

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 579
96TH GENERAL ASSEMBLY

1496L.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 191.227, 191.305, 191.310, 197.071, 197.080, 197.100, 208.798, and 536.031, RSMo, and to enact in lieu thereof nine new sections relating to health care policies in this state.

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

Section A. Sections 191.227, 191.305, 191.310, 197.071, 197.080, 197.100, 208.798, 2 and 536.031, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as 3 sections 191.227, 191.305, 191.310, 197.071, 197.080, 197.100, 208.240, 208.798, and 536.031, 4 to read as follows:

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) Copying, in an amount not more than [seventeen] **twenty-one** dollars and [five] 13 **thirty-six** cents plus [forty] **fifty** cents per page for the cost of supplies and labor **as adjusted** 14 **annually per subsection 5 of this section;**

15 (2) Postage, to include packaging and delivery cost; [and]

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.

16 (3) Notary fee, not to exceed two dollars, if requested; and

17 (4) **Any retrieval fee and handling fee charged by an outsourced records storage**
18 **service with which the health care provider has contracted for off-site records storage and**
19 **management; except that, in no case shall the cost of the retrieval fee or handling fee**
20 **exceed thirty dollars.**

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

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

27 5. Effective February first of each year, the fees listed in subsection 2 of this section shall
28 be increased or decreased annually based on the annual percentage change in the unadjusted,
29 U.S. city average, annual average inflation rate of the medical care component of the Consumer
30 Price Index for All Urban Consumers (CPI-U). The current reference base of the index, as
31 published by the Bureau of Labor Statistics of the United States Department of Labor, shall be
32 used as the reference base. For purposes of this subsection, the annual average inflation rate
33 shall be based on a twelve-month calendar year beginning in January and ending in December
34 of each preceding calendar year. The department of health and senior services shall report the
35 annual adjustment and the adjusted fees authorized in this section on the department's Internet
36 website by February first of each year.

191.305. 1. The "Missouri Genetic Advisory Committee", consisting of fifteen
2 members, is hereby created to advise the department in all genetic programs including metabolic
3 disease screening programs, hemophilia, sickle cell anemia, and cystic fibrosis programs.
4 Members of the committee shall be appointed by the governor, by and with the advice and
5 consent of the senate. The first appointments to the committee shall consist of five members to
6 serve three-year terms, five members to serve two-year terms, and five members to serve
7 one-year terms as designated by the governor. Each member of the committee shall serve for a
8 term of three years thereafter.

9 2. The committee shall be composed of persons who reside in the state of Missouri, and
10 a majority shall be licensed physicians. At least one member shall be a specialist in genetics; at
11 least one member shall be a licensed obstetrician/gynecologist; at least one member shall be a
12 licensed pediatrician in private practice; at least one member shall be a consumer, family
13 member of a consumer or representative of a consumer group; at least one member shall be a
14 licensed physician experienced in the study and treatment of hemophilia; at least one member

15 shall be a specialist in sickle cell anemia; and at least one member shall be a specialist in cystic
16 fibrosis.

17 3. Members of the committee shall not receive any compensation for their services, but
18 they shall, subject to appropriations, be reimbursed for actual and necessary expenses incurred
19 in the performance of their duties from funds appropriated for that purpose.

20 **4. Permanent standing committees may be appointed under the Missouri general**
21 **advisory committee, including but not limited to a permanent sickle cell disease standing**
22 **committee. The sickle cell disease standing committee shall be appointed by the governor**
23 **and shall have at least one member who has expertise in minority health.**

191.310. 1. The committee shall advise the department on the provision of genetic
2 services to insure the following:

3 (1) That high quality is maintained;

4 (2) That genetic programs are responsive to the needs of the entire state;

5 (3) That funding is equitably allocated to all phases of the program;

6 (4) That the department is advised on methods of implementing genetic services;

7 (5) That duplication of services is eliminated; and

8 (6) That a yearly evaluation of genetic programs is completed to ascertain how
9 successfully the goals of the programs are being achieved.

10 2. The director of the department of mental health shall designate an employee of that
11 department to provide liaison with services provided by that department which relate to the
12 genetic programs established under the provisions of sections 191.300 to 191.331, 191.340, and
13 191.365 to 191.380.

14 3. The commissioner of education shall designate an employee of the department of
15 elementary and secondary education to provide liaison with the genetic program established in
16 sections 191.300 to 191.331, 191.340, and 191.365 to 191.380.

