

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Bill No. 11, Page 1, Section A, Line 3, by
2 inserting after all of said section and line the following:

3
4 "192.667. 1. All health care providers shall at least annually provide to the department
5 charge data as required by the department. All hospitals shall at least annually provide patient
6 abstract data and financial data as required by the department. Hospitals as defined in section
7 197.020 shall report patient abstract data for outpatients and inpatients. Ambulatory surgical centers
8 and abortion facilities as defined in section 197.200 shall provide patient abstract data to the
9 department. The department shall specify by rule the types of information which shall be submitted
10 and the method of submission.

11 2. The department shall collect data on the incidence of health care-associated infections
12 from hospitals, ambulatory surgical centers, abortion facilities, and other facilities as necessary to
13 generate the reports required by this section. Hospitals, ambulatory surgical centers, abortion
14 facilities, and other facilities shall provide such data in compliance with this section. In order to
15 streamline government and to eliminate duplicative reporting requirements, if the Centers for
16 Medicare and Medicaid Services, or its successor entity, requires hospitals to submit health care-
17 associated infection data, then hospitals and the department shall not be required to comply with the
18 health care-associated infection data reporting requirements of subsections 2 to 17 of this section
19 applicable to hospitals, except that the department shall post a link on its website to publicly
20 reported data by hospitals on the Centers for Medicare and Medicaid Services' Hospital Compare
21 website, or its successor.

22 3. The department shall promulgate rules specifying the standards and procedures for the
23 collection, analysis, risk adjustment, and reporting of the incidence of health care-associated
24 infections and the types of infections and procedures to be monitored pursuant to subsection 13 of
25 this section. In promulgating such rules, the department shall:

26 (1) Use methodologies and systems for data collection established by the federal Centers for
27 Disease Control and Prevention's National Healthcare Safety Network, or its successor; and

28 (2) Consider the findings and recommendations of the infection control advisory panel
29 established pursuant to section 197.165.

30 4. By January 1, 2017, the infection control advisory panel created by section 197.165 shall
31 make recommendations to the department regarding the Centers for Medicare and Medicaid
32 Services' health care-associated infection data collection, analysis, and public reporting
33 requirements for hospitals, ambulatory surgical centers, and other facilities in the federal Centers for
34 Disease Control and Prevention's National Healthcare Safety Network, or its successor, in lieu of all
35 or part of the data collection, analysis, and public reporting requirements of this section. The
36 advisory panel recommendations shall address which hospitals shall be required as a condition of

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1 licensure to use the National Healthcare Safety Network for data collection; the use of the National
2 Healthcare Safety Network for risk adjustment and analysis of hospital submitted data; and the use
3 of the Centers for Medicare and Medicaid Services' Hospital Compare website, or its successor, for
4 public reporting of the incidence of health care-associated infection metrics. The advisory panel
5 shall consider the following factors in developing its recommendation:

6 (1) Whether the public is afforded the same or greater access to facility-specific infection
7 control indicators and metrics;

8 (2) Whether the data provided to the public is subject to the same or greater accuracy of risk
9 adjustment;

10 (3) Whether the public is provided with the same or greater specificity of reporting of
11 infections by type of facility infections and procedures;

12 (4) Whether the data is subject to the same or greater level of confidentiality of the identity
13 of an individual patient;

14 (5) Whether the National Healthcare Safety Network, or its successor, has the capacity to
15 receive, analyze, and report the required data for all facilities;

16 (6) Whether the cost to implement the National Healthcare Safety Network infection data
17 collection and reporting system is the same or less.

18 5. After considering the recommendations of the infection control advisory panel, and
19 provided that the requirements of subsection 13 of this section can be met, the department shall
20 implement guidelines from the federal Centers for Disease Control and Prevention's National
21 Healthcare Safety Network, or its successor. It shall be a condition of licensure for hospitals that
22 meet the minimum public reporting requirements of the National Healthcare Safety Network and the
23 Centers for Medicare and Medicaid Services to participate in the National Healthcare Safety
24 Network, or its successor. Such hospitals shall permit the National Healthcare Safety Network, or
25 its successor, to disclose facility-specific infection data to the department as required under this
26 section, and as necessary to provide the public reports required by the department. It shall be a
27 condition of licensure for any ambulatory surgical center or abortion facility which does not
28 voluntarily participate in the National Healthcare Safety Network, or its successor, to submit
29 facility-specific data to the department as required under this section, and as necessary to provide
30 the public reports required by the department.

