

FIRST REGULAR SESSION

HOUSE BILL NO. 628

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SUTHERLAND, WILLOUGHBY, JOLLY, RANSBALL, WRIGHT, JETTON, HANAWAY, GOODMAN, PORTWOOD (Co-sponsors), SMITH (14), RUPP, SMITH (118), HOBBS, NIEVES, STEFANICK, REINHART, SHOEMYER (9), MEINERS, BURNETT, HARRIS (110), YAEGER, SCHOEMEHL, CORCORAN, ZWEIFEL, BISHOP, HAMPTON, LOWE, WALSH, LeVOTA, WALKER, ABEL, DAUS, VILLA, HENKE, BRUNS, SHOEMAKER (8), THRELKELD, ST. ONGE, GUEST, BAKER, BEAN, WALLACE, PEARCE, STEVENSON, DEMPSEY, ANGST, RICHARD AND AVERY.

Read 1st time March 6, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1628L.03I

AN ACT

To repeal sections 197.317, 197.318, 198.006, 198.022, 198.032, 198.036, 198.067, 198.070, 198.082, 198.105, 198.525, 198.526, 198.532, 208.072, 208.159, 344.050, 565.186, 570.145, 630.140, 630.165, 630.167, 660.250, 660.261, 660.270, 660.300, 660.305, 660.315, 660.317, and 660.320, RSMo, and to enact in lieu thereof forty new sections relating to the protection of the elderly, with penalty provisions and an expiration date for a certain section.

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

Section A. Sections 197.317, 197.318, 198.006, 198.022, 198.032, 198.036, 198.067, 2 198.070, 198.082, 198.105, 198.525, 198.526, 198.532, 208.072, 208.159, 344.050, 565.186, 3 570.145, 630.140, 630.165, 630.167, 660.250, 660.261, 660.270, 660.300, 660.305, 660.315, 4 660.317, and 660.320, RSMo, are repealed and forty new sections enacted in lieu thereof, to be 5 known as sections 197.317, 197.318, 197.416, 197.478, 197.500, 198.006, 198.022, 198.027, 6 198.030, 198.032, 198.036, 198.066, 198.067, 198.070, 198.071, 198.082, 198.105, 198.301, 7 198.525, 198.526, 198.528, 198.532, 208.072, 208.159, 344.050, 565.186, 570.145, 630.140, 8 630.165, 630.167, 660.250, 660.261, 660.270, 660.300, 660.305, 660.310, 660.315, 660.317, 9 660.320, and 660.321, to read as follows:

197.317. 1. After July 1, 1983, no certificate of need shall be issued for the following:

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

2 (1) Additional residential care facility I, residential care facility II, intermediate care
3 facility or skilled nursing facility beds above the number then licensed by this state;

4 (2) Beds in a licensed hospital to be reallocated on a temporary or permanent basis to
5 nursing care or beds in a long-term care hospital meeting the requirements described in 42 CFR,
6 Section 412.23(e), excepting those which are not subject to a certificate of need pursuant to
7 paragraphs (e) and (g) of subdivision (10) of section 197.305; nor

8 (3) The reallocation of intermediate care facility or skilled nursing facility beds of
9 existing licensed beds by transfer or sale of licensed beds between a hospital licensed pursuant
10 to this chapter or a nursing care facility licensed pursuant to chapter 198, RSMo; except for beds
11 in counties in which there is no existing nursing care facility. No certificate of need shall be
12 issued for the reallocation of existing residential care facility I or II, or intermediate care facilities
13 operated exclusively for the mentally retarded to intermediate care or skilled nursing facilities
14 or beds. However, after January 1, [2003] **2007**, nothing in this section shall prohibit the
15 Missouri health facilities review committee from issuing a certificate of need for additional beds
16 in existing health care facilities or for new beds in new health care facilities or for the
17 reallocation of licensed beds, provided that no construction shall begin prior to [January 1, 2004]
18 **July 1, 2007**. The provisions of subsections 16 and 17 of section 197.315 shall apply to the
19 provisions of this section.

20 2. The health facilities review committee shall utilize demographic data from the office
21 of social and economic data analysis, or its successor organization, at the University of Missouri
22 as their source of information in considering applications for new institutional long-term care
23 facilities.

197.318. 1. The provisions of section 197.317 shall not apply to a residential care
2 facility I, residential care facility II, intermediate care facility or skilled nursing facility only
3 where the department of [social] **health and senior** services has first determined that there
4 presently exists a need for additional beds of that classification because the average occupancy
5 of all licensed and available residential care facility I, residential care facility II, intermediate care
6 facility and skilled nursing facility beds exceeds ninety percent for at least four consecutive
7 calendar quarters, in a particular county, and within a fifteen-mile radius of the proposed facility,
8 and the facility otherwise appears to qualify for a certificate of need. The department's
9 certification that there is no need for additional beds shall serve as the final determination and
10 decision of the committee. In determining ninety percent occupancy, residential care facility I
11 and II shall be one separate classification and intermediate care and skilled nursing facilities are
12 another separate classification.

13 2. The Missouri health facilities review committee may, for any facility certified to it by
14 the department, consider the predominant ethnic or religious composition of the residents to be

15 served by that facility in considering whether to grant a certificate of need.

16 3. There shall be no expenditure minimum for facilities, beds, or services referred to in
17 subdivisions (1), (2) and (3) of section 197.317. The provisions of this subsection shall expire
18 January 1, [2003] **2007**.

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

21 5. The provisions of section 197.317 shall not apply to any facility where at least
22 ninety-five percent of the patients require diets meeting the dietary standards defined by section
23 196.165, RSMo.

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

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

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

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

34 (a) Submitting a letter of intent to expand to the [division of aging] **department of**
35 **health and senior services** and the health facilities review committee;

36 (b) Certification from the [division of aging] **department of health and senior services**
37 that the facility:

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

39 b. Has maintained a ninety-percent average occupancy rate for the previous six quarters;

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

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

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

49 a. A facility with more than forty beds may expand its licensed bed capacity within the
50 same licensure category by twenty-five percent or thirty beds, whichever is greater, if that same

51 licensure category in such facility has experienced an average occupancy of ninety-three percent
52 or greater over the previous six quarters;

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

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

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

63 (3) The beds purchased shall, for two years from the date of purchase, remain in the bed
64 inventory attributed to the selling facility and be considered by the department of [social] **health**
65 **and senior** services as licensed and available for purposes of this section;

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

70 (5) A facility licensed pursuant to chapter 198, RSMo, may transfer or sell individual
71 long-term care licensed beds to facilities qualifying pursuant to paragraphs (a) and (b) of
72 subdivision (1) of this subsection. Any facility which transfers or sells licensed beds shall not
73 expand its licensed bed capacity in that licensure category for a period of five years from the date
74 the licensure is relinquished.

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

80 (1) The facility shall report to the [division of aging] **department of health and senior**
81 **services** vacant beds as unavailable for occupancy for at least the most recent four consecutive
82 calendar quarters;

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

85 (3) The existing facility and proposed facility shall have the same owner or owners,
86 regardless of corporate or business structure, and such owner or owners shall stipulate in writing

87 that the existing facility beds to be replaced will not later be used to provide long-term care
88 services. If the facility is being operated under a lease, both the lessee and the owner of the
89 existing facility shall stipulate the same in writing.

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

**197.416. Whenever the department is inspecting a home health agency in response
2 to an application from an applicant located outside of Missouri not previously licensed by
3 the department, the department may request from the applicant the past five years
4 compliance history of all home health agencies owned by the applicant located outside of
5 this state.**

**197.478. The department of health and senior services shall provide through their
2 Internet web site:**

3 **(1) The most recent survey of all home health agencies and any such findings of
4 deficiencies and the effect the deficiency would have on such agencies. If such survey is in
5 dispute, the survey shall not be posted on the web site until the agency's dispute has been
6 resolved and the department shall, upon request of the home health agency, post the
7 agency's response;**

8 **(2) The home health agency's proposed plan of correction;**

9 **(3) A link to the federal web site that provides a summary of home health agency
10 surveys conducted over the last three years; and**

11 **(4) Information on how to obtain a copy of a complete home health agency survey
12 conducted over the last three years.**

**197.500. 1. The department shall maintain an employee disqualification list and
2 place on the employee disqualification list the names of any persons who are or who have
3 been employed in any facility and who have been finally determined by the department
4 pursuant to section 660.315, RSMo, to have knowingly or recklessly abused or neglected
5 a resident. For purposes of this subsection only, "knowingly" and "recklessly" shall have
6 the terms that are prescribed to them in this subsection. A person acts "knowingly" with
7 respect to the person's conduct when a reasonable person should be aware of the result
8 caused by his or her conduct. A person acts "recklessly" when the person consciously
9 disregards a substantial and unjustifiable risk that the person's conduct will result in
10 serious physical injury and such disregard constitutes a gross deviation from the standard**

11 **of care that a reasonable person would exercise in the situation.**

12 **2. The department shall compile and maintain an employee disqualification list in**
13 **the same manner as the employee disqualification list compiled and maintained by the**
14 **department pursuant to section 660.315, RSMo.**

198.006. As used in sections 198.003 to 198.186, unless the context clearly indicates
2 otherwise, the following terms mean:

3 (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm;

4 (2) "Administrator", the person who is in general administrative charge of a facility;

5 (3) "Affiliate":

6 (a) With respect to a partnership, each partner thereof;

7 (b) With respect to a limited partnership, the general partner and each limited partner
8 with an interest of five percent or more in the limited partnership;

9 (c) With respect to a corporation, each person who owns, holds or has the power to vote,
10 five percent or more of any class of securities issued by the corporation, and each officer and
11 director;

12 (d) With respect to a natural person, any parent, child, sibling, or spouse of that person;

13 (4) "Department", the Missouri department of [social services] **health and senior**
14 **services;**

15 (5) "Emergency", a situation, physical condition or one or more practices, methods or
16 operations which presents imminent danger of death or serious physical or mental harm to
17 residents of a facility;

18 (6) "Facility", any residential care facility I, residential care facility II, immediate care
19 facility, or skilled nursing facility;

20 (7) "Health care provider", any person providing health care services or goods to
21 residents and who receives funds in payment for such goods or services under Medicaid;

22 (8) "Intermediate care facility", any premises, other than a residential care facility I,
23 residential care facility II, or skilled nursing facility, which is utilized by its owner, operator, or
24 manager to provide twenty-four hour accommodation, board, personal care, and basic health and
25 nursing care services under the daily supervision of a licensed nurse and under the direction of
26 a licensed physician to three or more residents dependent for care and supervision and who are
27 not related within the fourth degree of consanguinity or affinity to the owner, operator or
28 manager of the facility;

29 (9) "Manager", any person other than the administrator of a facility who contracts or
30 otherwise agrees with an owner or operator to supervise the general operation of a facility,
31 providing such services as hiring and training personnel, purchasing supplies, keeping financial
32 records, and making reports;

33 (10) "Medicaid", medical assistance under section 208.151, RSMo, et seq., in
34 compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social Security Act (42
35 U.S.C. 301 et seq.), as amended;

36 (11) "Neglect", the failure to provide, by those responsible for the care, custody, and
37 control of a resident in a facility, the services which are reasonable and necessary to maintain the
38 physical and mental health of the resident, when such failure presents either an imminent danger
39 to the health, safety or welfare of the resident or a substantial probability that death or serious
40 physical harm would result;

41 (12) "Operator", any person licensed or required to be licensed under the provisions of
42 sections 198.003 to 198.096 in order to establish, conduct or maintain a facility;

43 (13) "Owner", any person who owns an interest of five percent or more in:

44 (a) The land on which any facility is located;

45 (b) The structure or structures in which any facility is located;

46 (c) Any mortgage, contract for deed, or other obligation secured in whole or in part by
47 the land or structure in or on which a facility is located; or

48 (d) Any lease or sublease of the land or structure in or on which a facility is located.

