

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 835
93RD GENERAL ASSEMBLY

Reported from the Committee on Health Care Policy April 13, 2005, with recommendation that the House Committee Substitute for House Bill No. 835 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

2091L.04C

AN ACT

To repeal sections 191.332, 192.900, 193.015, 193.085, 193.087, 193.115, 193.125, 193.145, 197.305, 197.315, 197.317, 197.325, 197.340, 197.345, 197.355, 197.357, 197.366, and 701.049, RSMo, and to enact in lieu thereof twenty-six new sections relating to health care providers, with an emergency clause for certain sections.

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

Section A. Sections 191.332, 192.900, 193.015, 193.085, 193.087, 193.115, 193.125, 193.145, 197.305, 197.315, 197.317, 197.325, 197.340, 197.345, 197.355, 197.357, 197.366, and 701.049, RSMo, are repealed and twenty-six new sections enacted in lieu thereof, to be known as sections 26.350, 191.235, 191.332, 191.645, 192.324, 192.326, 192.900, 193.015, 193.085, 193.087, 193.115, 193.125, 193.145, 197.305, 197.315, 197.317, 197.325, 197.340, 197.345, 197.355, 197.357, 197.366, 197.710, 334.251, 376.393, and 701.049, to read as follows:

26.350. 1. There is hereby established within the department of health and senior services the position of the Missouri surgeon general. The Missouri surgeon general shall be appointed by the governor with the advice and consent of the senate, and shall be a physician of good standing in the community who is licensed under chapter 334, RSMo, with a masters degree in public health or a masters degree in health management training, or commensurate experience in public policy.

2. The duties of the Missouri surgeon general shall include but not be limited to the following:

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

- 9 (1) Serving as chairperson of the state board of health;
- 10 (2) Advise the director of the department of health and senior services on
- 11 developing strategies to improve the following health indicators:
- 12 (a) Tobacco use;
- 13 (b) Incidence of obesity;
- 14 (c) Health disparities;
- 15 (d) Hypertension;
- 16 (e) Nutrition;
- 17 (f) Immunizations;
- 18 (g) Disease and injury prevalence;
- 19 (h) Substance abuse prevalence;
- 20 (i) Workplace injuries; and
- 21 (j) Disability prevention;
- 22 (3) Providing health information through public appearances at Missouri schools,
- 23 places of employment, and other private and public institutions and organizations upon
- 24 request;
- 25 (4) Attendance at health promotion events;
- 26 (5) Creation of an Internet web site to promote healthy lifestyles for Missourians;
- 27 (6) Public health promotion, health literacy, health promotion, and prevention of
- 28 disease efforts; and
- 29 (7) An examination of Missouri's participation in Health People 2010.
- 30 **3. The Missouri surgeon general shall hold office for a term of four years.**
- 31 **4. The Missouri surgeon general shall act independently of the department of**
- 32 **health and senior services, the department of social services, and the department of mental**
- 33 **health in the performance of his or her duties. The office of administration shall provide**
- 34 **administrative support and staff as deemed necessary.**
- 35 **5. The Missouri surgeon general shall submit an annual report to the speaker of**
- 36 **the house of representatives, the president pro tempore of the senate and the governor**
- 37 **before January thirty-first of each year. The surgeon general's report shall include**
- 38 **information on the current overall health of the citizens of Missouri and any**
- 39 **recommendations for improvements.**

2 **191.235. 1. Beginning April 1, 2007, immunizations administered in the state of**

3 **Missouri to knowingly pregnant women or children less than three years of age shall not**

4 **contain more than one microgram of mercury per five-tenths-milliliter dose.**

5 **2. Beginning April 1, 2007, any insurer doing business in the state of Missouri that**

6 **provides insurance coverage for immunizations of a fee schedule or on a percentage**

6 reimbursement basis shall reimburse for immunizations not containing mercury at least
7 at the same percentage rate of the usual and customary charges which were provided for
8 immunizations containing mercury or other preservatives immediately prior to April 1,
9 2007.

10 **3. The director of the department of health and senior services shall exempt the use**
11 **of a vaccine from compliance with this section if the director finds, and the governor**
12 **concur, that an actual or potential public health emergency exists, including an epidemic,**
13 **outbreak, or shortage for which there does not exist a sufficient supply of vaccine that**
14 **complies with subsection 1 of this section that would prevent knowingly pregnant women**
15 **or children less than three years of age from receiving the vaccine. The director shall**
16 **determine the duration of such exemption.**

191.332. 1. By January 1, 2002, the department of health and senior services shall,
2 subject to appropriations, expand the newborn screening requirements in section 191.331 to
3 include potentially treatable or manageable disorders, [including] **which may include but are**
4 **not limited to** cystic fibrosis, galactosemia, biotinidase deficiency, congenital adrenal
5 hyperplasia, maple syrup urine disease (MSUD) and other amino acid disorders,
6 glucose-6-phosphate dehydrogenase deficiency (G-6-PD), MCAD and other fatty acid oxidation
7 disorders, methylmalonic acidemia, propionic acidemia, isovaleric acidemia and glutaric
8 acidemia Type I.

9 2. The department of health and senior services may promulgate rules to implement the
10 provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of
11 this section shall become effective unless it has been promulgated pursuant to chapter 536,
12 RSMo.

