

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Bill No. 322, Page 1, Section A, Line 2, by inserting after all of said section and  
2 line the following:

3  
4 "197.005. 1. As used in this section, the term "Medicare conditions of participation" shall  
5 mean federal regulatory standards established under Title XVIII of the Social Security Act and  
6 defined in 42 CFR Part 482, as amended, for hospitals and 42 CFR Part 485, as amended, for  
7 hospitals designated as critical access hospitals under 42 U.S.C. Section 1395i-4.

8 2. To minimize the administrative cost of enforcing and complying with duplicative  
9 regulatory standards, on and after July 1, 2018, compliance with Medicare conditions of  
10 participation shall be deemed to constitute compliance with the standards for hospital licensure  
11 under sections 197.010 to 197.120 and regulations promulgated thereunder.

12 3. Nothing in this section shall preclude the department from promulgating regulations  
13 effective on or after July 1, 2018, to define separate regulatory standards that do not duplicate or  
14 contradict the Medicare conditions of participation, with specific state statutory authorization to  
15 create separate regulatory standards.

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

19 197.040. After ninety days from the date this law becomes effective, no person or  
20 governmental unit, acting severally or jointly with any other person or governmental unit, shall  
21 establish, conduct or maintain a hospital in this state without a license under this law and section  
22 197.005 issued by the department of health and senior services.

23 197.050. Application for a license shall be made to the department of health and senior  
24 services upon forms provided by it and shall contain such information as the department of health  
25 and senior services requires, which may include affirmative evidence of ability to comply with such  
26 reasonable standards, rules and regulations as are lawfully prescribed hereunder in compliance with  
27 section 197.005. Until June 30, 1989, each application for a license, except applications from  
28 governmental units, shall be accompanied by an annual license fee of two hundred dollars plus two  
29 dollars per bed for the first one hundred beds and one dollar per bed for each additional bed.  
30 Beginning July 1, 1989, each application for a license, except applications from governmental units,  
31 shall be accompanied by an annual license fee of two hundred fifty dollars plus three dollars per bed  
32 for the first four hundred beds and two dollars per bed for each additional bed. All license fees shall  
33 be paid to the director of revenue and deposited in the state treasury to the credit of the general  
34 revenue fund.

35 197.070. The department of health and senior services may deny, suspend or revoke a  
36 license in any case in which it finds that there has been a substantial failure to comply with the

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1 requirements established under this law and section 197.005.

2 197.071. Any person aggrieved by an official action of the department of health and senior  
3 services affecting the licensed status of a person under the provisions of sections [~~197.010~~] 197.005  
4 to 197.120, including the refusal to grant, the grant, the revocation, the suspension, or the failure to  
5 renew a license, may seek a determination thereon by the administrative hearing commission  
6 pursuant to the provisions of section 621.045, and it shall not be a condition to such determination  
7 that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other procedure within  
8 the department of health and senior services.

9 197.080. 1. The department of health and senior services, with the advice of the state  
10 advisory council and pursuant to the provisions of this section, section 197.005, and chapter 536,  
11 shall adopt, amend, promulgate and enforce such rules, regulations and standards with respect to all  
12 hospitals or different types of hospitals to be licensed hereunder as may be designed to further the  
13 accomplishment of the purposes of this law in promoting safe and adequate treatment of individuals  
14 in hospitals in the interest of public health, safety and welfare. No rule or portion of a rule  
15 promulgated under the authority of sections 197.010 to 197.280 shall become effective unless it has  
16 been promulgated pursuant to the provisions of section 536.024.

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

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

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

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

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

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

48 (c) A hospital shall be provided with a report of all complaints made against the hospital.

1 Such report shall include the nature of the complaint, the date of the complaint, the department  
2 conclusions regarding the complaint, the number of investigators and days of investigation resulting  
3 from each complaint;

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

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

17 3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
18 under the authority delegated in this section shall become effective only if it complies with and is  
19 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
20 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to  
21 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently  
22 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
23 August 28, 2013, shall be invalid and void.

24 197.100. 1. Any provision of chapter 198 and chapter 338 to the contrary notwithstanding,  
25 the department of health and senior services shall have sole authority, and responsibility for  
26 inspection and licensure of hospitals in this state including, but not limited to, all parts, services,  
27 functions, support functions and activities which contribute directly or indirectly to patient care of  
28 any kind whatsoever. The department of health and senior services shall annually inspect each  
29 licensed hospital and shall make any other inspections and investigations as it deems necessary for  
30 good cause shown. The department of health and senior services shall accept reports of hospital  
31 inspections from or on behalf of governmental agencies, the joint commission, and the American  
32 Osteopathic Association Healthcare Facilities Accreditation Program, provided the accreditation  
33 inspection was conducted within one year of the date of license renewal. Prior to granting  
34 acceptance of any other accrediting organization reports in lieu of the required licensure survey, the  
35 accrediting organization's survey process must be deemed appropriate and found to be comparable  
36 to the department's licensure survey. It shall be the accrediting organization's responsibility to  
37 provide the department any and all information necessary to determine if the accrediting  
38 organization's survey process is comparable and fully meets the intent of the licensure regulations.  
39 The department of health and senior services shall attempt to schedule inspections and evaluations  
40 required by this section so as not to cause a hospital to be subject to more than one inspection in any  
41 twelve-month period from the department of health and senior services or any agency or  
42 accreditation organization the reports of which are accepted for licensure purposes pursuant to this  
43 section, except for good cause shown.

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

1  
2 Further amend said bill, Page 2, Section 198.529, Line 30, by inserting after all of said section and  
3 line the following:

4  
5 "Section B. The enactment of section 197.005 and the repeal and reenactment of sections  
6 197.040, 197.050, 197.070, 197.071, 197.080, and 197.100 of section A of this act shall become  
7 effective on July 1, 2018."; and

8  
9 Further amend said bill by amending the title, enacting clause, and intersectional references  
10 accordingly.