

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Bill No. 358, Page 2, Section 191.607, Line 16, by inserting after all of said section
2 and line the following:

3
4 "197.305. As used in sections 197.300 to 197.366, the following terms mean:

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

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

10 (3) "Capital expenditure", an expenditure by or on behalf of a health care facility which,
11 under generally accepted accounting principles, is not properly chargeable as an expense of
12 operation and maintenance;

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

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

19 (6) "Expenditure minimum" shall mean:

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

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

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

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

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

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(9) "New institutional health service":

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

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

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

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

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

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

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

(10) "Nonsubstantive projects", projects which do not involve the addition, replacement, modernization or conversion of beds or the provision of a new health service but which include a capital expenditure which exceeds the expenditure minimum and are due to an act of God or a normal consequence of maintaining health care services, facility or equipment;

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

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

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

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

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

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

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

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

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

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

b. Has maintained ~~a ninety-percent~~ an eighty-five percent average occupancy rate for the

1 previous six quarters;

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

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

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

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

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

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

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

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

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

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

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

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

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

49 (3) The existing facility and proposed facility shall have the same owner or owners,

1 regardless of corporate or business structure, and such owner or owners shall stipulate in writing that
2 the existing facility beds to be replaced will not later be used to provide long-term care services. If
3 the facility is being operated under a lease, both the lessee and the owner of the existing facility
4 shall stipulate the same in writing.

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

11 208.225. 1. To implement fully the provisions of section 208.152, the MO HealthNet
12 division shall calculate the Medicaid per diem reimbursement rates of each nursing home
13 participating in the Medicaid program as a provider of nursing home services based on its costs
14 reported in the Title XIX cost report filed with the MO HealthNet division for its fiscal year as
15 provided in subsection 2 of this section.

16 2. The recalculation of Medicaid rates to all Missouri facilities will be performed as follows:
17 effective July 1, 2004, the department of social services shall use the Medicaid cost report
18 containing adjusted costs for the facility fiscal year ending in 2001 and redetermine the allowable
19 per-patient day costs for each facility. The department shall recalculate the class ceilings in the
20 patient care, one hundred twenty percent of the median; ancillary, one hundred twenty percent of the
21 median; and administration, one hundred ten percent of the median cost centers. Each facility shall
22 receive as a rate increase one-third of the amount that is unpaid based on the recalculated cost
23 determination.

24 3. Any intermediate care facility or skilled nursing facility, as such terms are defined in
25 section 198.006, participating in MO HealthNet that incurs total capital expenditures, as such term is
26 defined in section 197.305, in excess of two thousand dollars per bed shall be entitled to obtain from
27 the MO HealthNet division a recalculation of its Medicaid per diem reimbursement rate based on its
28 additional capital costs or all costs incurred during the facility fiscal year during which such capital
29 expenditures were made. Such recalculated reimbursement rate shall become effective and payable
30 when granted by the MO HealthNet division as of the date of application for a rate adjustment."; and
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32 Further amend said bill by amending the title, enacting clause, and intersectional references
33 accordingly.