191.645. 1. Healthcare employers shall make information available to their
2 **employees regarding the risk of exposure to hepatitis C. Such information shall include**
3 **but not be limited to the following: availability of testing, including lists of several sites**
4 **where testing can be obtained; cost; the department of health and senior services web site;**
5 **protocol for accidental exposure; and any other information deemed pertinent by the**
6 **employer.**

7 2. The department of health and senior services shall maintain a "Missouri
8 Hepatitis C" web site in conjunction with the department's current web site that:

- 9 (1) Informs Missourians of the availability testing for the detection of hepatitis C;
10 (2) Contains detailed information regarding hepatitis including, but not limited to,
11 the following:
12 (a) Facts about hepatitis C;
13 (b) Risk factors for the contraction of hepatitis C;

- 14 (c) Common routes of transmission for hepatitis C;
- 15 (d) Effects of hepatitis C on the liver and other organs;
- 16 (e) Current treatments for acute and chronic hepatitis C;
- 17 (f) Effects of untreated hepatitis C on the liver and other organs;
- 18 (3) Contains links to the following information and instructional web sites:
- 19 (a) The American Liver Foundation (www.liverfoundation.org);
- 20 (b) Hepatitis Foundation International (www.hepatitisfoundation.org);
- 21 (c) Centers for Disease Control and Prevention
- 22 (www.cdc.gov/ncidod/diseases/hepatitis/resource/);
- 23 (d) Links to any other web site or sites the director deems appropriate and
- 24 informative for Missourians; and
- 25 (e) Information on hepatitis C support groups in Missouri, including but not
- 26 limited to meeting times, locations, and dates.

192.324. There is hereby created in the state treasury the "Department of Health and Senior Services Administrative and Cost Allocation Fund". The state treasurer shall be the custodian of the fund and the fund shall be administered by the director of the department of health and senior services. The fund shall be funded annually by appropriations, and deposits and transfers thereto. The fund shall contain moneys transferred or paid to the department in return for goods and services provided internally by the department, or to any governmental entity or the public. The commissioner of administration shall approve disbursements from the fund at the request of the director of the department or the director's designee in accordance with the appropriations made therefore. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund shall not lapse to the credit of general revenue at the end of the biennium. All interest earned on the fund shall be deposited in and credited to the fund.

192.326. There is hereby created in the state treasury the "Department of Health and Senior Services Disaster Fund", to which the general assembly may appropriate moneys and from which moneys may be appropriated annually to the department of health and senior services. Moneys in the fund shall be expended during a state of emergency at the direction of the governor and upon issuance of an emergency declaration which shall set forth the emergency and shall state that it requires the expenditure of public funds to furnish immediate aid and relief. The state treasurer shall be the custodian of the fund and the fund shall be administered by the department of health and senior services. Notwithstanding the provisions of section 33.080, RSMo, moneys in the fund shall not lapse to the credit of general revenue at the end of the biennium. All interest earned on the fund shall be deposited in and credited to the fund.

192.900. The "Missouri Public Health Services Fund" is hereby created. All moneys
2 deposited in the Missouri public health services fund, subject to appropriation, shall be used for
3 public health purposes, including the contracting for the accomplishment of such purposes by
4 local health departments. **Any interest earned on the fund shall accrue to the fund.**

193.015. As used in sections 193.005 to 193.325, unless the context clearly indicates
2 otherwise, the following terms shall mean:

3 (1) "Dead body", a human body or such parts of such human body from the condition
4 of which it reasonably may be concluded that death recently occurred;

5 (2) "Department", the department of health and senior services;

6 (3) "Final disposition", the burial, interment, cremation, removal from the state, or other
7 authorized disposition of a dead body or fetus;

8 (4) "Institution", any establishment, public or private, which provides inpatient **or**
9 **outpatient** medical, surgical, or diagnostic care or treatment or nursing, custodian, or domiciliary
10 care, or to which persons are committed by law;

11 (5) "Live birth", the complete expulsion or extraction from its mother of a child,
12 irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or
13 shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or
14 definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the
15 placenta is attached;

16 (6) "Physician", a person authorized or licensed to practice medicine or osteopathy
17 pursuant to chapter 334, RSMo;

18 (7) "Spontaneous fetal death", a noninduced death prior to the complete expulsion or
19 extraction from its mother of a fetus, irrespective of the duration of pregnancy; the death is
20 indicated by the fact that after such expulsion or extraction the fetus does not breathe or show
21 any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite
22 movement of voluntary muscles;

23 (8) "State registrar", state registrar of vital statistics of the state of Missouri;

24 (9) "System of vital statistics", the registration, collection, preservation, amendment and
25 certification of vital records; the collection of other reports required by sections 193.005 to
26 193.325 and section 194.060, RSMo; and activities related thereto including the tabulation,
27 analysis and publication of vital statistics;

28 (10) "Vital records", certificates or reports of birth, death, marriage, dissolution of
29 marriage and data related thereto;

30 (11) "Vital statistics", the data derived from certificates and reports of birth, death,
31 spontaneous fetal death, marriage, dissolution of marriage and related reports.

