

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE COMMITTEE SUBSTITUTE FOR  
HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 351

## 97TH GENERAL ASSEMBLY

0682S.09T

2013

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### AN ACT

To repeal sections 191.227, 197.080, and 197.100, RSMo, and to enact in lieu thereof five new sections relating to health care providers, with an emergency clause for a certain section.

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

Section A. Sections 191.227, 197.080, and 197.100, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 96.229, 191.227, 197.080, 197.100, and 1, to read as follows:

**96.229. 1. Notwithstanding subsection 5 of section 96.150 regarding the lease of substantially all of a hospital where the board of trustees is lessor, a city in which a hospital is located that:**

- (1) Is organized and operated under this chapter;**
- (2) Has not accepted appropriated funds from the city during the prior twenty years; and**
- (3) Is licensed by the department of health and senior services for two hundred beds or more pursuant to sections 197.010 to 197.120,**

**shall not have authority to sell, lease, or otherwise transfer all or substantially all of the property from a hospital organized under this chapter, both real and personal, except in accordance with this section.**

**2. Upon filing with the city clerk of a resolution adopted by no less than two-thirds of the incumbent members of the board of trustees to sell, lease, or otherwise transfer all or substantially all of the hospital property, both real and personal, for reasons specified in the resolution, the clerk shall present the resolution to the city council. If a majority of the incumbent members of the city council determine that sale, lease, or other transfer of**

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.

18 the hospital property is desirable, the city council shall submit to the voters of the city the  
19 question in substantially the following form:

20 "Shall the city council of . . . . ., Missouri and the board of trustees of .  
21 . . . . . hospital be authorized to sell (or lease or otherwise transfer) the property,  
22 real and personal, of . . . . . hospital as approved by, and in accordance with,  
23 the resolution of the board of trustees authorizing such sale (or lease or transfer)?"

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25 A majority of the votes cast on such question shall be required in order to approve and  
26 authorize such sale, lease or other transfer. If the question receives less than the required  
27 majority, then the city council and the board of trustees shall have no power to sell, lease  
28 or otherwise transfer the property, real and personal, of the hospital unless and until the  
29 city council has submitted another question to authorize such sale, lease or transfer  
30 authorized under this section and such question is approved by the required majority of  
31 the qualified voters voting thereon. However, in no event shall a question under this  
32 section be submitted to the voters sooner than twelve months from the date of the last  
33 question under this section and after the adoption of another resolution by no less than  
34 two-thirds of the board of trustees and a subsequent vote by a majority of the city council  
35 to again submit the question to the voters.

36 3. Upon passage of such question by the voters, the board of trustees shall sell and  
37 dispose of such property, or lease or transfer such property, in the manner proposed by  
38 the board of trustees. The deed of the board of trustees, duly authorized by the board of  
39 trustees and duly acknowledged and recorded, shall be sufficient to convey to the  
40 purchaser all the rights, title, interest, and estate in the hospital property.

41 4. No sale, lease, or other transfer of such hospital property shall be authorized or  
42 effective unless such transaction provides sufficient proceeds to be available to be applied  
43 to the payment of all interest and principal of any outstanding valid indebtedness incurred  
44 for purchase of the site or construction of the hospital, or for any repairs, alterations,  
45 improvements, or additions thereto, or for operation of the hospital.

46 5. Assets donated to the hospital pursuant to section 96.210 shall be used to provide  
47 health care services in the city and in the geographic region previously served by the  
48 hospital, except as otherwise prescribed by the terms of the deed, gift, devise, or bequest.

191.227. 1. All physicians, chiropractors, hospitals, dentists, and other duly licensed  
2 practitioners in this state, herein called "providers", shall, upon written request of a patient, or  
3 guardian or legally authorized representative of a patient, furnish a copy of his or her record of  
4 that patient's health history and treatment rendered to the person submitting a written request,  
5 except that such right shall be limited to access consistent with the patient's condition and sound  
6 therapeutic treatment as determined by the provider. Beginning August 28, 1994, such record  
7 shall be furnished within a reasonable time of the receipt of the request therefor and upon  
8 payment of a fee as provided in this section.

