

HOUSE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NOS. 1477 & 1563

AN ACT

2 To repeal sections 192.020, 192.067, 192.138,
3 192.665, 192.667, and 197.293, RSMo, and to
4 enact in lieu thereof seventeen new sections
5 relating to health care facilities, with
6 penalty provisions.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
8 AS FOLLOWS:

9 Section A. Sections 192.020, 192.067, 192.138, 192.665,
10 192.667, and 197.293, RSMo, are repealed and seventeen new
11 sections enacted in lieu thereof, to be known as sections
12 192.020, 192.021, 192.067, 192.131, 192.138, 192.665, 192.667,
13 197.150, 197.152, 197.154, 197.156, 197.158, 197.160, 197.162,
14 197.165, 197.293, and 197.294, to read as follows:

15 192.020. 1. It shall be the general duty and
16 responsibility of the department of health and senior services to
17 safeguard the health of the people in the state and all its
18 subdivisions. It shall make a study of the causes and prevention
19 of diseases. It shall designate those diseases which are
20 infectious, contagious, communicable or dangerous in their nature
21 and shall make and enforce adequate orders, findings, rules and

1 regulations to prevent the spread of such diseases and to
2 determine the prevalence of such diseases within the state. It
3 shall have power and authority, with approval of the director of
4 the department, to make such orders, findings, rules and
5 regulations as will prevent the entrance of infectious,
6 contagious and communicable diseases into the state.

7 2. The department of health and senior services shall
8 include in its list of communicable or infectious diseases which
9 must be reported to the department methicillin-resistant
10 staphylococcus aureus (MRSA) and vancomycin-resistant
11 enterococcus (VRE).

12 192.021. This act shall be known and may be cited as the
13 "Missouri Nosocomial Infection Control Act of 2004". The purpose
14 of the act is to decrease the incidence of infection within
15 health care facilities in this state.

16 192.067. 1. The department of health and senior services,
17 for purposes of conducting epidemiological studies to be used in
18 promoting and safeguarding the health of the citizens of Missouri
19 under the authority of this chapter is authorized to receive
20 information from patient medical records. The provisions of this
21 section shall also apply to the collection, analysis, and
22 disclosure of nosocomial infection data from patient records
23 collected pursuant to section 192.667.

24 2. The department shall maintain the confidentiality of all
25 medical record information abstracted by or reported to the

1 department. Medical information secured pursuant to the
2 provisions of subsection 1 of this section may be released by the
3 department only in a statistical aggregate form that precludes
4 and prevents the identification of patient, physician, or medical
5 facility except that medical information may be shared with other
6 public health authorities and coinvestigators of a health study
7 if they abide by the same confidentiality restrictions required
8 of the department of health and senior services and except as
9 otherwise authorized by the provisions of sections 192.665 to
10 192.667. The department of health and senior services, public
11 health authorities and coinvestigators shall use the information
12 collected only for the purposes provided for in this section and
13 section 192.667.

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

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

23 5. Any department of health and senior services employee,
24 public health authority or coinvestigator of a study who
25 knowingly releases information which violates the provisions of

1 this section shall be guilty of a class A misdemeanor and, upon
2 conviction, shall be punished as provided by law.

3 192.131. 1. As used in this section, the following terms
4 shall mean:

5 (1) "Advisory panel", the infection control advisory panel
6 created by section 197.165, RSMo;

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

9 (3) "Antimicrobial", the ability of an agent to destroy or
10 prevent the development of pathogenic action of a microorganism;

11 (4) "Department", the department of health and senior
12 services.

13 2. Every laboratory performing culture and sensitivity
14 testing on humans in Missouri shall submit data on health care
15 associated infections to the department in accordance with this
16 section. The data to be reported shall be defined by regulation
17 of the department after considering the recommendations of the
18 advisory panel. Such data may include antibiograms and, not
19 later than July 1, 2005, shall include but not be limited to the
20 number of patients or isolates by hospital, ambulatory surgical
21 center, and other facility or practice setting with methicillin-
22 resistant staphylococcus aureus (MRSA) or vancomycin-resistant
23 enterococcus (VRE).