193.085. 1. A certificate of birth for each live birth which occurs in this state shall be

2 filed with the local registrar, or as otherwise directed by the state registrar, within [seven] **five**
3 days after such birth and shall be registered if such certificate has been completed and filed
4 pursuant to the provisions of this section.

5 2. When a birth occurs in an institution or en route to an institution, the person in charge
6 of the institution or such person's designated representative shall obtain the personal data,
7 prepare the certificate, [secure the signatures required] **certify that the child was born alive at**
8 **the place and time and on the date stated either by signature or an electronic process**
9 **approved by the department**, and file the certificate pursuant to this section or as otherwise
10 directed by the state registrar within the required [seven] **five** days. The physician or other
11 person in attendance shall provide the medical information required by the certificate and certify
12 to the facts of birth within five days after the birth. If the physician or other person in attendance
13 does not certify to the facts of birth within the five-day period, the person in charge of the
14 institution shall complete [and sign] the certificate.

15 3. When a birth occurs outside an institution, the certificate shall be prepared and filed
16 by one of the following in the indicated order of priority:

17 (1) The physician in attendance at or immediately after the birth;

18 (2) Any other person in attendance at or immediately after the birth;

19 (3) The father, the mother, or, in the absence of the father and the inability of the mother,
20 the person in charge of the premises where the birth occurred.

21 4. When a birth occurs on a moving conveyance within the United States and the child
22 is first removed from the conveyance in this state, the birth shall be registered in this state and
23 such place shall be considered the place of birth. When a birth occurs on a moving conveyance
24 while in international waters or air space or in a foreign country or its air space and the child is
25 first removed from the conveyance in this state, the birth shall be registered in this state but the
26 certificate shall show the actual place of birth insofar as can be determined.

27 5. If the mother was married at the time of either conception or birth, or between
28 conception and birth, the name of the husband shall be entered on the certificate as the father of
29 the child, unless:

30 (1) Paternity has been determined otherwise by a court of competent jurisdiction; or

31 (2) The mother executes an affidavit attesting that the husband is not the father and the
32 putative father is the father, and the putative father executes an affidavit attesting that he is the
33 father, and the husband executes an affidavit attesting that he is not the father. If such affidavits
34 are executed, the putative father shall be shown as the father on the birth certificate and the
35 signed acknowledgment of paternity shall be considered a legal finding of paternity. The
36 affidavits shall be as provided for in section 193.215.

37 6. In any case in which paternity of a child is determined by a court of competent

38 jurisdiction, the name of the father and surname of the child shall be entered on the certificate
39 of birth pursuant to the finding and order of the court.

40 7. Notwithstanding any other law to the contrary, if a child is born to unmarried parents,
41 the name of the father and other required information shall be entered on the certificate of birth
42 only if an acknowledgment of paternity pursuant to section 193.215 is completed, or if paternity
43 is determined by a court of competent jurisdiction or by an administrative order of the **family**
44 **support** division [of child support enforcement].

45 8. If the father is not named on the certificate of birth, no other information about the
46 father shall be entered on the certificate.

47 9. The birth certificate of a child born to a married woman as a result of artificial
48 insemination, with consent of her husband, shall be completed pursuant to the provisions of
49 subsection 5 of this section.

50 10. Either of the parents of the child, or other informant, shall attest to the accuracy of
51 the personal data entered on the certificate in time to permit the filing of the certificate within
52 the required seven days.

193.087. 1. In addition to the requirements of subsection 2 of section 193.085, when a
2 birth occurs to an unmarried mother, whether in an institution or en route to an institution, the
3 person in charge of the institution or a designated representative shall:

4 (1) Provide a form or affidavit prescribed by the state registrar that may be completed
5 by the child's mother and father to voluntarily acknowledge paternity of the child pursuant to
6 section 193.215;

7 (2) File the form, when completed, along with the certificate required by this section; and

8 (3) Provide oral and written notice to the affiant required by section 193.215.

9 2. Any institution, the person in charge or a designated representative shall be immune
10 from civil or criminal liability for providing the form or affidavit required by subsection 1 of this
11 section, the information developed pursuant to that subsection, or otherwise fulfilling the duties
12 required by subsection 1 of this section.

13 3. The **family support** division [of child support enforcement] may contract with the
14 department of health and senior services to provide assistance and training to the hospital staff
15 assigned responsibility for providing the information, as appropriate, to carry out duties pursuant
16 to this section. The **family support** division [of child support enforcement] shall develop and
17 distribute free of charge the information on the rights and responsibilities of parents that is
18 required to be distributed pursuant to this section. The department of health and senior services
19 shall provide free of charge to hospitals the acknowledgment of paternity affidavit, and
20 instructions on the completion of the affidavit.

21 4. If no contract is developed with the department of health and senior services, then the

22 **family support** division [of child support enforcement] shall provide the assistance and training
23 activities to hospitals pursuant to subsection 3 of this section.

24 5. Any affiant who intentionally misidentifies another person as a parent may be
25 prosecuted for perjury, pursuant to section 575.040, RSMo.

26 6. Due to lack of cooperation by public assistance recipients, the **family support**
27 division shall either suspend the entire public assistance cash grant, or remove the needs of the
28 adult recipient of public assistance from the cash grant, subject to good cause exceptions
29 pursuant to federal law or regulations.