9           2. Health care providers may condition the furnishing of the patient's health care records  
10 to the patient, the patient's authorized representative or any other person or entity authorized by  
11 law to obtain or reproduce such records upon payment of a fee for:

12           (1) (a) [Copying] **Search and retrieval**, in an amount not more than [twenty-one]  
13 **twenty-two** dollars and [thirty-six cents] **eighty-two cents** plus **copying in the amount of** [fifty]  
14 **fifty-three** cents per page for the cost of supplies and labor plus, if the health care provider has  
15 contracted for off-site records storage and management, any additional labor costs of outside  
16 storage retrieval, not to exceed [twenty] **twenty-one** dollars **and thirty-six cents**, as adjusted  
17 annually pursuant to subsection 5 of this section; or

18           (b) [If the health care provider stores records in an electronic or digital format, and  
19 provides the requested records and affidavit, if requested, in an electronic or digital format, not  
20 more than five dollars plus fifty cents per page or twenty-five dollars total, whichever is less]  
21 **The records shall be furnished electronically upon payment of the search, retrieval, and**  
22 **copying fees set under this section at the time of the request or one hundred dollars total,**  
23 **whichever is less, if such person:**

24           **a. Requests health records to be delivered electronically in a format of the health**  
25 **care provider's choice;**

26           **b. The health care provider stores such records completely in an electronic health**  
27 **record; and**

28           **c. The health care provider is capable of providing the requested records and**  
29 **affidavit, if requested, in an electronic format;**

30           (2) Postage, to include packaging and delivery cost; and

31           (3) Notary fee, not to exceed two dollars, if requested.

32           3. Notwithstanding provisions of this section to the contrary, providers may charge for  
33 the reasonable cost of all duplications of health care record material or information which cannot  
34 routinely be copied or duplicated on a standard commercial photocopy machine.

35           4. The transfer of the patient's record done in good faith shall not render the provider  
36 liable to the patient or any other person for any consequences which resulted or may result from  
37 disclosure of the patient's record as required by this section.

38           5. Effective February first of each year, the fees listed in subsection 2 of this section shall  
39 be increased or decreased annually based on the annual percentage change in the unadjusted,  
40 U.S. city average, annual average inflation rate of the medical care component of the Consumer  
41 Price Index for All Urban Consumers (CPI-U). The current reference base of the index, as  
42 published by the Bureau of Labor Statistics of the United States Department of Labor, shall be  
43 used as the reference base. For purposes of this subsection, the annual average inflation rate  
44 shall be based on a twelve-month calendar year beginning in January and ending in December  
45 of each preceding calendar year. The department of health and senior services shall report the  
46 annual adjustment and the adjusted fees authorized in this section on the department's internet  
47 website by February first of each year.

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

**2. The department shall review and revise regulations governing hospital licensure and enforcement to promote hospital and regulatory efficiencies and eliminate duplicative regulations and inspections by or on behalf of state agencies and the Centers for Medicare and Medicaid Services (CMS). The hospital licensure regulations adopted under this section shall incorporate standards which shall include, but not be limited to, the following:**

**(1) Each citation or finding of a regulatory deficiency shall refer to the specific written regulation, any state associated written interpretive guidance developed by the department and any publicly available, professionally recognized standards of care that are the basis of the citation or finding;**

**(2) Subject to appropriations, the department shall ensure that its hospital licensure regulatory standards are consistent with and do not contradict the CMS Conditions of Participation (COP) and associated interpretive guidance. However, this shall not preclude the department from enforcing standards produced by the department which exceed the federal CMS' COP and associated interpretive guidance, so long as such standards produced by the department promote a higher degree of patient safety and do not contradict the federal CMS' COP and associated interpretive guidance;**

**(3) The department shall establish and publish guidelines for complaint investigation, including but not limited to:**

**(a) The department's process for reviewing and determining which complaints warrant an onsite investigation based on a preliminary review of available information from the complainant, other appropriate sources, and when not prohibited by CMS, the hospital. For purposes of providing hospitals with information necessary to improve processes and patient care, the number and nature of complaints filed and the recommended actions by the department and, as appropriate CMS, shall be disclosed upon request to hospitals so long as the otherwise confidential identity of the complainant or the patient for whom the complaint was filed is not disclosed;**

**(b) A departmental investigation of a complaint shall be focused on the specific regulatory standard and departmental written interpretive guidance and publicly available professionally recognized standard of care related to the complaint. During the course of any complaint investigation, the department shall cite any serious and immediate threat discovered that may potentially jeopardize the health and safety of patients;**