49 "Owner" does not include a holder of a debenture or bond purchased at public issue nor does it
50 include any regulated lender unless the entity or person directly or through a subsidiary operates
51 a facility;

52 (14) "Resident", a person who by reason of aging, illness, disease, or physical or mental
53 infirmity receives or requires care and services furnished by a facility and who resides or boards
54 in or is otherwise kept, cared for, treated or accommodated in such facility for a period exceeding
55 twenty-four consecutive hours;

56 (15) "Residential care facility I", any premises, other than a residential care facility II,
57 intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator or
58 manager to provide twenty-four hour care to three or more residents, who are not related within
59 the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility
60 and who need or are provided with shelter, board, and with protective oversight, which may
61 include storage and distribution or administration of medications and care during short-term
62 illness or recuperation;

63 (16) "Residential care facility II", any premises, other than a residential care facility I,
64 an intermediate care facility, or a skilled nursing facility, which is utilized by its owner, operator
65 or manager to provide twenty-four hour accommodation, board, and care to three or more
66 residents who are not related within the fourth degree of consanguinity or affinity to the owner,
67 operator, or manager of the facility, and who need or are provided with supervision of diets,
68 assistance in personal care, storage and distribution or administration of medications, supervision

69 of health care under the direction of a licensed physician, and protective oversight, including care
70 during short-term illness or recuperation;

71 (17) "Skilled nursing facility", any premises, other than a residential care facility I, a
72 residential care facility II, or an intermediate care facility, which is utilized by its owner, operator
73 or manager to provide for twenty-four hour accommodation, board and skilled nursing care and
74 treatment services to at least three residents who are not related within the fourth degree of
75 consanguinity or affinity to the owner, operator or manager of the facility. Skilled nursing care
76 and treatment services are those services commonly performed by or under the supervision of
77 a registered professional nurse for individuals requiring twenty-four hours a day care by licensed
78 nursing personnel including acts of observation, care and counsel of the aged, ill, injured or
79 infirm, the administration of medications and treatments as prescribed by a licensed physician
80 or dentist, and other nursing functions requiring substantial specialized judgment and skill;

81 (18) "Vendor", any person selling goods or services to a health care provider.

198.022. 1. Upon receipt of an application for a license to operate a facility, the
2 department shall review the application, investigate the applicant and the statements sworn to
3 in the application for license and conduct any necessary inspections. A license shall be issued
4 if the following requirements are met:

5 (1) The statements in the application are true and correct;

6 (2) The facility and the operator are in substantial compliance with the provisions of
7 sections 198.003 to 198.096 and the standards established thereunder;

8 (3) The applicant has the financial capacity to operate the facility;

9 (4) The administrator of a residential care facility II, a skilled nursing facility, or an
10 intermediate care facility is currently licensed under the provisions of chapter 344, RSMo;

11 (5) Neither the operator nor any principals in the operation of the facility have ever been
12 convicted of a felony offense concerning the operation of a long-term health care facility or other
13 health care facility or ever knowingly acted or knowingly failed to perform any duty which
14 materially and adversely affected the health, safety, welfare or property of a resident, while acting
15 in a management capacity. The operator of the facility or any principal in the operation of the
16 facility shall not be under exclusion from participation in the title XVIII (Medicare) or title XIX
17 (Medicaid) program of any state or territory;

18 (6) Neither the operator nor any principals involved in the operation of the facility have
19 ever been convicted of a felony in any state or federal court arising out of conduct involving
20 either management of a long-term care facility or the provision or receipt of health care;

21 (7) All fees due to the state have been paid.

22 2. Upon denial of any application for a license, the department shall so notify the
23 applicant in writing, setting forth therein the reasons and grounds for denial.

24 3. The department may inspect any facility and any records and may make copies of
25 records, at the facility, at the department's own expense, required to be maintained by sections
26 198.003 to 198.096 or by the rules and regulations promulgated thereunder at any time if a
27 license has been issued to or an application for a license has been filed by the operator of such
28 facility. **Copies of any records requested by the department shall be prepared by the staff**
29 **of such facility within two working days or as determined by the department. The**
30 **department shall not remove or disassemble any medical record during any inspection of**
31 **the facility, but may observe the photocopying or may make their own copies in the event**
32 **the facility does not have the technology to make the copies. In accordance with the**
33 **provisions of section 198.525,** the department shall make at least two inspections per year, at
34 least one of which shall be unannounced to the operator. The department may make such other
35 inspections, announced or unannounced, as it deems necessary to carry out the provisions of
36 sections 198.003 to 198.136.

37 4. Whenever the department has reasonable grounds to believe that a facility required
38 to be licensed under sections 198.003 to 198.096 is operating without a license, and the
39 department is not permitted access to inspect the facility, or when a licensed operator refuses to
40 permit access to the department to inspect the facility, the department shall apply to the circuit
41 court of the county in which the premises is located for an order authorizing entry for such
42 inspection, and the court shall issue the order if it finds reasonable grounds for inspection or if
43 it finds that a licensed operator has refused to permit the department access to inspect the facility.

44 **5. Whenever the department is inspecting a facility in response to an application**
45 **from an operator located outside of Missouri not previously licensed by the department,**
46 **the department may request from the applicant the past five years compliance history of**
47 **all facilities owned by the applicant located outside of this state.**

198.027. If a facility submits satisfactory documentation that establishes correction
2 **of any deficiency contained within the written report of deficiency required by section**
3 **198.026, an on-site revisit of such deficiency may not be required.**

198.030. Every residential care facility I, residential care facility II, intermediate
2 **care facility and skilled nursing facility shall post the most recent inspection report in a**
3 **conspicuous place. If the operator determines that the inspection report contains**
4 **individually identifiable health information, the operator may redact such information**
5 **prior to posting the inspection report.**

 198.032. 1. Nothing contained in sections 198.003 to 198.186 shall permit the public
2 disclosure by the department of confidential medical, social, personal or financial records of any
3 resident in any facility, except when disclosed in a manner which does not identify any resident,
4 or when ordered to do so by a court of competent jurisdiction. Such records shall be accessible

5 without court order for examination and copying only to the following persons or offices, or to
6 their designees:

- 7 (1) The department or any person or agency designated by the department;
- 8 (2) The attorney general;
- 9 (3) The department of mental health for residents placed through that department;
- 10 (4) Any appropriate law enforcement agency;
- 11 (5) The resident, his guardian, or any other person designated by the resident; and
- 12 (6) Appropriate committees of the general assembly and the state auditor, but only to the
13 extent of financial records which the operator is required to maintain pursuant to sections
14 198.088 and 198.090.

15 2. Inspection reports and written reports of investigations of complaints, of substantiated
16 reports of abuse and neglect received in accordance with section 198.070, and complaints
17 received by the department relating to the quality of care of facility residents, shall be accessible
18 to the public for examination and copying, provided that such reports are disclosed in a manner
19 which does not identify the complainant or any particular resident. Records and reports shall
20 clearly show what steps the department and the institution are taking to resolve problems
21 indicated in said inspections, reports and complaints.

22 3. The department shall maintain a central registry capable of receiving and maintaining
23 reports received in a manner that facilitates rapid access and recall of the information reported,
24 and of subsequent investigations and other relevant information. The department shall
25 electronically record **and maintain a hot-line caller log for the reporting of suspected abuse**
26 **and neglect in long-term care facilities.** Any telephone report of suspected abuse and neglect
27 received by the department and such recorded reports shall be retained by the department for a
28 period of one year after recording. **The department shall in all cases, attempt to obtain the**
29 **name of any person making a report after obtaining relevant information regarding the**
30 **alleged abuse or neglect. The department shall also attempt to obtain the address of any**
31 **person making a report. The identity of the person making the report shall remain**
32 **confidential.**

33 [4. Although reports to the central registry may be made anonymously, the department
34 shall in all cases, after obtaining relevant information regarding the alleged abuse or neglect,
35 attempt to obtain the name and address of any person making a report.]

198.036. 1. The department may revoke a license in any case in which it finds that [the
2 operator]:

- 3 (1) **The operator** failed or refused to comply with class I or II standards, as established
4 by the department pursuant to section 198.085; or failed or refused to comply with class III
5 standards as established by the department pursuant to section 198.085, where the aggregate

6 effect of such noncompliances presents either an imminent danger to the health, safety or welfare
7 of any resident or a substantial probability that death or serious physical harm would result;

8 (2) **The operator** refused to allow representatives of the department to inspect the
9 facility for compliance with standards **or unreasonably refused to allow representatives of the**
10 **department access to residents and employees necessary to carry out the duties set forth**
11 **in this chapter and rules promulgated thereunder;**

12 (3) **The operator** knowingly acted or knowingly omitted any duty in a manner which
13 would materially and adversely affect the health, safety, welfare or property of a resident; [or]

14 (4) **The operator** demonstrated financial incapacity to operate and conduct the facility
15 in accordance with the provisions of sections 198.003 to 198.096[.];

16 (5) **The operator or any principals in the operation of the facility have ever been**
17 **convicted of a felony offense concerning the operation of a long-term health care facility**
18 **or other health care facility or ever knowingly acted or knowingly failed to perform any**
19 **duty which materially and adversely affected the health, safety, welfare, or property of a**
20 **resident, while acting in a management capacity. The operator of the facility or any**
21 **principal in the operation of the facility shall not be under exclusion from participation in**
22 **the title XVIII (Medicare) or title XIX (Medicaid) program of any state or territory; or**

23 (6) **The operator or any principals involved in the operation of the facility have ever**
24 **been convicted of a felony in any state or federal court arising out of conduct involving**
25 **either management of a long-term care facility or the provision or receipt of health care.**

26 2. **Nothing in subdivision (2) of subsection 1 of this section shall be construed to**
27 **allow the department to access information not necessary to carry out the duties set forth**
28 **in sections 198.006 to 198.186.**

29 3. Upon revocation of a license, the director of the department shall so notify the
30 operator in writing, setting forth the reason and grounds for the revocation. Notice of such
31 revocation shall be sent either by certified mail, return receipt requested, to the operator at the
32 address of the facility, or served personally upon the operator. The department shall provide the
33 operator notice of such revocation at least ten days prior to its effective date.

198.066. To encourage compliance with the provisions of this chapter and any rules
2 **and regulations, the department of health and senior services shall impose sanctions**
3 **commensurate with the seriousness of the violation found to have occurred. For class I, II,**
4 **or III violations, the following remedies may be imposed:**

5 (1) **Plan of correction;**

6 (2) **Additional directed staff training;**

7 (3) **State monitoring;**

8 (4) **Directed plan of correction;**

9 **(5) Civil penalties from fifty dollars to two hundred fifty dollars for class III**
10 **violations;**

11 **(6) Denial of payment for new Medicaid admissions;**

12 **(7) Civil penalties from two hundred fifty dollars to one thousand dollars for class**
13 **II violations;**

14 **(8) Probationary license and consent agreement as described in section 198.026;**

15 **(9) Civil penalties from one thousand dollars to ten thousand dollars for class I**
16 **violations;**

17 **(10) Denial of payment for all new admissions;**

18 **(11) Receivership pursuant to section 198.105; or**

19 **(12) License revocation.**

198.067. 1. An action may be brought by the department, or by the attorney general on
2 his or her own volition or at the request of the department or any other appropriate state agency,
3 to temporarily or permanently enjoin or restrain any violation of sections 198.003 to 198.096,
4 to enjoin the acceptance of new residents until substantial compliance with sections 198.003 to
5 198.096 is achieved, or to enjoin any specific action or practice of the facility. Any action
6 brought pursuant to the provisions of this section shall be placed at the head of the docket by the
7 court, and the court shall hold a hearing on any action brought pursuant to the provisions of this
8 section no less than fifteen days after the filing of the action.

9 2. The department may bring an action in circuit court to recover a civil penalty against
10 the licensed operator of the facility as provided by this section. Such action shall be brought in
11 the circuit court for the county in which the facility is located. The circuit court shall determine
12 the amount of penalty to be assessed within the limits set out in this section. Appeals may be
13 taken from the judgment of the circuit court as in other civil cases.