193.115. 1. If a delayed certificate of birth is rejected under the provisions of section
2 193.105, a petition signed and sworn to by the petitioner may be filed with a court of competent
3 jurisdiction for an order establishing a record of the date and place of the birth and the parentage
4 of the person whose birth is to be registered.

5 2. Such petition shall be made on a form prescribed [and furnished] **or approved** by the
6 state registrar and shall allege:

7 (1) That the person for whom a delayed certificate of birth is sought was born in this
8 state;

9 (2) That no certificate of birth of such person can be found in the department or the
10 office of any local custodian of birth certificates;

11 (3) That diligent efforts by the petitioner have failed to obtain the evidence required in
12 accordance with section 193.105, and regulations adopted pursuant thereto;

13 (4) That the state registrar has refused to register a delayed certificate of birth;

14 (5) Such other allegations as may be required.

15 3. The petition shall be accompanied by a statement of the state registrar made in
16 accordance with section 193.105 and all documentary evidence which was submitted to the state
17 registrar in support of such registration.

18 4. The court shall fix a time and place for hearing the petition and shall give the state
19 registrar thirty days' notice of said hearing. The state registrar or his authorized representative
20 may appear and testify in the proceeding.

21 5. If the court finds, from the evidence presented, that the person for whom a delayed
22 certificate of birth is sought was born in this state, it shall make findings as to the place and date
23 of birth, parentage, and such other findings as may be required and shall issue an order, on a form
24 prescribed [and furnished] **or approved** by the state registrar, to establish a certificate of birth.
25 This order shall include the birth data to be registered, a description of the evidence presented,
26 and the date of the court's action.

27 6. The clerk of the court shall forward each such order to the state registrar not later than
28 the tenth day of the calendar month following the month in which it was entered. Such order

29 shall be registered by the state registrar and shall constitute the certificate of birth.

193.125. 1. For each adoption decreed by a court of competent jurisdiction in this state,
2 the court shall require the preparation of a certificate of decree of adoption on a form as
3 prescribed [and furnished] **or approved** by the state registrar. The certificate of decree of
4 adoption shall include such facts as are necessary to locate and identify the certificate of birth
5 of the person adopted, and shall provide information necessary to establish a new certificate of
6 birth of the person adopted and shall identify the court and county of the adoption and be
7 certified by the clerk of the court. The state registrar shall file the original certificate of birth
8 with the certificate of decree of adoption and such file may be opened by the state registrar only
9 upon receipt of a certified copy of an order as decreed by the court of adoption.

10 2. Information necessary to prepare the report of adoption shall be furnished by each
11 petitioner for adoption or the petitioner's attorney. The social welfare agency or any person
12 having knowledge of the facts shall supply the court with such additional information as may be
13 necessary to complete the report. The provision of such information shall be prerequisite to the
14 issuance of a final decree in the matter by the court.

15 3. Whenever an adoption decree is amended or annulled, the clerk of the court shall
16 prepare a report thereof, which shall include such facts as are necessary to identify the original
17 adoption report and the facts amended in the adoption decree as shall be necessary to properly
18 amend the birth record.

19 4. Not later than the fifteenth day of each calendar month or more frequently as directed
20 by the state registrar the clerk of the court shall forward to the state registrar reports of decrees
21 of adoption, annulment of adoption and amendments of decrees of adoption which were entered
22 in the preceding month, together with such related reports as the state registrar shall require.

23 5. When the state registrar shall receive a report of adoption, annulment of adoption, or
24 amendment of a decree of adoption for a person born outside this state, he or she shall forward
25 such report to the state registrar in the state of birth.

26 6. In a case of adoption in this state of a person not born in any state, territory or
27 possession of the United States or country not covered by interchange agreements, the state
28 registrar shall upon receipt of the certificate of decree of adoption prepare a birth certificate in
29 the name of the adopted person, as decreed by the court. The state registrar shall file the
30 certificate of the decree of adoption, and such documents may be opened by the state registrar
31 only by an order of court. The birth certificate prepared under this subsection shall have the
32 same legal weight as evidence as a delayed or altered birth certificate as provided in section
33 193.235.

34 7. The department, upon receipt of proof that a person has been adopted by a Missouri
35 resident pursuant to laws of countries other than the United States, shall prepare a birth

36 certificate in the name of the adopted person as decreed by the court of such country. If such
37 proof contains the surname of either adoptive parent, the department of health and senior services
38 shall prepare a birth certificate as requested by the adoptive parents. Any subsequent change of
39 the name of the adopted person shall be made by a court of competent jurisdiction. The proof
40 of adoption required by the department shall include a copy of the original birth certificate and
41 adoption decree, an English translation of such birth certificate and adoption decree, and a copy
42 of the approval of the immigration of the adopted person by the Immigration and Naturalization
43 Service of the United States government which shows the child lawfully entered the United
44 States. The authenticity of the translation of the birth certificate and adoption decree required
45 by this subsection shall be sworn to by the translator in a notarized document. The state registrar
46 shall file such documents received by the department relating to such adoption and such
47 documents may be opened by the state registrar only by an order of a court. A birth certificate
48 pursuant to this subsection shall be issued upon request of one of the adoptive parents of such
49 adopted person or upon request of the adopted person if of legal age. The birth certificate
50 prepared pursuant to the provisions of this subsection shall have the same legal weight as
51 evidence as a delayed or altered birth certificate as provided in sections 193.005 to 193.325.

