

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 951**  
**99TH GENERAL ASSEMBLY**

6092H.02C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 191.227, 197.052, 197.305, 210.070, 536.031, and 577.029, RSMo, and to enact in lieu thereof six new sections relating to health care.

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

Section A. Sections 191.227, 197.052, 197.305, 210.070, 536.031, and 577.029, RSMo,  
2 are repealed and six new sections enacted in lieu thereof, to be known as sections 191.227,  
3 197.052, 197.305, 210.070, 536.031, and 577.029, to read as follows:

191.227. 1. All physicians, chiropractors, hospitals, dentists, and other duly licensed  
2 practitioners in this state, herein called “providers”, shall, upon written request of a patient, or  
3 guardian or legally authorized representative of a patient, furnish a copy of his or her record of  
4 that patient’s health history and treatment rendered to the person submitting a written request,  
5 except that such right shall be limited to access consistent with the patient’s condition and sound  
6 therapeutic treatment as determined by the provider. **For purposes of this subsection,**  
7 beginning August 28, 1994, such record shall be furnished within a reasonable time of the receipt  
8 of the request therefor and upon payment of a fee as provided in this section.

9 2. Health care providers may condition the furnishing of the patient’s health care records  
10 to the patient, the patient’s authorized representative or any other person or entity authorized by  
11 law to obtain or reproduce such records upon payment of a fee for:

12 (1) (a) Search and retrieval, in an amount not more than twenty-four dollars and eighty-  
13 five cents plus copying in the amount of fifty-seven cents per page for the cost of supplies and  
14 labor plus, if the health care provider has contracted for off-site records storage and management,  
15 any additional labor costs of outside storage retrieval, not to exceed twenty-three dollars and  
16 twenty-six cents, as adjusted annually pursuant to subsection 5 of this section; or

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.

17 (b) The records shall be furnished electronically upon payment of the search, retrieval,  
18 and copying fees set under this section at the time of the request or one hundred eight dollars and  
19 eighty-eight cents total, whichever is less, if such person:

20 a. Requests health records to be delivered electronically in a format of the health care  
21 provider's choice;

22 b. The health care provider stores such records completely in an electronic health record;  
23 and

24 c. The health care provider is capable of providing the requested records and affidavit,  
25 if requested, in an electronic format;

26 (2) Postage, to include packaging and delivery cost;

27 (3) Notary fee, not to exceed two dollars, if requested.

28 **3. For purposes of subsections 1 and 2 of this section, "a copy of his or her record**  
29 **of that patient's health history and treatment rendered" or "the patient's health care**  
30 **records" include a statement or record that no such health history or treatment record**  
31 **responsive to the request exists.**

32 **4.** Notwithstanding provisions of this section to the contrary, providers may charge for  
33 the reasonable cost of all duplications of health care record material or information which cannot  
34 routinely be copied or duplicated on a standard commercial photocopy machine.

35 ~~[4-]~~ **5.** The transfer of the patient's record done in good faith shall not render the provider  
36 liable to the patient or any other person for any consequences which resulted or may result from  
37 disclosure of the patient's record as required by this section.

38 ~~[5-]~~ **6.** Effective February first of each year, the fees listed in subsection 2 of this section  
39 shall be increased or decreased annually based on the annual percentage change in the  
40 unadjusted, U.S. city average, annual average inflation rate of the medical care component of the  
41 Consumer Price Index for All Urban Consumers (CPI-U). The current reference base of the  
42 index, as published by the Bureau of Labor Statistics of the United States Department of Labor,  
43 shall be used as the reference base. For purposes of this subsection, the annual average inflation  
44 rate shall be based on a twelve-month calendar year beginning in January and ending in  
45 December of each preceding calendar year. The department of health and senior services shall  
46 report the annual adjustment and the adjusted fees authorized in this section on the department's  
47 internet website by February first of each year.

48 ~~[6-]~~ **7.** A health care provider may disclose a deceased patient's health care records or  
49 payment records to the executor or administrator of the deceased person's estate, or pursuant to  
50 a valid, unrevoked power of attorney for health care that specifically directs that the deceased  
51 person's health care records be released to the agent after death. If an executor, administrator,  
52 or agent has not been appointed, the deceased prior to death did not specifically object to

53 disclosure of his or her records in writing, and such disclosure is not inconsistent with any prior  
54 expressed preference of the deceased that is known to the health care provider, a deceased  
55 patient's health care records may be released upon written request of a person who is deemed as  
56 the personal representative of the deceased person under this subsection. Priority shall be given  
57 to the deceased patient's spouse and the records shall be released on the affidavit of the surviving  
58 spouse that he or she is the surviving spouse. If there is no surviving spouse, the health care  
59 records may be released to one of the following persons:

60 (1) The acting trustee of a trust created by the deceased patient either alone or with the  
61 deceased patient's spouse;

62 (2) An adult child of the deceased patient on the affidavit of the adult child that he or she  
63 is the adult child of the deceased;

64 (3) A parent of the deceased patient on the affidavit of the parent that he or she is the  
65 parent of the deceased;

66 (4) An adult brother or sister of the deceased patient on the affidavit of the adult brother  
67 or sister that he or she is the adult brother or sister of the deceased;

68 (5) A guardian or conservator of the deceased patient at the time of the patient's death  
69 on the affidavit of the guardian or conservator that he or she is the guardian or conservator of the  
70 deceased; or

71 (6) A guardian ad litem of the deceased's minor child based on the affidavit of the  
72 guardian that he or she is the guardian ad litem of the minor child of the deceased.

