

SECOND EXTRAORDINARY SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE BILL NO. 5
99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOENIG.

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ADRIANE D. CROUSE, Secretary.

2440S.05P

AN ACT

To repeal sections 188.030, 188.047, 188.075, 192.665, 192.667, 197.150, 197.152, 197.158, 197.160, 197.162, 197.165, 197.200, 197.205, 197.215, 197.220, 197.225, 197.230, 197.235, 197.240, 197.285, 197.287, 197.289, 197.293, 197.295, and 595.027, RSMo, and to enact in lieu thereof twenty-seven new sections relating to abortion, with penalty provisions and an emergency clause.

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

Section A. Sections 188.030, 188.047, 188.075, 192.665, 192.667, 197.150,
2 197.152, 197.158, 197.160, 197.162, 197.165, 197.200, 197.205, 197.215, 197.220,
3 197.225, 197.230, 197.235, 197.240, 197.285, 197.287, 197.289, 197.293, 197.295,
4 and 595.027, RSMo, are repealed and twenty-seven new sections enacted in lieu
5 thereof, to be known as sections 188.030, 188.047, 188.075, 188.125, 188.160,
6 192.665, 192.667, 197.150, 197.152, 197.158, 197.160, 197.162, 197.165, 197.200,
7 197.205, 197.215, 197.220, 197.225, 197.230, 197.235, 197.240, 197.285, 197.287,
8 197.289, 197.293, 197.295, and 595.027, to read as follows:

188.030. 1. Except in the case of a medical emergency, no abortion of a
2 viable unborn child shall be performed or induced unless the abortion is
3 necessary to preserve the life of the pregnant woman whose life is endangered by
4 a physical disorder, physical illness, or physical injury, including a
5 life-endangering physical condition caused by or arising from the pregnancy itself,
6 or when continuation of the pregnancy will create a serious risk of substantial

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

7 and irreversible physical impairment of a major bodily function of the pregnant
8 woman. For purposes of this section, "major bodily function" includes, but is not
9 limited to, functions of the immune system, normal cell growth, digestive, bowel,
10 bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive
11 functions.

12 2. Except in the case of a medical emergency:

13 (1) Prior to performing or inducing an abortion upon a woman, the
14 physician shall determine the gestational age of the unborn child in a manner
15 consistent with accepted obstetrical and neonatal practices and standards. In
16 making such determination, the physician shall make such inquiries of the
17 pregnant woman and perform or cause to be performed such medical
18 examinations, imaging studies, and tests as a reasonably prudent physician,
19 knowledgeable about the medical facts and conditions of both the woman and the
20 unborn child involved, would consider necessary to perform and consider in
21 making an accurate diagnosis with respect to gestational age;

22 (2) If the physician determines that the gestational age of the unborn
23 child is twenty weeks or more, prior to performing or inducing an abortion upon
24 the woman, the physician shall determine if the unborn child is viable by using
25 and exercising that degree of care, skill, and proficiency commonly exercised by
26 a skillful, careful, and prudent physician. In making this determination of
27 viability, the physician shall perform or cause to be performed such medical
28 examinations and tests as are necessary to make a finding of the gestational age,
29 weight, and lung maturity of the unborn child and shall enter such findings and
30 determination of viability in the medical record of the woman;

31 (3) If the physician determines that the gestational age of the unborn
32 child is twenty weeks or more, and further determines that the unborn child is
33 not viable and performs or induces an abortion upon the woman, the physician
34 shall report such findings and determinations and the reasons for such
35 determinations to the health care facility in which the abortion is performed and
36 to the state board of registration for the healing arts, and shall enter such
37 findings and determinations in the medical records of the woman and in the
38 individual abortion report submitted to the department under section 188.052;

39 (4) (a) If the physician determines that the unborn child is viable, the
40 physician shall not perform or induce an abortion upon the woman unless the
41 abortion is necessary to preserve the life of the pregnant woman or that a
42 continuation of the pregnancy will create a serious risk of substantial and

43 irreversible physical impairment of a major bodily function of the woman.

44 (b) Before a physician may proceed with performing or inducing an
45 abortion upon a woman when it has been determined that the unborn child is
46 viable, the physician shall first certify in writing the medical threat posed to the
47 life of the pregnant woman, or the medical reasons that continuation of the
48 pregnancy would cause a serious risk of substantial and irreversible physical
49 impairment of a major bodily function of the pregnant woman. Upon completion
50 of the abortion, the physician shall report the reasons and determinations for the
51 abortion of a viable unborn child to the health care facility in which the abortion
52 is performed and to the state board of registration for the healing arts, and shall
53 enter such findings and determinations in the medical record of the woman and
54 in the individual abortion report submitted to the department under section
55 188.052.

56 (c) Before a physician may proceed with performing or inducing an
57 abortion upon a woman when it has been determined that the unborn child is
58 viable, the physician who is to perform the abortion shall obtain the agreement
59 of a second physician with knowledge of accepted obstetrical and neonatal
60 practices and standards who shall concur that the abortion is necessary to
61 preserve the life of the pregnant woman, or that continuation of the pregnancy
62 would cause a serious risk of substantial and irreversible physical impairment of
63 a major bodily function of the pregnant woman. This second physician shall also
64 report such reasons and determinations to the health care facility in which the
65 abortion is to be performed and to the state board of registration for the healing
66 arts, and shall enter such findings and determinations in the medical record of
67 the woman and the individual abortion report submitted to the department under
68 section 188.052. The second physician shall not have any legal or financial
69 affiliation or relationship with the physician performing or inducing the abortion,
70 except that such prohibition shall not apply to physicians whose legal or financial
71 affiliation or relationship is a result of being employed by or having staff
72 privileges at the same hospital as the term "hospital" is defined in section
73 197.020.

74 (d) Any physician who performs or induces an abortion upon a woman
75 when it has been determined that the unborn child is viable shall utilize the
76 available method or technique of abortion most likely to preserve the life or
77 health of the unborn child. In cases where the method or technique of abortion
78 most likely to preserve the life or health of the unborn child would present a

79 greater risk to the life or health of the woman than another legally permitted and
80 available method or technique, the physician may utilize such other method or
81 technique. In all cases where the physician performs an abortion upon a viable
82 unborn child, the physician shall certify in writing the available method or
83 techniques considered and the reasons for choosing the method or technique
84 employed.

85 (e) No physician shall perform or induce an abortion upon a woman when
86 it has been determined that the unborn child is viable unless there is in
87 attendance a physician other than the physician performing or inducing the
88 abortion who shall take control of and provide immediate medical care for a child
89 born as a result of the abortion. During the performance of the abortion, the
90 physician performing it, and subsequent to the abortion, the physician required
91 to be in attendance, shall take all reasonable steps in keeping with good medical
92 practice, consistent with the procedure used, to preserve the life or health of the
93 viable unborn child; provided that it does not pose an increased risk to the life of
94 the woman or does not pose an increased risk of substantial and irreversible
95 physical impairment of a major bodily function of the woman.

96 3. Any person who knowingly performs or induces an abortion of an
97 unborn child in violation of the provisions of this section is guilty of a class D
98 felony, and, upon a finding of guilt or plea of guilty, shall be imprisoned for a
99 term of not less than one year, and, notwithstanding the provisions of section
100 558.002, shall be fined not less than ten thousand nor more than fifty thousand
101 dollars.

102 4. Any physician who pleads guilty to or is found guilty of performing or
103 inducing an abortion of an unborn child in violation of this section shall be
104 subject to suspension or revocation of his or her license to practice medicine in
105 the state of Missouri by the state board of registration for the healing arts under
106 the provisions of sections 334.100 and 334.103.