40 (c) A hospital shall be provided with a report of all complaints made against the  
41 hospital. Such report shall include the nature of the complaint, the date of the complaint,  
42 the department conclusions regarding the complaint, the number of investigators and days  
43 of investigation resulting from each complaint;

44 (4) Hospitals and hospital personnel shall have the opportunity to participate in  
45 annual continuing training sessions when such training is provided to state licensure  
46 surveyors with prior approval from the department director and CMS when appropriate.  
47 Hospitals and hospital personnel shall assume all costs associated with facilitating the  
48 training sessions and use of curriculum materials, including but not limited to the location  
49 for training, food, and printing costs;

50 (5) Time lines for the department to provide responses to hospitals regarding the  
51 status and outcome of pending investigations and regulatory actions and questions about  
52 interpretations of regulations shall be identical to, to the extent practicable, the time lines  
53 established for the federal hospital certification and enforcement system in the CMS State  
54 Operations Manual, as amended. These time lines shall be the guide for the department  
55 to follow. Every reasonable attempt shall be made to meet the time lines. However, failure  
56 to meet the established time lines shall in no way prevent the department from performing  
57 any necessary inspections to ensure the health and safety of patients.

58 3. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
59 created under the authority delegated in this section shall become effective only if it  
60 complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
61 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
62 vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
63 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
64 grant of rulemaking authority and any rule proposed or adopted after August 28, 2013,  
65 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 shall make any other inspections and  
7 investigations as it deems necessary for good cause shown. The department of health and senior  
8 services shall accept reports of hospital inspections from governmental agencies [and recognized  
9 accrediting organizations in whole or in part for licensure purposes if:

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

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

13 (3) the inspection was conducted within one year of the date of license renewal], **the joint**  
14 **commission, and the American Osteopathic Association Healthcare Facilities Accreditation**  
15 **Program, provided the accreditation inspection was conducted within one year of the date**  
16 **of license renewal. Prior to granting acceptance of any other accrediting organization**  
17 **reports in lieu of the required licensure survey, the accrediting organization's survey**  
18 **process must be deemed appropriate and found to be comparable to the department's**  
19 **licensure survey. It shall be the accrediting organization's responsibility to provide the**  
20 **department any and all information necessary to determine if the accrediting**  
21 **organization's survey process is comparable and fully meets the intent of the licensure**  
22 **regulations.** The department of health and senior services shall attempt to schedule inspections  
23 and evaluations required by this section so as not to cause a hospital to be subject to more than  
24 one inspection in any twelve-month period from the department of health and senior services or  
25 any agency or accreditation organization the reports of which are accepted for licensure purposes  
26 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.

**Section 1. 1. The department of health and senior services shall post on its website**  
2 **information regarding investigations of complaints against hospitals. The posting of such**  
3 **information shall comply with all of the following requirements:**

4 (1) **Complaint data shall not be posted unless the complaint has been substantiated**  
5 **by investigation by departmental employees to require a statement of deficiency;**

6 (2) **The posting shall include the hospital's plan of correction accepted by**  
7 **departmental officials;**

8 (3) **The posting shall include the dates and specific findings of the departmental**  
9 **investigation;**

10 (4) **The posting shall list or include a link to each facility's annualized rate of**  
11 **substantiated complaints per patient day;**

12 (5) **The posting shall display the complaint investigation data so as to provide for**  
13 **peer group comparisons of:**

14 (a) **Psychiatric hospitals or psychiatric units within hospitals;**

15 (b) **Long-term acute care hospitals as defined by 42 CFR 412.23(e);**

16 (c) **Inpatient rehabilitation facilities or units meeting the requirements of 42 CFR**  
17 **412.29; and**

18 (6) **Time lines for posting such information shall be consistent with the CMS State**  
19 **Operations Manual, as amended.**

20           **2. This section shall not be construed to require or permit the posting of**  
21 **information that would violate state or federal laws or regulations governing the**  
22 **confidentiality of patient data or medical records or information protected under**  
23 **subsection 4 of section 537.035.**

          Section B. Because of the need to ensure local hospitals can continue the purpose of  
2 providing the best care and treatment of the sick, disabled, and infirm persons as decided on by  
3 the people in the affected community, the enactment of section 96.229 of this act is deemed  
4 necessary for the immediate preservation of the public health, welfare, peace and safety, and is  
5 hereby declared to be an emergency act within the meaning of the constitution, and the enactment  
6 of section 96.229 of this act shall be in full force and effect upon its passage and approval.

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