

HOUSE AMENDMENT NO. _____
TO
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Offered By

1 AMEND House Amendment No. _____ to Senate Bill No. 194, Page 3, Line 44, by inserting
2 immediately after said line the following:

3
4 "192.2495. 1. For the purposes of this section, the term "provider" means any person,
5 corporation or association who:

6 (1) Is licensed as an operator pursuant to chapter 198;

7 (2) Provides in-home services under contract with the department of social services or its
8 divisions;

9 (3) Employs health care providers as defined in section 376.1350 for temporary or
10 intermittent placement in health care facilities;

11 (4) Is an entity licensed pursuant to chapter 197;

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

14 (6) Is a licensed adult day care provider.

15 2. For the purpose of this section "patient or resident" has the same meaning as such term is
16 defined in section 43.540.

17 3. Prior to allowing any person who has been hired as a full-time, part-time or temporary
18 position to have contact with any patient or resident the provider shall, or in the case of temporary
19 employees hired through or contracted for an employment agency, the employment agency shall
20 prior to sending a temporary employee to a provider:

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

Action Taken _____ Date _____

1 the submitting state agency of any criminal history information or lack of criminal history
 2 information discovered on the individual. The provisions relating to applicants for employment
 3 who have not resided in this state for five consecutive years shall apply only to persons who have no
 4 employment history with a licensed Missouri facility during that five-year period. Notwithstanding
 5 the provisions of section 610.120, all records related to any criminal history information discovered
 6 shall be accessible and available to the provider making the record request; and

7 (2) Make an inquiry to the department of health and senior services whether the person is
 8 listed on the employee disqualification list as provided in section 192.2490.

9 4. When the provider requests a criminal background check pursuant to section 43.540, the
 10 requesting entity may require that the applicant reimburse the provider for the cost of such record
 11 check. When a provider requests a nationwide criminal background check pursuant to subdivision
 12 (1) of subsection 3 of this section, the total cost to the provider of any background check required
 13 pursuant to this section shall not exceed five dollars which shall be paid to the state. State funding
 14 and the obligation of a provider to obtain a nationwide criminal background check shall be subject
 15 to the availability of appropriations.

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

17 (1) Sign a consent form as required by section 43.540 so the provider may request a
 18 criminal records review;

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

23 (3) Disclose if the applicant is listed on the employee disqualification list as provided in
 24 section 192.2490; and

25 (4) Disclose if the applicant is listed on any of the background checks in the family care
 26 safety registry established under section 210.903. A provider not otherwise prohibited from
 27 employing an individual listed on such background checks may deny employment to an individual
 28 listed on any of the background checks in such registry.

29 6. An applicant who knowingly fails to disclose his or her criminal history as required in
 30 subsection 5 of this section is guilty of a class A misdemeanor. A provider is guilty of a class A
 31 misdemeanor if the provider knowingly hires or retains a person to have contact with patients or
 32 residents and the person has been found guilty in this state or any other state or has been found
 33 guilty of a crime, which if committed in Missouri would be a class A or B felony violation of
 34 chapter 565, 566 or 569, or any violation of subsection 3 of section 198.070 or section 568.020.

35 7. Any in-home services provider agency or home health agency shall be guilty of a class A
 36 misdemeanor if such agency knowingly employs a person to provide in-home services or home
 37 health services to any in-home services client or home health patient and such person either refuses
 38 to register with the family care safety registry or ~~[is listed on any of the background check lists in~~
 39 ~~the family care safety registry pursuant to sections 210.900 to 210.937]~~ if such person:

40 (1) Has any of the disqualifying factors listed in subsection 6 of this section;

41 (2) Has been found guilty of or pleaded guilty or nolo contendere to any felony offense
 42 under chapter 195;

43 (3) Has been found guilty of or pleaded guilty or nolo contendere to any felony offense
 44 under section 568.020, 568.045, 568.050, 568.060, 568.175, 570.030, 570.040, 570.090, 570.145,
 45 570.223, 575.230, or 576.080;

46 (4) Has been found guilty of or pleaded guilty or nolo contendere to a violation of section
 47 577.010 or 577.012 and who is alleged and found by the court to be an aggravated or chronic
 48 offender under section 577.023;

1 (5) Has been found guilty of or pleaded guilty or nolo contendere to any offense requiring
2 registration under section 589.400;

3 (6) Is listed on the department of health and senior services employee disqualification list;

4 (7) Is listed on the department of mental health disqualification registry; or

5 (8) Has a finding on the child abuse and neglect registry under sections 210.109 to 210.183.