107 5. Any hospital licensed in the state of Missouri that knowingly allows an
108 abortion of an unborn child to be performed or induced in violation of this section
109 may be subject to suspension or revocation of its license under the provisions of
110 section 197.070.

111 6. Any [ambulatory surgical center] **abortion facility** licensed in the
112 state of Missouri that knowingly allows an abortion of an unborn child to be
113 performed or induced in violation of this section may be subject to suspension or
114 revocation of its license under the provisions of section 197.220.

115 7. A woman upon whom an abortion is performed or induced in violation
116 of this section shall not be prosecuted for a conspiracy to violate the provisions
117 of this section.

118 8. Nothing in this section shall be construed as creating or recognizing a
119 right to abortion, nor is it the intention of this section to make lawful any
120 abortion that is currently unlawful.

121 9. It is the intent of the legislature that this section be severable as noted
122 in section 1.140. In the event that any section, subsection, subdivision,
123 paragraph, sentence, or clause of this section be declared invalid under the
124 Constitution of the United States or the Constitution of the State of Missouri, it
125 is the intent of the legislature that the remaining provisions of this section
126 remain in force and effect as far as capable of being carried into execution as
127 intended by the legislature.

128 10. The general assembly may, by concurrent resolution, appoint one or
129 more of its members who sponsored or co-sponsored this act in his or her official
130 capacity to intervene as a matter of right in any case in which the
131 constitutionality of this law is challenged.

188.047. 1. A representative sample of tissue removed at the time of
2 abortion shall be submitted **within five business days** to a board eligible or
3 certified pathologist[, who] **for gross and, if indicated, histopathological**
4 **examination. The pathologist** shall file a copy of the tissue report with the
5 state department of health and senior services, and [who] shall provide **within**
6 **seventy-two hours** a copy of the report to the abortion facility or hospital in
7 which the abortion was performed or induced [and]. The pathologist's report
8 shall be made a part of the patient's permanent record. **If the pathological**
9 **examination fails to identify evidence of a completed abortion, the**
10 **pathologist shall notify the abortion facility or hospital within twenty-**
11 **four hours.**

12 2. **The department shall reconcile each notice of abortion with**
13 **its corresponding tissue report. If the department does not receive the**
14 **notice of abortion or the tissue report, the department shall make an**
15 **inquiry of the abortion facility or hospital. After such inquiry, if the**
16 **hospital or abortion facility has not satisfactorily responded to said**
17 **inquiry and the department finds that the abortion facility or hospital**
18 **where the abortion was performed or induced was not in compliance**
19 **with the provisions of this section, the department shall consider such**

20 noncompliance a deficiency requiring an unscheduled inspection of the
21 facility to ensure the deficiency is remedied, subject to the provisions
22 of chapter 197 regarding license suspensions, reviews, and appeals.

23 3. Beginning January 1, 2018, the department shall make an
24 annual report to the general assembly. The report shall include, but
25 not be limited to, all reports and information received by the
26 department under the provisions of this section, the number of any
27 deficiencies of each abortion facility in the calendar year and whether
28 such deficiencies were remedied, and the following for each abortion
29 procedure reported to the department the previous calendar year:

30 (1) The termination procedure used;

31 (2) Whether the department received the tissue report for that
32 abortion; and

33 (3) The existence and nature, if any, of any inconsistencies or
34 concerns between the abortion report submitted under section 188.052
35 and the tissue report submitted under this section.

36 The report shall not contain any personal patient information the
37 disclosure of which is prohibited by state or federal law.

38 4. All reports provided by the department to the general
39 assembly under this section shall maintain confidentiality of all
40 personal information of patients, facility personnel, and facility
41 physicians.

42 5. The department may adopt rules, regulations, and standards
43 governing the reports required under this section. In doing so, the
44 department shall ensure that these reports contain all information
45 necessary to ensure compliance with all applicable laws and
46 regulations. Any rule or portion of a rule, as that term is defined in
47 section 536.010 that is created under the authority delegated in this
48 section shall become effective only if it complies with and is subject to
49 all of the provisions of chapter 536, and, if applicable, section
50 536.028. This section and chapter 536 are nonseverable and if any of
51 the powers vested with the general assembly pursuant to chapter 536,
52 to review, to delay the effective date, or to disapprove and annul a rule
53 are subsequently held unconstitutional, then the grant of rulemaking
54 authority and any rule proposed or adopted after the effective date of
55 this act, shall be invalid and void.

188.075. 1. Any person who contrary to the provisions of sections 188.010

2 to 188.085 **and section 188.160** knowingly performs, induces, or aids in the
3 performance or inducing of any abortion or knowingly fails to perform any action
4 required by sections 188.010 to 188.085 **and section 188.160** shall be guilty of
5 a class A misdemeanor, unless a different penalty is provided for in state law,
6 and, upon conviction, shall be punished as provided by law.

7 2. It shall be an affirmative defense for any person alleged to have
8 violated any provision of this chapter that the person performed an action or did
9 not perform an action because of a medical emergency. This affirmative defense
10 shall be available in criminal, civil, and administrative actions or
11 proceedings. The defendant shall have the burden of persuasion that the defense
12 is more probably true than not.

13 **3. The attorney general shall have concurrent original**
14 **jurisdiction throughout the state, along with each prosecuting attorney**
15 **and circuit attorney within their respective jurisdictions, to commence**
16 **actions for a violation of any provision of this chapter, for a violation**
17 **of any state law on the use of public funds for an abortion, or for a**
18 **violation of any state law which regulates an abortion facility or a**
19 **person who performs or induces an abortion, in which the prosecuting**
20 **or circuit attorney has yet to commence any action by filing a motion,**
21 **information, indictment, or any other such action with a court and the**
22 **attorney general shall first send written notice to the prosecuting or**
23 **circuit attorney by certified mail of his or her intent to commence an**
24 **action under this section in the prosecuting or circuit attorney's**
25 **respective jurisdiction. The attorney general may only commence an**
26 **action under this section if, within ten business days following the**
27 **prosecuting or circuit attorney's receipt of the written notice, the**
28 **prosecuting or circuit attorney fails to commence the action by filing**
29 **a motion, information, indictment, or any other such action with a**
30 **court. The attorney general, or prosecuting attorney or circuit**
31 **attorney within their respective jurisdictions, may seek injunctive or**
32 **other relief against any person who, or entity which, is in violation of**
33 **any provision of this chapter, misuses public funds for an abortion, or**
34 **violates any state law which regulates an abortion facility or a person**
35 **who performs or induces an abortion. The provisions of this subsection**
36 **shall only apply to such violations that occur on or after the effective**
37 **date of this act.**

188.125. 1. It is the intent of the general assembly to

2 acknowledge the right of an alternatives to abortion agency to operate
3 freely and engage in speech without governmental interference as
4 protected by the constitution of the United States and the constitution
5 and laws of Missouri, the right of a person not to be compelled by the
6 government to participate in abortion contrary to his, her, or its
7 religious beliefs or moral convictions, and that the constitution of the
8 United States and the constitution and laws of Missouri shall be
9 interpreted, construed, applied, and enforced to fully protect such
10 rights.

11 2. A political subdivision of this state is preempted from
12 enacting, adopting, maintaining, or enforcing any order, ordinance,
13 rule, regulation, policy, or other similar measure that prohibits,
14 restricts, limits, controls, directs, interferes with, or otherwise
15 adversely affects an alternatives to abortion agency or its officers',
16 agents', employees', or volunteers' operations or speech including, but
17 not limited to, counseling, referrals, or education of, advertising or
18 information to, or other communications with, clients, patients, other
19 persons, or the public.

