

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NOS. 1477 & 1563
92ND GENERAL ASSEMBLY

Reported from the Committee on Health Care Policy, March 5, 2004, with recommendation that the House Committee Substitute for House Bill Nos. 1477 & 1563 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

3864L.05C

AN ACT

To repeal sections 192.067, 192.138, 192.665, 192.667, and 197.293, RSMo, and to enact in lieu thereof fourteen new sections relating to the Missouri nosocomial infection control act of 2004, with penalty provisions.

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

Section A. Sections 192.067, 192.138, 192.665, 192.667, and 197.293, RSMo, are
2 repealed and fourteen new sections enacted in lieu thereof, to be known as sections 192.066,
3 192.067, 192.131, 192.138, 192.665, 192.667, 197.150, 197.152, 197.154, 197.156, 197.158,
4 197.160, 197.293, and 1, to read as follows:

**192.066. This act shall be known and may be cited as the "Missouri Nosocomial
2 Infection Control Act of 2004". The purpose of the act is to decrease the incidence of
3 infection within health care facilities licensed in this state.**

192.067. 1. The department of health and senior services, for purposes of conducting
2 epidemiological studies to be used in promoting and safeguarding the health of the citizens of
3 Missouri under the authority of this chapter is authorized to receive information from patient
4 medical records. **The provisions of this section shall also apply to the collection, analysis,
5 and disclosure of nosocomial infection data from patient records collected under section
6 192.667.**

7 2. The department shall maintain the confidentiality of all medical record information
8 abstracted by or reported to the department. Medical information secured pursuant to the
9 provisions of subsection 1 of this section may be released by the department only in a statistical

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

10 aggregate form that precludes and prevents the identification of patient, physician, or medical
11 facility except that medical information may be shared with other public health authorities and
12 coinvestigators of a health study if they abide by the same confidentiality restrictions required
13 of the department of health and senior services **and except as otherwise authorized by the**
14 **provisions of sections 192.665 to 192.667.** The department of health and senior services, public
15 health authorities and coinvestigators shall use the information collected only for the purposes
16 provided for in this section **and section 192.667.**

17 3. No individual or organization providing information to the department in accordance
18 with this section shall be deemed to be or be held liable, either civilly or criminally, for divulging
19 confidential information unless such individual organization acted in bad faith or with malicious
20 purpose.

21 4. The department of health and senior services is authorized to reimburse medical care
22 facilities, within the limits of appropriations made for that purpose, for the costs associated with
23 abstracting data for special studies.

24 5. Any department of health and senior services employee, public health authority or
25 coinvestigator of a study who knowingly releases information which violates the provisions of
26 this section shall be guilty of a class A misdemeanor and, upon conviction, shall be punished as
27 provided by law.

192.131. 1. As used in this section, the following terms shall mean:

2 **(1) "Antibiogram", a record of the resistance of microbes to various antibiotics;**

3 **(2) "Antimicrobial", the ability of an agent to destroy or prevent the development**
4 **of pathogenic action of a microorganism.**

5 **2. Every laboratory performing culture and sensitivity testing on humans in this**
6 **state shall, on at least an annual basis, submit an antibiogram to the department. The**
7 **antibiogram shall list the number of isolates tested per facility and the isolates for each**
8 **pathogen and report the antimicrobial sensitivities of each. Data shall include but not be**
9 **limited to all methicillin-resistant staphylococcus aureus (MRSA) and vancomycin-**
10 **resistant enterococcus (VRE) identified. Submitted data shall be frequently monitored and**
11 **analyzed by the department to detect current and emerging susceptibility patterns and**
12 **reported to health care providers in a timely manner. In response to such data, the**
13 **department and all health care providers shall initiate prevention and control strategies**
14 **as appropriate.**

192.138. Other provisions of the law to the contrary notwithstanding, requirements
2 imposed by state law or regulation that institutions defined under chapters 197, RSMo, and 198,
3 RSMo, make notifications concerning patients who are diagnosed as having reportable infectious
4 or contagious diseases shall apply to such institutions provided that such notifications are

5 consistent with federal laws and rules and regulations imposed thereunder governing the
6 confidentiality of records of patients receiving medical assistance under the provisions of federal
7 law [and further provide that such institutions failing to make such notifications shall not be
8 deemed to have violated any state law or regulation requiring notification or considered civilly
9 liable unless such institutions acted in bad faith or with malicious purpose].