31 6. The department shall not require the resubmission of data which has been submitted to
32 the department of health and senior services or the department of social services under any other
33 provision of law. The department of health and senior services shall accept data submitted by
34 associations or related organizations on behalf of health care providers by entering into binding
35 agreements negotiated with such associations or related organizations to obtain data required
36 pursuant to section 192.665 and this section. A health care provider shall submit the required
37 information to the department of health and senior services:

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

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

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

44 7. Information obtained by the department under the provisions of section 192.665 and this
45 section shall not be public information. Reports and studies prepared by the department based upon
46 such information shall be public information and may identify individual health care providers. The
47 department of health and senior services may authorize the use of the data by other research
48 organizations pursuant to the provisions of section 192.067. The department shall not use or release
49 any information provided under section 192.665 and this section which would enable any person to

determine any health care provider's negotiated discounts with specific preferred provider organizations or other managed care organizations. The department shall not release data in a form which could be used to identify a patient. Any violation of this subsection is a class A misdemeanor.

8. The department shall undertake a reasonable number of studies and publish information, including at least an annual consumer guide, in collaboration with health care providers, business coalitions and consumers based upon the information obtained pursuant to the provisions of section 192.665 and this section. The department shall allow all health care providers and associations and related organizations who have submitted data which will be used in any publication to review and comment on the publication prior to its publication or release for general use. The publication shall be made available to the public for a reasonable charge.

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

10. A hospital, as defined in section 197.020, aggrieved by the department's determination of ineligibility for state moneys pursuant to subsection 9 of this section may appeal as provided in section 197.071. An ambulatory surgical center or abortion facility as defined in section 197.200 aggrieved by the department's determination of ineligibility for state moneys pursuant to subsection 9 of this section may appeal as provided in section 197.221.

11. The department of health may promulgate rules providing for collection of data and publication of the incidence of health care-associated infections for other types of health facilities determined to be sources of infections; except that, physicians' offices shall be exempt from reporting and disclosure of such infections.

12. By January 1, 2017, the advisory panel shall recommend and the department shall adopt in regulation with an effective date of no later than January 1, 2018, the requirements for the reporting of the following types of infections as specified in this subsection:

(1) Infections associated with a minimum of four surgical procedures for hospitals and a minimum of two surgical procedures for ambulatory surgical centers that meet the following criteria:

(a) Are usually associated with an elective surgical procedure. An "elective surgical procedure" is a planned, nonemergency surgical procedure that may be either medically required such as a hip replacement or optional such as breast augmentation;

(b) Demonstrate a high priority aspect such as affecting a large number of patients, having a substantial impact for a smaller population, or being associated with substantial cost, morbidity, or mortality; or

(c) Are infections for which reports are collected by the National Healthcare Safety Network or its successor;

(2) Central line-related bloodstream infections;

(3) Health care-associated infections specified for reporting by hospitals, ambulatory surgical centers, and other health care facilities by the rules of the Centers for Medicare and Medicaid Services to the federal Centers for Disease Control and Prevention's National Healthcare Safety Network, or its successor; and

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

The department, in consultation with the advisory panel, shall be authorized to collect and report data on subsets of each type of infection described in this subsection.

13. In consultation with the infection control advisory panel established pursuant to section 197.165, the department shall develop and disseminate to the public reports based on data compiled for a period of twelve months. Such reports shall be updated quarterly and shall show for each

1 hospital, ambulatory surgical center, abortion facility, and other facility metrics on risk-adjusted
2 health care-associated infections under this section.

3 14. The types of infections under subsection 12 of this section to be publicly reported shall
4 be determined by the department by rule and shall be consistent with the infections tracked by the
5 National Healthcare Safety Network, or its successor.

6 15. Reports published pursuant to subsection 13 of this section shall be published and
7 readily accessible on the department's internet website. The reports shall be distributed at least
8 annually to the governor and members of the general assembly. The department shall make such
9 reports available to the public for a period of at least two years.

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

17 17. The data collected or published pursuant to this section shall be available to the
18 department for purposes of licensing hospitals, ambulatory surgical centers, and abortion facilities
19 pursuant to chapter 197.