24 3. Information on infections collected pursuant to this
25 section shall be subject to the confidentiality protections of

1 this chapter but shall be available in provider-specific form to
2 appropriate facility and professional licensure authorities.

3 4. The advisory panel shall develop a recommended plan to
4 use laboratory and health care provider data provided pursuant to
5 this chapter to create a system to:

6 (1) Enhance the ability of health care providers and the
7 department to track the incidence and distribution of preventable
8 infections, with emphasis on those infections that are most
9 susceptible to interventions and that pose the greatest risk of
10 harm to Missouri residents;

11 (2) Monitor trends in the development of antibiotic-
12 resistant microbes, including but not limited to methicillin-
13 resistant staphylococcus aureus (MRSA) and vancomycin-resistant
14 enterococcus (VRE) infections.

15 5. In implementing this section, the advisory panel and the
16 department shall conform to guidelines and standards adopted by
17 the centers for disease control and prevention. The advisory
18 panel's plan may provide for demonstration projects to assess the
19 viability of the recommended initiatives.

20 192.138. Other provisions of the law to the contrary
21 notwithstanding, requirements imposed by state law or regulation
22 that institutions defined under chapters 197, RSMo, and 198,
23 RSMo, make notifications concerning patients who are diagnosed as
24 having reportable infectious or contagious diseases shall apply
25 to such institutions provided that such notifications are

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

9 192.665. As used in this section [and], section 192.667,
10 and sections 197.150 to 197.165, RSMo, the following terms mean:

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

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

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

19 (4) "Financial data", information submitted by hospitals
20 drawn from financial statements which includes the balance sheet,
21 income statement, charity care and bad debt and charges by payer,
22 prepared in accordance with generally accepted accounting
23 principles;

24 (5) "Health care provider", hospitals as defined in section
25 197.020, RSMo, and ambulatory surgical centers as defined in

1 section 197.200, RSMo;

2 (6) "Nosocomial infection", as defined by the national
3 Centers for Disease Control and Prevention and applied to
4 infections within hospitals, ambulatory surgical centers, and
5 other facilities;

6 (7) "Nosocomial infection incidence rate", a risk-adjusted
7 measurement of new cases of nosocomial infections by procedure or
8 device within a population over a given period of time, with such
9 measurements defined by rule of the department pursuant to
10 subsection 3 of section 192.667 for use by all hospitals,
11 ambulatory surgical centers, and other facilities in complying
12 with the requirements of the Missouri nosocomial infection
13 control act of 2004;

14 (8) "Other facility", a type of facility determined to be a
15 source of infections and designated by rule of the department
16 pursuant to subsection 11 of section 192.667;

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

1 192.667. 1. All health care providers shall at least
2 annually provide to the department charge data as required by the
3 department. All hospitals shall at least annually provide
4 patient abstract data and financial data as required by the
5 department. Hospitals as defined in section 197.020, RSMo, shall
6 report patient abstract data for outpatients and inpatients.
7 Within one year of August 28, 1992, ambulatory surgical centers
8 as defined in section 197.200, RSMo, shall provide patient
9 abstract data to the department. The department shall specify by
10 rule the types of information which shall be submitted and the
11 method of submission.

12 2. The department shall collect data on required nosocomial
13 infection incidence rates from hospitals, ambulatory surgical
14 centers, and other facilities as necessary to generate the
15 reports required by this section. Hospitals, ambulatory surgical
16 centers, and other facilities shall provide such data in
17 compliance with this section.