20 3. Nothing in subsection 2 of this section shall preclude or
21 preempt a political subdivision of this state from exercising its lawful
22 authority to regulate zoning or land use or to enforce a building or fire
23 code regulation; provided that, such political subdivision treats an
24 alternatives to abortion agency in the same manner as a similarly
25 situated agency and that such authority is not used to circumvent the
26 intent of subsection 2 of this section.

27 4. A political subdivision of this state is preempted from
28 enacting, adopting, maintaining, or enforcing any order, ordinance,
29 rule, regulation, policy, or other similar measure that has the purpose
30 or effect of requiring a person to directly or indirectly participate in
31 abortion if such participation is contrary to the religious beliefs or
32 moral convictions of such person.

33 5. A political subdivision of this state is preempted from
34 enacting, adopting, maintaining, or enforcing any order, ordinance,
35 rule, regulation, policy, or other similar measure requiring a real estate
36 broker, real estate salesperson, real estate broker-salesperson,
37 appraisal firm, appraiser, as such terms are defined in chapter 339, a
38 property owner, or any other person to buy, sell, exchange, purchase,

39 rent, lease, advertise for, or otherwise conduct real estate transactions
40 for, to, or with an abortion facility or for, to, or with a person for the
41 purpose of performing or inducing an abortion not necessary to save
42 the life of the mother, if such requirement is contrary to the religious
43 beliefs or moral convictions of such real estate broker, real estate
44 salesperson, real estate broker-salesperson, appraisal firm, appraiser,
45 property owner, or other person.

46 6. A political subdivision of this state is preempted from
47 enacting, adopting, maintaining, or enforcing any order, ordinance,
48 rule, regulation, policy, or other similar measure requiring an
49 employer, employee, health plan provider, health plan sponsor, health
50 care provider, or any other person to provide coverage for or to
51 participate in a health plan that includes benefits that are not
52 otherwise required by state law.

53 7. In any action to enforce the provisions of this section, a court
54 of competent jurisdiction may order injunctive or other equitable
55 relief, recovery of damages or other legal remedies, or both, as well as
56 payment of reasonable attorney's fees, costs, and expenses. The relief
57 and remedies set forth shall not be deemed exclusive and shall be in
58 addition to any other relief or remedies permitted by law.

59 8. In addition to a private cause of action by a person whose
60 rights are violated contrary to the provisions of this section, the
61 attorney general is also authorized to bring a cause of action to defend
62 the rights guaranteed under this section.

63 9. Nothing in this section shall be construed to prohibit a
64 political subdivision from enacting, adopting, maintaining, or enforcing
65 any order, ordinance, rule, regulation, policy, or other similar measure
66 to assist pregnant women to carry their unborn children to term or to
67 assist women in caring for their dependent children or placing their
68 children for adoption including, but not limited to, by funding or
69 otherwise assisting an alternatives to abortion agency to provide
70 services to such women and children.

71 10. As used in this section, the following terms mean:

72 (1) "Alternatives to abortion agency":

73 (a) A maternity home as defined in section 135.600;

74 (b) A pregnancy resource center as defined in section 135.630; or

75 (c) An agency or entity that has the primary purpose of

76 providing services or counseling to pregnant women to assist such
77 women in carrying their unborn children to term instead of having
78 abortions and to assist such women in caring for their dependent
79 children or placing their children for adoption, as described in section
80 188.325, regardless of whether such agency or entity is receiving
81 funding or reimbursement from the state for such purposes;

82 (2) "Participate in abortion":

83 (a) To undergo an abortion; or

84 (b) To perform or induce, assist in, refer or counsel for, advocate
85 for, promote, procure, reimburse for, or provide health plan coverage
86 for an abortion not necessary to save the life of the mother.

188.160. 1. Every hospital, abortion facility, pathology lab,
2 medical research entity, and any other facility involved in performing
3 or inducing an abortion shall establish and implement a written policy
4 relating to the protections for employees who disclose information
5 concerning actual, potential, or alleged violations of applicable federal
6 or state laws or administrative rules, regulations, or standards.

7 2. The department of health and senior services is authorized to
8 adopt rules, regulations, and standards regarding the establishment
9 and implementation of policies created under this section. Any rule or
10 portion of a rule, as that term is defined in section 536.010 that is
11 created under the authority delegated in this section shall become
12 effective only if it complies with and is subject to all of the provisions
13 of chapter 536, and, if applicable, section 536.028. This section and
14 chapter 536 are nonseverable and if any of the powers vested with the
15 general assembly pursuant to chapter 536, to review, to delay the
16 effective date, or to disapprove and annul a rule are subsequently held
17 unconstitutional, then the grant of rulemaking authority and any rule
18 proposed or adopted after the effective date of this act, shall be invalid
19 and void.

192.665. As used in this section, section 192.667, and sections 197.150 to
2 197.165, the following terms mean:

3 (1) "Charge data", information submitted by health care providers on
4 current charges for leading procedures and diagnoses;

5 (2) "Charges by payer", information submitted by hospitals on amount
6 billed to Medicare, Medicaid, other government sources and all nongovernment
7 sources combined as one data element;

- 8 (3) "Department", the department of health and senior services;
- 9 (4) "Financial data", information submitted by hospitals drawn from
10 financial statements which includes the balance sheet, income statement, charity
11 care and bad debt and charges by payer, prepared in accordance with generally
12 accepted accounting principles;
- 13 (5) "Health care provider", hospitals as defined in section 197.020 and
14 ambulatory surgical centers **and abortion facilities** as defined in section
15 197.200;
- 16 (6) "Nosocomial infection", as defined by the [national] **federal** Centers
17 for Disease Control and Prevention and applied to infections within hospitals,
18 ambulatory surgical centers, **abortion facilities**, and other facilities;
- 19 (7) "Nosocomial infection incidence rate", a risk-adjusted measurement of
20 new cases of nosocomial infections by procedure or device within a population
21 over a given period of time, with such measurements defined by rule of the
22 department pursuant to subsection 3 of section 192.667 for use by all hospitals,
23 ambulatory surgical centers, **abortion facilities**, and other facilities in
24 complying with the requirements of the Missouri nosocomial infection control act
25 of 2004;
- 26 (8) "Other facility", a type of facility determined to be a source of
27 infections and designated by rule of the department pursuant to subsection 11 of
28 section 192.667;
- 29 (9) "Patient abstract data", data submitted by hospitals which includes
30 but is not limited to date of birth, sex, race, zip code, county of residence,
31 admission date, discharge date, principal and other diagnoses, including external
32 causes, principal and other procedures, procedure dates, total billed charges,
33 disposition of the patient and expected source of payment with sources
34 categorized according to Medicare, Medicaid, other government, workers'
35 compensation, all commercial payors coded with a common code, self-pay, no
36 charge and other.

192.667. 1. All health care providers shall at least annually provide to
2 the department charge data as required by the department. All hospitals shall
3 at least annually provide patient abstract data and financial data as required by
4 the department. Hospitals as defined in section 197.020 shall report patient
5 abstract data for outpatients and inpatients. Ambulatory surgical centers **and**
6 **abortion facilities** as defined in section 197.200 shall provide patient abstract
7 data to the department. The department shall specify by rule the types of

8 information which shall be submitted and the method of submission.

9 2. The department shall collect data on the incidence of health
10 care-associated infections from hospitals, ambulatory surgical centers, **abortion**
11 **facilities**, and other facilities as necessary to generate the reports required by
12 this section. Hospitals, ambulatory surgical centers, **abortion facilities**, and
13 other facilities shall provide such data in compliance with this section.