14 3. The operator of any facility which has been cited with a violation of sections 198.003
15 to 198.096 or the regulations established pursuant thereto, or of subsection (b), (c), or (d) of
16 Section 1396r of Title 42 of the United States Code or the regulations established pursuant
17 thereto, is liable to the state for civil penalties of up to [ten] **twenty-five** thousand dollars for
18 each day that the violations existed or continue to exist. Violations shall be presumed to
19 continue to exist from the time they are found until the time the [division of aging] **department**
20 **of health and senior services** finds them to have been corrected. **When applicable**, the amount
21 of the penalty shall be determined as follows:

22 (1) For each violation of a class I standard **when applicable pursuant to subdivision**
23 **6 of this section**, not less than one [hundred fifty] **thousand** dollars nor more than [one] **ten**
24 **thousand** dollars;

25 (2) For each violation of a class II standard, not less than **two hundred** fifty dollars nor

26 more than [five hundred] **one thousand** dollars;

27 (3) For each violation of a class III standard, not less than [fifteen dollars] **fifty dollars**
28 nor more than [one] **two** hundred fifty dollars;

29 (4) For each violation of a federal standard which does not also constitute a violation of
30 a state law or regulation, not less than two hundred fifty dollars nor more than five hundred
31 dollars;

32 (5) For each specific class I violation by the same operator **at a particular facility** which
33 has been cited **previously** within the past twenty-four months and for each specific class II or
34 III violation by the same operator **at a particular facility** which has been cited **previously**
35 within the past twelve months, double the amount last imposed;

36 (6) **In accordance with the provisions of this section, when the department imposes**
37 **a civil monetary penalty for a class I violation, the liability for the civil monetary penalty**
38 **shall be incurred immediately upon the imposition of the violation regardless of any**
39 **subsequent correction of the violation by the facility. For class II and III violations the**
40 **department shall impose a civil monetary penalty if a breach of a specific state or federal**
41 **standard or statute remains uncorrected and not in accord with the accepted plan of**
42 **correction at the time of the reinspection conducted pursuant to subsection 3 of section**
43 **198.026 or the regulations established pursuant to Title 42 of the United States Code. A**
44 **judgment rendered against the operator of a facility pursuant to this subsection shall bear**
45 **interest as provided in subsection 1 of section 408.040, RSMo.**

46 [As used in this subdivision the term "violation" shall mean a breach of a specific state or federal
47 standard or statute which remains uncorrected and not in accord with the accepted plan of
48 correction at the time of the reinspection conducted pursuant to subsection 3 of section 198.026
49 or the regulations established pursuant to Title 42 of the United States Code. A judgment
50 rendered against the operator of a facility pursuant to this subsection shall bear interest as
51 provided in subsection 1 of section 408.040, RSMo.]

52 4. Any individual who willfully and knowingly certifies pursuant to subsection
53 (b)(3)(B)(i) of Section 1396r of Title 42 of the United States Code a material and false statement
54 in a resident assessment is subject to a civil penalty of not more than one thousand dollars with
55 respect to each assessment. Any individual who willfully and knowingly causes another
56 individual to certify pursuant to subsection (b)(3)(B)(i) of Section 1396r of Title 42 of the United
57 States Code a material and false statement in a resident assessment is subject to a civil penalty
58 of not more than five thousand dollars with respect to each assessment.

59 5. The imposition of any remedy provided for in sections 198.003 to 198.186 shall not
60 bar the imposition of any other remedy.

61 6. **Twenty-five percent of the** penalties collected pursuant to this section shall be

62 deposited in the [division of aging] elderly home-delivered meals trust fund as established in
63 section 660.078, RSMo. **Twenty-five percent of the penalties collected pursuant to this**
64 **section shall be deposited in the nursing facility quality care fund to be used for the sole**
65 **purpose of supporting quality care improvement projects within the office of state**
66 **ombudsman for long-term care facility residents, established pursuant to section 660.603,**
67 **RSMo. The remaining fifty percent of the penalties collected pursuant to this section shall**
68 **be deposited into the nursing facility quality care fund established in section 198.418,**
69 **RSMo, to be used by the department for the sole purpose of developing a program to assist**
70 **qualified nursing facilities to improve the quality of service to their residents. The director**
71 **of the department shall, by rule, develop a definition of qualified facilities and shall**
72 **establish procedures for the selection of qualified facilities.** Such penalties shall not be
73 considered a charitable contribution for tax purposes.

74 7. To recover any civil penalty, the moving party shall prove by clear and convincing
75 evidence that the violation occurred.

76 8. The licensed operator of a facility against whom an action to recover a civil penalty
77 is brought pursuant to this section may confess judgment as provided in section 511.070, RSMo,
78 at any time prior to hearing. If such licensed operator agrees to confess judgment, the amount
79 of the civil penalty recommended by the moving party in its petition shall be reduced by
80 twenty-five percent and the confessed judgment shall be entered by the circuit court at the
81 reduced amount.

82 9. The amount of any civil penalty assessed by the circuit court pursuant to this section
83 shall be reduced by the amount of any civil monetary penalty which the licensed operator of the
84 facility may establish it has paid pursuant to the laws of the United States for the breach of the
85 same federal standards for which the state action is brought.

86 10. In addition to the civil penalties specified in subdivision (1) of subsection 3 of this
87 section, any facility which is cited with a violation of a class I standard pursuant to subsection
88 1 of section 198.085, when such violation results in serious physical injury or abuse of a sexual
89 nature pursuant to subdivision (1) of section 198.006, to any resident of that facility shall be
90 liable to the state for a civil penalty of one hundred dollars multiplied by the number of beds
91 licensed to the facility, up to a maximum of ten thousand dollars pursuant to subsections 1 and
92 2 of this section. The liability of the facility for civil penalties pursuant to this section shall be
93 incurred immediately upon the citation of the violation and shall not be affected by any
94 subsequent correction of the violation. For the purposes of this section, "serious physical injury"
95 means physical injury that creates a substantial risk of death or that causes serious disfigurement
96 or protracted loss or impairment of the function of any part of the body.

97 **11. The department shall not impose a fine for self-reporting class II and class III**

98 **violations so long as each violation is corrected within a specified period of time as**
99 **determined by the department and there is no reoccurrence of the particular violation for**
100 **twelve months following the date of the first self-reporting.**

101 **12. If a facility is sold or changes its operator, any civil penalty assessed shall not**
102 **be sold, transferred, or otherwise assigned to the successor operator but shall remain the**
103 **sole liability of the operator at the time of the violation.**

198.070. 1. When any physician, dentist, chiropractor, optometrist, podiatrist, **medical**
2 **resident or intern, nurse practitioner, physician's assistant, nurse, hospital and clinic**
3 **personnel engaged in examination, care, or treatment of persons,** medical examiner, social
4 worker, psychologist, minister, Christian Science practitioner, peace officer, pharmacist, physical
5 therapist, facility administrator, employee in a facility, or employee of the department of social
6 services [or of the], department of mental health, **or the department of health and senior**
7 **services,** coroner, dentist, [hospital and clinic personnel engaged in examination,] other health
8 practitioners, mental health professional, adult day care worker, probation or parole officer, law
9 enforcement official or other person with the care of a person sixty years of age or older or an
10 eligible adult has reasonable cause to believe that a resident of a facility has been abused or
11 neglected, he or she shall immediately report or cause a report to be made to the department.

12 2. The report shall contain the name and address of the facility, the name of the resident,
13 information regarding the nature of the abuse or neglect, the name of the complainant, and any
14 other information which might be helpful in an investigation.

15 3. Any person required in subsection 1 of this section to report or cause a report to be
16 made to the department who knowingly fails to make a report within a reasonable time after the
17 act of abuse or neglect as required in this subsection is guilty of a class A misdemeanor.

18 4. **In addition to the penalties prescribed pursuant to this section, any**
19 **administrator who knowingly conceals any act of abuse or neglect resulting in death or**
20 **serious physical injury, as defined in section 565.002, RSMo, shall be guilty of a class D**
21 **felony.**

22 5. In addition to those persons required to report pursuant to subsection 1 of this section,
23 any other person having reasonable cause to believe that a resident has been abused or neglected
24 may report such information to the department.

25 [5.] 6. Upon receipt of a report, the department shall initiate an investigation within
26 twenty-four hours and, as soon as possible during the course of the investigation, shall notify the
27 resident's next of kin or responsible party of the report and the investigation and further notify
28 them whether the report was substantiated or unsubstantiated **unless such person is the alleged**
29 **perpetrator of the abuse or neglect.** As provided in section 565.186, RSMo, substantiated
30 reports of elder abuse shall be promptly reported by the department to the appropriate law

31 enforcement agency and prosecutor.

32 [6.] 7. If the investigation indicates possible abuse or neglect of a resident, the
33 investigator shall refer the complaint together with the investigator's report to the department
34 director or the director's designee for appropriate action. If, during the investigation or at its
35 completion, the department has reasonable cause to believe that immediate removal is necessary
36 to protect the resident from abuse or neglect, the department or the local prosecuting attorney
37 may, or the attorney general upon request of the department shall, file a petition for temporary
38 care and protection of the resident in a circuit court of competent jurisdiction. The circuit court
39 in which the petition is filed shall have equitable jurisdiction to issue an ex parte order granting
40 the department authority for the temporary care and protection of the resident, for a period not
41 to exceed thirty days.

42 [7.] 8. Reports shall be confidential, as provided pursuant to section 660.320, RSMo.

43 [8.] 9. Anyone, **except any person who has abused or neglected a resident in a**
44 **facility**, who makes a report pursuant to this section or who testifies in any administrative or
45 judicial proceeding arising from the report shall be immune from any civil or criminal liability
46 for making such a report or for testifying except for liability for perjury, unless such person acted
47 **negligently, recklessly**, in bad faith or with malicious purpose. It is a crime pursuant to section
48 565.186 and 565.188, RSMo, for any person to purposely file a false report of elder abuse or
49 neglect.

50 [9.] 10. Within five working days after a report required to be made pursuant to this
51 section is received, the person making the report shall be notified in writing of its receipt and of
52 the initiation of the investigation.

53 [10.] 11. No person who directs or exercises any authority in a facility shall evict, harass,
54 dismiss or retaliate against a resident or employee because such resident or employee or any
55 member of such resident's or employee's family has made a report of any violation or suspected
56 violation of laws, ordinances or regulations applying to the facility which the resident, the
57 resident's family or an employee has reasonable cause to believe has been committed or has
58 occurred. Through the existing [division of aging] **department** information and referral
59 telephone contact line, residents, their families and employees of a facility shall be able to obtain
60 information about their rights, protections and options in cases of eviction, harassment, dismissal
61 or retaliation due to a report being made pursuant to this section.

62 [11.] 12. Any person who [knowingly] abuses or neglects a resident of a facility shall be
63 [guilty of a class D felony] **subject to criminal prosecution pursuant to section 565.180,**
64 **565.182, or 565.184, RSMo.**

65 [12.] 13. The department shall maintain the employee disqualification list and place on
66 the employee disqualification list the names of any persons **who are or** who have been

67 **employed in any facility and who have been** finally determined by the department pursuant
68 to section 660.315, RSMo, to have [recklessly, knowingly or purposely abused or neglected a
69 resident while employed in any facility] **knowingly or recklessly abused or neglected a**
70 **resident. For purposes of this subsection only, "knowingly" and "recklessly" shall have**
71 **the terms that are prescribed to them in this subsection. A person acts "knowingly" with**
72 **respect to the person's conduct when a reasonable person should be aware of the result**
73 **caused by his or her conduct. A person acts "recklessly" when the person consciously**
74 **disregards a substantial and unjustifiable risk that the person's conduct will result in**
75 **serious physical injury and such disregard constitutes a gross deviation from the standard**
76 **of care that a reasonable person would exercise in the situation.**

77 [13.] 14. The timely self-reporting of incidents to the central registry by a facility shall
78 continue to be investigated in accordance with department policy, and shall not be counted or
79 reported by the department as a hot-line call but rather a self-reported incident. If the
80 self-reported incident results in a regulatory violation, such incident shall be reported as a
81 substantiated report.

