 197.071, 197.080, 197.100,
3 and 536.031, to read as follows:

197.071. Any person aggrieved by an official action of the department of health and
2 senior services affecting the licensed status of a person under the provisions of sections 197.010
3 to [197.120] **197.162**, including the refusal to grant, the grant, the revocation, the suspension,
4 or the failure to renew a license, may seek a determination thereon by the administrative hearing
5 commission pursuant to the provisions of section 621.045, and it shall not be a condition to such
6 determination that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other
7 procedure within the department of health and senior services.

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

9 **2. The department shall review and revise its regulations governing hospital**
10 **licensure and enforcement as to promote hospital and regulatory efficiencies and eliminate**
11 **duplicative regulation and inspections by or on behalf of state and federal agencies. The**
12 **hospital licensure regulations adopted under this section shall incorporate standards which**
13 **shall include, but not be limited to, the following:**

14 **(1) Each citation or finding of a regulatory deficiency shall refer to the specific**
15 **written and publicly available standard and associated written interpretative guidance that**
16 **are the basis of the citation or finding;**

17 **(2) The department shall ensure that its hospital licensure regulatory standards are**
18 **consistent with and do not contradict the federal Centers for Medicare and Medicaid**
19 **Services' Conditions of Participation for hospitals and associated interpretive guidance;**

20 **(3) The department shall establish and publish a process and standards for**
21 **determining which complaints warrant an onsite investigation, based on a preliminary**
22 **review of available information from the complainant and the hospital. The process and**
23 **standards shall, at a minimum, provide for a departmental determination independent of**
24 **any recommendation for investigation by or in consultation with the federal Centers for**
25 **Medicare and Medicaid Services (CMS). For purposes of evaluating such process and**
26 **standards, the number and nature of complaints filed and the recommended actions by the**
27 **department and, as appropriate, CMS shall be disclosed upon request to hospitals, so long**
28 **as the otherwise confidential identity of the complainant or the patient for whom the**
29 **complaint was filed is not disclosed;**

30 **(4) The scope of a departmental investigation of a complaint shall be limited to the**
31 **specific regulatory standard or standards raised by the complaint, unless a threat of**
32 **immediate jeopardy of safety is observed or identified during the investigation;**

33 **(5) Hospitals and hospital representatives shall have the opportunity to participate**
34 **in training sessions provided to state licensure surveyors, which shall be provided at least**
35 **annually. Hospitals and hospital representatives shall assume all costs associated with**
36 **their participation in training sessions and use of curriculum materials;**

37 **(6) The regulations shall establish specific timelines for state hospital officials to**
38 **provide responses to hospitals regarding the status and outcome of pending investigations**
39 **and regulatory actions and questions about interpretations of regulations. Such timelines**
40 **shall be identical to, to the extent practicable, to the timelines established for the federal**
41 **hospital certification and enforcement system in CMS's State Operations Manual, as**
42 **amended.**

43 **3. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
44 **created under the authority delegated in this section shall become effective only if it**
45 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**

46 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
47 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
48 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
49 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2011,**
50 **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 authority, and
3 responsibility for inspection and licensure of hospitals in this state including, but not limited to
4 all parts, services, functions, support functions and activities which contribute directly or
5 indirectly to patient care of any kind whatsoever. The department of health and senior services
6 shall annually inspect each licensed hospital [and] **but shall accept in lieu of an annual**
7 **inspection reports of hospital inspections from other governmental and recognized**
8 **accrediting organizations as authorized by this section. Recognizing accrediting**
9 **organizations shall be those that have deemed status conferred by the Centers for Medicare**
10 **and Medicaid Services (CMS) to take the place of direct CMS oversight and enforcement.**
11 **The department shall make any other inspections and investigations as it deems necessary for**
12 **good cause shown; provided that, the scope of a departmental investigation of a complaint**
13 **shall be limited to the specific regulatory standard or standards raised by the complaint,**
14 **unless a documented threat of immediate jeopardy of safety is observed or identified**
15 **during the investigation.** The department of health and senior services shall accept reports of
16 hospital inspections from governmental agencies and recognized accrediting organizations [in
17 whole or in part] for licensure purposes if[:

18 (1) The inspection is comparable to an inspection performed by the department of health
19 and senior services;

20 (2) The hospital meets minimum licensure standards; and

21 (3)] the **accreditation** inspection was conducted within [one year] **three years** of the
22 date of license renewal. The department of health and senior services shall attempt to schedule
23 inspections and evaluations required by this section so as not to cause a hospital to be subject to
24 more than one inspection in any twelve-month period from the department of health and senior
25 services or any agency or accreditation organization the reports of which are accepted for
26 licensure purposes pursuant to this section, except for good cause shown.

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

536.031. 1. There is established a publication to be known as the "Code of State Regulations", which shall be published in a format and medium as prescribed and in writing upon request by the secretary of state as soon as practicable after ninety days following January 1, 1976, and may be republished from time to time thereafter as determined by the secretary of state.

2. The code of state regulations shall contain the full text of all rules of state agencies in force and effect upon the effective date of the first publication thereof, and effective September 1, 1990, it shall be revised no less frequently than monthly thereafter so as to include all rules of state agencies subsequently made, amended or rescinded. The code may also include citations, references, or annotations, prepared by the state agency adopting the rule or by the secretary of state, to any intraagency ruling, attorney general's opinion, determination, decisions, order, or other action of the administrative hearing commission, or any determination, decision, order, or other action of a court interpreting, applying, discussing, distinguishing, or otherwise affecting any rule published in the code.

3. The code of state regulations shall be published in looseleaf form in one or more volumes upon request and a format and medium as prescribed by the secretary of state with an appropriate index, and revisions in the text and index may be made by the secretary of state as necessary and provided in written format upon request.

4. An agency may incorporate by reference rules, regulations, standards, and guidelines of an agency of the United States or a nationally or state-recognized organization or association without publishing the material in full. The reference in the agency rules shall fully identify the incorporated material by publisher, address, and date in order to specify how a copy of the material may be obtained, and shall state that the referenced rule, regulation, standard, or guideline does not include any later amendments or additions; **except that, hospital licensure regulations promulgated under sections 197.010 to 197.162 may incorporate by reference later additions or amendments to such guidelines, standards, or regulations as needed to consistently apply current standards of safety, quality, and practice.** The agency adopting a rule, regulation, standard, or guideline under this section shall maintain a copy of the referenced rule, regulation, standard, or guideline at the headquarters of the agency and shall make it available to the public for inspection and copying at no more than the actual cost of reproduction. The secretary of state may omit from the code of state regulations such material incorporated by reference in any rule the publication of which would be unduly cumbersome or expensive.

5. The courts of this state shall take judicial notice, without proof, of the contents of the code of state regulations.