18 3. No later than July 1, 2005, the department shall
19 promulgate rules specifying the standards and procedures for the
20 collection, analysis, risk adjustment, and reporting of
21 nosocomial infection incidence rates and the types of infections
22 and procedures to be monitored pursuant to subsection 12 of this
23 section. In promulgating such rules, the department shall:

24 (1) Use methodologies and systems for data collection
25 established by the federal Centers for Disease Control and

1 Prevention National Nosocomial Infection Surveillance System, or
2 its successor; and

3 (2) Consider the findings and recommendations of the
4 infection control advisory panel established pursuant to section
5 197.165, RSMo.

6 4. The infection control advisory panel created by section
7 197.165, RSMo, shall make a recommendation to the department
8 regarding the appropriateness of implementing all or part of the
9 nosocomial infection data collection, analysis, and public
10 reporting requirements of this act by requiring hospitals
11 ambulatory surgical centers, and other facilities to participate
12 in the federal Centers for Disease Control and Prevention's
13 National Nosocomial Infection Surveillance System, or its
14 successor. The advisory panel shall consider the following
15 factors in developing its recommendation:

16 (1) Whether the public is afforded the same or greater
17 access to hospital-specific infection control indicators and
18 rates than would be provided under subsections 2, 3, and 6 to 12
19 of this section;

20 (2) Whether the data provided to the public are subject to
21 the same or greater accuracy of risk adjustment than would be
22 provided under subsections 2, 3, and 6 to 12 of this section;

23 (3) Whether the public is provided with the same or greater
24 specificity of reporting of infections by type of facility
25 infections and procedures than would be provided under

1 subsections 2, 3, and 6 to 12 of this section;

2 (4) Whether the data are subject to the same or greater
3 level of confidentiality of the identity of an individual patient
4 than would be provided under subsection 2, 3, and 6 to 12 of this
5 section;

6 (5) Whether the National Nosocomial Infection Surveillance
7 System, or its successor, has the capacity to receive, analyze,
8 and report the required data for all facilities;

9 (6) Whether the cost to implement the nosocomial infection
10 data collection and reporting system is the same or less than
11 under subsections 2, 3, and 6 to 12 of this section.

12 5. Based on the affirmative recommendation of the infection
13 control advisory panel, and provided that the requirements of
14 subsection 12 of this section can be met, the department may or
15 may not implement the federal Centers for Disease Control and
16 Prevention Nosocomial Infection System, or its successor, as an
17 alternative means of complying with the requirements of
18 subsections 2, 3, and 6 to 12 of this section. If the department
19 chooses to implement the use of the federal Centers for Disease
20 Control Prevention Nosocomial Infection System, or its successor,
21 as an alternative means of complying with the requirements of
22 subsections 2, 3, and 6 to 12 of this section, it shall be a
23 condition of licensure for hospitals and ambulatory surgical
24 centers which opt to participate in the federal program to permit
25 the federal program to disclose hospital-specific data as

1 necessary to provide the public reports required by the
2 department. Any hospital or ambulatory surgical center which
3 does not voluntarily participate in the National Nosocomial
4 Infection Surveillance System, or its successor, shall be
5 required to abide by all of the requirements of subsections 2, 3,
6 and 6 to 12 of this section.

7 6. The department shall not require the resubmission of
8 data which has been submitted to the department of health and
9 senior services or the department of social services under any
10 other provision of law. The department of health and senior
11 services shall accept data submitted by associations or related
12 organizations on behalf of health care providers by entering into
13 binding agreements negotiated with such associations or related
14 organizations to obtain data required pursuant to section 192.665
15 and this section. A health care provider shall submit the
16 required information to the department of health and senior
17 services:

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

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

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

1 [3.] 7. Information obtained by the department under the
2 provisions of section 192.665 and this section shall not be
3 public information. Reports and studies prepared by the
4 department based upon such information shall be public
5 information and may identify individual health care providers.
6 The department of health and senior services may authorize the
7 use of the data by other research organizations pursuant to the
8 provisions of section 192.067. The department shall not use or
9 release any information provided under section 192.665 and this
10 section which would enable any person to determine any health
11 care provider's negotiated discounts with specific preferred
12 provider organizations or other managed care organizations. The
13 department shall not release data in a form which could be used
14 to identify a patient. Any violation of this subsection is a
15 class A misdemeanor.