198.071. The staff of a residential care facility I, a residential care facility II, an
2 **intermediate care facility, or a skilled nursing facility, shall attempt to contact the**
3 **resident's immediate family or a resident's responsible party and shall contact the**
4 **attending physician and the local coroner or medical examiner immediately upon the death**
5 **of any resident of the facility prior to transferring the deceased resident to a funeral home.**

198.082. 1. Each nursing assistant hired to work in a skilled nursing or intermediate care
2 facility after January 1, 1980, shall have successfully completed a nursing assistant training
3 program approved by the department or shall enroll in and begin the first available approved
4 training program which is scheduled to commence within ninety days of the date of the nursing
5 assistant's employment **and such program shall be completed within four months of**
6 **employment.** Training programs shall be offered at [a location] **any facility licensed or**
7 **approved by the department of health and senior services which is** most reasonably
8 accessible to the enrollees in each class. The program may be established by the skilled nursing
9 or intermediate care facility, by a professional organization, or by the department, and training
10 shall be given by the personnel of the facility, by a professional organization, by the department,
11 by any junior college or by the vocational education department of any high school.

12 2. As used in this section the term "nursing assistant" means an employee, including a
13 nurse's aide or an orderly, who is assigned by a skilled nursing or intermediate care facility to
14 provide or assist in the provision of direct resident health care services under the supervision of
15 a nurse licensed under the nursing practice law, chapter 335, RSMo. This section shall not apply
16 to any person otherwise licensed to perform health care services under the laws of this state. It

17 shall not apply to volunteers or to members of religious or fraternal orders which operate and
18 administer the facility, if such volunteers or members work without compensation.

19 3. The training program after January 1, 1989, shall consist of at least the following:

20 (1) A training program consisting of at least seventy-five classroom hours of training on
21 basic nursing skills, clinical practice, resident safety and rights, the social and psychological
22 problems of residents, and the methods of handling and caring for mentally confused residents
23 such as those with Alzheimer's disease and related disorders, and one hundred hours supervised
24 and on-the-job training. The one hundred hours **shall be completed within four months of**
25 **employment and** may consist of normal employment as nurse assistants under the supervision
26 of a licensed nurse; and

27 (2) Continuing in-service training to assure continuing competency in existing and new
28 nursing skills. All nursing assistants trained prior to January 1, 1989, shall attend, by August 31,
29 1989, an entire special retraining program established by rule or regulation of the department
30 which shall contain information on methods of handling mentally confused residents and which
31 may be offered on premises by the employing facility.

32 4. Nursing assistants who have not successfully completed the nursing assistant training
33 program prior to employment may begin duties as a nursing assistant only after completing an
34 initial twelve hours of basic orientation approved by the department and may provide direct
35 resident care only if under the general supervision of a licensed nurse prior to completion of the
36 seventy-five classroom hours of the training program.

198.105. 1. Any petition for appointment of a receiver shall be verified and shall be
2 accompanied by an affidavit or affidavits setting forth material facts showing there exists one or
3 more of the conditions specified in section 198.099. The petition shall be filed in the circuit
4 court of Cole County or in the county where the facility is located. If the petition is not filed by
5 the attorney general, a copy of the petition shall be served upon the department and upon the
6 attorney general. The court shall hold a hearing on the petition within five days of the filing of
7 the petition and determine the matter within fifteen days of the initial hearing. The petition and
8 notice of the hearing shall be served on the operator or administrator of the facility or, if personal
9 service is impossible, shall be posted in a conspicuous place in the facility not later than three
10 days before the time specified for the hearing, unless a different period is fixed by order of the
11 court.

12 2. The court shall appoint [the director of the department or his designee, or any person
13 determined by the court to be qualified,] **a person, selected in accordance with the provisions**
14 **of this subsection and the rules promulgated pursuant to this section,** to act as receiver if it
15 finds that any ground exists which would authorize the appointment of a receiver under section
16 198.099 and that appointment of a receiver will contribute to the continuity of care or the orderly

17 and safe transfer of residents in the facility. **The department shall, within six months of the**
18 **effective date of this act, promulgate rules or regulations to establish guidelines for the**
19 **determination of qualified receivers, procedures for maintaining the list of qualified**
20 **receivers that requested in writing to act as a receiver, and the selection or removal of such**
21 **receivers. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
22 **that is created under the authority delegated in this section shall become effective only if**
23 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
24 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
25 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
26 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
27 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
28 **adopted after August 28, 2003, shall be invalid and void.**

29 **3. The director of the department shall maintain a list of persons who have**
30 **submitted a written request in accordance with the provisions of this subsection and the**
31 **rules promulgated by the department to act as receiver pursuant to section 198.099. When**
32 **a petition is filed seeking the appointment of a receiver, the director of the department**
33 **shall select the first name on the list. The director of the department shall inform this**
34 **person of his or her selection, of the name of the facility, and the grounds for seeking**
35 **receivership of such facility. This person may elect not to be appointed, in which case the**
36 **director of the department shall choose the next consecutive name on the list, continuing**
37 **until a person has agreed to serve as the receiver. The director shall provide the name to**
38 **the judge of the court wherein the petition for receivership shall have been filed. For each**
39 **additional petition filed seeking the appointment of a receiver, names shall be chosen from**
40 **the list in consecutive order beginning with the next name that follows the last name**
41 **chosen. Should none of the persons on the list agree to serve as the receiver, the court shall**
42 **appoint a person determined by the court to be qualified to act as receiver.**

198.301. No employee of a nursing home district who directs or exercises any
2 **authority in a facility shall evict, harass, dismiss, or retaliate against a resident or employee**
3 **because such resident or employee or any member of such resident's or employee's family**
4 **has made a report of any violation or suspected violation of laws, ordinances, or**
5 **regulations applying to the facility which the resident, the resident's family, or an employee**
6 **has reasonable cause to believe has been committed or has occurred. Through the existing**
7 **department information and referral telephone contact line, residents, their families, and**
8 **employees of a facility shall be able to obtain information about their rights, protections,**
9 **and options in cases of eviction, harassment, dismissal, or retaliation due to a report being**
10 **made pursuant to this section.**

198.525. **Except as otherwise provided pursuant to section 198.526**, in order to
2 comply with sections 198.012 and 198.022, the department of health and senior services shall
3 inspect **residential care facilities I**, residential care facilities II, intermediate care facilities, and
4 skilled nursing, **including those** facilities attached to acute care hospitals at least twice a year.

198.526. 1. [The division of aging] **Except as provided pursuant to subsection 3 of**
2 **this section, the department of health and senior services** shall inspect all facilities licensed
3 by the [division] **department** at least twice each year. Such inspections shall be conducted:

4 (1) Without the prior notification of the facility; and

5 (2) At times of the day, on dates and at intervals which do not permit facilities to
6 anticipate such inspections.

7 2. The [division] **department** shall annually reevaluate the inspection process to ensure
8 the requirements of subsection 1 of this section are met.

9 **3. The department may reduce the frequency of inspections to once a year provided**
10 **that a facility is found to be in substantial compliance. The basis for such determination**
11 **shall include, but not be limited to, the following:**

12 (1) **Previous inspection reports;**

13 (2) **The facility's history of compliance with rules and regulations promulgated**
14 **pursuant to this chapter;**

15 (3) **The number and severity of complaints received about the facility; and**

16 (4) **In the year subsequent to a finding of no class I violations or class II violations,**
17 **the facility does not have a change in ownership, operator, or director of nursing.**

18 **4. Information regarding unannounced inspections shall be disclosed to employees**
19 **of the department on a need-to-know basis only. Any employee of the department who**
20 **knowingly discloses the time of an unannounced inspection in violation of this section is**
21 **guilty of a class A misdemeanor and shall have his or her employment immediately**
22 **terminated.**

198.528. The department of health and senior services shall provide through their
2 **Internet web site:**

3 (1) **The most recent survey of every long-term care facility licensed in this state and**
4 **any such findings of deficiencies and the effect the deficiency would have on such facility.**
5 **If such survey is in dispute, the survey shall not be posted on the web site until the facility's**
6 **informal dispute resolution process has been resolved and the department shall, upon**
7 **request of the facility, post the facility's response;**

8 (2) **The facility's proposed plan of correction;**

9 (3) **A link to the federal web site that provides a summary of facility surveys**
10 **conducted over the last three years; and**

11 **(4) Information on how to obtain a copy of a complete facility survey conducted**
12 **over the last three years.**

198.532. **1.** Complaints filed with the [division of aging] **department of health and**
2 **senior services** against a long-term care facility which allege that harm has occurred or is likely
3 to occur to a resident or residents of the facility due to actions or the lack of actions taken by the
4 facility shall be investigated within thirty days of receipt of such complaints. The purpose of
5 such investigation shall be to ensure the safety, protection and care of all residents of the facility
6 likely to be affected by the alleged action or inaction. Such investigation shall be in addition to
7 the investigation requirements for abuse and neglect reports pursuant to section 198.070.

8 **2.** The [division] **department** shall provide the results of all investigations in accordance
9 with section 660.320, RSMo. The [division] **department** shall provide the results of such
10 investigation in writing to all parties to the complaint, and if requested, to any of the facility's
11 residents, or their family members or guardians. Complaints and written results will be readily
12 available for public access and review at the [division of aging] **department of health and**
13 **senior services** and at the long-term care facility. Personal information identifying the resident
14 will be blanked out, except in regard to immediate family, the attorney-in-fact or the legal
15 guardian of the resident in question. This information will remain readily available for a period
16 of time determined by the [division of aging] **department of health and senior services.**

208.072. **1.** A completed application for medical assistance for services described in
2 section 208.152 shall be approved or denied within thirty days from submission to the division
3 of family services or its successor. **In the event the division of family services is unable to**
4 **make a determination regarding Medicaid eligibility within sixty days of the submission**
5 **of a completed application for medical assistance for nursing facility services, the patient**
6 **shall be Medicaid eligible until the application is approved or denied. However, in no event**
7 **shall benefits be construed to commence prior to the date of application.**

8 **2.** The division of medical services shall remit to a licensed nursing home operator the
9 Medicaid payment for a newly admitted Medicaid resident in a licensed long-term care facility
10 within forty-five days of the resident's date of admission.

208.159. **1.** Notwithstanding the provisions of sections 207.010, RSMo, 208.152, and
2 208.153, the department of social services shall administer payments for nursing home services
3 authorized in sections 208.151, et seq., which govern medical assistance under Title XIX, Public
4 Law 89-97, 1965 amendments to the Federal Social Security Act (42 U.S.C. 301 et seq.), as
5 amended, and shall administer vendor payments for the aged and direct adult services for the
6 aged under Title XX, Public Law 93-647, 1974 amendments to the Federal Social Security Act
7 (42 U.S.C. 1397 et seq.), as amended. The department shall, pursuant to chapter 536, RSMo,
8 promulgate rules and regulations for the purpose of administering such payments, including rules

9 to define the reasonable costs, manner, extent, quality, charges and fees or payments for nursing
10 home services.

11 **2. To affect expenditures, quality of, provider equity in and access to Medicaid**
12 **nursing home services, the patient care expenditure component of the nursing facility**
13 **Medicaid per diem rate shall include salaries for physical therapy, occupational therapy,**
14 **speech therapy, and inhalation therapy, and supplies and contracted services for physical**
15 **therapy, occupational therapy, speech therapy, and inhalation therapy in addition to those**
16 **expenditures recognized in the code of state regulations promulgated by the division of**
17 **medical services within the department of social services. The additional expenditures**
18 **listed in this subsection to the current patient care expenditure component shall be effective**
19 **upon appropriation of moneys for rebasing the nursing facility Medicaid per diem rates.**
20 **The provisions of this subsection shall expire August 28, 2008.**

21 **3. If information contained in a facility's cost report is found to be fraudulent,**
22 **misrepresented or inaccurate, the facility's prospective rate may be retroactively and**
23 **prospectively reduced if the fraudulent, misrepresented or inaccurate information as**
24 **originally reported resulted in the establishment of a higher prospective rate than the**
25 **facility would have received in the absence of such information.**

344.050. 1. The board may refuse to issue or renew any certificate of registration or
2 authority, permit or license required pursuant to this chapter for one or any combination of
3 causes stated in subsection 2 of this section. The board shall notify the applicant in writing of
4 the reasons for the refusal and shall advise the applicant of his **or her** right to file a complaint
5 with the administrative hearing commission as provided by chapter 621, RSMo.

