

HOUSE _____ **AMENDMENT NO.** _____

Offered By

1 AMEND House Committee Substitute for Senate Substitute No. 2 for Senate Committee
2 Substitute for Senate Bill No. 62, Page 2, Section 191.227, Line 38, by inserting after all of said
3 section and line the following:
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5 "197.071. Any person aggrieved by an official action of the department of health and
6 senior services affecting the licensed status of a person under the provisions of sections 197.010 to
7 [197.120] 197.162, including the refusal to grant, the grant, the revocation, the suspension, or the
8 failure to renew a license, may seek a determination thereon by the administrative hearing
9 commission pursuant to the provisions of section 621.045, and it shall not be a condition to such
10 determination that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other
11 procedure within the department of health and senior services.

12 2. The department shall review and revise its regulations governing hospital licensure and
13 enforcement as to promote hospital and regulatory efficiencies and eliminate duplicative
14 regulation and inspections by or on behalf of state and federal agencies. The hospital licensure
15 regulations adopted under this section shall incorporate standards which shall include, but not be
16 limited to, the following:

17 (1) Each citation or finding of a regulatory deficiency shall refer to the specific written and
18 publicly available standard and associated written interpretative guidance that are the basis of the
19 citation or finding;

20 (2) Subject to appropriations, the department shall ensure that its hospital licensure
21 regulatory standards are consistent with and do not contradict the federal Centers for Medicare
22 and Medicaid Services' Conditions of Participation for hospitals and associated interpretive
23 guidance;

24 (3) The department shall establish and publish a process and standards for complaint
25 investigation, including but not limited to:

26 (a) A process and standards for determining which complaints warrant an onsite
27 investigation based on a preliminary review of available information from the complainant and the
28 hospital. The process and standards shall, at a minimum, provide for a departmental determination

1 independent of any recommendation for investigation by or in consultation with the federal
2 Centers for Medicare and Medicaid Services (CMS). For purposes of evaluating such process and
3 standards, the number and nature of complaints filed and the recommended actions by the
4 department and, as appropriate, CMS shall be disclosed upon request to hospitals, so long as the
5 otherwise confidential identity of the complainant or the patient for whom the complaint was filed
6 is not disclosed;

7 (b) The scope of a departmental investigation of a complaint shall be limited to the
8 specific regulatory standard or standards raised by the complaint, unless a threat of immediate
9 jeopardy of safety is observed or identified during such investigation;

10 (c) A hospital shall be provided with a report of all complaints made against the hospital.
11 Such report shall include the nature of the complaint, the date of the complaint, the department
12 conclusions regarding the complaint, the number of investigators and days of investigation
13 resulting from each complaint;

14 (4) Subject to appropriations, the department shall designate adequate and sufficient
15 resources to the annual inspection of hospitals necessary for licensure, including but not limited to
16 resources for consultation services and collaboration with hospital personnel to facilitate
17 improvements;

18 (5) Hospitals and hospital personnel shall have the opportunity to participate in:

19 (a) Training sessions provided to state licensure surveyors, which shall be provided at least
20 annually subject to appropriations. Hospitals and hospital personnel shall assume all costs
21 associated with their participation in training sessions and use of curriculum materials; and

22 (b) Training of surveyors assigned to inspection of hospitals to the fullest extent possible,
23 including the training of surveyors previously designated as a surveyor specific, which resulted in
24 the exclusion of all hospital personnel from such training sessions;

25 (6) The regulations shall establish specific time lines for state hospital officials to provide
26 responses to hospitals regarding the status and outcome of pending investigations and regulatory
27 actions and questions about interpretations of regulations. Such time lines shall be identical to, to
28 the extent practicable, to the time lines established for the federal hospital certification and
29 enforcement system in CMS's State Operations Manual, as amended.

30 3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
31 under the authority delegated in this section shall become effective only if it complies with and is
32 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
33 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant
34 to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
35 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed
36 or adopted after August 28, 2011, shall be invalid and void.

1 197.080. The department of health and senior services, with the advice of the state
2 advisory council and pursuant to the provisions of this section and chapter 536, shall adopt,
3 amend, promulgate and enforce such rules, regulations and standards with respect to all hospitals
4 or different types of hospitals to be licensed hereunder as may be designed to further the
5 accomplishment of the purposes of this law in promoting safe and adequate treatment of
6 individuals in hospitals in the interest of public health, safety and welfare. No rule or portion of a
7 rule promulgated under the authority of sections 197.010 to 197.280 shall become effective unless
8 it has been promulgated pursuant to the provisions of section 536.024.

9 197.100. 1. Any provision of chapter 198 and chapter 338 to the contrary
10 notwithstanding, the department of health and senior services shall have sole authority, and
11 responsibility for inspection and licensure of hospitals in this state including, but not limited to all
12 parts, services, functions, support functions and activities which contribute directly or indirectly to
13 patient care of any kind whatsoever. The department of health and senior services shall annually
14 inspect each licensed hospital [and] but shall accept in lieu of an annual inspection reports of
15 hospital inspections from other governmental and recognized accrediting organizations as
16 authorized by this section. Recognizing accrediting organizations shall be those that have deemed
17 status conferred by the Centers for Medicare and Medicaid Services (CMS) to take the place of
18 direct CMS oversight and enforcement. The department shall make any other inspections and
19 investigations as it deems necessary for good cause shown; provided that, the scope of a
20 departmental investigation of a complaint shall be limited to the specific regulatory standard or
21 standards raised by the complaint, unless a documented threat of immediate jeopardy of safety is
22 observed or identified during the investigation. The department of health and senior services shall
23 accept reports of hospital inspections from governmental agencies and recognized accrediting
24 organizations [in whole or in part] for licensure purposes if:

25 (1) The inspection is comparable to an inspection performed by the department of health
26 and senior services;

27 (2) The hospital meets minimum licensure standards; and

28 (3) The accreditation inspection was conducted within [one year of the date of license
29 renewal] the term of accreditation authorized by the Centers for Medicare and Medicaid Services
30 in granting deemed status to the recognized accrediting organization. The department of health
31 and senior services shall attempt to schedule inspections and evaluations required by this section
32 so as not to cause a hospital to be subject to more than one inspection in any twelve-month period
33 from the department of health and senior services or any agency or accreditation organization the
34 reports of which are accepted for licensure purposes pursuant to this section, except for good
35 cause shown.

36 2. Other provisions of law to the contrary notwithstanding, the department of health and

1 senior services shall be the only state agency to determine life safety and building codes for
2 hospitals defined or licensed pursuant to the provisions of this chapter, including but not limited
3 to sprinkler systems, smoke detection devices and other fire safety related matters so long as any
4 new standards shall apply only to new construction.”; and

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6 Further amend said bill by amending the title, enacting clause, and intersectional references
7 accordingly.