14 3. The department shall promulgate rules specifying the standards and
15 procedures for the collection, analysis, risk adjustment, and reporting of the
16 incidence of health care-associated infections and the types of infections and
17 procedures to be monitored pursuant to subsection 13 of this section. In
18 promulgating such rules, the department shall:

19 (1) Use methodologies and systems for data collection established by the
20 federal Centers for Disease Control and Prevention's National Healthcare Safety
21 Network, or its successor; and

22 (2) Consider the findings and recommendations of the infection control
23 advisory panel established pursuant to section 197.165.

24 4. By January 1, 2017, the infection control advisory panel created by
25 section 197.165 shall make recommendations to the department regarding the
26 Centers for Medicare and Medicaid Services' health care-associated infection data
27 collection, analysis, and public reporting requirements for hospitals, ambulatory
28 surgical centers, and other facilities in the federal Centers for Disease Control
29 and Prevention's National Healthcare Safety Network, or its successor, in lieu of
30 all or part of the data collection, analysis, and public reporting requirements of
31 this section. The advisory panel recommendations shall address which hospitals
32 shall be required as a condition of licensure to use the National Healthcare Safety
33 Network for data collection; the use of the National Healthcare Safety Network
34 for risk adjustment and analysis of hospital submitted data; and the use of the
35 Centers for Medicare and Medicaid Services' Hospital Compare website, or its
36 successor, for public reporting of the incidence of health care-associated infection
37 metrics. The advisory panel shall consider the following factors in developing its
38 recommendation:

39 (1) Whether the public is afforded the same or greater access to
40 facility-specific infection control indicators and metrics;

41 (2) Whether the data provided to the public is subject to the same or
42 greater accuracy of risk adjustment;

43 (3) Whether the public is provided with the same or greater specificity of

44 reporting of infections by type of facility infections and procedures;

45 (4) Whether the data is subject to the same or greater level of
46 confidentiality of the identity of an individual patient;

47 (5) Whether the National Healthcare Safety Network, or its successor, has
48 the capacity to receive, analyze, and report the required data for all facilities;

49 (6) Whether the cost to implement the National Healthcare Safety
50 Network infection data collection and reporting system is the same or less.

51 5. After considering the recommendations of the infection control advisory
52 panel, and provided that the requirements of subsection 13 of this section can be
53 met, the department shall implement guidelines from the federal Centers for
54 Disease Control and Prevention's National Healthcare Safety Network, or its
55 successor. It shall be a condition of licensure for hospitals that meet the
56 minimum public reporting requirements of the National Healthcare Safety
57 Network and the Centers for Medicare and Medicaid Services to participate in the
58 National Healthcare Safety Network, or its successor. Such hospitals shall
59 permit the National Healthcare Safety Network, or its successor, to disclose
60 facility-specific infection data to the department as required under this section,
61 and as necessary to provide the public reports required by the department. It
62 shall be a condition of licensure for any ambulatory surgical center **or abortion**
63 **facility** which does not voluntarily participate in the National Healthcare Safety
64 Network, or its successor, to submit facility-specific data to the department as
65 required under this section, and as necessary to provide the public reports
66 required by the department.

67 6. The department shall not require the resubmission of data which has
68 been submitted to the department of health and senior services or the department
69 of social services under any other provision of law. The department of health and
70 senior services shall accept data submitted by associations or related
71 organizations on behalf of health care providers by entering into binding
72 agreements negotiated with such associations or related organizations to obtain
73 data required pursuant to section 192.665 and this section. A health care
74 provider shall submit the required information to the department of health and
75 senior services:

76 (1) If the provider does not submit the required data through such
77 associations or related organizations;

78 (2) If no binding agreement has been reached within ninety days of
79 August 28, 1992, between the department of health and senior services and such

80 associations or related organizations; or

81 (3) If a binding agreement has expired for more than ninety days.

82 7. Information obtained by the department under the provisions of section
83 192.665 and this section shall not be public information. Reports and studies
84 prepared by the department based upon such information shall be public
85 information and may identify individual health care providers. The department
86 of health and senior services may authorize the use of the data by other research
87 organizations pursuant to the provisions of section 192.067. The department
88 shall not use or release any information provided under section 192.665 and this
89 section which would enable any person to determine any health care provider's
90 negotiated discounts with specific preferred provider organizations or other
91 managed care organizations. The department shall not release data in a form
92 which could be used to identify a patient. Any violation of this subsection is a
93 class A misdemeanor.

94 8. The department shall undertake a reasonable number of studies and
95 publish information, including at least an annual consumer guide, in
96 collaboration with health care providers, business coalitions and consumers based
97 upon the information obtained pursuant to the provisions of section 192.665 and
98 this section. The department shall allow all health care providers and
99 associations and related organizations who have submitted data which will be
100 used in any publication to review and comment on the publication prior to its
101 publication or release for general use. The publication shall be made available
102 to the public for a reasonable charge.

103 9. Any health care provider which continually and substantially, as these
104 terms are defined by rule, fails to comply with the provisions of this section shall
105 not be allowed to participate in any program administered by the state or to
106 receive any moneys from the state.

107 10. A hospital, as defined in section 197.020, aggrieved by the
108 department's determination of ineligibility for state moneys pursuant to
109 subsection 9 of this section may appeal as provided in section 197.071. An
110 ambulatory surgical center **or abortion facility** as defined in section 197.200
111 aggrieved by the department's determination of ineligibility for state moneys
112 pursuant to subsection 9 of this section may appeal as provided in section
113 197.221.

114 11. The department of health may promulgate rules providing for
115 collection of data and publication of the incidence of health care-associated

116 infections for other types of health facilities determined to be sources of
117 infections; except that, physicians' offices shall be exempt from reporting and
118 disclosure of such infections.

119 12. By January 1, 2017, the advisory panel shall recommend and the
120 department shall adopt in regulation with an effective date of no later than
121 January 1, 2018, the requirements for the reporting of the following types of
122 infections as specified in this subsection:

123 (1) Infections associated with a minimum of four surgical procedures for
124 hospitals and a minimum of two surgical procedures for ambulatory surgical
125 centers that meet the following criteria:

126 (a) Are usually associated with an elective surgical procedure. An
127 "elective surgical procedure" is a planned, nonemergency surgical procedure that
128 may be either medically required such as a hip replacement or optional such as
129 breast augmentation;

130 (b) Demonstrate a high priority aspect such as affecting a large number
131 of patients, having a substantial impact for a smaller population, or being
132 associated with substantial cost, morbidity, or mortality; or

133 (c) Are infections for which reports are collected by the National
134 Healthcare Safety Network or its successor;

135 (2) Central line-related bloodstream infections;

136 (3) Health care-associated infections specified for reporting by hospitals,
137 ambulatory surgical centers, and other health care facilities by the rules of the
138 Centers for Medicare and Medicaid Services to the federal Centers for Disease
139 Control and Prevention's National Healthcare Safety Network, or its successor;
140 and

141 (4) Other categories of infections that may be established by rule by the
142 department.

143 The department, in consultation with the advisory panel, shall be authorized to
144 collect and report data on subsets of each type of infection described in this
145 subsection.

146 13. In consultation with the infection control advisory panel established
147 pursuant to section 197.165, the department shall develop and disseminate to the
148 public reports based on data compiled for a period of twelve months. Such
149 reports shall be updated quarterly and shall show for each hospital, ambulatory
150 surgical center, **abortion facility**, and other facility metrics on risk adjusted
151 health care-associated infections under this section.