6 2. The board may cause a complaint to be filed with the administrative hearing
7 commission as provided by chapter 621, RSMo, against any holder of any certificate of
8 registration or authority, permit or license required by this chapter or any person who has failed
9 to renew or has surrendered his **or her** certificate of registration or authority, permit or license
10 for any one or any combination of the following causes:

11 (1) Use or unlawful possession of any controlled substance, as defined in chapter 195,
12 RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the
13 work of any profession licensed or regulated by this chapter;

14 (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty
15 or nolo contendere, pursuant to criminal prosecution [under] **pursuant to** the laws of any state
16 or of the United States, for any offense reasonably related to the qualifications, functions or
17 duties of any profession licensed or regulated [under] **pursuant to** this chapter, for any offense
18 an essential element of which is fraud, dishonesty or an act of violence, or for any offense
19 involving moral turpitude, whether or not sentence is imposed;

20 (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of
21 registration or authority, permit or license issued pursuant to this chapter or in obtaining
22 permission to take any examination given or required pursuant to this chapter;

23 (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by
24 fraud, deception or misrepresentation;

25 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty
26 in the performance of the functions or duties of any profession licensed or regulated by this
27 chapter;

28 (6) Violation of, or assisting or enabling any person to violate, any provision of this
29 chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

30 (7) Impersonation of any person holding a certificate of registration or authority, permit
31 or license, or allowing any person to use his **or her** certificate of registration or authority, permit,
32 license or diploma from any school;

33 (8) Disciplinary action against the holder of a license or other right to practice any
34 profession regulated by this chapter granted by another state, territory, federal agency or country
35 upon grounds for which revocation or suspension is authorized in this state;

36 (9) A person is finally adjudged incapacitated or disabled by a court of competent
37 jurisdiction;

38 (10) Assisting or enabling any person to practice or offer to practice any profession
39 licensed or regulated by this chapter who is not registered and currently eligible to practice
40 **[under] pursuant to** this chapter;

41 (11) Issuance of a certificate of registration or authority, permit or license based upon
42 a material mistake of fact;

43 (12) Violation of the drug laws or rules and regulations of this state, any other state or
44 the federal government;

45 (13) Knowingly failing to report abuse or neglect of a resident in a long-term care
46 facility, as required by section 198.070, RSMo, of which he has actual knowledge that it is abuse
47 or neglect.

48 3. The administrative hearing commission shall have no authority to require issuance of
49 a license, pending a final determination by the commission, in any case in which an applicant is
50 seeking initial licensure.

51 4. No license may be suspended or revoked and no application for renewal of a license
52 may be denied **[under] pursuant to** this section until the licensee has been afforded an
53 opportunity for hearing after due notice as provided in sections 621.015 to 621.205, RSMo.

54 5. Upon a finding by the administrative hearing commission that the grounds, provided
55 in subsection 2 of this section, for disciplinary action are met, the board may, singly or in

56 combination, place upon probation, suspend or revoke a certificate of registration or authority,
57 permit or license.

565.186. The department of [social services] **health and senior services** shall
2 investigate incidents and reports of elder abuse using the procedures established in sections
3 660.250 to 660.295, RSMo, and upon substantiation of the report of elder abuse, shall promptly
4 report the incident to the appropriate law enforcement agency and prosecutor and shall determine
5 whether protective services are required pursuant to sections 660.250 to 660.295, RSMo. **In the
6 event the department is not able to substantiate whether abuse occurred due to the failure
7 of the operator or any of the operator's agents or employees to cooperate with the
8 investigation, the incident shall be promptly reported to appropriate law enforcement
9 agencies.**

570.145. 1. A person [is guilty of the offense] **commits the crime** of financial
2 exploitation of an elderly or disabled person if such person [stands in a position of trust and
3 confidence with the elderly or disabled person, and such person] knowingly and by deception
4 [or], intimidation, **or force** obtains control over the elderly or disabled person's property with the
5 intent to permanently deprive the elderly or disabled person of the use, benefit or possession of
6 his or her property thereby benefiting such person or detrimentally affecting the elderly or
7 disabled person. Financial exploitation of an elderly or disabled person is a class A
8 misdemeanor if the value of the property is less than [two hundred] fifty dollars [and], a class [C]
9 **D felony if the value of the property is [two hundred fifty dollars or more] greater than fifty
10 dollars but less than five hundred dollars, a class C felony if the value of the property is
11 greater than five hundred dollars but less than one thousand dollars, and a class B felony
12 if the value of the property is one thousand dollars or more.**

13 2. For purposes of this section, the following terms mean:

14 (1) "Deception", a misrepresentation or concealment of material fact relating to the terms
15 of a contract or agreement entered into with the elderly or disabled person or to the existing or
16 preexisting condition of any of the property involved in such contract or agreement, or the use
17 or employment of any misrepresentation, false pretense or false promise in order to induce,
18 encourage or solicit the elderly or disabled person to enter into a contract or agreement.
19 Deception includes:

20 (a) Creating or confirming another person's impression which is false and which the
21 offender does not believe to be true; or

22 (b) Failure to correct a false impression which the offender previously has created or
23 confirmed; or

24 (c) Preventing another person from acquiring information pertinent to the disposition of
25 the property involved; or

26 (d) Selling or otherwise transferring or encumbering property, failing to disclose a lien,
27 adverse claim or other legal impediment to the enjoyment of the property, whether such
28 impediment is or is not valid, or is or is not a matter of official record; or

29 (e) Promising performance which the offender does not intend to perform or knows will
30 not be performed. Failure to perform standing alone is not sufficient evidence to prove that the
31 offender did not intend to perform;

32 (2) "Disabled person", a person who suffers from a physical or mental impairment
33 resulting from disease, injury, functional disorder or congenital condition which renders such
34 person incapable of avoiding or preventing the commission of an offense;

35 (3) "Elderly person", a person sixty years of age or older who is suffering from a disease
36 or infirmity associated with advanced age and manifested by physical, mental or emotional
37 dysfunctioning to the extent that such person is incapable of avoiding or preventing the
38 commission of the offense;

39 (4) "Intimidation", the communication to an elderly or disabled person that he or she will
40 be deprived of food and nutrition, shelter, prescribed medication, or medical care and treatment.

41 3. [For purposes of this section, a person stands in a position of trust and confidence with
42 an elderly or disabled person when such person:

43 (1) Is a parent, spouse, adult child or other relative by blood or marriage of the elderly
44 or disabled person;

45 (2) Is a joint tenant or tenant in common with the elderly or disabled person with
46 knowledge of such relationship;

47 (3) Has a legal or fiduciary relationship with the elderly or disabled person; or

48 (4) Has a relationship with the elderly or disabled person as a health care or personal care
49 worker.

50 4.] Nothing in this section shall be construed to limit the remedies available to the victim
51 pursuant to any state law relating to domestic violence.

52 [5.] 4. Nothing in this section shall be construed to impose criminal liability on a person
53 who has made a good faith effort to assist the elderly or disabled person in the management of
54 his or her property, but through no fault of his or her own has been unable to provide such
55 assistance.

56 [6.] 5. Nothing in this section shall limit the ability to engage in bona fide estate
57 planning, to transfer property and to otherwise seek to reduce estate and inheritance taxes;
58 provided that such actions do not adversely impact the standard of living to which the elderly or
59 disabled person has become accustomed at the time of such actions.

60 [7.] 6. It shall not be a defense to financial exploitation of an elderly or disabled person
61 that the accused reasonably believed that the victim was not an elderly or disabled person.

630.140. 1. Information and records compiled, obtained, prepared or maintained by the residential facility, day program operated, funded or licensed by the department or otherwise, specialized service, or by any mental health facility or mental health program in which people may be civilly detained pursuant to chapter 632, RSMo, in the course of providing services to either voluntary or involuntary patients, residents or clients shall be confidential.

2. The facilities or programs shall disclose information and records including medication given, dosage levels, and individual ordering such medication to the following upon their request:

(1) The parent of a minor patient, resident or client;

(2) The guardian or other person having legal custody of the patient, resident or client;

(3) The attorney of a patient, resident or client who is a ward of the juvenile court, an alleged incompetent, an incompetent ward or a person detained under chapter 632, RSMo, as evidenced by court orders of the attorney's appointment;

(4) An attorney or personal physician as authorized by the patient, resident or client;

(5) Law enforcement officers and agencies, information about patients, residents or clients committed pursuant to chapter 552, RSMo, but only to the extent necessary to carry out the responsibilities of their office, and all such law enforcement officers shall be obligated to keep such information confidential;

(6) The entity or agency authorized to implement a system to protect and advocate the rights of persons with developmental disabilities under the provisions of 42 U.S.C. 6042. The entity or agency shall be able to obtain access to the records of a person with developmental disabilities who is a client of the entity or agency if such person has authorized the entity or agency to have such access; and the records of any person with developmental disabilities who, by reason of mental or physical condition is unable to authorize the entity or agency to have such access, if such person does not have a legal guardian, conservator or other legal representative, and a complaint has been received by the entity or agency with respect to such person or there is probable cause to believe that such person has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall meet all requirements for confidentiality as set out in this section;

(7) The entity or agency authorized to implement a system to protect and advocate the rights of persons with mental illness under the provisions of 42 U.S.C. 10801 shall be able to obtain access to the records of a patient, resident or client who by reason of mental or physical condition is unable to authorize the system to have such access, who does not have a legal guardian, conservator or other legal representative and with respect to whom a complaint has been received by the system or there is probable cause to believe that such individual has been subject to abuse or neglect. The entity or agency obtaining access to a person's records shall

37 meet all requirements for confidentiality as set out in this section. The provisions of this
38 subdivision shall apply to a person who has a significant mental illness or impairment as
39 determined by a mental health professional qualified under the laws and regulations of the state;

40 (8) To mental health coordinators, but only to the extent necessary to carry out their
41 duties under chapter 632, RSMo.

42 3. The facilities or services may disclose information and records under any of the
43 following:

44 (1) As authorized by the patient, resident or client;

45 (2) To persons or agencies responsible for providing health care services to such patients,
46 residents or clients;

47 (3) To the extent necessary for a recipient to make a claim or for a claim to be made on
48 behalf of a recipient for aid or insurance;

49 (4) To qualified personnel for the purpose of conducting scientific research, management
50 audits, financial audits, program evaluations or similar studies; provided, that such personnel
51 shall not identify, directly or indirectly, any individual patient, resident or client in any report of
52 such research, audit or evaluation, or otherwise disclose patient, resident or client identities in
53 any manner;

54 (5) To the courts as necessary for the administration of chapter 211, RSMo, 475, RSMo,
55 552, RSMo, or 632, RSMo;

56 (6) To law enforcement officers or public health officers, but only to the extent necessary
57 to carry out the responsibilities of their office, and all such law enforcement and public health
58 officers shall be obligated to keep such information confidential;

59 (7) Pursuant to an order of a court or administrative agency of competent jurisdiction;

60 (8) To the attorney representing petitioners, but only to the extent necessary to carry out
61 their duties under chapter 632, RSMo;

62 (9) To the department of social services **or the department of health and senior**
63 **services** as necessary to report or have investigated abuse, neglect, or rights violations of
64 patients, residents, or clients;

65 (10) To a county board established pursuant to sections 205.968 to 205.972, RSMo 1986,
66 but only to the extent necessary to carry out their statutory responsibilities. The county board
67 shall not identify, directly or indirectly, any individual patient, resident or client.

68 4. The facility or program shall document the dates, nature, purposes and recipients of
69 any records disclosed under this section and sections 630.145 and 630.150.

70 5. The records and files maintained in any court proceeding under chapter 632, RSMo,
71 shall be confidential and available only to the patient, his attorney, guardian, or, in the case of
72 a minor, to a parent or other person having legal custody of the patient, and to the petitioner and

73 his attorney. In addition, the court may order the release or use of such records or files only upon
74 good cause shown, and the court may impose such restrictions as the court deems appropriate.