20 18. The department shall promulgate rules to implement the provisions of section 192.131
21 and sections 197.150 to 197.160. Any rule or portion of a rule, as that term is defined in section
22 536.010, that is created under the authority delegated in this section shall become effective only if it
23 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
24 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
25 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and
26 annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any
27 rule proposed or adopted after August 28, 2004, shall be invalid and void.

28 19. No later than August 28, 2017, each hospital, excluding mental health facilities as
29 defined in section 632.005, and each ambulatory surgical center and abortion facility as defined in
30 section 197.200, shall in consultation with its medical staff establish an antimicrobial stewardship
31 program for evaluating the judicious use of antimicrobials, especially antibiotics that are the last line
32 of defense against resistant infections. The hospital's stewardship program and the results of the
33 program shall be monitored and evaluated by hospital quality improvement departments and shall be
34 available upon inspection to the department. At a minimum, the antimicrobial stewardship program
35 shall be designed to evaluate that hospitalized patients receive, in accordance with accepted medical
36 standards of practice, the appropriate antimicrobial, at the appropriate dose, at the appropriate time,
37 and for the appropriate duration.

38 20. Hospitals described in subsection 19 of this section shall meet the National Healthcare
39 Safety Network requirements for reporting antimicrobial usage or resistance by using the Centers
40 for Disease Control and Prevention's Antimicrobial Use and Resistance (AUR) Module when
41 ~~[regulations concerning Stage 3 of the Medicare and Medicaid Electronic Health Records Incentive~~
42 ~~Programs promulgated by the Centers for Medicare and Medicaid Services that enable the electronic~~
43 ~~interface for such reporting are effective]~~ conditions of participation promulgated by the Centers for
44 Medicare and Medicaid Services requiring the electronic reporting of antibiotic use or antibiotic
45 resistance by hospitals become effective. When such antimicrobial usage or resistance reporting
46 takes effect, hospitals shall authorize the National Healthcare Safety Network, or its successor, to
47 disclose to the department facility-specific information reported to the AUR Module. Facility-
48 specific data on antibiotic usage and resistance collected under this subsection shall not be disclosed
49 to the public, but the department may release case-specific information to other facilities,

1 physicians, and the public if the department determines on a case-by-case basis that the release of
 2 such information is necessary to protect persons in a public health emergency. Nothing in this
 3 section shall prohibit a hospital from voluntarily reporting antibiotic use or antibiotic resistance data
 4 through the National Healthcare Safety Network, or its successor, prior to the effective date of the
 5 conditions of participation requiring the reporting.

6 21. The department shall make a report to the general assembly beginning January 1, 2018,
 7 and on every January first thereafter on the incidence, type, and distribution of antimicrobial-
 8 resistant infections identified in the state and within regions of the state."; and
 9

10 Further amend said bill, Page 2, Section 194.225, Line 37, by inserting after all of said section and
 11 line the following:
 12

13 "197.108. 1. The department of health and senior services shall not assign an individual to
 14 inspect or survey a hospital, for any purpose, if the inspector or surveyor was an employee of such
 15 hospital or another hospital within its organization or a competing hospital within fifty miles of the
 16 hospital to be inspected or surveyed in the preceding two years.

17 2. For any inspection or survey of a hospital, regardless of the purpose, the department shall
 18 require every newly hired inspector or surveyor at the time of hiring or any currently employed
 19 inspector or surveyor as of August 28, 2019, to disclose:

20 (1) The name of every hospital in which he or she has been employed in the last ten years
 21 and the approximate length of service and the job title at the hospital; and

22 (2) The name of any member of his or her immediate family who has been employed in the
 23 last ten years or is currently employed at a hospital and the approximate length of service and the
 24 job title at the hospital.

25
 26 The disclosures under this subsection shall be made to the department whenever the event giving
 27 rise to disclosure first occurs.

28 3. For purposes of this section, the phrase "immediate family member" shall mean a
 29 husband, wife, natural or adoptive parent, child, sibling, stepparent, stepchild, stepbrother, stepsister,
 30 father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent,
 31 or grandchild.

32 4. The information provided under subsection 2 of this section shall be considered a public
 33 record under the provisions of section 610.010.