17 **4. (1) A permanent sickle cell disease standing committee under the Missouri**
18 **genetic advisory committee is hereby authorized. All current members of a sickle cell**
19 **disease standing committee under the Missouri general advisory committee shall continue**
20 **to serve on the standing committee. In addition to or within the current membership of the**
21 **standing committee, at least one member of the standing committee shall have expertise in**
22 **minority health. Until December 31, 2013, two members representing the urban**
23 **community shall be temporarily appointed to such committee by the governor to provide**
24 **an urban influence. The governor shall consider the recommendations from the Missouri**
25 **legislative black caucus regarding such appointments.**

26 **(2) In addition to the other duties of the sickle cell disease standing committee, the**
27 **standing committee shall:**

28 **(a) Assess the impact of sickle cell disease on urban communities in the state of**
29 **Missouri;**

30 **(b) Examine the existing services and resources addressing the needs of persons**
31 **with sickle cell disease; and**

32 **(c) Develop recommendations to provide educational services to schools on the**
33 **traits of sickle cell disease and their effects.**

34 **(3) The sickle cell disease standing committee shall include an examination of the**
35 **following in its assessment and recommendations required to be completed under**
36 **subdivision (2) of this subsection:**

37 **(a) Trends in state sickle cell disease populations and their needs, including but not**
38 **limited to the state's role in providing assistance;**

39 **(b) Existing services and resources;**

40 **(c) Needed state policies or responses, including but not limited to directions for the**
41 **provision of clear and coordinated services and supports to persons living with sickle cell**
42 **disease and strategies to address any identified gaps in services; and**

43 **(d) Replacing the genetic testing and counseling program eliminated due to lack of**
44 **funding. The program was an hour-long workshop provided to schools on the traits of**
45 **sickle cell disease and the effects of such traits.**

46 **(4) The sickle cell disease standing committee shall hold a minimum of one meeting**
47 **at three urban regions in the state of Missouri to seek public input regarding the**
48 **assessment and recommendations required under this subsection.**

49 **(5) The sickle cell disease standing committee shall submit a report of its findings**
50 **and any recommendations to the general assembly and the governor no later than**
51 **December 31, 2011.**

52 **(6) Until December 31, 2013, the sickle cell disease committee shall continue to meet**
53 **at the request of the chair and at a minimum of one time annually for the purpose of**
54 **continuing the study of sickle cell disease in this state, the impact of the committee's**
55 **recommendations, and to provide an annual supplemental report on the findings to the**
56 **governor and the general assembly.**

57 **(7) The provisions of this subsection shall expire on December 31, 2013.**

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.

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 **complaint investigation, including but not limited to:**

22 **(a) Anonymous complaints shall not be investigated;**

23 **(b) 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 **(c) 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 threat of**
34 **immediate jeopardy of safety is observed or identified during such investigation;**

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

39 (4) The department shall designate adequate and sufficient resources to the annual
40 inspection of hospitals necessary for licensure, including but not limited to resources for
41 consultation services and collaboration with hospital personnel to facilitate improvements;

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

43 (a) Training sessions provided to state licensure surveyors, which shall be provided
44 at least annually. Hospitals and hospital personnel shall assume all costs associated with
45 their participation in training sessions and use of curriculum materials; and

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

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

55 3. Any rule or portion of a rule, as that term is defined in section 536.010, that is
56 created under the authority delegated in this section shall become effective only if it
57 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
58 section 536.028. This section and chapter 536 are nonseverable and if any of the powers
59 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
60 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
61 grant of rulemaking authority and any rule proposed or adopted after August 28, 2011,
62 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.

208.240. The MO HealthNet division within the department of social services may
2 **implement a statewide dental delivery system to ensure participation of and access to**
3 **providers in all areas of the state. The MO HealthNet division may administer the system**
4 **or may seek a third party experienced in the administration of dental benefits to**
5 **administer the program under the supervision of the division.**

208.798. [1. The provisions of sections 208.550 to 208.568 shall terminate following
2 notice to the revisor of statutes by the Missouri RX plan advisory commission that the Medicare
3 Prescription Drug, Improvement and Modernization Act of 2003 has been fully implemented.

4 2.] Pursuant to section 23.253 of the Missouri sunset act, the provisions of the new
5 program authorized under sections 208.780 to 208.798 shall automatically sunset August 28,
6 [2011] **2016**, unless reauthorized by an act of the general assembly.

536.031. 1. There is established a publication to be known as the "Code of State
2 Regulations", which shall be published in a format and medium as prescribed and in writing

3 upon request by the secretary of state as soon as practicable after ninety days following January
4 1, 1976, and may be republished from time to time thereafter as determined by the secretary of
5 state.

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

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

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

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