75 6. Nothing contained in this chapter shall limit the rights of discovery in judicial or
76 administrative procedures as otherwise provided for by statute or rule.

77 7. The fact of admission of a voluntary or involuntary patient to a mental health facility
78 under chapter 632, RSMo, may only be disclosed as specified in subsections 2 and 3 of this
79 section.

630.165. 1. When any physician, dentist, chiropractor, optometrist, podiatrist, intern,
2 nurse, medical examiner, social worker, psychologist, minister, Christian Science practitioner,
3 peace officer, pharmacist, physical therapist, facility administrator, nurse's aide or orderly in a
4 residential facility, day program or specialized service operated, funded or licensed by the
5 department or in a mental health facility or mental health program in which people may be
6 admitted on a voluntary basis or are civilly detained pursuant to chapter 632, RSMo, or employee
7 of the department has reasonable cause to believe that a patient, resident or client of a facility,
8 program or service has been abused or neglected, he shall immediately report or cause a report
9 to be made to the department or the department of health and senior services, if such facility or
10 program is licensed pursuant to chapter 197, RSMo.

11 2. The report shall contain the name and address of the residential facility, day program
12 or specialized service; the name of the patient, resident or client; information regarding the
13 nature of the abuse or neglect; the name of the complainant, and any other information which
14 might be helpful in an investigation.

15 3. Any person required in subsection 1 of this section to report or cause a report to be
16 made to the department who fails to do so within a reasonable time after the act of abuse or
17 neglect is guilty of an infraction.

18 4. In addition to those persons required to report under subsection 1 of this section, any
19 other person having reasonable cause to believe that a resident has been abused or neglected may
20 report such information to the department.

21 **5. Any person who knowingly files a false report of abuse or neglect shall be guilty**
22 **of a class A misdemeanor.**

23 **6. Any person having a prior conviction of filing false reports and who**
24 **subsequently files a false report of abuse or neglect pursuant to this section or section**
25 **565.188, RSMo, is guilty of a class D felony.**

26 **7. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
27 **that is created under the authority delegated in this section shall become effective only if**
28 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
29 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**

30 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
31 **to review, to delay the effective date or to disapprove and annul a rule are subsequently**
32 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
33 **adopted after August 28, 2003, shall be invalid and void.**

630.167. 1. Upon receipt of a report, the department or its agents, contractors or vendors
2 or the department of health and senior services, if such facility or program is licensed pursuant
3 to chapter 197, RSMo, shall initiate an investigation within twenty-four hours.

4 2. If the investigation indicates possible abuse or neglect of a patient, resident or client,
5 the investigator shall refer the complaint together with the investigator's report to the department
6 director for appropriate action. If, during the investigation or at its completion, the department
7 has reasonable cause to believe that immediate removal from a facility not operated or funded
8 by the department is necessary to protect the residents from abuse or neglect, the department or
9 the local prosecuting attorney may, or the attorney general upon request of the department shall,
10 file a petition for temporary care and protection of the residents in a circuit court of competent
11 jurisdiction. The circuit court in which the petition is filed shall have equitable jurisdiction to
12 issue an ex parte order granting the department authority for the temporary care and protection
13 of the resident for a period not to exceed thirty days.

14 3. (1) Reports referred to in section 630.165 and the investigative reports referred to in
15 this section shall be confidential, shall not be deemed a public record, and shall not be subject
16 to the provisions of section 109.180, RSMo, or chapter 610, RSMo; except that: complete copies
17 all such reports shall be open and available to the parents or other guardian of the patient,
18 resident, or client who is the subject of such report, except that the names and any other
19 descriptive information of the complainant or other person mentioned in the reports shall not be
20 disclosed unless such complainant or person specifically consents to such disclosure. All reports
21 referred to in this section shall be admissible in any judicial proceedings or hearing in accordance
22 with section 36.390, RSMo, or any administrative hearing before the director of the department
23 of mental health, or the director's designee. All such reports may be disclosed by the department
24 of mental health to law enforcement officers and public health officers, but only to the extent
25 necessary to carry out the responsibilities of their offices, and to the department of social
26 services, **and the department of health and senior services**, and to boards appointed pursuant
27 to sections 205.968 to 205.990, RSMo, that are providing services to the patient, resident or
28 client as necessary to report or have investigated abuse, neglect, or rights violations of patients,
29 residents or clients provided that all such law enforcement officers, public health officers,
30 department of social services' officers, **department of health and senior services' officers**, and
31 boards shall be obligated to keep such information confidential;

32 (2) Except as otherwise provided in this section, the proceedings, findings, deliberations,

33 reports and minutes of committees of health care professionals as defined in section 537.035,
34 RSMo, or mental health professionals as defined in section 632.005, RSMo, who have the
35 responsibility to evaluate, maintain, or monitor the quality and utilization of mental health
36 services are privileged and shall not be subject to the discovery, subpoena or other means of legal
37 compulsion for their release to any person or entity or be admissible into evidence into any
38 judicial or administrative action for failure to provide adequate or appropriate care. Such
39 committees may exist, either within department facilities or its agents, contractors, or vendors,
40 as applicable. Except as otherwise provided in this section, no person who was in attendance at
41 any investigation or committee proceeding shall be permitted or required to disclose any
42 information acquired in connection with or in the course of such proceeding or to disclose any
43 opinion, recommendation or evaluation of the committee or board or any member thereof;
44 provided, however, that information otherwise discoverable or admissible from original sources
45 is not to be construed as immune from discovery or use in any proceeding merely because it was
46 presented during proceedings before any committee or in the course of any investigation, nor is
47 any member, employee or agent of such committee or other person appearing before it to be
48 prevented from testifying as to matters within their personal knowledge and in accordance with
49 the other provisions of this section, but such witness cannot be questioned about the testimony
50 or other proceedings before any investigation or before any committee;

51 (3) Nothing in this section shall limit authority otherwise provided by law of a health
52 care licensing board of the state of Missouri to obtain information by subpoena or other
53 authorized process from investigation committees or to require disclosure of otherwise
54 confidential information relating to matters and investigations within the jurisdiction of such
55 health care licensing boards; provided, however, that such information, once obtained by such
56 board and associated persons, shall be governed in accordance with the provisions of this
57 subsection;

58 (4) Nothing in this section shall limit authority otherwise provided by law in
59 subdivisions (5) and (6) of subsection 2 of section 630.140 concerning access to records by the
60 entity or agency authorized to implement a system to protect and advocate the rights of persons
61 with developmental disabilities under the provisions of 42 U.S.C. 6042 and the entity or agency
62 authorized to implement a system to protect and advocate the rights of persons with mental
63 illness under the provisions of 42 U.S.C. 10801. In addition, nothing in this section shall serve
64 to negate assurances that have been given by the governor of Missouri to the U.S. Administration
65 on Developmental Disabilities, Office of Human Development Services, Department of Health
66 and Human Services concerning access to records by the agency designated as the protection and
67 advocacy system for the state of Missouri. However, such information, once obtained by such
68 entity or agency, shall be governed in accordance with the provisions of this subsection.

69 4. Anyone who makes a report pursuant to this section or who testifies in any
 70 administrative or judicial proceeding arising from the report shall be immune from any civil
 71 liability for making such a report or for testifying unless such person acted in bad faith or with
 72 malicious purpose.

73 5. Within five working days after a report required to be made pursuant to this section
 74 is received, the person making the report shall be notified in writing of its receipt and of the
 75 initiation of the investigation.

76 6. No person who directs or exercises any authority in a residential facility, day program
 77 or specialized service shall evict, harass, dismiss or retaliate against a patient, resident or client
 78 or employee because he or she or any member of his or her family has made a report of any
 79 violation or suspected violation of laws, ordinances or regulations applying to the facility which
 80 he or she has reasonable cause to believe has been committed or has occurred.

81 7. Any person who is discharged as a result of an administrative substantiation of
 82 allegations contained in a report of abuse or neglect may, after exhausting administrative
 83 remedies as provided in chapter 36, RSMo, appeal such decision to the circuit court of the county
 84 in which such person resides within ninety days of such final administrative decision. The court
 85 may accept an appeal up to twenty-four months after the party filing the appeal received notice
 86 of the department's determination, upon a showing that:

- 87 (1) Good cause exists for the untimely commencement of the request for the review;
 88 (2) If the opportunity to appeal is not granted it will adversely affect the party's
 89 opportunity for employment; and
 90 (3) There is no other adequate remedy at law.

660.250. As used in sections 660.250 to [660.305] **660.320**, the following terms mean:

- 2 (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm including
 3 financial exploitation by any person, firm or corporation;
 4 (2) "Court", the circuit court;
 5 (3) "Department", the department of [social services] **health and senior services**;
 6 (4) "Director", director of the department of [social services] **health and senior services**
 7 or his **or her** designees;
 8 (5) "Eligible adult", a person sixty years of age or older or an adult with a handicap, as
 9 defined in section 660.053, between the ages of eighteen and fifty-nine who is unable to protect
 10 his own interests or adequately perform or obtain services which are necessary to meet his
 11 essential human needs;
 12 (6) "In-home services client", an eligible adult who is receiving services in his or her
 13 private residence through any in-home services provider agency;
 14 (7) "In-home services employee", a person employed by an in-home services provider

15 agency;

16 (8) "In-home services provider agency", a business entity under contract with the
17 department or with a Medicaid participation agreement or an agency licensed by the department
18 of health and senior services as provided in sections 197.400 to 197.470, RSMo, which employs
19 persons to deliver any kind of services provided for eligible adults in their private homes;

20 (9) "Least restrictive environment", a physical setting where protective services for the
21 eligible adult and accommodation is provided in a manner no more restrictive of an individual's
22 personal liberty and no more intrusive than necessary to achieve care and treatment objectives;

23 (10) "Likelihood of serious physical harm", one or more of the following:

24 (a) A substantial risk that physical harm to an eligible adult will occur because of his
25 failure or inability to provide for his essential human needs as evidenced by acts or behavior
26 which has caused such harm or which gives another person probable cause to believe that the
27 eligible adult will sustain such harm;

28 (b) A substantial risk that physical harm will be inflicted by an eligible adult upon
29 himself, as evidenced by recent credible threats, acts, or behavior which has caused such harm
30 or which places another person in reasonable fear that the eligible adult will sustain such harm;

31 (c) A substantial risk that physical harm will be inflicted by another upon an eligible
32 adult as evidenced by recent acts or behavior which has caused such harm or which gives another
33 person probable cause to believe the eligible adult will sustain such harm;

34 (d) A substantial risk that further physical harm will occur to an eligible adult who has
35 suffered physical injury, neglect, sexual or emotional abuse, or other maltreatment or wasting
36 of his financial resources by another person;

37 (11) "Neglect", the failure to provide services to an eligible adult by any person, firm or
38 corporation with a legal or contractual duty to do so, when such failure presents either an
39 imminent danger to the health, safety, or welfare of the client or a substantial probability that
40 death or serious physical harm would result;

41 (12) "Protective services", services provided by the state or other governmental or private
42 organizations or individuals which are necessary for the eligible adult to meet his essential
43 human needs.

660.261. Upon receipt of a report that an eligible adult between the ages of eighteen and
2 fifty-nine is facing a likelihood of serious physical harm, the department shall:

3 (1) Investigate or refer the report to appropriate law enforcement **or state** agencies; and

4 (2) Provide services or refer to local community **or state** agencies.

660.270. When the department receives a report that there **has been abuse or neglect,**
2 **or that there otherwise** is a likelihood of serious physical harm to an eligible adult and that he
3 **or she** is in need of protective services and the department is unable to conduct an investigation

4 because access to the eligible adult is barred by any person, the director may petition the
5 appropriate court for a warrant **or other order** to enter upon the described premises and
6 investigate the report **or to produce the information**. The application for the warrant **or order**
7 shall identify the eligible adult and the facts and circumstances which require the issuance of the
8 warrant **or order**. The director may also seek an order to enjoin the person **from** barring access
9 **to an eligible adult or** from interfering with the investigation. If the court finds that, based on
10 the report and relevant circumstances and facts, probable cause exists showing that the eligible
11 adult faces **abuse or neglect, or otherwise faces** a likelihood of serious physical harm and is in
12 need of protective services and the director has been prevented by another person from
13 investigating the report, the court may issue the warrant or enjoin the interference with the
14 investigation or both.

