

FIRST REGULAR SESSION

HOUSE BILL NO. 1069

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BONDON.

2164H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 197.040, 197.050, 197.070, 197.071, 197.080, and 197.100, RSMo, and to enact in lieu thereof seven new sections relating to the licensure of hospitals, with a delayed effective date.

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

Section A. Sections 197.040, 197.050, 197.070, 197.071, 197.080, and 197.100, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 197.005, 197.040, 197.050, 197.070, 197.071, 197.080, and 197.100, to read as follows:

- 197.005. 1. As used in this section, the term “Medicare conditions of participation” shall mean federal regulatory standards established under Title XVIII of the Social Security Act and defined in 42 CFR Part 482, as amended, for hospitals and 42 CFR Part 485, as amended, for hospitals designated as critical access hospitals under 42 U.S.C. Section 1395i-4.**
- 2. To minimize the administrative cost of enforcing and complying with duplicative regulatory standards, on and after July 1, 2018, compliance with Medicare conditions of participation shall be deemed to constitute compliance with the standards for hospital licensure under sections 197.010 to 197.120 and regulations promulgated thereunder.**
- 3. Nothing in this section shall preclude the department from promulgating regulations effective on or after July 1, 2018, to define separate regulatory standards that do not duplicate or contradict the Medicare conditions of participation, with specific state statutory authorization to create separate regulatory standards.**

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.

14 **4. Regulations promulgated by the department to establish and enforce hospital**
15 **licensure regulations under this chapter that duplicate or conflict with the Medicare**
16 **conditions of participation shall lapse and expire on and after July 1, 2018.**

197.040. After ninety days from the date this law becomes effective, no person or
2 governmental unit, acting severally or jointly with any other person or governmental unit, shall
3 establish, conduct or maintain a hospital in this state without a license under this law **and section**
4 **197.005** issued by the department of health and senior services.

197.050. Application for a license shall be made to the department of health and senior
2 services upon forms provided by it and shall contain such information as the department of
3 health and senior services requires, which may include affirmative evidence of ability to comply
4 with such reasonable standards, rules and regulations as are lawfully prescribed hereunder **in**
5 **compliance with section 197.005**. Until June 30, 1989, each application for a license, except
6 applications from governmental units, shall be accompanied by an annual license fee of two
7 hundred dollars plus two dollars per bed for the first one hundred beds and one dollar per bed
8 for each additional bed. Beginning July 1, 1989, each application for a license, except
9 applications from governmental units, shall be accompanied by an annual license fee of two
10 hundred fifty dollars plus three dollars per bed for the first four hundred beds and two dollars per
11 bed for each additional bed. All license fees shall be paid to the director of revenue and
12 deposited in the state treasury to the credit of the general revenue fund.

197.070. The department of health and senior services may deny, suspend or revoke a
2 license in any case in which it finds that there has been a substantial failure to comply with the
3 requirements established under this law **and section 197.005**.

197.071. Any person aggrieved by an official action of the department of health and
5 senior services affecting the licensed status of a person under the provisions of sections
6 ~~[197.010]~~ **197.005** to 197.120, including the refusal to grant, the grant, the revocation, the
7 suspension, or the failure to renew a license, may seek a determination thereon by the
8 administrative hearing commission pursuant to the provisions of section 621.045, and it shall not
9 be a condition to such determination that the person aggrieved seek a reconsideration, a
10 rehearing, or exhaust any other 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, **section 197.005**, and chapter 536,
3 shall adopt, amend, promulgate and enforce such rules, regulations and standards with respect
4 to all hospitals or different types of hospitals to be licensed hereunder as may be designed to
5 further the accomplishment of the purposes of this law in promoting safe and adequate treatment
6 of 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 regulations governing hospital licensure and
10 enforcement to promote hospital and regulatory efficiencies ~~and~~ . **The department shall**
11 eliminate **all** duplicative regulations and inspections by or on behalf of state agencies and the
12 Centers for Medicare and Medicaid Services (CMS). The hospital licensure regulations adopted
13 under this ~~section~~ **chapter** shall incorporate standards which shall include, but not be limited
14 to, the following:

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

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

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

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

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

41 (c) A hospital shall be provided with a report of all complaints made against the hospital.
42 Such report shall include the nature of the complaint, the date of the complaint, the department

43 conclusions regarding the complaint, the number of investigators and days of investigation
44 resulting from each complaint;

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

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

59 3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
60 under the authority delegated in this section shall become effective only if it complies with and
61 is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section
62 and chapter 536 are nonseverable and if any of the powers vested with the general assembly
63 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule
64 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
65 proposed or adopted after August 28, 2013, 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 **or on behalf of** governmental agencies,
9 the joint commission, and the American Osteopathic Association Healthcare Facilities
10 Accreditation Program, provided the accreditation inspection was conducted within one year of
11 the date of license renewal. Prior to granting acceptance of any other accrediting organization
12 reports in lieu of the required licensure survey, the accrediting organization's survey process must
13 be deemed appropriate and found to be comparable to the department's licensure survey. It shall

14 be the accrediting organization's responsibility to provide the department any and all information
15 necessary to determine if the accrediting organization's survey process is comparable and fully
16 meets the intent of the licensure regulations. The department of health and senior services shall
17 attempt to schedule inspections and evaluations required by this section so as not to cause a
18 hospital to be subject to more than one inspection in any twelve-month period from the
19 department of health and senior services or any agency or accreditation organization the reports
20 of which are accepted for licensure purposes pursuant to this section, except for good cause
21 shown.

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

Section B. The enactment of section 197.005 and the repeal and reenactment of sections
2 197.040, 197.050, 197.070, 197.071, 197.080, and 197.100 of section A of this act shall become
3 effective on July 1, 2018.

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