

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1123

96TH GENERAL ASSEMBLY

4849L.02P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 197.080 and 197.100, RSMo, and to enact in lieu thereof two new sections relating to hospital licensure.

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

Section A. Sections 197.080 and 197.100, RSMo, are repealed and two new sections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

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.

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;**

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.

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

21 **(3) The department shall establish and publish a process and standards for**
22 **complaint investigation, including but not limited to:**

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

32 **(b) The scope of a departmental investigation of a complaint shall be limited to the**
33 **specific regulatory standard or standards raised by the complaint, unless a documented**
34 **immediate and serious threat, as defined directly and through interpretive guidelines**
35 **included in hospital licensure regulations promulgated under this chapter, is observed or**
36 **identified during such investigation;**

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

41 **(4) Subject to appropriations, the department shall designate adequate and**
42 **sufficient resources to the annual inspection of hospitals necessary for licensure, including**
43 **but not limited to resources for consultation services and collaboration with hospital**
44 **personnel to facilitate improvements;**

45 **(5) Hospitals and hospital personnel shall have the opportunity to participate in:**

46 **(a) Training sessions provided to state licensure surveyors, which shall be provided**
47 **at least annually. Hospitals and hospital personnel shall assume all costs associated with**
48 **facilitating the training sessions and use of curriculum materials, including but not limited**
49 **to the location for training, food, and printing costs; and**

50 **(b) Training of surveyors assigned to inspection of hospitals to the fullest extent**
51 **possible, including the training of surveyors previously designated as a surveyor specific,**
52 **which resulted in the exclusion of all hospital personnel from such training sessions;**

53 **(6) The regulations shall establish specific time lines for state hospital officials to**
54 **provide responses to hospitals regarding the status and outcome of pending investigations**
55 **and regulatory actions and questions about interpretations of regulations. Such time lines**
56 **shall be identical to, to the extent practicable, to the time lines established for the federal**
57 **hospital certification and enforcement system in CMS's State Operations Manual, as**
58 **amended.**

59 **3. Any rule or portion of a rule, as that term is defined in section 536.010, that is**
60 **created under the authority delegated in this section shall become effective only if it**
61 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
62 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
63 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**
64 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**
65 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2012,**
66 **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] ; **however, the department shall also accept,**
7 **in lieu of such required annual hospital inspection by the department, licensed hospital**
8 **inspection reports from other governmental and recognized accrediting organizations as**
9 **authorized by this section. Recognizing accrediting organizations shall be those that have**
10 **deemed status conferred by the Centers for Medicare and Medicaid Services (CMS) to take**
11 **the place of direct CMS oversight and enforcement. The department shall make any other**
12 inspections and investigations as it deems necessary for good cause shown; **provided that, the**
13 **scope of a departmental investigation of a complaint shall be limited to the specific**
14 **regulatory standard or standards raised by the complaint, unless immediate and serious**
15 **threat, as defined directly and through interpretive guidelines included in hospital**
16 **licensure regulations promulgated under this chapter, is observed or identified during the**
17 **investigation.** The department of health and senior services shall accept reports of hospital
18 inspections from governmental agencies and recognized accrediting organizations [in whole or
19 in part] for licensure purposes if[:

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

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

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

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

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