660.300. 1. [Beginning January 1, 1993,] When any physician, dentist, chiropractor,
2 optometrist, podiatrist, **medical resident or intern, nurse practitioner, physician's assistant,**
3 medical examiner, social worker, psychologist, minister, Christian Science practitioner, peace
4 officer, pharmacist, physical therapist, in-home services owner, in-home services operator,
5 in-home services employee, or employee of the department of social services [or of], the
6 department of health and senior services or of the department of mental health, **coroner, dentist,**
7 **hospital, and clinic personnel engaged in examination, other health practitioners, mental**
8 **health professional, adult day care worker, probation or parole officer, law enforcement**
9 **official, or other person with the care of or responsibility for the case management of a**
10 **person sixty years of age or older or an eligible adult** has reasonable cause to believe that an
11 in-home services client has been abused or neglected, as a result of in-home services, he shall
12 immediately report or cause a report to be made to the department.

13 2. Any person required in subsection 1 of this section to report or cause a report to be
14 made to the department who fails to do so within a reasonable time after the act of abuse or
15 neglect is guilty of a class A misdemeanor.

16 3. The report shall contain the names and addresses of the in-home services provider
17 agency, the in-home services employee, the in-home services client, information regarding the
18 nature of the abuse or neglect, the name of the complainant, and any other information which
19 might be helpful in an investigation. **If the report is made by a physician of the in-home**
20 **services client the department shall maintain contact with the physician regarding the**
21 **progress of the investigation. When a report of suspected abuse or neglect of an in-home**
22 **services client is received by the department, the client's case manager shall be notified.**

23 4. In addition to those persons required to report under subsection 1 of this section, any
24 other person having reasonable cause to believe that an in-home services client has been abused
25 or neglected by an in-home services employee may report such information to the department.

26 5. Upon receipt of a report, the department shall initiate a prompt and thorough
27 investigation.

28 6. If the investigation indicates possible abuse or neglect of an in-home services client,
29 the investigator shall refer the complaint together with his report to the department director or
30 his designee for appropriate action. If, during the investigation or at its completion, the
31 department has reasonable cause to believe that immediate removal is necessary to protect the
32 in-home services client from abuse or neglect, the department or the local prosecuting attorney
33 may, or the attorney general upon request of the department shall, file a petition for temporary
34 care and protection of the in-home services client in a circuit court of competent jurisdiction.
35 The circuit court in which the petition is filed shall have equitable jurisdiction to issue an ex
36 parte order granting the department authority for the temporary care and protection of the
37 in-home services client, for a period not to exceed thirty days.

38 7. **If the alleged perpetrator of abuse or neglect is an in-home services employee,**
39 **and such employee has been determined guilty by a court of competent jurisdiction and the**
40 **supervising in-home service provider fails to report a known incident of abuse or neglect**
41 **by such employee to the department, the department may impose an administrative penalty**
42 **of one thousand dollars per violation against such supervising in-home service provider.**

43 8. Reports shall be confidential, as provided under section 660.320.

44 [8.] 9. Anyone, except any person who has abused or neglected an in-home services
45 client, who makes a report pursuant to this section or who testifies in any administrative or
46 judicial proceeding arising from the report shall be immune from any civil or criminal liability
47 for making such a report or for testifying except for liability for perjury, unless such person acted
48 negligently, recklessly, in bad faith, or with malicious purpose.

49 [9.] 10. Within five working days after a report required to be made under this section
50 is received, the person making the report shall be notified in writing of its receipt and of the
51 initiation of the investigation.

52 [10.] 11. No person who directs or exercises any authority in an in-home services
53 provider agency shall harass, dismiss or retaliate against an in-home services client or an in-home
54 services employee because he or any member of his family has made a report of any violation
55 or suspected violation of laws, standards or regulations applying to the in-home services provider
56 agency or any in-home services employee which he has reasonable cause to believe has been
57 committed or has occurred.

58 [11.] 12. Any person who [knowingly] abuses or neglects a resident of a facility shall be
59 [guilty of a class D felony] **subject to criminal prosecution pursuant to section 565.180,**
60 **565.182, or 565.184, RSMo.**

61 [12.] 13. The department shall maintain the employee disqualification list and place on

62 the employee disqualification list the names of any persons who **are or have been employed by**
63 **an in-home service provider agency and who** have been finally determined by the department,
64 pursuant to section 660.315, to have [recklessly, knowingly or purposely abused or neglected]
65 **abused or neglected** an in-home services client [while employed by an in-home services
66 provider agency]. **For purposes of this subsection only, "knowingly" and "recklessly" shall**
67 **have the terms that are prescribed to them in this subsection. A person acts "knowingly"**
68 **with respect to the person's conduct when a reasonable person should be aware of the**
69 **result caused by his or her conduct. A person acts "recklessly" when the person**
70 **consciously disregards a substantial and unjustifiable risk that the person's conduct will**
71 **result in serious physical injury and such disregard constitutes a gross deviation from the**
72 **standard of care that a reasonable person would exercise in the situation.**

660.305. 1. Any person having reasonable cause to believe that a misappropriation of
2 an in-home services client's property or funds, or the falsification of any documents verifying
3 service delivery to the in-home services client has occurred, may report such information to the
4 department.

5 2. For each report the [division] **department** shall attempt to obtain the names and
6 addresses of the in-home services provider agency, the in-home services employee, the in-home
7 services client, information regarding the nature of the misappropriation or falsification, the
8 name of the complainant, and any other information which might be helpful in an investigation.

9 3. Any in-home services provider agency or in-home services employee who puts to his
10 own use or the use of the in-home services provider agency or otherwise diverts from the
11 in-home services client's use any personal property or funds of the in-home services client, or
12 falsifies any documents for service delivery, shall be guilty of a class A misdemeanor.

13 4. Upon receipt of a report, the department shall **immediately** initiate an investigation
14 **and report information gained from such investigation to appropriate law enforcement**
15 **authorities.**

16 5. If the investigation indicates probable misappropriation of property or funds, or
17 falsification of any documents for service delivery of an in-home services client, the investigator
18 shall refer the complaint together with his report to the department director or his designee for
19 appropriate action.

20 6. Reports shall be confidential, as provided under section 660.320.

21 7. Anyone, except any person participating in or benefiting from the misappropriation
22 of funds, who makes a report pursuant to this section or who testifies in any administrative or
23 judicial proceeding arising from the report shall be immune from any civil or criminal liability
24 for making such a report or for testifying except for liability for perjury, unless such person acted
25 negligently, recklessly, in bad faith, or with malicious purpose.

26 8. Within five working days after a report required to be made under this section is
27 received, the person making the report shall be notified in writing of its receipt and of the
28 initiation of the investigation.

29 9. No person who directs or exercises any authority in an in-home services provider
30 agency shall harass, dismiss or retaliate against an in-home services client or employee because
31 he or any member of his family has made a report of any violation or suspected violation of laws,
32 ordinances or regulations applying to the in-home services provider agency or any in-home
33 services employee which he has reasonable cause to believe has been committed or has occurred.

34 10. The department shall maintain the employee disqualification list and place on the
35 employee disqualification list the names of any persons who **are or have been employed by an**
36 **in-home service provider agency and who** have been finally determined by the department to,
37 pursuant to section 660.315, have misappropriated any property or funds, or falsified any
38 documents for service delivery of an in-home services client **and who came to be known to the**
39 **person, directly, or indirectly** while employed by an in-home services provider agency. **For**
40 **purposes of this subsection only, "knowingly" and "recklessly" shall have the terms that**
41 **are prescribed to them in this subsection. A person acts "knowingly" with respect to the**
42 **person's conduct when a reasonable person should be aware of the result caused by his or**
43 **her conduct. A person acts "recklessly" when the person consciously disregards a**
44 **substantial and unjustifiable risk that the person's conduct will result in serious physical**
45 **injury and such disregard constitutes a gross deviation from the standard of care that a**
46 **reasonable person would exercise in the situation.**

660.310. 1. Notwithstanding any other provision of law, if the department of health
2 **and senior services proposes to deny, suspend, place on probation or terminate an in-home**
3 **services provider agency contract, the department of health and senior services shall serve**
4 **upon the applicant or contractor written notice of the proposed action to be taken. The**
5 **notice shall contain a statement of the type of action proposed, the basis for it, the date the**
6 **action will become effective, and a statement that the applicant or contractor shall have**
7 **thirty days from the date of mailing or delivery of the notice to file a complaint requesting**
8 **a hearing before the administrative hearing commission. The administrative hearing**
9 **commission may consolidate an applicant's or contractor's complaint with any proceeding**
10 **before the administrative hearing commission filed by such contractor or applicant**
11 **pursuant to subsection 3 of section 208.156, RSMo, involving a common question of law or**
12 **fact. Upon the filing of the complaint, the provisions of sections 621.110, 621.125, 621.135,**
13 **and 621.145, RSMo, shall apply. With respect to cases in which the department has denied**
14 **a contract to an in-home services provider agency, the administrative hearing commission**
15 **shall conduct a hearing to determine the underlying basis for such denial. However, in the**

16 event that the administrative hearing commission finds that the contract denial is
17 supported by the facts and the law, the case need not be returned to the department. The
18 administrative hearing commission's decision shall constitute affirmation of the
19 department's contract denial.

20 2. The department of health and senior services may issue letters of censure or
21 warning without formal notice or hearing.

22 3. The administrative hearing commission may stay the suspension or termination
23 of an in-home services provider agency's contract, or the placement of the contractor on
24 probation, pending the commission's findings and determination in the cause, upon such
25 conditions, with or without the agreement of the parties, as the commission deems
26 necessary and appropriate, including the posting of bond or other security except that the
27 commission shall not grant a stay, or if a stay has already been entered shall set aside its
28 stay, unless the commission finds that the contractor has established that servicing the
29 department's clients pending the commission's final determination would not present an
30 imminent danger to the health, safety, or welfare of any client or a substantial probability
31 that death or serious physical harm would result. The commission may dissolve the stay
32 at any time that it finds that the contractor has violated any of the conditions of the stay.
33 Such stay shall remain in effect, unless earlier dissolved by the commission, pending the
34 decision of the commission and any subsequent departmental action at which time the stay
35 shall be dissolved. In any case in which the department has refused to issue a contract, the
36 commission shall have no authority to stay or to require the issuance of a contract pending
37 final determination by the commission.

38 4. Stays granted to contractors by the administrative hearing commission shall, as
39 a condition of the stay, require at a minimum that the contractor under the stay operate
40 under the same contractual requirements and regulations as are in effect, from time to
41 time, as are applicable to all other contractors in the program.

42 5. The administrative hearing commission shall make its final decision based upon
43 the circumstances and conditions as they existed at the time of the action of the department
44 and not based upon circumstances and conditions at the time of the hearing or decision of
45 the commission.

46 6. In any proceeding before the administrative hearing commission pursuant to this
47 section, the burden of proof shall be on the contractor or applicant seeking review.

48 7. Any person, including the department, aggrieved by a final decision of the
49 administrative hearing commission may seek judicial review of such decision as provided
50 in section 621.145.

660.315. 1. After an investigation and a determination has been made to place a person's

2 name on the employee disqualification list, that person shall be notified in writing mailed to his
3 last known address that:

4 (1) An allegation has been made against [him] **the person**, the substance of the
5 allegation and that an investigation has been conducted which tends to substantiate the
6 allegation;

7 (2) [His] **The person's** name will be included in the employee disqualification list of the
8 department;

9 (3) The consequences of being so listed including the length of time to be listed; and

10 (4) [His] **The person's** rights and the procedure to challenge the allegation.

11 2. If no reply has been received within thirty days of mailing the notice, the department
12 may include the name of such person on its list. The length of time the person's name shall
13 appear on the employee disqualification list shall be determined by the director or his designee,
14 based upon the criteria contained in subsection 9 of this section.