34 5. Any person may notify the department if facts exist that would lead a reasonable person
 35 to conclude that any inspector or surveyor has any personal or business affiliation that would result
 36 in a conflict of interest in conducting an inspection or survey for a hospital. Upon receiving such
 37 notice, the department, when assigning an inspector or surveyor to inspect or survey a hospital, for
 38 any purpose, shall take steps to verify the information and, if the department has reason to believe
 39 that such information is correct, the department shall not assign the inspector or surveyor to the
 40 hospital or any hospital within its organization so as to avoid an appearance of prejudice or favor to
 41 the hospital or bias on the part of the inspector or surveyor.

42 197.305. As used in sections 197.300 to 197.366, the following terms mean:

43 (1) "Affected persons", the person proposing the development of a new institutional health
 44 service, the public to be served, and health care facilities within the service area in which the
 45 proposed new health care service is to be developed;

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

48 (3) "Capital expenditure", an expenditure by or on behalf of a health care facility which,
 49 under generally accepted accounting principles, is not properly chargeable as an expense of

1 operation and maintenance;

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

5 (5) "Develop", to undertake those activities which on their completion will result in the
6 offering of a new institutional health service or the incurring of a financial obligation in relation to
7 the offering of such a service;

8 (6) "Expenditure minimum" shall mean:

9 (a) For beds in existing or proposed health care facilities licensed pursuant to chapter 198
10 and long-term care beds in a hospital as described in subdivision (3) of subsection 1 of section
11 198.012, six hundred thousand dollars in the case of capital expenditures, or four hundred thousand
12 dollars in the case of major medical equipment, provided, however, that prior to January 1, 2003, the
13 expenditure minimum for beds in such a facility and long-term care beds in a hospital described in
14 section 198.012 shall be zero, subject to the provisions of subsection 7 of section 197.318;

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

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

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

24 (8) "Major medical equipment", medical equipment used for the provision of medical and
25 other health services;

26 (9) "New institutional health service":

27 (a) The development of a new health care facility costing in excess of the applicable
28 expenditure minimum;

29 (b) The acquisition, including acquisition by lease, of any health care facility, or major
30 medical equipment costing in excess of the expenditure minimum;

31 (c) Any capital expenditure by or on behalf of a health care facility in excess of the
32 expenditure minimum;

33 (d) Predevelopment activities as defined in subdivision (12) hereof costing in excess of one
34 hundred fifty thousand dollars;

35 (e) Any change in licensed bed capacity of a health care facility licensed under chapter 198
36 which increases the total number of beds by more than ten or more than ten percent of total bed
37 capacity, whichever is less, over a two-year period, provided that any such health care facility
38 seeking ~~a nonapplicability review for~~ an increase in total beds or total bed capacity in an amount
39 less than described in this paragraph shall be eligible for such review only if the facility has had no
40 patient care class I deficiencies within the last eighteen months and has maintained at least an
41 eighty-five percent average occupancy rate for the previous six quarters;

42 (f) Health services, excluding home health services, which are offered in a health care
43 facility and which were not offered on a regular basis in such health care facility within the twelve-
44 month period prior to the time such services would be offered;

45 (g) A reallocation by an existing health care facility of licensed beds among major types of
46 service or reallocation of licensed beds from one physical facility or site to another by more than ten
47 beds or more than ten percent of total licensed bed capacity, whichever is less, over a two-year
48 period;

49 (10) "Nonsubstantive projects", projects which do not involve the addition, replacement,

1 modernization or conversion of beds or the provision of a new health service but which include a
 2 capital expenditure which exceeds the expenditure minimum and are due to an act of God or a
 3 normal consequence of maintaining health care services, facility or equipment;

4 (11) "Person", any individual, trust, estate, partnership, corporation, including associations
 5 and joint stock companies, state or political subdivision or instrumentality thereof, including a
 6 municipal corporation;

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

10 197.318. 1. As used in this section, the term "licensed and available" means beds which are
 11 actually in place and for which a license has been issued.

12 2. The committee shall review all letters of intent and applications for long-term care
 13 hospital beds meeting the requirements described in 42 CFR, Section 412.23(e) under its criteria and
 14 standards for long-term care beds.

15 3. Sections 197.300 to 197.366 shall not be construed to apply to litigation pending in state
 16 court on or before April 1, 1996, in which the Missouri health facilities review committee is a
 17 defendant in an action concerning the application of sections 197.300 to 197.366 to long-term care
 18 hospital beds meeting the requirements described in 42 CFR, Section 412.23(e).