16 [4.] 8. The department shall undertake a reasonable number
17 of studies and publish information, including at least an annual
18 consumer guide, in collaboration with health care providers,
19 business coalitions and consumers based upon the information
20 obtained pursuant to the provisions of section 192.665 and this
21 section. The department shall allow all health care providers
22 and associations and related organizations who have submitted
23 data which will be used in any report to review and comment on
24 the report prior to its publication or release for general use.
25 The department shall include any comments of a health care

1 provider, at the option of the provider, and associations and
2 related organizations in the publication if the department does
3 not change the publication based upon those comments. The report
4 shall be made available to the public for a reasonable charge.

5 [5.] 9. Any health care provider which continually and
6 substantially, as these terms are defined by rule, fails to
7 comply with the provisions of this section shall not be allowed
8 to participate in any program administered by the state or to
9 receive any moneys from the state.

10 [6.] 10. A hospital, as defined in section 197.020, RSMo,
11 aggrieved by the department's determination of ineligibility for
12 state moneys pursuant to subsection [5] 9 of this section may
13 appeal as provided in section 197.071, RSMo. An ambulatory
14 surgical center as defined in section 197.200, RSMo, aggrieved by
15 the department's determination of ineligibility for state moneys
16 pursuant to subsection [5] 9 of this section may appeal as
17 provided in section 197.221, RSMo.

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

22 11. The department of health may promulgate rules providing
23 for collection of data and publication of nosocomial infection
24 incidence rates for other types of health facilities determined
25 to be sources of infections; except that, physicians' offices

1 shall be exempt from reporting and disclosure of infection
2 incidence rates.

3 12. In consultation with the infection control advisory
4 panel established pursuant to section 197.165, RSMo, the
5 department shall develop and disseminate to the public reports
6 based on data compiled for a period of twelve months. Such
7 reports shall be updated quarterly and shall show for each
8 hospital, ambulatory surgical center, and other facility a risk-
9 adjusted nosocomial infection incidence rate for the following
10 types of infection:

11 (1) Class I surgical site infections;

12 (2) Ventilator-associated pneumonia;

13 (3) Central line-related bloodstream infections;

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

16 The department, in consultation with the advisory panel, may
17 collect and report data on subsets of each type of infection
18 described in this subsection.

19 13. In the event the provisions of this act are implemented
20 by requiring hospitals, ambulatory surgical centers, and other
21 facilities to participate in the federal Centers for Disease
22 Control and Prevention National Nosocomial Infection Surveillance
23 System, or its successor, the types of infections to be publicly
24 reported shall be determined by the department by rule and shall

1 be consistent with the infections tracked by the National
2 Nosocomial Infection Surveillance System, or its successor.

3 14. Reports published pursuant to subsection 12 of this
4 section shall be published on the department's Internet website.
5 The initial report shall be issued by the department not later
6 than December 31, 2006. The reports shall be distributed at
7 least annually to the governor and members of the general
8 assembly.

9 15. The Hospital Industry Data Institute shall publish a
10 report of Missouri hospitals' and ambulatory surgical centers'
11 compliance with standardized quality of care measures established
12 by the federal Centers for Medicare and Medicaid Services for
13 prevention of infections related to surgical procedures. If the
14 Hospital Industry Data Institute fails to do so by July 31, 2008,
15 and annually thereafter, the department shall be authorized to
16 collect information from the Centers for Medicare and Medicaid
17 Services or from hospitals and ambulatory surgical centers and
18 publish such information in accordance with subsection 14 of this
19 section.