15 3. If the person so notified wishes to challenge the allegation, he may file an application
16 for a hearing with the department. The department shall grant the application within thirty days
17 after receipt by the department and set the matter for hearing, or the department shall notify the
18 applicant that, after review, the allegation has been held to be unfounded and the applicant's
19 name will not be listed.

20 4. If a person's name is included on the employee disqualification list without notice by
21 the department, such person may file a request with the department for removal of the name or
22 for a hearing. Within thirty days after receipt of the request, the department shall either remove
23 the name from the list or grant a hearing and set a date therefor.

24 5. Any hearing shall be conducted in the county of the person's residence by the director
25 of the [division of aging] **department** or his **or her** designee. The provisions of chapter 536,
26 RSMo, for a contested case except those provisions or amendments which are in conflict with
27 this section, shall apply to and govern the proceedings contained in this section and the rights and
28 duties of the parties involved. The person appealing such an action shall be entitled to present
29 evidence, pursuant to the provisions of chapter 536, RSMo, relevant to the allegations.

30 6. Upon the record made at the hearing, the director of the [division of aging]
31 **department or his or her designee** shall determine all questions presented and shall determine
32 whether the person shall be listed on the employee disqualification list. The director of the
33 [division of aging] **department or his or her designee** shall clearly state the reasons for his
34 decision and shall include a statement of findings of fact and conclusions of law pertinent to the
35 questions in issue.

36 7. A person aggrieved by the decision following the hearing shall be informed of his
37 right to seek judicial review as provided under chapter 536, RSMo. If the person fails to appeal

38 the director's findings, those findings shall constitute a final determination that the person shall
39 be placed on the employee disqualification list.

40 8. A decision by the director shall be inadmissible in any civil action brought against a
41 facility or the in-home services provider agency and arising out of the facts and circumstances
42 which brought about the employment disqualification proceeding, unless the civil action is
43 brought against the facility or the in-home services provider agency by the department of [social
44 services] **health and senior services** or one of its divisions.

45 9. The length of time the person's name shall appear on the employee disqualification
46 list shall be determined by the director **of the department of health and senior services** or his
47 **or her** designee, based upon the following:

48 (1) Whether the person acted recklessly[,] **or** knowingly [or purposely], as defined in
49 chapter 562, RSMo;

50 (2) The degree of the [infliction of] physical, sexual, or emotional injury or harm; or the
51 degree of the imminent danger to the health, safety or welfare of a resident or in-home services
52 client;

53 (3) The degree of misappropriation of the property or funds, or falsification of any
54 documents for service delivery of an in-home services client;

55 (4) Whether the person has previously been listed on the employee disqualification list;

56 (5) Any mitigating circumstances; [and]

57 (6) **Any aggravating circumstances; and**

58 (7) Whether alternative sanctions resulting in conditions of continued employment are
59 appropriate in lieu of placing a person's name on the employee disqualification list. Such
60 conditions of employment may include, but are not limited to, additional training and employee
61 counseling. Conditional employment shall terminate upon the expiration of the designated
62 length of time and the person's submitting documentation which fulfills the [division's]
63 **department of health and senior services'** requirements.

64 10. The removal of any person's name from the list under this section shall not prevent
65 the director from keeping records of all acts finally determined to have occurred under this
66 section.

67 11. The department shall provide the list maintained pursuant to this section to other
68 state departments upon request and to any person, corporation or association who:

69 (1) Is licensed as an operator under chapter 198, RSMo;

70 (2) Provides in-home services under contract with the department;

71 (3) Employs nurses and nursing assistants for temporary or intermittent placement in
72 health care facilities;

73 (4) Is approved by the department to issue certificates for nursing assistants training; or

74 (5) Is an entity licensed under chapter 197, RSMo.

75 The department shall inform any person listed above who inquires of the [division of aging]
76 **department** whether or not a particular name is on the list. The [division] **department** may
77 require that the request be made in writing.

78 12. No person, corporation or association who received the employee disqualification
79 list under subsection 11 of this section shall knowingly employ any person who is on the
80 employee disqualification list. Any person, corporation or association who received the
81 employee disqualification list under subsection 11 of this section, or any person responsible for
82 providing health care service, who declines to employ or terminates a person whose name is
83 listed in this section shall be immune from suit by that person or anyone else acting for or in
84 behalf of that person for the failure to employ or for the termination of the person whose name
85 is listed on the employee disqualification list.

86 13. **Any employer who is required to discharge an employee because the employee**
87 **was placed on a disqualification list maintained by the department of health and senior**
88 **services after the date of hire shall not be charged for unemployment insurance benefits**
89 **based on wages paid to the employee for work prior to the date of discharge, pursuant to**
90 **section 288.100, RSMo.**

91 14. Any person who has been listed on the employee disqualification list may request
92 that the director remove his name from the employee disqualification list. The request shall be
93 written and may not be made more than once every twelve months. The request will be granted
94 by the director upon a clear showing, by written submission only, that the person will not commit
95 additional acts of abuse, neglect, misappropriation of the property or funds, or the falsification
96 of any documents of service delivery to an in-home services client. The director may make
97 conditional the removal of a person's name from the list on any terms that the director deems
98 appropriate, and failure to comply with such terms may result in the person's name being relisted.
99 The director's determination of whether to remove the person's name from the list is not subject
100 to appeal.

660.317. 1. For the purposes of this section, the term "provider" means any person,
2 corporation or association who:

3 (1) Is licensed as an operator pursuant to chapter 198, RSMo;

4 (2) Provides in-home services under contract with the department;

5 (3) Employs nurses or nursing assistants for temporary or intermittent placement in
6 health care facilities; [or]

7 (4) Is an entity licensed pursuant to chapter 197, RSMo;

8 (5) Is a public or private facility, day program, residential facility or specialized service
9 operated, funded or licensed by the department of mental health; **or**

10 **(6) Is a licensed adult day care provider.**

11 2. For the purpose of this section "patient or resident" has the same meaning as such term
12 is defined in section 43.540, RSMo.

13 3. [Beginning August 28, 1997, not later than two working days of hiring any person for]
14 **Prior to allowing any person who has been hired as a full-time, part-time or temporary**
15 **position to have contact with any patient or resident the provider shall, or in the case of**
16 **temporary employees hired through or contracted for an employment agency, the employment**
17 **agency shall prior to sending a temporary employee to a provider:**

18 (1) Request a criminal background check as provided in section 43.540, RSMo.
19 Completion of an inquiry to the highway patrol for criminal records that are available for
20 disclosure to a provider for the purpose of conducting an employee criminal records background
21 check shall be deemed to fulfill the provider's duty to conduct employee criminal background
22 checks pursuant to this section; except that, completing the inquiries pursuant to this subsection
23 shall not be construed to exempt a provider from further inquiry pursuant to common law
24 requirements governing due diligence. **If an applicant has not resided in this state for five**
25 **consecutive years prior to the date of their application for employment, the provider shall**
26 **request a nationwide check for the purpose of determining if the applicant has a prior**
27 **criminal history in other states. The fingerprint cards and any required fees shall be sent**
28 **to the highway patrol's criminal records divisions. The first set of fingerprints shall be**
29 **used for searching the state repository of criminal history information. If no identification**
30 **is made, the second set of fingerprints shall be forwarded to the Federal Bureau of**
31 **Investigation, Identification Division, for the searching of the federal criminal history files.**
32 **The patrol shall notify the submitting state agency of any criminal history information or**
33 **lack of criminal history information discovered on the individual. Notwithstanding the**
34 **provisions of section 610.120, RSMo, all records related to any criminal history**
35 **information discovered shall be accessible and available to the provider making the record**
36 **request; and**

37 (2) Make an inquiry to the department of [social services] **health and senior services,**
38 **whether the person is listed on the employee disqualification list as provided in section 660.315.**

39 4. When the provider requests a criminal background check pursuant to section [43.530]
40 **43.540, RSMo, the requesting entity may require that the applicant reimburse the provider for**
41 **the cost of such record check. When a provider requests a nationwide criminal background**
42 **check pursuant to subdivision (1) of subsection 3 of this section the state shall charge the**
43 **cost of the background check which shall not exceed five dollars.**

44 5. An applicant for a position to have contact with patients or residents of a provider
45 shall:

46 (1) Sign a consent form as required by section 43.540, RSMo, so the provider may
47 request a criminal records review;

48 (2) Disclose the applicant's criminal history. For the purposes of this subdivision
49 "criminal history" includes any conviction or a plea of guilty to a misdemeanor or felony charge
50 and shall include any suspended imposition of sentence, any suspended execution of sentence
51 or any period of probation or parole; and

52 (3) Disclose if the applicant is listed on the employee disqualification list as provided
53 in section 660.315.

54 6. An applicant who knowingly fails to disclose his criminal history as required in
55 subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class
56 A misdemeanor if the provider knowingly hires **or retains** a person to have contact with patients
57 or residents and the person has been convicted of, pled guilty to or nolo contendere in this state
58 or any other state or has been found guilty of a crime, which if committed in Missouri would be
59 a class A or B felony violation of chapter 565, 566 or 569, RSMo, or any violation of subsection
60 3 of section 198.070, RSMo, or section 568.020, RSMo.

61 7. The highway patrol shall examine whether protocols can be developed to allow a
62 provider to request a statewide fingerprint criminal records review check through local law
63 enforcement agencies.

64 8. A provider may use a private investigatory agency rather than the highway patrol to
65 do a criminal history records review check, and alternatively, the applicant pays the private
66 investigatory agency such fees as the provider and such agency shall agree.

67 9. The department of [social services] **health and senior services** shall promulgate rules
68 and regulations to waive the hiring restrictions pursuant to this section for good cause. For
69 purposes of this section, "good cause" means the department has made a determination by
70 examining the employee's prior work history and other relevant factors that such employee does
71 not present a risk to the health or safety of residents.

72 **10. The provisions of subsection 3 of this section shall not apply to employees of any**
73 **provider as defined in this section who were employed prior to August 28, 2003.**

660.320. 1. Reports confidential under section 198.070, RSMo, and sections 660.300
2 to 660.315 shall not be deemed a public record and shall not be subject to the provisions of
3 section 109.180, RSMo, or chapter 610, RSMo. The name of the complainant or any person
4 mentioned in the reports shall not be disclosed unless:

5 (1) The complainant, resident or the in-home services client mentioned agrees to
6 disclosure of his **or her** name;

7 (2) The department determines that disclosure is necessary in order to prevent further
8 abuse, neglect, misappropriation of property or funds, or falsification of any documents verifying

9 service delivery to an in-home services client;

10 (3) Release of a name is required for conformance with a lawful subpoena;

11 (4) Release of a name is required in connection with a review by the administrative
12 hearing commission in accordance with section 198.039, RSMo;

13 (5) The department determines that release of a name is appropriate when forwarding
14 a report of findings of an investigation to a licensing authority; or

15 (6) Release of a name is requested by the division of family services for the purpose of
16 licensure under chapter 210, RSMo.

17 **2. The department shall, upon request, provide to the division of employment
18 security within the department of labor and industrial relations copies of the investigative
19 reports that led to an employee being placed on the disqualification list.**

**660.321. Notwithstanding any other provision of law, the department shall not
2 disclose personally identifiable medical, social, personal, or financial records of any eligible
3 adult being served by the division of senior services except when disclosed in a manner that
4 does not identify the eligible adult, or when ordered to do so by a court of competent
5 jurisdiction. Such records shall be accessible without court order for examination and
6 copying only to the following persons or offices, or to their designees:**

7 **(1) The department or any person or agency designated by the department for such
8 purposes as the department may determine;**

9 **(2) The attorney general, to perform his constitutional or statutory duties;**

10 **(3) The department of mental health for residents placed through that department,
11 to perform its constitutional or statutory duties;**

12 **(4) Any appropriate law enforcement agency, to perform its constitutional or
13 statutory duties;**

14 **(5) The eligible adult, his or her legal guardian; and**

15 **(6) The department of social services for individuals who receive Medicaid benefits,
16 to perform its constitutional or statutory duties.**