192.665. As used in this section [and], section 192.667, **and sections 197.150 to**
2 **197.160, RSMo**, the following terms mean:

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

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

8 (3) "Department", the department of health and senior services;

9 (4) "Financial data", information submitted by hospitals drawn from financial statements
10 which includes the balance sheet, income statement, charity care and bad debt and charges by
11 payor, prepared in accordance with generally accepted accounting principles;

12 (5) "Health care provider", hospitals as defined in section 197.020, RSMo, and
13 ambulatory surgical centers as defined in section 197.200, RSMo;

14 (6) "**Nosocomial infection**", **an infection as defined by the national Centers for**
15 **Disease Control and Prevention;**

16 (7) "**Nosocomial infection incidence rate**", **a measurement of new cases of**
17 **nosocomial infections within a population over a given period of time, with such**
18 **measurements defined by rule of the department for use by all hospitals, ambulatory**
19 **surgical centers, and other facilities in complying with the requirements of the Missouri**
20 **nosocomial infection control act of 2004;**

21 (8) "**Other facility**", **a type of facility determined to be a source of infections and**
22 **designated by rule of the department under subsection 9 of section 192.667;**

23 (9) "Patient abstract data", data submitted by hospitals which includes but is not limited
24 to date of birth, sex, race, zip code, county of residence, admission date, discharge date, principal
25 and other diagnoses, including external causes, principal and other procedures, procedure dates,
26 total billed charges, disposition of the patient and expected source of payment with sources
27 categorized according to Medicare, Medicaid, other government, workers' compensation, all
28 commercial payors coded with a common code, self-pay, no charge and other.

192.667. 1. All health care providers shall at least annually provide to the department
2 charge data as required by the department. All hospitals shall at least annually provide patient
3 abstract data and financial data as required by the department. Hospitals as defined in section

4 197.020, RSMo, shall report patient abstract data for outpatients and inpatients. Within one year
5 of August 28, 1992, ambulatory surgical centers as defined in section 197.200, RSMo, shall
6 provide patient abstract data to the department. The department shall specify by rule the types
7 of information which shall be submitted and the method of submission.

8 **2. The department shall collect data on required nosocomial incidence infection**
9 **rates from hospitals, ambulatory surgical centers, and other facilities as necessary to**
10 **generate the reports required by this section. Hospitals, ambulatory surgical centers, and**
11 **other facilities shall provide such data in compliance with this section.**

12 **3. By no later than July 1, 2005, the department shall promulgate rules specifying**
13 **the standards and procedures for the collection, analysis, risk adjustment, and reporting**
14 **of nosocomial infection incidence rates. In promulgating such rules, the department shall**
15 **use methodologies and systems for data collection established by the national Centers for**
16 **Disease Control and Prevention National Nosocomial Infection Surveillance Program.**

17 **4.** The department shall not require the resubmission of data which has been submitted
18 to the department of health and senior services or the department of social services under any
19 other provision of law. The department of health and senior services shall accept data submitted
20 by associations or related organizations on behalf of health care providers by entering into
21 binding agreements negotiated with such associations or related organizations to obtain data
22 required pursuant to section 192.665 and this section. A health care provider shall submit the
23 required information to the department of health and senior services:

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

26 (2) If no binding agreement has been reached within ninety days of August 28, 1992,
27 between the department of health and senior services and such associations or related
28 organizations; or

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

30 [3.] **5.** Information obtained by the department under the provisions of section 192.665
31 and this section shall not be public information. Reports and studies prepared by the department
32 based upon such information shall be public information and may identify individual health care
33 providers. The department of health and senior services may authorize the use of the data by
34 other research organizations pursuant to the provisions of section 192.067. The department shall
35 not use or release any information provided under section 192.665 and this section which would
36 enable any person to determine any health care provider's negotiated discounts with specific
37 preferred provider organizations or other managed care organizations. The department shall not
38 release data in a form which could be used to identify a patient. Any violation of this subsection
39 is a class A misdemeanor.

40 [4.] 6. The department shall undertake a reasonable number of studies and publish
41 information, including at least an annual consumer guide, in collaboration with health care
42 providers, business coalitions and consumers based upon the information obtained pursuant to
43 the provisions of section 192.665 and this section. The department shall allow all health care
44 providers and associations and related organizations who have submitted data which will be used
45 in any report to review and comment on the report prior to its publication or release for general
46 use. The department shall include any comments of a health care provider, at the option of the
47 provider, and associations and related organizations in the publication if the department does not
48 change the publication based upon those comments. The report shall be made available to the
49 public for a reasonable charge.

50 [5.] 7. Any health care provider which continually and substantially, as these terms are
51 defined by rule, fails to comply with the provisions of this section shall not be allowed to
52 participate in any program administered by the state or to receive any moneys from the state.