20 16. The data collected or published pursuant to this
21 section shall be available to the department for purposes of
22 licensing hospitals and ambulatory surgical centers pursuant to
23 chapter 197, RSMo.

24 17. The department shall promulgate rules to implement the
25 provisions of section 192.131 and sections 197.150 to 197.160,

1 RSMo. Any rule or portion of a rule, as that term is defined in
2 section 536.010, RSMo, that is created under the authority
3 delegated in this section shall become effective only if it
4 complies with and is subject to all of the provisions of chapter
5 536, RSMo, and, if applicable, section 536.028, RSMo. This
6 section and chapter 536, RSMo, are nonseverable and if any of the
7 powers vested with the general assembly pursuant to chapter 536,
8 RSMo, to review, to delay the effective date, or to disapprove
9 and annul a rule are subsequently held unconstitutional, then the
10 grant of rulemaking authority and any rule proposed or adopted
11 after August 28, 2004, shall be invalid and void.

12 197.150. The department shall require that each hospital,
13 ambulatory surgical center, and other facility have in place
14 procedures for monitoring compliance with infection control
15 regulations and standards. Such procedures shall be coordinated
16 with administrative staff, personnel staff, and the quality
17 improvement program. Such procedures shall include, at a
18 minimum, requirements for the infection control program to
19 conduct surveillance of personnel with a portion of the
20 surveillance to be done in such manner that employees and medical
21 staff are observed without their knowledge of such observation,
22 provided that this unobserved surveillance requirement shall not
23 be considered to be grounds for licensure enforcement action by
24 the department until the department establishes clear and
25 verifiable criteria for determining compliance. Such

1 surveillance also may include monitoring of the rate of use of
2 hand hygiene products.

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

13 2. Infection control officers as defined in federal
14 regulation shall also have the authority to order the cessation
15 of a practice that falls outside the standard of care in
16 infection control. The hospital or ambulatory surgical center
17 may require that such a cessation order of an infection control
18 officer be endorsed by the hospital or ambulatory surgical center
19 chief executive officer or his or her designee before taking
20 effect. The hospital or ambulatory surgical center infection
21 control committee shall convene as soon as possible to review
22 such cessation order and may overrule or sustain the directive of
23 the infection control officer. The department shall promulgate
24 rules governing documentation of such events. The standard of
25 care in infection control shall be established by the standards

1 or regulations of appropriate state and federal regulatory
2 agencies, accreditation organizations, or the standards adopted
3 by the Centers for Disease Control and Prevention or the
4 Association for Professionals in Infection Control and
5 Epidemiology.

6 3. Members of the medical staff who report in good faith
7 infection control concerns to the hospital or ambulatory surgical
8 center administration or medical staff leadership shall not be
9 subject to retaliation or discrimination for doing so. Nothing
10 in this section shall prevent or shield medical staff members
11 from being subject to professional review actions for substandard
12 care or breach of standards established in hospital policy,
13 rules, or medical staff bylaws.

14 197.154. No later than July 1, 2005, the department shall
15 review and update its current regulations governing hospital and
16 ambulatory surgical center infection control programs. Such
17 standards shall be based upon nationally recognized standards and
18 shall include, but not be limited to, standards for:

19 (1) Maintaining databases to be used for infection
20 tracking;

21 (2) Developing hospital protocols related to aseptic
22 technique and infection control practices including but not
23 limited to handwashing, isolation, and other infection control
24 policies;

25 (3) Developing appropriate corrective action plans and

1 follow-ups for any deficiencies identified in hospital infection
2 control practices;

3 (4) Conducting root cause analysis and follow-up of
4 sentinel events, as defined by the Joint Commission on
5 Accreditation of Health Organizations, attributable to nosocomial
6 infections; and

7 (5) Ensuring that hospital and ambulatory surgical center
8 policies and medical staff bylaws are in place to promote and
9 enforce compliance with infection control policies.