152 14. The types of infections under subsection 12 of this section to be
153 publicly reported shall be determined by the department by rule and shall be
154 consistent with the infections tracked by the National Healthcare Safety Network,
155 or its successor.

156 15. Reports published pursuant to subsection 13 of this section shall be
157 published and readily accessible on the department's internet website. The
158 reports shall be distributed at least annually to the governor and members of the
159 general assembly. The department shall make such reports available to the
160 public for a period of at least two years.

161 16. The Hospital Industry Data Institute shall publish a report of
162 Missouri hospitals' [and], ambulatory surgical centers', **and abortion facilities'**
163 compliance with standardized quality of care measures established by the federal
164 Centers for Medicare and Medicaid Services for prevention of infections related
165 to surgical procedures. If the Hospital Industry Data Institute fails to do so by
166 July 31, 2008, and annually thereafter, the department shall be authorized to
167 collect information from the Centers for Medicare and Medicaid Services or from
168 hospitals [and], ambulatory surgical centers, **and abortion facilities** and
169 publish such information in accordance with this section.

170 17. The data collected or published pursuant to this section shall be
171 available to the department for purposes of licensing hospitals [and], ambulatory
172 surgical centers, **and abortion facilities** pursuant to chapter 197.

173 18. The department shall promulgate rules to implement the provisions
174 of section 192.131 and sections 197.150 to 197.160. Any rule or portion of a rule,
175 as that term is defined in section 536.010, that is created under the authority
176 delegated in this section shall become effective only if it complies with and is
177 subject to all of the provisions of chapter 536 and, if applicable, section
178 536.028. This section and chapter 536 are nonseverable and if any of the powers
179 vested with the general assembly pursuant to chapter 536 to review, to delay the
180 effective date, or to disapprove and annul a rule are subsequently held
181 unconstitutional, then the grant of rulemaking authority and any rule proposed
182 or adopted after August 28, 2004, shall be invalid and void.

183 19. No later than August 28, 2017, each hospital, excluding mental health
184 facilities as defined in section 632.005, and each ambulatory surgical center **and**
185 **abortion facility** as defined in section 197.200, shall in consultation with its
186 medical staff establish an antimicrobial stewardship program for evaluating the
187 judicious use of antimicrobials, especially antibiotics that are the last line of

188 defense against resistant infections. The hospital's stewardship program and the
189 results of the program shall be monitored and evaluated by hospital quality
190 improvement departments and shall be available upon inspection to the
191 department. At a minimum, the antimicrobial stewardship program shall be
192 designed to evaluate that hospitalized patients receive, in accordance with
193 accepted medical standards of practice, the appropriate antimicrobial, at the
194 appropriate dose, at the appropriate time, and for the appropriate duration.

195 20. Hospitals described in subsection 19 of this section shall meet the
196 National Healthcare Safety Network requirements for reporting antimicrobial
197 usage or resistance by using the Centers for Disease Control and Prevention's
198 Antimicrobial Use and Resistance (AUR) Module when regulations concerning
199 Stage 3 of the Medicare and Medicaid Electronic Health Records Incentive
200 Programs promulgated by the Centers for Medicare and Medicaid Services that
201 enable the electronic interface for such reporting are effective. When such
202 antimicrobial usage or resistance reporting takes effect, hospitals shall authorize
203 the National Healthcare Safety Network, or its successor, to disclose to the
204 department facility-specific information reported to the AUR
205 Module. Facility-specific data on antibiotic usage and resistance collected under
206 this subsection shall not be disclosed to the public, but the department may
207 release case-specific information to other facilities, physicians, and the public if
208 the department determines on a case-by-case basis that the release of such
209 information is necessary to protect persons in a public health emergency.

210 21. The department shall make a report to the general assembly
211 beginning January 1, 2018, and on every January first thereafter on the
212 incidence, type, and distribution of antimicrobial-resistant infections identified
213 in the state and within regions of the state.

197.150. The department shall require that each hospital, ambulatory
2 surgical center, **abortion facility**, and other facility have in place procedures for
3 monitoring and enforcing compliance with infection control regulations and
4 standards. Such procedures shall be coordinated with administrative staff,
5 personnel staff, and the quality improvement program. Such procedures shall
6 include, at a minimum, requirements for the facility's infection control program
7 to conduct surveillance of personnel with a portion of the surveillance to be done
8 in such manner that employees and medical staff are observed without their
9 knowledge of such observation, provided that this unobserved surveillance
10 requirement shall not be considered to be grounds for licensure enforcement

11 action by the department until the department establishes clear and verifiable
12 criteria for determining compliance. Such surveillance also may include
13 monitoring of the rate of use of hand hygiene products.

197.152. 1. Infection control officers as defined in federal regulation and
2 other hospital [and], ambulatory surgical center, **and abortion facility**
3 employees shall be protected against retaliation by the hospital [or], ambulatory
4 surgical center, **or abortion facility** for reporting infection control concerns
5 pursuant to section 197.285 and shall be entitled to the full benefits of that
6 section. Such infection control officers shall report any interference in the
7 performance of their duties by their supervisors to the hospital [or], ambulatory
8 surgical center, **or abortion facility** compliance officer established by and
9 empowered to act pursuant to section 197.285.

10 2. Infection control officers as defined in federal regulation shall also have
11 the authority to order the cessation of a practice that falls outside accepted
12 practices as defined by appropriate state and federal regulatory agencies,
13 accreditation organizations, or the standards adopted by the Centers for Disease
14 Control and Prevention or the Association of Professionals in Infection Control
15 and Epidemiology. The hospital [or], ambulatory surgical center, **or abortion**
16 **facility** may require that such a cessation order of an infection control officer be
17 endorsed by the hospital [or], ambulatory surgical center, **or abortion facility**
18 chief executive officer or his or her designee before taking effect. The hospital
19 [or], ambulatory surgical center, **or abortion facility** infection control
20 committee shall convene as soon as possible to review such cessation order and
21 may overrule or sustain the directive of the infection control officer. The
22 department shall promulgate rules governing documentation of such events.

23 3. Members of the medical staff who report in good faith infection control
24 concerns to the hospital [or], ambulatory surgical center, **or abortion facility**
25 administration or medical staff leadership shall not be subject to retaliation or
26 discrimination for doing so. Nothing in this section shall prevent or shield
27 medical staff members from being subject to professional review actions for
28 substandard care or breach of standards established in hospital policy, rules, or
29 medical staff bylaws.

197.158. Every hospital [and], ambulatory surgery center, **and abortion**
2 **facility** shall, beginning June 1, 2006, provide each patient an opportunity to
3 submit to the hospital [or], ambulatory surgical center, **or abortion facility**
4 administration complaints, comments, and suggestions related to the care they

5 received or their personal observations related to the quality of care
6 provided. The department shall promulgate rules to implement this section.

197.160. The department of health and senior services shall have access
2 to all data and information held by hospitals, ambulatory surgical centers,
3 **abortion facilities**, and other facilities related to their infection control
4 practices, rates, or treatments of infections. Failure to provide such access shall
5 be grounds for full or partial licensure suspension or revocation pursuant to
6 section 197.293, sections 197.010 to 197.100, or sections 197.200 to 197.240. If
7 the department determines that the hospital, ambulatory surgical center,
8 **abortion facility**, or other facility is willfully impeding access to such
9 information, the department shall be authorized to direct all state agencies to
10 suspend all or a portion of state payments to such [hospital] **entity** until such
11 time as the desired information is obtained by the department.