52 8. If no certificate of birth is on file for the person under twelve years of age who has
53 been adopted, a belated certificate of birth shall be filed with the state registrar as provided in
54 sections 193.005 to 193.325 before a new birth record is to be established as result of adoption.
55 A new certificate is to be established on the basis of the adoption under this section and shall be
56 prepared on a [standard] certificate of live birth form.

57 9. If no certificate of birth has been filed for a person twelve years of age or older who
58 has been adopted, a new birth certificate is to be established under this section upon receipt of
59 proof of adoption as required by the department. A new certificate shall be prepared in the name
60 of the adopted person as decreed by the court, registering adopted parents' names. The new
61 certificate shall be prepared on a delayed birth certificate form. The adoption decree is placed
62 in a sealed file and shall not be subject to inspection except upon an order of the court.

193.145. 1. A certificate of death for each death which occurs in this state shall be filed
2 with the local registrar, or as otherwise directed by the state registrar, within five days after death
3 and shall be registered if such certificate has been completed and filed pursuant to this section.

4 2. If the place of death is unknown but the dead body is found in this state, the certificate
5 of death shall be completed and filed pursuant to the provisions of this section. The place where
6 the body is found shall be shown as the place of death. The date of death shall be the date on
7 which the remains were found.

8 3. When death occurs in a moving conveyance in the United States and the body is first
9 removed from the conveyance in this state, the death shall be registered in this state and the place

10 where the body is first removed shall be considered the place of death. When a death occurs on
11 a moving conveyance while in international waters or air space or in a foreign country or its air
12 space and the body is first removed from the conveyance in this state, the death shall be
13 registered in this state but the certificate shall show the actual place of death if such place may
14 be determined.

15 4. The funeral director or person [acting as such] in charge of final disposition of the
16 dead body shall file the certificate of death. The funeral director **or person in charge of the**
17 **final disposition of the dead body** shall obtain:

18 (1) The personal data from the next of kin or the best qualified person or source
19 available; and

20 (2) The medical certification from the person responsible for such certification.

21 5. The medical certification shall be completed, [signed] **attested to its accuracy either**
22 **by signature or an electronic process approved by the department**, and returned to the
23 funeral director or person [acting as such] **in charge of final disposition** within seventy-two
24 hours after death by the physician in charge of the patient's care for the illness or condition which
25 resulted in death. In the absence of the physician or with the physician's approval the certificate
26 may be completed and [signed] **attested to its accuracy either by signature or an approved**
27 **electronic process** by the physician's associate physician, the chief medical officer of the
28 institution in which death occurred, or the physician who performed an autopsy upon the
29 decedent, provided such individual has access to the medical history of the case, views the
30 deceased at or after death and death is due to natural causes. **The state registrar may approve**
31 **alternate methods of obtaining and processing the medical certification and filing the death**
32 **certificate.** The Social Security number of any individual who has died shall be placed in the
33 records relating to the death and recorded on the death certificate.

34 6. When death occurs from natural causes more than thirty-six hours after the decedent
35 was last treated by a physician, the case shall be referred to the county medical examiner or
36 coroner or physician or local registrar for investigation to determine and certify the cause of
37 death. If the death is determined to be of a natural cause, the medical examiner or coroner or
38 local registrar shall refer the certificate of death to the attending physician for such physician's
39 certification. If the attending physician refuses or is otherwise unavailable, the medical
40 examiner or coroner or local registrar shall [sign] **attest to the accuracy of** the certificate of
41 death **either by signature or an approved electronic process** within thirty-six hours.

42 7. If the circumstances suggest that the death was caused by other than natural causes,
43 the medical examiner or coroner shall determine the cause of death and shall complete and [sign]
44 **attest to the accuracy of either by signature or an approved electronic process** the medical
45 certification within seventy-two hours after taking charge of the case.

46 8. If the cause of death cannot be determined within seventy-two hours after death, the
47 attending medical examiner or coroner or attending physician or local registrar shall give the
48 funeral director, or person [acting as such] **in charge of final disposition of the dead body**,
49 notice of the reason for the delay, and final disposition of the body shall not be made until
50 authorized by the medical examiner or coroner, attending physician or local registrar.

51 9. When a death is presumed to have occurred within this state but the body cannot be
52 located, a death certificate may be prepared by the state registrar upon receipt of an order of a
53 court of competent jurisdiction which shall include the finding of facts required to complete the
54 death certificate. Such a death certificate shall be marked "Presumptive", show on its face the
55 date of registration, and identify the court and the date of decree.

