

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 88
97TH GENERAL ASSEMBLY

0609H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 191.227, 197.080, and 197.100, RSMo, and to enact in lieu thereof three new sections relating to health care providers.

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Section A. Sections 191.227, 197.080, and 197.100, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 191.227, 197.080, and 197.100, to read as follows:

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

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

(1) (a) [Copying] **Search and retrieval**, in an amount not more than [twenty-one] **twenty-two** dollars and [thirty-six cents] **eighty-two cents** plus **copying in the amount of [fifty] fifty-three** cents per page for the cost of supplies and labor plus, if the health care provider has contracted for off-site records storage and management, any additional labor costs of outside

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 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
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 regulations governing hospital licensure**
10 **and enforcement to promote hospital and regulatory efficiencies and eliminate duplicative**
11 **regulations and inspections by or on behalf of state and federal agencies. The hospital**
12 **licensure regulations adopted under this section shall incorporate standards which shall**
13 **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 interpretive guidance developed by the department and any publicly available,**
16 **professionally recognized standards of care that are the basis of the citation or finding;**

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' (CMS) Conditions of Participation (COP) and associated**
20 **interpretive guidance. However, this shall not preclude the department from enforcing**
21 **standards produced by the department which exceed the federal CMS' COP and**
22 **associated interpretive guidance, so long as such standards produced by the department**
23 **do not contradict the federal CMS' COP and associated interpretive guidance;**

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

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

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

39 **(c) A hospital shall be provided with a report of all complaints made against it.**
40 **Such report shall include the nature of the complaint, the date of the complaint, the**

41 department conclusions regarding the complaint, and the number of investigators and days
42 of investigation resulting from each complaint. Notwithstanding any other provisions of
43 law to the contrary, the report shall be made available upon request to the public and
44 posted on the department's website;

45 (4) Hospitals and hospital personnel shall have the opportunity to participate in
46 annual continuing training sessions when such training is provided to state licensure
47 surveyors. 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;

50 (5) Timelines 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, to the extent practicable, identical to the timelines
53 established for the federal hospital certification and enforcement system in the CMS State
54 Operations Manual, as 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, 2013,
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 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
14 joint commission, and the American Osteopathic Association Healthcare Facilities

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

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