197.162. The department shall in its licensure of hospitals [and],
2 ambulatory surgical centers, **and abortion facilities** give special attention to
3 infection control practices and shall direct hospitals [and], ambulatory surgical
4 centers, **and abortion facilities** to set quantifiable measures of performance for
5 reducing the incidence of nosocomial infections in Missouri. The department
6 shall prepare an annual report on infection control standards and compliance,
7 which shall be shared with the governor and the general assembly.

197.165. 1. The department shall appoint an "Infection Control Advisory
2 Panel" for the purposes of implementing sections 192.131 and 192.667.

3 2. Members of the infection control advisory panel shall include:

4 (1) Two public members;

5 (2) Three board-certified or board-eligible physicians licensed pursuant
6 to chapter 334 who are affiliated with a Missouri hospital or medical school,
7 active members of the Society for Health Care Epidemiology of America, and have
8 demonstrated interest and expertise in health facility infection control;

9 (3) One physician licensed pursuant to chapter 334 who is active in the
10 practice of medicine in Missouri and who holds medical staff privileges at a
11 Missouri hospital;

12 (4) Four infection control practitioners certified by the certification board
13 of infection control and epidemiology, at least two of whom shall be practicing in
14 a rural hospital or setting and at least two of whom shall be registered
15 professional nurses licensed under chapter 335;

16 (5) A medical statistician with an advanced degree in such specialty;

17 (6) A clinical microbiologist with an advanced degree in such specialty;
 18 (7) Three employees of the department, representing the functions of
 19 hospital [and], ambulatory surgical center, **and abortion facility** licensure,
 20 epidemiology and health data analysis, who shall serve as ex officio nonvoting
 21 members of the panel.

22 3. Reasonable expenses of the panel shall be paid from private donations
 23 made specifically for that purpose to the "Infection Control Advisory Panel Fund",
 24 which is hereby created in the state treasury. If such donations are not received
 25 from private sources, then the provisions of this act shall be implemented without
 26 the advisory panel.

197.200. As used in sections 197.200 to 197.240, unless the context clearly
 2 indicates otherwise, the following terms mean:

3 (1) **"Abortion facility", any establishment operated for the**
 4 **purpose of performing or inducing any second- or third-trimester**
 5 **abortions or five or more first-trimester abortions per month, and**
 6 **which does not provide services or other accommodations for patients**
 7 **to stay more than twenty-three hours within the establishment;**

8 (2) "Ambulatory surgical center", any public or private establishment
 9 operated primarily for the purpose of performing surgical procedures or primarily
 10 for the purpose of performing childbirths, [or any establishment operated for the
 11 purpose of performing or inducing any second or third-trimester abortions or five
 12 or more first-trimester abortions per month,] and which does not provide services
 13 or other accommodations for patients to stay more than twenty-three hours within
 14 the establishment, provided, however, that nothing in this definition shall be
 15 construed to include the offices of dentists currently licensed pursuant to chapter
 16 332;

17 [(2)] (3) "Dentist", any person currently licensed to practice dentistry
 18 pursuant to chapter 332;

19 [(3)] (4) "Department", the department of health and senior services;

20 [(4)] (5) "Governmental unit", any city, county or other political
 21 subdivision of this state, or any department, division, board or other agency of
 22 any political subdivision of this state;

23 [(5)] (6) "Person", any individual, firm, partnership, corporation,
 24 company, or association and the legal successors thereof;

25 [(6)] (7) "Physician", any person currently licensed to practice medicine
 26 pursuant to chapter 334;

27 [(7)] (8) "Podiatrist", any person currently licensed to practice podiatry
28 pursuant to chapter 330.

197.205. 1. No person or governmental unit acting severally or jointly
2 with any other person or governmental unit shall establish, conduct or maintain
3 an ambulatory surgical center **or abortion facility** in this state without a
4 license under sections 197.200 to 197.240 issued by the department of health and
5 senior services.

6 2. Nothing in sections 197.200 to 197.240 shall be construed to impair or
7 abridge the authority of a governmental unit to license ambulatory surgical
8 centers **or abortion facilities**, provided that any ordinance of a governmental
9 unit shall require compliance with all rules, regulations, and standards adopted
10 by the department to implement the provisions of sections 197.200 to 197.240.

197.215. 1. Upon receipt of an application for a license, the department
2 of health and senior services shall issue a license if the applicant and ambulatory
3 surgical center facilities **or abortion facilities** meet the requirements
4 established under sections 197.200 to 197.240, and have provided affirmative
5 evidence that:

6 (1) Each member of the surgical staff is a physician, dentist or podiatrist
7 currently licensed to practice in Missouri, **and each person authorized to**
8 **perform or induce abortions is a physician currently licensed to**
9 **practice in Missouri;**

10 (2) Surgical procedures **in ambulatory surgical centers** shall be
11 performed only by physicians, dentists or podiatrists, who at the time are
12 privileged to perform surgical procedures in at least one licensed hospital in the
13 community in which the ambulatory surgical center is located, thus providing
14 assurance to the public that patients treated in the center shall receive continuity
15 of care should the services of a hospital be required; alternatively, applicant shall
16 submit a copy of a current working agreement with at least one licensed hospital
17 in the community in which the ambulatory surgical center is located,
18 guaranteeing the transfer and admittance of patients for emergency treatment
19 whenever necessary;

20 (3) Continuous physician services or registered professional nursing
21 services are provided whenever a patient is in the facility;

22 (4) Adequate medical records for each patient are to be maintained.

23 2. Upon receipt of an application for a license, or the renewal thereof, the
24 department shall issue or renew the license if the applicant and program meet

25 the requirements established under sections 197.200 to 197.240. Each license
26 shall be issued only for the persons and premises named in the application. A
27 license, unless sooner suspended or revoked, shall be issued for a period of one
28 year.

29 3. Each license shall be issued only for the premises and persons or
30 governmental units named in the application, and shall not be transferable or
31 assignable except with the written consent of the department. Licenses shall be
32 posted in a conspicuous place on the licensed premises.

33 4. If, during the period in which an ambulatory surgical center license **or**
34 **an abortion facility license** is in effect, the license holder or operator legally
35 transfers operational responsibilities by any process to another person as defined
36 in section 197.200, an application shall be made for the issuance of a new license
37 to become effective on the transfer date.

197.220. The department of health and senior services may deny, suspend
2 or revoke a license in any case in which the department finds that there has been
3 a substantial failure to comply with the requirements of sections 197.200 to
4 197.240, or in any case in which the director of the department makes a finding
5 that:

6 (1) The applicant, or if the applicant is a firm, partnership or association,
7 any of its members, or if a corporation, any of its officers or directors, or the
8 person designated to manage or supervise the facility, has been finally
9 adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a
10 criminal prosecution under the laws of any state or of the United States, for any
11 offense reasonably related to the qualifications, functions, or duties of an
12 ambulatory surgical center **or of an abortion facility**, or for any offense an
13 essential element of which is fraud, dishonesty, or an act of violence, or for any
14 offense involving moral turpitude, whether or not sentence is imposed;

15 (2) The licensure status or record of the applicant, or if the applicant is
16 a firm, partnership or association, of any of its members, or if a corporation, of
17 any of its officers or directors, or of the person designated to manage or supervise
18 the facility, from any other state, federal district or land, territory or
19 commonwealth of the United States, or of any foreign country where the applicant
20 has done business in a similar capacity indicates that granting a license to the
21 applicant would be detrimental to the interests of the public.