53 [6.] 8. A hospital, as defined in section 197.020, RSMo, aggrieved by the department's
54 determination of ineligibility for state moneys pursuant to subsection 5 of this section may appeal
55 as provided in section 197.071, RSMo. An ambulatory surgical center as defined in section
56 197.200, RSMo, aggrieved by the department's determination of ineligibility for state moneys
57 pursuant to subsection [5] 7 of this section may appeal as provided in section 197.221, RSMo.

58 [7. No rule or portion of a rule promulgated under the authority of section 192.665 and
59 this section shall become effective unless it has been promulgated pursuant to the provisions of
60 section 536.024, RSMo.]

61 **9. The department of health may promulgate rules providing for collection of data
62 and publication of nosocomial infection incidence rates for other types of health facilities
63 determined to be sources of infections; except that, physicians' offices shall be exempt from
64 reporting and disclosure of infection incidence rates.**

65 **10. The department shall develop and disseminate to the public at least quarterly
66 reports that show for each hospital, ambulatory surgical center, and other facility a risk-
67 adjusted nosocomial infection incidence rate for each of the following types of infection:**

- 68 (1) **Class I surgical site infections;**
69 (2) **Ventilator-associated pneumonia;**
70 (3) **Central line-related bloodstream infections;**
71 (4) **Methicillin-resistant staphylococcus aureus (MRSA) and vancomycin-resistant
72 enterococcus (VRE) infections; and**
73 (5) **Other categories of infections that may be established by rule of the department.**

74 **11. Reports published under subsection 10 of this section shall be published on the
75 department's Internet website. The initial report shall be issued by the department not**

76 later than April 1, 2006. The reports shall be distributed at least annually to the governor
77 and members of the general assembly.

78 **12.** If the Hospital Industry Data Institute fails by July 31, 2008, and annually
79 thereafter to publish a report of Missouri hospitals' and ambulatory surgical centers'
80 compliance with standardized quality of care measures established by the federal Centers
81 for Medicare and Medicaid Services for prevention of infections related to surgical
82 procedures, the department shall be authorized to collect information from the Centers for
83 Medicare and Medicaid Services or from hospitals and ambulatory surgical centers, and
84 publish such information in accordance with subsection 9 of this section.

85 **13.** The data collected or published under this section shall be available to the
86 department for purposes of licensing hospitals and ambulatory surgical centers under
87 chapter 197, RSMo.

88 **14.** The department shall promulgate rules to implement the provisions of section
89 192.131 and sections 197.150 to 197.160, RSMo. Any rule or portion of a rule, as that term
90 is defined in section 536.010, RSMo, that is created under the authority delegated in this
91 section shall become effective only if it complies with and is subject to all of the provisions
92 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
93 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
94 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and
95 annul a rule are subsequently held unconstitutional, then the grant of rulemaking
96 authority and any rule proposed or adopted after August 28, 2004, shall be invalid and
97 void.

197.150. The department shall require that each hospital, ambulatory surgical
2 center, and other facility have in place procedures for monitoring compliance with
3 infection control regulations and standards. Such procedures shall be coordinated with
4 administrative staff, personnel staff, and the quality improvement program, and shall
5 include, at a minimum, requirements for the infection control program to conduct
6 surveillance of personnel with a portion of the surveillance to be done in such manner that
7 employees and medical staff are observed without their knowledge of such observation.

197.152. Infection control officers as defined in federal regulation and other
2 hospital and ambulatory surgical center employees and medical staff shall be protected
3 under section 197.285 against retaliation by the hospital or ambulatory surgical center for
4 reporting or making infection control concerns or recommendations, and shall be entitled
5 to the full benefits of section 197.285. Such infection control officers shall also have the
6 authority to require a hospital to terminate a practice or procedure which in the infection
7 control officer's opinion falls outside the standard of care in the prevention of infection.

8 The hospital or ambulatory surgical center infection control committee shall convene as
9 soon as possible to review such termination action and may overrule or sustain the
10 directive of the infection control officer.

197.154. Each hospital and ambulatory surgical center shall have an active
2 multidisciplinary infection control committee responsible for implementing and monitoring
3 the infection control program mandated by federal or state regulation. The committee
4 shall include, but not be limited to, a member of the medical staff, registered professional
5 nursing staff, and administration. The program shall include procedures for preventing,
6 identifying, investigating, reporting, and controlling infections throughout the hospital or
7 ambulatory surgical center. The program shall conduct an ongoing review and analysis
8 of nosocomial infection data and risk factors. All hospital and ambulatory surgical center
9 employees and medical staff shall abide by evidence-based standards regarding aseptic
10 technique and infection control. No later than July 1, 2005, the department shall
11 promulgate rules establishing standards for the infection control programs required by
12 this section, and section 197.159. Such standards shall be based upon nationally recognized
13 standards and shall include, but not be limited to, standards for:

- 14 (1) Computerized databases to be used for infection tracking;
- 15 (2) Handwashing, isolation, and other infection control policies;
- 16 (3) Appropriate corrective action plans and follow-ups for any deficiencies
17 identified; and
- 18 (4) Root cause analysis and follow up of sentinel events, as defined by the Joint
19 Commission on Accreditation of Health Organizations, attributable to nosocomial
20 infections.

