

HOUSE \_\_\_\_\_ AMENDMENT NO. \_\_\_\_\_

Offered By \_\_\_\_\_

AMEND House Committee Substitute for Senate Bill No. 90, Page 4, Section 192.300, Line 30,  
by inserting after all of said section and line the following:

“197.071. Any person aggrieved by an official action of the department of health and senior services affecting the licensed status of a person under the provisions of sections 197.010 to [197.120] 197.162, including the refusal to grant, the grant, the revocation, the suspension, or the failure to renew a license, may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 621.045, and it shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other procedure within the department of health and senior services.

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

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

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

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

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

3 (a) A process and standards for determining which complaints warrant an onsite investigation  
4 based on a preliminary review of available information from the complainant and the hospital. The  
5 process and standards shall, at a minimum, provide for a departmental determination independent of  
6 any recommendation for investigation by or in consultation with the federal Centers for Medicare and  
7 Medicaid Services (CMS). For purposes of evaluating such process and standards, the number and  
8 nature of complaints filed and the recommended actions by the department and, as appropriate, CMS  
9 shall be disclosed upon request to hospitals, so long as the otherwise confidential identity of the  
10 complainant or the patient for whom the complaint was filed is not disclosed;

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

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

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

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

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

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

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

33 3. Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
34 under the authority delegated in this section shall become effective only if it complies with and is  
35 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and  
36 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to  
37 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently

1 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
2 August 28, 2011, shall be invalid and void.

3 197.100. 1. Any provision of chapter 198 and chapter 338 to the contrary notwithstanding, the  
4 department of health and senior services shall have sole authority, and responsibility for inspection  
5 and licensure of hospitals in this state including, but not limited to all parts, services, functions,  
6 support functions and activities which contribute directly or indirectly to patient care of any kind  
7 whatsoever. The department of health and senior services shall annually inspect each licensed  
8 hospital [and] but shall accept in lieu of an annual inspection reports of hospital inspections from  
9 other governmental and recognized accrediting organizations as authorized by this section.  
10 Recognizing accrediting organizations shall be those that have deemed status conferred by the Centers  
11 for Medicare and Medicaid Services (CMS) to take the place of direct CMS oversight and  
12 enforcement. The department shall make any other inspections and investigations as it deems  
13 necessary for good cause shown; provided that, the scope of a departmental investigation of a  
14 complaint shall be limited to the specific regulatory standard or standards raised by the complaint,  
15 unless a documented threat of immediate jeopardy of safety is observed or identified during the  
16 investigation. The department of health and senior services shall accept reports of hospital inspections  
17 from governmental agencies and recognized accrediting organizations [in whole or in part] for  
18 licensure purposes if[:

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

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

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

29 2. Other provisions of law to the contrary notwithstanding, the department of health and senior  
30 services shall be the only state agency to determine life safety and building codes for hospitals defined  
31 or licensed pursuant to the provisions of this chapter, including but not limited to sprinkler systems,  
32 smoke detection devices and other fire safety related matters so long as any new standards shall apply  
33 only to new construction.”; and  
34

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