197.225. 1. The department of health and senior services may adopt such
2 reasonable rules, regulations, and standards for the types of services provided as

3 are necessary to carry out the provisions of sections 197.200 to 197.240, and to
4 assure quality patient care and patient safety, which shall include, but not be
5 limited to:

6 (1) Construction of the facility including, but not limited to, plumbing,
7 heating, lighting, and ventilation which should insure the health, safety, comfort,
8 and privacy of patients and protection from fire hazard;

9 (2) Number, qualifications, and organization of all personnel, having
10 responsibility for any part of the care provided to the patients;

11 (3) Equipment essential to the health, welfare, and safety of the patients;

12 (4) Facilities, programs, and services to be provided in connection with the
13 care of patients in ambulatory surgical centers; and

14 (5) Procedures for peer review and for receiving and investigating
15 complaints regarding any ambulatory surgical center or any physician, dentist,
16 podiatrist, nurse, assistant, manager, supervisor, or employee practicing or
17 working in any such facility.

18 **2. The department of health and senior services may adopt**
19 **separate rules, regulations, or standards to apply to ambulatory**
20 **surgical centers and to apply to abortion facilities.**

197.230. 1. The department of health and senior services shall make, or
2 cause to be made, such inspections and investigations as it deems necessary. The
3 department may delegate its powers and duties to investigate and inspect
4 ambulatory surgical centers **or abortion facilities** to an official of a political
5 subdivision having a population of at least four hundred fifty thousand if such
6 political subdivision is deemed qualified by the department to inspect and
7 investigate ambulatory surgical centers. The official so designated shall submit
8 a written report of his **or her** findings to the department and the department
9 may accept the recommendations of such official if it determines that the facility
10 inspected meets minimum standards established pursuant to sections 197.200 to
11 197.240.

12 **2. In the case of any abortion facility, the department shall make**
13 **or cause to be made an unannounced on-site inspection and**
14 **investigation at least annually. Such on-site inspection and**
15 **investigation shall include, but not be limited to, the following areas:**

16 (1) **Compliance with all statutory and regulatory requirements**
17 **for an abortion facility, including requirements that the facility**
18 **maintain adequate staffing and equipment to respond to medical**

19 emergencies;

20 (2) Compliance with the requirements of section 188.047;

21 (3) Compliance with sections 188.205, 188.210, and 188.215
22 prohibiting the use of public funds, facilities, and employees to perform
23 or to assist a prohibited abortion or to encourage or to counsel a
24 woman to have a prohibited abortion; and

25 (4) Compliance with the requirement in section 197.215 that
26 continuous physician services or registered professional nursing
27 services be provided whenever a patient is in the facility.

28 3. Inspection, investigation, and quality assurance reports shall
29 be made available to the public. Any portion of a report may be
30 redacted when made publicly available if such portion would disclose
31 information that is not subject to disclosure under the law.

197.235. 1. Any person operating, conducting, managing, or establishing
2 an ambulatory surgical center **or abortion facility** without a license required
3 by sections 197.200 to 197.240 is guilty of a class A misdemeanor and, upon
4 conviction, shall be subject to a fine of not more than five hundred dollars. Each
5 day of continuing violation shall constitute a separate offense.

6 2. The attorney general shall represent the department of health and
7 senior services and shall institute an action in the name of the state for
8 injunctive or other relief against any person or governmental unit to restrain or
9 prevent the establishment, conduct, management, or operation of an ambulatory
10 surgical center **or abortion facility** without a license issued pursuant to the
11 provisions of sections 197.200 to 197.240.

12 3. Any person operating, conducting, managing, or establishing an
13 ambulatory surgical center **or abortion facility** who, in the course of
14 advertising, promoting, or otherwise publicizing the activities, business, location,
15 or any other matter concerning the operations of said ambulatory surgical center
16 **or abortion facility**, uses or employs in any manner the words "State, Missouri,
17 State of Missouri, Department of Health and Senior Services, the initials 'Mo.',"
18 or any emblem of the state of Missouri or the department of health and senior
19 services, for the purpose of conveying or in any manner reasonably calculated to
20 convey the false impression that the state of Missouri or any department, agency,
21 bureau, or instrumentality thereof is involved in the business of said ambulatory
22 surgical center **or abortion facility**, or took part in said advertisement,
23 promotion, publicity, or other statement, shall be subject to a fine of one hundred

24 dollars per day for each day during the period beginning with the day said
25 advertisement, promotion, publication, or statement first appears and ending on
26 the day on which it is withdrawn.

197.240. After September 28, 1975, no individual or group health
2 insurance policy of insurance providing coverage on an expense incurred basis,
3 nor individual or group service or indemnity type contract issued by a nonprofit
4 corporation, nor any self-insured group health benefit plan or trust, of any kind
5 or description, shall be issued or payment accepted therefor in renewal or
6 continuation thereof unless coverage for any service performed in an ambulatory
7 surgical center **or abortion facility** is provided for therein if such service would
8 have been covered under the terms of the policy or contract as an eligible
9 inpatient service, except as provided in section 376.805. Nothing in this section
10 shall apply to a group contract, plan or trust which provides health care and
11 surgical care directly to its members and their dependents. Nothing in this
12 section shall be construed to mandate coverage under an individual or group
13 health insurance policy of insurance providing coverage on an expense incurred
14 basis, or an individual or group service or indemnity type contract issued by a
15 nonprofit corporation, or any self-insured group health benefit plan or trust, of
16 any kind or description, to provide health insurance for services which are
17 usually performed in a physician's office.

197.285. 1. Hospitals [and], ambulatory surgical centers, **and abortion**
2 **facilities** shall establish and implement a written policy adopted by each
3 hospital [and], ambulatory surgical center, **and abortion facility** relating to the
4 protections for employees who disclose information pursuant to subsection 2 of
5 this section. This policy shall include a time frame for completion of
6 investigations related to complaints, not to exceed thirty days, and a method for
7 notifying the complainant of the disposition of the investigation. This policy shall
8 be submitted to the department of health and senior services to verify
9 implementation. At a minimum, such policy shall include the following
10 provisions:

11 (1) No supervisor or individual with authority to hire or fire in a hospital
12 [or], ambulatory surgical center, **or abortion facility** shall prohibit employees
13 from disclosing information pursuant to subsection 2 of this section;

14 (2) No supervisor or individual with authority to hire or fire in a hospital
15 [or], ambulatory surgical center, **or abortion facility** shall use or threaten to
16 use his or her supervisory authority to knowingly discriminate against, dismiss,

17 penalize or in any way retaliate against or harass an employee because the
18 employee in good faith reported or disclosed any information pursuant to
19 subsection 2 of this section, or in any way attempt to dissuade, prevent or
20 interfere with an employee who wishes to report or disclose such information;

21 (3) Establish a program to identify a compliance officer who is a
22 designated person responsible for administering the reporting and investigation
23 process and an alternate person should the primary designee be implicated in the
24 report.

25 2. This section shall apply to information disclosed or reported in good
26 faith by an employee concerning:

27 (1) Alleged facility mismanagement or fraudulent activity;

28 (2) Alleged violations of applicable federal or state laws or administrative
29 rules concerning patient care, patient safety or facility safety; or

30 (3) The ability of employees to successfully perform their assigned duties.

31 All information disclosed, collected and maintained pursuant to this subsection
32 and pursuant to the written policy requirements of this section shall be accessible
33 to the department of health and senior services at all times and shall be reviewed
34 by the department of health and senior services at least annually. Complainants
35 shall be notified of the department of health and senior services' access to such
36 information and of the complainant's right to notify the department of health and
37 senior services of any information concerning alleged violations of applicable
38 federal or state laws or administrative rules concerning patient care, patient
39 safety or facility safety.

40 3. Prior to any disclosure to individuals or agencies other than the
41 department of health and senior services, employees wishing to make a disclosure
42 pursuant to the provisions of this section shall first report to the individual or
43 individuals designated by the hospital [or], ambulatory surgical center, **or**
44 **abortion facility** pursuant to subsection 1 of this section.