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

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

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

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

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

14 (5) "Develop", to undertake those activities which on their completion will result in the
15 offering of a new institutional [health] **long-term care** service or the incurring of a financial
16 obligation in relation to the offering of such a service;

17 (6) "Expenditure minimum" shall mean:

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

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

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

30 (7) ["Health care facilities", hospitals, health maintenance organizations, tuberculosis
31 hospitals, psychiatric hospitals, intermediate care facilities, skilled nursing facilities, residential
32 care facilities I and II, kidney disease treatment centers, including freestanding hemodialysis
33 units, diagnostic imaging centers, radiation therapy centers and ambulatory surgical facilities,
34 but excluding the private offices of physicians, dentists and other practitioners of the healing arts,
35 and Christian Science sanatoriums, also known as Christian Science Nursing facilities listed and
36 certified by the Commission for Accreditation of Christian Science Nursing
37 Organization/Facilities, Inc., and facilities of not-for-profit corporations in existence on October
38 1, 1980, subject either to the provisions and regulations of Section 302 of the Labor-Management
39 Relations Act, 29 U.S.C. 186 or the Labor-Management Reporting and Disclosure Act, 29
40 U.S.C. 401-538, and any residential care facility I or residential care facility II operated by a
41 religious organization qualified pursuant to Section 501(c)(3) of the federal Internal Revenue
42 Code, as amended, which does not require the expenditure of public funds for purchase or
43 operation, with a total licensed bed capacity of one hundred beds or fewer;

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

48 **(8) "Long-term care facilities", intermediate care facilities, skilled nursing facilities,**
49 **residential care facilities I and II, but excluding facilities of not-for-profit corporations in**
50 **existence on October 1, 1980, subject either to the provisions and regulations of Section 302**
51 **of the Labor-Management Relations Act, 29 U.S.C. Section 186 or the Labor-Management**
52 **Reporting and Disclosure Act, 29 U.S.C. Sections 401-531, and any residential care facility**
53 **I or residential care facility II operated by a religious organization qualified under Section**
54 **501(c)(3) of the federal Internal Revenue Code of 1986, as amended, which does not require**
55 **the expenditure of public funds for purchase or operation, with a total licensed bed**
56 **capacity of one hundred beds or fewer;**

57 (9) "Major medical equipment", medical equipment used for the provision of [medical
58 and other health] **long-term care** services;

59 (10) "New institutional [health] **long-term care** service":

60 (a) The development of a new [health] **long-term** care facility costing in excess of the
61 applicable expenditure minimum;

62 (b) The acquisition, including acquisition by lease, of any [health] **long-term** care

63 facility, or major medical equipment costing in excess of the expenditure minimum;

64 (c) Any capital expenditure by or on behalf of a [health] **long-term** care facility in excess
65 of the expenditure minimum;

66 (d) Predevelopment activities as defined in subdivision (13) hereof costing in excess of
67 one hundred fifty thousand dollars;

68 (e) Any change in licensed bed capacity of a [health] **long-term** care facility which
69 increases the total number of beds by more than ten or more than ten percent of total bed
70 capacity, whichever is less, over a two-year period;

71 (f) [Health] **Long-term care** services, excluding home health services, which are offered
72 in a [health] **long-term** care facility and which were not offered on a regular basis in such
73 [health] **long-term** care facility within the twelve-month period prior to the time such services
74 would be offered;

75 (g) A reallocation by an existing [health] **long-term** care facility of licensed beds among
76 major types of service or reallocation of licensed beds from one physical facility or site to
77 another by more than ten beds or more than ten percent of total licensed bed capacity, whichever
78 is less, over a two-year period;

79 (11) "Nonsubstantive projects", projects which do not involve the addition, replacement,
80 modernization or conversion of beds or the provision of a new [health] **long-term care** service
81 but which include a capital expenditure which exceeds the expenditure minimum and are due
82 to an act of God or a normal consequence of maintaining [health] **long-term** care services,
83 facility or equipment;

84 (12) "Person", any individual, trust, estate, partnership, corporation, including
85 associations and joint stock companies, state or political subdivision or instrumentality thereof,
86 including a municipal corporation;

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

197.315. 1. Any person who proposes to develop or offer a new institutional [health]
2 **long-term care** service within the state must obtain a certificate of need from the committee
3 prior to the time such services are offered.

4 2. Only those new institutional [health] **long-term care** services which are found by the
5 committee to be needed shall be granted a certificate of need. Only those new institutional
6 [health] **long-term care** services which are granted certificates of need shall be offered or
7 developed within the state. No expenditures for new institutional [health] **long-term care**
8 services in excess of the applicable expenditure minimum shall be made by any person unless
9 a certificate of need has been granted.

10 3. After October 1, 1980, no state agency charged by statute to license or certify [health]
11 **long-term** care facilities shall issue a license to or certify any such facility, or distinct part of
12 such facility, that is developed without obtaining a certificate of need.

13 4. If any person proposes to develop any new institutional [health] **long-term** care
14 service without a certificate of need as required by sections 197.300 to 197.366, the committee
15 shall notify the attorney general, and [he] **the attorney general** shall apply for an injunction or
16 other appropriate legal action in any court of this state against that person.

17 5. After October 1, 1980, no agency of state government may appropriate or grant funds
18 to or make payment of any funds to any person or [health] **long-term** care facility which has not
19 first obtained every certificate of need required pursuant to sections 197.300 to 197.366.

20 6. A certificate of need shall be issued only for the premises and persons named in the
21 application and is not transferable except by consent of the committee.