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

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

12 10. Except for the hiring restriction based on the department of health and senior services
13 employee disqualification list established pursuant to section 192.2490, the department of health and
14 senior services shall promulgate rules and regulations to waive the hiring restrictions pursuant to
15 this section for good cause. For purposes of this section, "good cause" means the department has
16 made a determination by examining the employee's prior work history and other relevant factors
17 that such employee does not present a risk to the health or safety of residents."; and
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19 Further amend said amendment, Page 4, Line 37, by inserting after said line the following:
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21 "208.909. 1. Consumers receiving personal care assistance services shall be responsible for:

22 (1) Supervising their personal care attendant;

23 (2) Verifying wages to be paid to the personal care attendant;

24 (3) Preparing and submitting time sheets, signed by both the consumer and personal care
25 attendant, to the vendor on a biweekly basis;

26 (4) Promptly notifying the department within ten days of any changes in circumstances
27 affecting the personal care assistance services plan or in the consumer's place of residence;

28 (5) Reporting any problems resulting from the quality of services rendered by the personal
29 care attendant to the vendor. If the consumer is unable to resolve any problems resulting from the
30 quality of service rendered by the personal care attendant with the vendor, the consumer shall report
31 the situation to the department; and

32 (6) Providing the vendor with all necessary information to complete required paperwork for
33 establishing the employer identification number.

34 2. Participating vendors shall be responsible for:

35 (1) Collecting time sheets or reviewing reports of delivered services and certifying the
36 accuracy thereof;

37 (2) The Medicaid reimbursement process, including the filing of claims and reporting data
38 to the department as required by rule;

39 (3) Transmitting the individual payment directly to the personal care attendant on behalf of
40 the consumer;

41 (4) Monitoring the performance of the personal care assistance services plan.

42 3. No state or federal financial assistance shall be authorized or expended to pay for services
43 provided to a consumer under sections 208.900 to 208.927, if the primary benefit of the services is
44 to the household unit, or is a household task that the members of the consumer's household may
45 reasonably be expected to share or do for one another when they live in the same household, unless
46 such service is above and beyond typical activities household members may reasonably provide for
47 another household member without a disability.

48 4. No state or federal financial assistance shall be authorized or expended to pay for

1 personal care assistance services provided by a personal care attendant who [~~is listed on any of the~~
2 ~~background check lists in the family care safety registry under sections 210.900 to 210.937~~] has not
3 undergone the background screening process under section 192.2495. If the personal care attendant
4 has a disqualifying finding under section 192.2495, no state or federal assistance can be made,
5 unless a good cause waiver is first obtained from the department in accordance with section
6 192.2495.

7 5. (1) All vendors shall, by July 1, 2015, have, maintain, and use a telephone tracking
8 system for the purpose of reporting and verifying the delivery of consumer-directed services as
9 authorized by the department of health and senior services or its designee. Use of such a system
10 prior to July 1, 2015, shall be voluntary. The telephone tracking system shall be used to process
11 payroll for employees and for submitting claims for reimbursement to the MO HealthNet division.
12 At a minimum, the telephone tracking system shall:

- 13 (a) Record the exact date services are delivered;
- 14 (b) Record the exact time the services begin and exact time the services end;
- 15 (c) Verify the telephone number from which the services are registered;
- 16 (d) Verify that the number from which the call is placed is a telephone number unique to the
17 client;
- 18 (e) Require a personal identification number unique to each personal care attendant;
- 19 (f) Be capable of producing reports of services delivered, tasks performed, client identity,
20 beginning and ending times of service and date of service in summary fashion that constitute
21 adequate documentation of service; and
- 22 (g) Be capable of producing reimbursement requests for consumer approval that assures
23 accuracy and compliance with program expectations for both the consumer and vendor.

24 (2) The department of health and senior services, in collaboration with other appropriate
25 agencies, including centers for independent living, shall establish telephone tracking system pilot
26 projects, implemented in two regions of the state, with one in an urban area and one in a rural area.
27 Each pilot project shall meet the requirements of this section and section 208.918. The department
28 of health and senior services shall, by December 31, 2013, submit a report to the governor and
29 general assembly detailing the outcomes of these pilot projects. The report shall take into
30 consideration the impact of a telephone tracking system on the quality of the services delivered to
31 the consumer and the principles of self-directed care.

32 (3) As new technology becomes available, the department may allow use of a more
33 advanced tracking system, provided that such system is at least as capable of meeting the
34 requirements of this subsection.

35 (4) The department of health and senior services shall promulgate by rule the minimum
36 necessary criteria of the telephone tracking system. Any rule or portion of a rule, as that term is
37 defined in section 536.010, that is created under the authority delegated in this section shall become
38 effective only if it complies with and is subject to all of the provisions of chapter 536 and, if
39 applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers
40 vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to
41 disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking
42 authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

43 6. In the event that a consensus between centers for independent living and representatives
44 from the executive branch cannot be reached, the telephony report issued to the general assembly
45 and governor shall include a minority report which shall detail those elements of substantial dissent
46 from the main report.

47 7. No interested party, including a center for independent living, shall be required to
48 contract with any particular vendor or provider of telephony services nor bear the full cost of the

1 pilot program."; and

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

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6 THIS AMENDS AMENDMENT 0792S01.03H.