197.156. 1. For purposes of reporting nosocomial infection outbreaks as required
2 by department rule, "nosocomial infection outbreaks" means infections as defined by the
3 national Centers for Disease Control and Prevention within a defined time period. The
4 time period shall be defined by the department based upon the number of cultures isolated
5 in a facility.

197.158. After January 1, 2006, all onsite surveys performed by nongovernmental
2 entities at hospitals licensed in this state with the intent of evaluating the quality of health
3 care delivered, including but not limited to the effectiveness of its hospital infection control
4 program, shall be unannounced surveys. If such a survey is not conducted as an
5 unannounced survey, the results of the survey shall not be used in issuing any statements
6 as to the quality of the hospital surveyed. Exceptions to the unannounced onsite survey are
7 meetings to review documentation on policies and records of the hospital.

197.160. The department of health and senior services shall have access to all data

2 **and information held by hospitals, ambulatory surgical centers, and other facilities related**
3 **to their infection control practices, rates, or treatments of infections. Failure to provide**
4 **such access shall be grounds for full or partial licensure suspension or revocation under**
5 **section 197.293, sections 197.010 to 197.100, or sections 197.200 to 197.240. If the**
6 **department determines that the hospital, ambulatory surgical center, or other facility is**
7 **willfully impeding access to such information, the department shall be authorized to**
8 **compel the information by subpoena.**

197.293. 1. In addition to the powers established in sections 197.070 and 197.220, the
2 department of health and senior services shall use the following standards for enforcing hospital
3 and ambulatory surgical center licensure regulations promulgated to enforce the provisions of
4 sections 197.010 to 197.120, **sections 197.150 to 197.160**, and sections 197.200 to 197.240:

5 (1) Upon notification of a deficiency in meeting regulatory standards, the hospital or
6 ambulatory surgical center shall develop and implement a plan of correction approved by the
7 department which includes, but is not limited to, the specific type of corrective action to be taken
8 and an estimated time to complete such action;

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

10 (a) Direct the hospital or ambulatory surgical center to develop and implement a plan of
11 correction pursuant to subdivision (1) of this subsection; or

12 (b) Require the hospital or ambulatory surgical center to implement a plan of correction
13 developed by the department;

14 (3) If there is a continuing deficiency after implementation of the plan of correction
15 pursuant to subdivision (2) of this subsection and the hospital or ambulatory surgical center has
16 had an opportunity to correct such deficiency, the department may restrict new inpatient
17 admissions or outpatient entrants to the service or services affected by such deficiency;

18 (4) If there is a continuing deficiency after the department restricts new inpatient
19 admissions or outpatient entrants to the service or services pursuant to subdivision (3) of this
20 subsection and the hospital or ambulatory surgical center has had an opportunity to correct such
21 deficiency, the department may suspend operations in all or part of the service or services
22 affected by such deficiency;

23 (5) If there is a continuing deficiency after suspension of operations pursuant to
24 subdivision (4) of this subsection, the department may deny, suspend or revoke the hospital's or
25 ambulatory surgical center's license pursuant to section 197.070 or section 197.220.

26 2. Notwithstanding the provisions of subsection 1 of this section to the contrary, if a
27 deficiency in meeting licensure standards presents an immediate and serious threat to the
28 patients' health and safety, the department may, based on the scope and severity of the deficiency,
29 restrict access to the service or services affected by the deficiency until the hospital or

30 ambulatory surgical center has developed and implemented an approved plan of correction.
31 Decisions as to whether a deficiency constitutes an immediate and serious threat to the patients'
32 health and safety shall be made in accordance with guidelines established pursuant to regulation
33 of the department of health and senior services and such decisions shall be approved by the
34 bureau of health facility licensing in the department of health and senior services, or its successor
35 agency, or by a person authorized by the regulations to approve such decisions in the absence of
36 the director.

**Section 1. No information disclosed by the department to the public under sections
2 192.066 to 197.293, RSMo, of this act shall be used to establish a standard of care in a
3 private civil action.**