19 4. Notwithstanding any other provision of this chapter to the contrary:

20 (1) A facility licensed pursuant to chapter 198 may increase its licensed bed capacity by:

21 (a) Submitting a letter of intent to expand to the department of health and senior services
 22 and the health facilities review committee;

23 (b) Certification from the department of health and senior services that the facility:

24 a. Has no patient care class I deficiencies within the last eighteen months; and

25 b. Has maintained ~~[a ninety-percent]~~ an eighty-five percent average occupancy rate for the
 26 previous six quarters;

27 (c) Has made an effort to purchase beds for eighteen months following the date the letter of
 28 intent to expand is submitted pursuant to paragraph (a) of this subdivision. For purposes of this
 29 paragraph, an "effort to purchase" means a copy certified by the offeror as an offer to purchase beds
 30 from another licensed facility in the same licensure category; and

31 (d) If an agreement is reached by the selling and purchasing entities, the health facilities
 32 review committee shall issue a certificate of need for the expansion of the purchaser facility upon
 33 surrender of the seller's license; or

34 (e) If no agreement is reached by the selling and purchasing entities, the health facilities
 35 review committee shall permit an expansion for:

36 a. A facility with more than forty beds may expand its licensed bed capacity within the same
 37 licensure category by twenty-five percent or thirty beds, whichever is greater, if that same licensure
 38 category in such facility has experienced an average occupancy of ninety-three percent or greater
 39 over the previous six quarters;

40 b. A facility with fewer than forty beds may expand its licensed bed capacity within the
 41 same licensure category by twenty-five percent or ten beds, whichever is greater, if that same
 42 licensure category in such facility has experienced an average occupancy of ninety-two percent or
 43 greater over the previous six quarters;

44 c. A facility adding beds pursuant to subparagraphs a. or b. of this paragraph shall not
 45 expand by more than fifty percent of its then licensed bed capacity in the qualifying licensure
 46 category;

47 (2) Any beds sold shall, for five years from the date of relicensure by the purchaser, remain
 48 unlicensed and unused for any long-term care service in the selling facility, whether they do or do
 49 not require a license;

1 (3) The beds purchased shall, for two years from the date of purchase, remain in the bed
2 inventory attributed to the selling facility and be considered by the department of social services as
3 licensed and available for purposes of this section;

4 (4) Any residential care facility licensed pursuant to chapter 198 may relocate any portion of
5 such facility's current licensed beds to any other facility to be licensed within the same licensure
6 category if both facilities are under the same licensure ownership or control, and are located within
7 six miles of each other;

8 (5) A facility licensed pursuant to chapter 198 may transfer or sell individual long-term care
9 licensed and available beds to facilities qualifying pursuant to paragraphs (a) and (b) of subdivision
10 (1) of this subsection. Any facility which transfers or sells licensed and available beds shall not
11 expand its licensed bed capacity in that licensure category for a period of five years from the date
12 the licensure is relinquished and until the average occupancy of licensed and available beds in that
13 licensure category within a fifteen-mile radius is eighty-five percent for the prior six quarters. Any
14 facility which transfers or sells licensed and available beds shall have an average occupancy rate of
15 less than seventy percent in the last six quarters.

16 5. Any existing licensed and operating health care facility offering long-term care services
17 may replace one-half of its licensed beds at the same site or a site not more than thirty miles from its
18 current location if, for at least the most recent four consecutive calendar quarters, the facility
19 operates only fifty percent of its then licensed capacity with every resident residing in a private
20 room. In such case:

21 (1) The facility shall report to the health and senior services vacant beds as unavailable for
22 occupancy for at least the most recent four consecutive calendar quarters;

23 (2) The replacement beds shall be built to private room specifications and only used for
24 single occupancy; and

25 (3) The existing facility and proposed facility shall have the same owner or owners,
26 regardless of corporate or business structure, and such owner or owners shall stipulate in writing that
27 the existing facility beds to be replaced will not later be used to provide long-term care services. If
28 the facility is being operated under a lease, both the lessee and the owner of the existing facility
29 shall stipulate the same in writing.

30 6. Nothing in this section shall prohibit a health care facility licensed pursuant to chapter
31 198 from being replaced in its entirety within fifteen miles of its existing site so long as the existing
32 facility and proposed or replacement facility have the same owner or owners regardless of corporate
33 or business structure and the health care facility being replaced remains unlicensed and unused for
34 any long-term care services whether they do or do not require a license from the date of licensure of
35 the replacement facility."; and

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