22 7. Project cost increases, due to changes in the project application as approved or due
23 to project change orders, exceeding the initial estimate by more than ten percent shall not be
24 incurred without consent of the committee.

25 8. Periodic reports to the committee shall be required of any applicant who has been
26 granted a certificate of need until the project has been completed. The committee may order the
27 forfeiture of the certificate of need upon failure of the applicant to file any such report.

28 9. A certificate of need shall be subject to forfeiture for failure to incur a capital
29 expenditure on any approved project within six months after the date of the order. The applicant
30 may request an extension from the committee of not more than six additional months based upon
31 substantial expenditure made.

32 10. Each application for a certificate of need must be accompanied by an application fee.
33 The time of filing commences with the receipt of the application and the application fee. The
34 application fee is one thousand dollars, or one-tenth of one percent of the total cost of the
35 proposed project, whichever is greater. All application fees shall be deposited in the state
36 treasury. Because of the loss of federal funds, the general assembly will appropriate funds to the
37 Missouri health facilities review committee.

38 11. In determining whether a certificate of need should be granted, no consideration shall
39 be given to the facilities or equipment of any other [health] **long-term** care facility located more
40 than a fifteen-mile radius from the applying facility.

41 12. When a nursing facility shifts from a skilled to an intermediate level of nursing care,
42 it may return to the higher level of care if it meets the licensure requirements, without obtaining
43 a certificate of need.

44 13. In no event shall a certificate of need be denied because the applicant refuses to
45 provide abortion services or information.

46 14. A certificate of need shall not be required for the transfer of ownership of an existing
47 and operational [health] **long-term care** facility in its entirety.

48 15. A certificate of need may be granted to a facility for an expansion, an addition of
49 services, a new institutional service, or for a new [hospital] **long-term care** facility which
50 provides for something less than that which was sought in the application.

51 16. The provisions of this section shall not apply to facilities operated by the state, and
52 appropriation of funds to such facilities by the general assembly shall be deemed in compliance
53 with this section, and such facilities shall be deemed to have received an appropriate certificate
54 of need without payment of any fee or charge.

55 17. Notwithstanding other provisions of this section, a certificate of need may be issued
56 after July 1, 1983, for an intermediate care facility operated exclusively for the mentally retarded.

57 18. To assure the safe, appropriate, and cost-effective transfer of new medical technology
58 throughout the state, a certificate of need shall not be required for the purchase and operation of
59 research equipment that is to be used in a clinical trial that has received written approval from
60 a duly constituted institutional review board of an accredited school of medicine or osteopathy
61 located in Missouri to establish its safety and efficacy and does not increase the bed complement
62 of the institution in which the equipment is to be located. After the clinical trial has been
63 completed, a certificate of need must be obtained for continued use in such facility.

64 197.317. 1. After July 1, 1983, no certificate of need shall be issued for the following:

65 (1) Additional residential care facility I, residential care facility II, intermediate care
66 facility or skilled nursing facility beds above the number then licensed by this state;

67 (2) Beds in a licensed hospital to be reallocated on a temporary or permanent basis to
68 nursing care or beds in a long-term care hospital meeting the requirements described in 42 CFR,
69 Section 412.23(e), excepting those which are not subject to a certificate of need pursuant to
70 paragraphs (e) and (g) of subdivision (10) of section 197.305; nor

71 (3) The reallocation of intermediate care facility or skilled nursing facility beds of
72 existing licensed beds by transfer or sale of licensed beds between a hospital licensed pursuant
73 to this chapter or a nursing care facility licensed pursuant to chapter 198, RSMo; except for beds
74 in counties in which there is no existing nursing care facility. No certificate of need shall be
75 issued for the reallocation of existing residential care facility I or II, or intermediate care facilities
76 operated exclusively for the mentally retarded to intermediate care or skilled nursing facilities
77 or beds. However, after January 1, 2003, nothing in this section shall prohibit the Missouri
78 health facilities review committee from issuing a certificate of need for additional beds in
79 existing [health] **long-term** care facilities or for new beds in new [health] **long-term** care
80 facilities or for the reallocation of licensed beds, provided that no construction shall begin prior
81 to January 1, 2004. The provisions of subsections 16 and 17 of section 197.315 shall apply to

82 the provisions of this section.

83 2. The health facilities review committee shall utilize demographic data from the office
84 of social and economic data analysis, or its successor organization, at the University of Missouri
85 as their source of information in considering applications for new institutional long-term care
86 facilities.

197.325. Any person who proposes to develop or offer a new institutional [health] **long-term care** service shall submit a letter of intent to the committee at least thirty days prior to the filing of the application.

197.340. Any [health] **long-term care** facility providing a [health] **long-term care** service must notify the committee of any discontinuance of any previously provided [health] **long-term care** service, a decrease in the number of licensed beds by ten percent or more, or the change in licensure category for any such facility.

197.345. Any [health] **long-term care** facility with a project for facilities or services for which a binding construction or purchase contract has been executed prior to October 1, 1980, or [health] **long-term care** facility which has commenced operations prior to October 1, 1980, shall be deemed to have received a certificate of need, except that such certificate of need shall be subject to forfeiture under the provisions of subsections 8 and 9 of section 197.315.

