

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 2183

99TH GENERAL ASSEMBLY

6009H.01T

2018

AN ACT

To repeal sections 197.052, 197.305, and 536.031, RSMo, and to enact in lieu thereof three new sections relating to licensure of healthcare facilities.

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

Section A. Sections 197.052, 197.305, and 536.031, RSMo, are repealed and three new
2 sections enacted in lieu thereof, to be known as sections 197.052, 197.305, and 536.031, to read
3 as follows:

197.052. An applicant for or holder of a hospital license may define or revise the
2 premises of a hospital campus to include tracts of property which are adjacent but for a common
3 street, **single intersection**, or highway, as **such terms are** defined in section 300.010, and its
4 accompanying public right-of-way.

197.305. As used in sections 197.300 to 197.366, the following terms mean:

2 (1) "Affected persons", the person proposing the development of a new institutional
3 health service, the public to be served, and health care facilities within the service area in which
4 the proposed new health care service is to be developed;

5 (2) "Agency", the certificate of need program of the Missouri department of health and
6 senior services;

7 (3) "Capital expenditure", an expenditure by or on behalf of a health care facility which,
8 under generally accepted accounting principles, is not properly chargeable as an expense of
9 operation and maintenance;

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.

10 (4) "Certificate of need", a written certificate issued by the committee setting forth the
11 committee's affirmative finding that a proposed project sufficiently satisfies the criteria
12 prescribed for such projects by sections 197.300 to 197.366;

13 (5) "Develop", to undertake those activities which on their completion will result in the
14 offering of a new institutional health service or the incurring of a financial obligation in relation
15 to the offering of such a service;

16 (6) "Expenditure minimum" shall mean:

17 (a) For beds in existing or proposed health care facilities licensed pursuant to chapter 198
18 and long-term care beds in a hospital as described in subdivision (3) of subsection 1 of section
19 198.012, six hundred thousand dollars in the case of capital expenditures, or four hundred
20 thousand dollars in the case of major medical equipment, provided, however, that prior to
21 January 1, 2003, the expenditure minimum for beds in such a facility and long-term care beds
22 in a hospital described in section 198.012 shall be zero, subject to the provisions of subsection
23 7 of section 197.318;

24 (b) For beds or equipment in a long-term care hospital meeting the requirements
25 described in 42 CFR, Section 412.23(e), the expenditure minimum shall be zero; and

26 (c) For health care facilities, new institutional health services or beds not described in
27 paragraph (a) or (b) of this subdivision one million dollars in the case of capital expenditures,
28 excluding major medical equipment, and one million dollars in the case of medical equipment;

29 (7) "Health service area", a geographic region appropriate for the effective planning and
30 development of health services, determined on the basis of factors including population and the
31 availability of resources, consisting of a population of not less than five hundred thousand or
32 more than three million;

33 (8) "Major medical equipment", medical equipment used for the provision of medical
34 and other health services;

35 (9) "New institutional health service":

36 (a) The development of a new health care facility costing in excess of the applicable
37 expenditure minimum;

38 (b) The acquisition, including acquisition by lease, of any health care facility, or major
39 medical equipment costing in excess of the expenditure minimum;

40 (c) Any capital expenditure by or on behalf of a health care facility in excess of the
41 expenditure minimum;

42 (d) Predevelopment activities as defined in subdivision (12) hereof costing in excess of
43 one hundred fifty thousand dollars;

44 (e) Any change in licensed bed capacity of a health care facility **licensed under chapter**
45 **198** which increases the total number of beds by more than ten or more than ten percent of total

46 bed capacity, whichever is less, over a two-year period, **provided that any such health care**
47 **facility seeking a nonapplicability review for an increase in total beds or total bed capacity**
48 **in an amount less than described in this paragraph shall be eligible for such review only**
49 **if the facility has had no patient care class I deficiencies within the last eighteen months**
50 **and has maintained at least an eighty-five percent average occupancy rate for the previous**
51 **six quarters;**

52 (f) Health services, excluding home health services, which are offered in a health care
53 facility and which were not offered on a regular basis in such health care facility within the
54 twelve-month period prior to the time such services would be offered;

55 (g) A reallocation by an existing health care facility of licensed beds among major types
56 of service or reallocation of licensed beds from one physical facility or site to another by more
57 than ten beds or more than ten percent of total licensed bed capacity, whichever is less, over a
58 two-year period;

59 (10) "Nonsubstantive projects", projects which do not involve the addition, replacement,
60 modernization or conversion of beds or the provision of a new health service but which include
61 a capital expenditure which exceeds the expenditure minimum and are due to an act of God or
62 a normal consequence of maintaining health care services, facility or equipment;

63 (11) "Person", any individual, trust, estate, partnership, corporation, including
64 associations and joint stock companies, state or political subdivision or instrumentality thereof,
65 including a municipal corporation;

66 (12) "Predevelopment activities", expenditures for architectural designs, plans, working
67 drawings and specifications, and any arrangement or commitment made for financing; but
68 excluding submission of an application for a certificate of need.

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[;] :

25 **(1) Hospital licensure regulations promulgated under this chapter and chapter 197**
26 **may incorporate by reference Medicare conditions of participation, as defined in section**
27 **197.005, and later additions or amendments to such conditions of participation; and**

28 **(2)** Hospital licensure regulations governing life safety code standards promulgated
29 under this chapter and chapter 197 to implement section 197.065 may incorporate, by reference,
30 later additions or amendments to such rules, regulations, standards, or guidelines as needed to
31 consistently apply current standards of safety and practice.

32 5. The agency adopting a rule, regulation, standard, or guideline under this section shall
33 maintain a copy of the referenced rule, regulation, standard, or guideline at the headquarters of
34 the agency and shall make it available to the public for inspection and copying at no more than
35 the actual cost of reproduction. The secretary of state may omit from the code of state
36 regulations such material incorporated by reference in any rule the publication of which would
37 be unduly cumbersome or expensive.

38 [5-] 6. The courts of this state shall take judicial notice, without proof, of the contents
39 of the code of state regulations.

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