

SECOND REGULAR SESSION

# SENATE BILL NO. 1040

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Read 1st time February 26, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6599S.011

## AN ACT

To repeal section 197.305, RSMo, and to enact in lieu thereof one new section relating to certificates of need.

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

Section A. Section 197.305, RSMo, is repealed and one new section  
2 enacted in lieu thereof, to be known as section 197.305, to read as follows:

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

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

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

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

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

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

19 (6) "Expenditure minimum" shall mean:

20 (a) For beds in existing or proposed health care facilities licensed

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

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

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

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

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

41 (9) "New institutional health service":

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

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

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

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

51 (e) Any change in licensed bed capacity of a health care facility which  
52 increases the total number of beds by more than ten or more than ten percent of  
53 total bed capacity, whichever is less, over a two-year period; **provided, that any**  
54 **health care facility seeking a nonapplicability review for an increase**  
55 **in total beds or total bed capacity in an amount less than described in**  
56 **this paragraph shall be eligible for such review only if the facility has**

57 **had no patient care class I deficiencies within the last eighteen months**  
58 **and has maintained at least an eighty-five percent average occupancy**  
59 **rate for the previous six quarters;**

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

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

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

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

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

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