197.355. The legislature may not appropriate any money for capital expenditures for [health] **long-term care** facilities until a certificate of need has been issued for such expenditures.

197.357. For the purposes of reimbursement under section 208.152, RSMo, project costs for new institutional [health] **long-term care** services in excess of ten percent of the initial project estimate whether or not approval was obtained under subsection 7 of section 197.315 shall not be eligible for reimbursement for the first three years that a facility receives payment for services provided under section 208.152, RSMo. The initial estimate shall be that amount for which the original certificate of need was obtained or, in the case of facilities for which a binding construction or purchase contract was executed prior to October 1, 1980, the amount of that contract. Reimbursement for these excess costs after the first three years shall not be made until a certificate of need has been granted for the excess project costs. The provisions of this section shall apply only to facilities which file an application for a certificate of need or make application for cost-overrun review of their original application or waiver after August 13, 1982.

197.366. The provisions of subdivision (8) of section 197.305 to the contrary notwithstanding, after December 31, [2001] **2005**, the term "health care facilities" in sections 197.300 to 197.366 shall mean:

(1) Facilities licensed under chapter 198, RSMo;

(2) Long-term care beds in a hospital as described in subdivision (3) of subsection 1 of section 198.012, RSMo; **and**

7 (3) Long-term care hospitals or beds in a long-term care hospital meeting the
8 requirements described in 42 CFR, section 412.23(e)[; and

9 (4) Construction of a new hospital as defined in chapter 197].

**197.710. 1. A hospital medical staff shall have a right of self-governance, including
2 but not limited to:**

3 (1) Establishing in medical staff bylaws, rules, or regulations criteria and standards
4 for medical staff membership and privileges, and enforcement of such criteria and
5 standards;

6 (2) Establishing in medical staff bylaws, rules, or regulations clinical criteria and
7 standards to oversee and manage quality assurance, utilization review, and other medical
8 staff activities, including but not limited to periodic meetings of the medical staff and its
9 committees and departments, and review and analysis of patient medical records;

10 (3) Selecting and removing medical staff officers;

11 (4) Assessing medical staff dues and utilizing the medical staff dues as appropriate
12 for the purposes of the medical staff;

13 (5) The ability to retain and be represented by independent legal counsel at the
14 expense of the medical staff;

15 (6) Initiating, developing, and adopting medical staff bylaws, rules, and regulations,
16 and amendments thereto, subject to the approval of the hospital governing board, which
17 approval shall not be unreasonably withheld.

18 **2. The medical staff bylaws shall not interfere with the independent rights of the
19 medical staff to any of the following, but shall set forth the procedures for:**

20 (1) Selecting and removing medical staff officers;

21 (2) Assessing medical staff dues and utilizing the medical staff dues as appropriate
22 for the purposes of the medical staff;

23 (3) The ability to retain and be represented by independent legal counsel at the
24 expense of the medical staff.

25 **3. With respect to any dispute arising under this section, the medical staff and the
26 hospital governing board shall meet and confer in good faith to resolve the dispute.
27 Whenever any person or entity has engaged in or is about to engage in any acts or practices
28 that hinder, restrict, or otherwise obstruct the ability of the medical staff to exercise its
29 rights, obligations, or responsibilities under this section, a court of competent jurisdiction,
30 on petition of the medical staff and after determining that reasonable efforts, including
31 reasonable administrative remedies provided in the medical staff bylaws, rules, or
32 regulations, have failed to resolve the dispute, may issue an injunction, writ, or other
33 appropriate order.**

334.251. If a physician licensed under this chapter refers a patient to another licensed physician for a medical diagnosis, the physician to whom the patient is referred, including but not limited to a physician who has entered into a collaborative practice arrangement under section 334.104, shall not delegate the diagnosis of such patient to a nurse, nurse practitioner, or physician assistant.

376.393. A health insurer shall not discriminate against any provider who is located within the geographic coverage area of the health benefit plan and who is willing to meet the terms and conditions for participation established by the health insurer, including the Missouri state Medicaid program and the Medicare programs.

701.049. 1. All moneys collected by the department pursuant to sections 701.025 to 701.059, except any administrative penalties, shall be deposited in the state treasury to be credited to the Missouri public health services fund, which is created in section 192.900, RSMo, and used for the specific purposes authorized in sections 701.025 to 701.059, except as provided in subsection 2 of this section, including contracting with county governments and local health departments to accomplish the purposes of sections 701.025 to 701.059. [Section 33.080, RSMo, notwithstanding, any balance in the fund exceeding five hundred thousand dollars shall revert to general revenue. All interest earned on the fund shall accrue to the fund.]

2. The director may, upon appropriations from the general assembly, use money from the Missouri public health services fund for development of innovative sewage systems and pilot programs.

Section B. Because immediate action is necessary to preserve funding for public health funds administered by the department of health and senior services, the enactment of sections 192.324 and 192.326 and the repeal and reenactment of sections 192.900 and 701.049 of Section A of this act are deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and are hereby declared to be an emergency act within the meaning of the constitution, and the enactment of sections 192.324 and 192.326 and the repeal and reenactment of sections 192.900 and 701.049 of Section A of this act shall be in full force and effect on July 1, 2005, upon its passage and approval, whichever later occurs.