197.052. An applicant for or holder of a hospital license may define or revise the  
2 premises of a hospital campus to include tracts of property which are adjacent but for a common  
3 street or highway **or single intersection**, as **such terms are** defined in section 300.010, and its  
4 accompanying public right-of-way.

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 service, the public to be served, and health care facilities within the service area in which  
4 the proposed new health care service is to be developed;

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

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

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

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

16 (6) "Expenditure minimum" shall mean:

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

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

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

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

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

35 (9) "New institutional health service":

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

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

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

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

44 (e) Any change in licensed bed capacity of a health care facility **licensed under chapter**  
45 **198** which increases the total number of beds by more than ten or more than ten percent of total  
46 bed capacity, whichever is less, over a two-year period, **provided that any such health care**  
47 **facility seeking a nonapplicability review for an increase in total beds or total bed capacity**  
48 **in an amount less than described in this paragraph shall be eligible for such review only**

49 **if the facility has had no patient care class I deficiencies within the last eighteen months**  
50 **and has maintained at least an eighty-five percent average occupancy rate for the previous**  
51 **six quarters;**

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

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

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

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

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

210.070. ~~Every~~ **1.** A physician, midwife, or nurse who shall be in attendance upon a  
2 newborn infant or its mother[;] shall drop into the eyes of such infant [~~immediately after~~  
3 ~~delivery;~~] a prophylactic [~~solution~~] **medication** approved by the state department of health and  
4 senior services[; and shall within forty-eight hours thereafter, report in writing to the board of  
5 health or county physician of the city, town or county where such birth occurs, his or her  
6 compliance with this section, stating the solution used by him or her].

7 **2. Administration of such eye drops shall not be required if a parent or legal**  
8 **guardian of such infant objects to the treatment.**

536.031. 1. There is established a publication to be known as the "Code of State  
2 Regulations", which shall be published in a format and medium as prescribed and in writing  
3 upon request by the secretary of state as soon as practicable after ninety days following January  
4 1, 1976, and may be republished from time to time thereafter as determined by the secretary of  
5 state.

6 2. The code of state regulations shall contain the full text of all rules of state agencies  
7 in force and effect upon the effective date of the first publication thereof, and effective  
8 September 1, 1990, it shall be revised no less frequently than monthly thereafter so as to include

9 all rules of state agencies subsequently made, amended or rescinded. The code may also include  
10 citations, references, or annotations, prepared by the state agency adopting the rule or by the  
11 secretary of state, to any intraagency ruling, attorney general's opinion, determination, decisions,  
12 order, or other action of the administrative hearing commission, or any determination, decision,  
13 order, or other action of a court interpreting, applying, discussing, distinguishing, or otherwise  
14 affecting any rule published in the code.

15 3. The code of state regulations shall be published in looseleaf form in one or more  
16 volumes upon request and a format and medium as prescribed by the secretary of state with an  
17 appropriate index, and revisions in the text and index may be made by the secretary of state as  
18 necessary and provided in written format upon request.

19 4. An agency may incorporate by reference rules, regulations, standards, and guidelines  
20 of an agency of the United States or a nationally or state-recognized organization or association  
21 without publishing the material in full. The reference in the agency rules shall fully identify the  
22 incorporated material by publisher, address, and date in order to specify how a copy of the  
23 material may be obtained, and shall state that the referenced rule, regulation, standard, or  
24 guideline does not include any later amendments or additions; except that[;] :

25 **(1) Hospital licensure regulations promulgated under this chapter and chapter 197**  
26 **may incorporate by reference Medicare conditions of participation, as defined in section**  
27 **197.005, and later additions or amendments to such conditions of participation; and**

28 **(2) Hospital licensure regulations governing life safety code standards promulgated**  
29 **under this chapter and chapter 197 to implement section 197.065 may incorporate, by reference,**  
30 **later additions or amendments to such rules, regulations, standards, or guidelines as needed to**  
31 **consistently apply current standards of safety and practice.**

32 5. The agency adopting a rule, regulation, standard, or guideline under this section shall  
33 maintain a copy of the referenced rule, regulation, standard, or guideline at the headquarters of  
34 the agency and shall make it available to the public for inspection and copying at no more than  
35 the actual cost of reproduction. The secretary of state may omit from the code of state  
36 regulations such material incorporated by reference in any rule the publication of which would  
37 be unduly cumbersome or expensive.

38 [5-] 6. The courts of this state shall take judicial notice, without proof, of the contents  
39 of the code of state regulations.

577.029. 1. A licensed physician, registered nurse, phlebotomist, or trained medical  
2 technician, acting at the request and direction of the law enforcement officer **under section**  
3 **577.020, [shall] may, with the consent of the patient or a warrant issued by a court of**  
4 **competent jurisdiction,** withdraw blood for the purpose of determining the alcohol content of  
5 the blood[~~, unless such medical personnel, in his or her good faith medical judgment, believes~~

6 ~~such procedure would endanger the life or health]~~ of the person in custody. Blood may be  
7 withdrawn only by such medical personnel, but such restriction shall not apply to the taking of  
8 a breath test, a saliva specimen, or a urine specimen. In withdrawing blood for the purpose of  
9 determining the alcohol content thereof, only a previously unused and sterile needle and sterile  
10 vessel shall be utilized and the withdrawal shall otherwise be in strict accord with accepted  
11 medical practices. Upon the request of the person who is tested, full information concerning the  
12 test taken at the direction of the law enforcement officer shall be made available to him or her.

13 **2. No medical personnel employed by or practicing in a hospital or employed as an**  
14 **emergency medical technician shall be arrested or charged with an offense for failure to**  
15 **comply with this section. Notwithstanding the provisions of section 577.031, no hospital**  
16 **or medical personnel shall be civilly liable for complying with the provisions of this section.**

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