10 197.156. For purposes of reporting nosocomial infection
11 outbreaks as required by department rule, the term "nosocomial
12 infection outbreaks" shall mean infections as defined by the
13 national Centers for Disease Control and Prevention within a
14 defined time period. The time period shall be defined by the
15 department based upon the number of infected patients in a
16 facility.

17 197.158. Every hospital and ambulatory surgery center
18 shall, beginning June 1, 2006, provide each patient an
19 opportunity to submit to the hospital or ambulatory surgical
20 center administration complaints, comments, and suggestions
21 related to the care they received or their personal observations
22 related to the quality of care provided. The department shall
23 promulgate rules to implement this section.

24 197.160. The department of health and senior services shall
25 have access to all data and information held by hospitals,

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

12 197.162. The department shall in its licensure of hospitals
13 and ambulatory surgical centers give special attention to
14 infection control practices and shall direct hospitals and
15 ambulatory surgical centers to set quantifiable measures of
16 performance for reducing the incidence of nosocomial infections
17 in Missouri. The department shall prepare an annual report on
18 infection control standards and compliance, which shall be shared
19 with the governor and the general assembly.

20 197.165. 1. The department shall appoint an "Infection
21 Control Advisory Panel" for the purposes of implementing section
22 192.667 and 192.131, RSMo.

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

25 (1) A public member;

1 (2) Two board-certified or board-eligible physicians
2 licensed pursuant to chapter 334, RSMo, who are affiliated with a
3 Missouri hospital or medical school, active members of the
4 society for health care epidemiology of America, and have
5 demonstrated interest and expertise in health facility infection
6 control;

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

10 (4) Four infection control practitioners certified by the
11 certification board of infection control and epidemiology, at
12 least two of whom shall be practicing in a rural hospital or
13 setting;

14 (5) A medical statistician with an advanced degree in such
15 specialty; and

16 (6) A clinical microbiologist with an advanced degree in
17 such specialty;

18 (7) Three employees of the department, representing the
19 functions of hospital and ambulatory surgical center licensure,
20 epidemiology and health data analysis, who shall serve as ex
21 officio nonvoting member of the panel.

22 3. Reasonable expenses of the panel shall be paid from
23 private donations made specifically for that purpose to the
24 "Infection Control Advisory Panel Fund", which is hereby created
25 in the state treasury. If such donations are not received from

1 private sources, then the provisions of this act shall be
2 implemented without the advisory panel.

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

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

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

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

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

22 (3) If there is a continuing deficiency after
23 implementation of the plan of correction pursuant to subdivision
24 (2) of this subsection and the hospital or ambulatory surgical
25 center has had an opportunity to correct such deficiency, the

1 department may restrict new inpatient admissions or outpatient
2 entrants to the service or services affected by such deficiency;

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

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

15 2. Notwithstanding the provisions of subsection 1 of this
16 section to the contrary, if a deficiency in meeting licensure
17 standards presents an immediate and serious threat to the
18 patients' health and safety, the department may, based on the
19 scope and severity of the deficiency, restrict access to the
20 service or services affected by the deficiency until the hospital
21 or ambulatory surgical center has developed and implemented an
22 approved plan of correction. Decisions as to whether a
23 deficiency constitutes an immediate and serious threat to the
24 patients' health and safety shall be made in accordance with
25 guidelines established pursuant to regulation of the department

1 of health and senior services and such decisions shall be
2 approved by the bureau of health facility licensing in the
3 department of health and senior services, or its successor
4 agency, or by a person authorized by the regulations to approve
5 such decisions in the absence of the director.

6 197.294. No information disclosed by the department to the
7 public pursuant to sections 192.020, 192.021, 192.067, 192.131,
8 192.138, 192.665, and 192.667, RSMo, and sections 197.150,
9 197.152, 197.154, 197.156, 197.158, 197.160, 197.162, 197.165,
10 and 197.293 shall be used to establish a standard of care in a
11 private civil action.