45 4. If the compliance officer, compliance committee or management official
46 discovers credible evidence of misconduct from any source and, after a reasonable
47 inquiry, has reason to believe that the misconduct may violate criminal, civil or
48 administrative law, then the hospital [or], ambulatory surgical center, **or**
49 **abortion facility** shall report the existence of misconduct to the appropriate
50 governmental authority within a reasonable period, but not more than seven days
51 after determining that there is credible evidence of a violation.

52 5. Reports made to the department of health and senior services shall be

53 subject to the provisions of section 197.477, provided that the restrictions of
54 section 197.477 shall not be construed to limit the employee's ability to subpoena
55 from the original source the information reported to the department pursuant to
56 this section.

57 6. Each written policy shall allow employees making a report who wish
58 to remain anonymous to do so, and shall include safeguards to protect the
59 confidentiality of the employee making the report, the confidentiality of patients
60 and the integrity of data, information and medical records.

61 7. Each hospital [and], ambulatory surgical center, **and abortion**
62 **facility** shall, within forty-eight hours of the receipt of a report, notify the
63 employee that his or her report has been received and is being reviewed.

197.287. By July 1, 2001, all hospitals and ambulatory surgical centers,
2 **and by July 1, 2018, all abortion facilities** shall provide training programs,
3 with measurable minimal training outcomes relating to quality of patient care
4 and patient safety, to all unlicensed staff providing patient care in their facility
5 within ninety days of the beginning date of employment. Standards for such
6 training shall be established by the department of health and senior services by
7 rule. It shall be a requirement of hospital [and], ambulatory surgical center, **and**
8 **abortion facility** licensure pursuant to this chapter that all hospitals [and],
9 ambulatory surgical centers, **and abortion facilities** submit documentation to
10 the department of health and senior services on the training program used.

197.289. 1. All hospitals [and], ambulatory surgical centers, **and**
2 **abortion facilities** shall develop and implement a methodology which ensures
3 adequate nurse staffing that will meet the needs of patients. At a minimum,
4 there shall be on duty at all times a sufficient number of licensed registered
5 nurses to provide patient care requiring the judgment and skills of a licensed
6 registered nurse and to oversee the activities of all nursing personnel.

7 2. There shall be sufficient licensed and ancillary nursing personnel on
8 duty on each nursing unit to meet the needs of each patient in accordance with
9 accepted standards of quality patient care.

197.293. 1. In addition to the powers established in sections 197.070 and
2 197.220, the department of health and senior services shall use the following
3 standards for enforcing hospital [and], ambulatory surgical center, **and abortion**
4 **facility** licensure regulations promulgated to enforce the provisions of sections
5 197.010 to 197.120, sections 197.150 to 197.165, and sections 197.200 to 197.240:

6 (1) Upon notification of a deficiency in meeting regulatory standards, the

7 hospital [or], ambulatory surgical center, **or abortion facility** shall develop and
8 implement a plan of correction approved by the department which includes, but
9 is not limited to, the specific type of corrective action to be taken and an
10 estimated time to complete such action;

11 (2) If the plan as implemented does not correct the deficiency, the
12 department may either:

13 (a) Direct the hospital [or], ambulatory surgical center, **or abortion**
14 **facility** to develop and implement a plan of correction pursuant to subdivision
15 (1) of this subsection; or

16 (b) Require the hospital [or], ambulatory surgical center, **or abortion**
17 **facility** to implement a plan of correction developed by the department;

18 (3) If there is a continuing deficiency after implementation of the plan of
19 correction pursuant to subdivision (2) of this subsection and the hospital [or],
20 ambulatory surgical center, **or abortion facility** has had an opportunity to
21 correct such deficiency, the department may restrict new inpatient admissions or
22 outpatient entrants to the service or services affected by such deficiency;

23 (4) If there is a continuing deficiency after the department restricts new
24 inpatient admissions or outpatient entrants to the service or services pursuant
25 to subdivision (3) of this subsection and the hospital [or], ambulatory surgical
26 center, **or abortion facility** has had an opportunity to correct such deficiency,
27 the department may suspend operations in all or part of the service or services
28 affected by such deficiency;

29 (5) If there is a continuing deficiency after suspension of operations
30 pursuant to subdivision (4) of this subsection, the department may deny, suspend
31 or revoke the hospital's [or], ambulatory surgical center's, **or abortion facility's**
32 license pursuant to section 197.070 or section 197.220.

33 2. Notwithstanding the provisions of subsection 1 of this section to the
34 contrary, if a deficiency in meeting licensure standards presents an immediate
35 and serious threat to the patients' health and safety, the department may, based
36 on the scope and severity of the deficiency, restrict access to the service or
37 services affected by the deficiency until the hospital [or], ambulatory surgical
38 center, **or abortion facility** has developed and implemented an approved plan
39 of correction. Decisions as to whether a deficiency constitutes an immediate and
40 serious threat to the patients' health and safety shall be made in accordance with
41 guidelines established pursuant to regulation of the department of health and
42 senior services and such decisions shall be approved by the bureau of health

43 facility licensing in the department of health and senior services, or its successor
44 agency, or by a person authorized by the regulations to approve such decisions in
45 the absence of the director.

197.295. 1. A hospital [or], ambulatory surgical center, **or abortion**
2 **facility** aggrieved by a decision of the department pursuant to the provisions of
3 paragraph (b) of subdivision (2) and subdivisions (3), (4) and (5) of subsection 1
4 of section 197.293 may appeal such decision to the administrative hearing
5 commission pursuant to section 197.071 or section 197.221, and seek judicial
6 review pursuant to section 621.145. An appeal of an action to restrict new
7 inpatient admissions or outpatient entrants, suspend operations or revoke a
8 license shall be heard on an expedited basis by the administrative hearing
9 commission. The hospital [or], ambulatory surgical center, **or abortion facility**
10 may apply to the administrative hearing commission for an order to stay or
11 suspend any such departmental action pending the commission's findings and
12 ruling as authorized by section 621.035.

13 2. If both the department and the hospital [or], ambulatory surgical
14 center, **or abortion facility** agree to do so, prior to an appeal to the
15 administrative hearing commission pursuant to section 197.071 or section
16 197.221, an official action of the department made pursuant to sections 197.010
17 to 197.120 or sections 197.200 to 197.240 may be appealed to a departmental
18 hearing officer. The department of health and senior services shall promulgate
19 rules specifying the qualifications of such a hearing officer, establish procedures
20 to ensure impartial decisions and provide for comparable appeal remedies when
21 a departmental hearing officer is unavailable.

595.027. 1. Upon request by the department for verification of injuries
2 of victims, medical providers shall submit the information requested by the
3 department within twenty working days of the request at no cost to the fund.

4 2. For purposes of this section, "medical providers" means physicians,
5 dentists, clinical psychologists, optometrists, podiatrists, registered nurses,
6 physician's assistants, chiropractors, physical therapists, hospitals, ambulatory
7 surgical centers, **abortion facilities**, and nursing homes.

8 3. Failure to submit the information as required by this section shall be
9 an infraction.

Section B. In accordance with the provisions of section 1.140, the
2 provisions of section A are severable. If any provision of section A is found by a
3 court of competent jurisdiction to be invalid, the remaining provisions shall

4 remain valid and enforceable.

Section C. Because of the immediate need to protect the right to life of
2 persons in this state, section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace, and safety, and is hereby
4 declared to be an emergency act within the meaning of the constitution, and
5 section A of this act shall be in full force and effect upon its passage and
6 approval.

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