

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 977
100TH GENERAL ASSEMBLY

2077H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 198, RSMo, by adding thereto one new section relating to social model end-of-life care homes, with penalty provisions.

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

Section A. Chapter 198, RSMo, is amended by adding thereto one new section, to be
2 known as section 198.190, to read as follows:

198.190. 1. As used in this section, the following terms mean:

- 2 **(1) "Abuse", the infliction of physical, sexual, or emotional injury or harm;**
3 **(2) "Department", the department of health and senior services;**
4 **(3) "End-of-life care home" or "home", a home-like dwelling place that provides**
5 **shelter and services based on the abilities, desires, and functional needs of terminally ill**
6 **residents;**
7 **(4) "License", the document issued by the department in accordance with the**
8 **provisions of this section which authorizes an entity to operate a home;**
9 **(5) "Operator", any entity licensed or required to be licensed under the provisions**
10 **of this section to operate an end-of-life home;**
11 **(6) "Resident", an individual who has a life expectancy of six months or less who**
12 **is enrolled in a hospice program and in residence of an end-of-life home;**
13 **(7) "Staff-resident ratio", the number of staff required by the department in**
14 **relation to the number of residents being cared for by such staff;**
15 **(8) "Substantial noncompliance", any violation of a class I or class II standard or**
16 **twenty or more violations of class III standards; and**
17 **(9) "Support persons", family or friends of the resident who assist the home in**
18 **providing care for the resident.**

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

19 **2. It shall be unlawful to operate a home without a proper license.**

20 **(1) All applications for licenses shall be made on forms provided by the department**
21 **and in the manner prescribed by the department. Each application for a license, or the**
22 **renewal thereof, shall be accompanied by a nonrefundable fee in the amount required by**
23 **the department. The fee, to be determined by the department, shall not exceed one**
24 **hundred dollars.**

25 **(2) The applicant shall submit all documents required by the department under this**
26 **section attesting by signature that the statements contained in the application are true and**
27 **correct to the best of the applicant's knowledge and belief, and that all required documents**
28 **are either included with the application or are currently on file with the department.**

29 **(3) Within ten working days of the effective date of any document that replaces,**
30 **succeeds, or amends any of the documents required by the department to be filed pursuant**
31 **to this section, an operator shall file with the department a copy of such document. The**
32 **operator shall attest by signature that the document is true and correct.**

33 **(4) If an operator fails to file documents or amendments to documents as required**
34 **pursuant to this section and such failure is part of a pattern or practice of concealment,**
35 **such failure shall be sufficient grounds for revocation of a license or disapproval of an**
36 **application for a license.**

37 **(5) Upon receipt of an application for a license to operate a home, the department**
38 **shall review the application, investigate the applicant and the statements sworn to in the**
39 **application for licensure and conduct any necessary inspections. A license shall be issued**
40 **if the following requirements are met:**

41 **(a) The statements in the application are true and correct;**

42 **(b) The home is in substantial compliance with the provisions of this section and**
43 **the standards established thereunder;**

44 **(c) Neither the operator nor any principals in the operation of the home have ever**
45 **been convicted of a felony offense concerning the operation of any facility providing care**
46 **to children or adults;**

47 **(d) Neither the operator nor any principals in the operation of the home are listed**
48 **on the employee disqualification list maintained by the department; and**

49 **(e) All fees due to the state have been paid.**

50 **(6) Such license shall be valid for the period designated by the department, which**
51 **period shall not exceed two years from the date of issuance, for the home and persons**
52 **named in the application.**

53 **(7) Upon denial of any application for a license, the department shall notify the**
54 **applicant in writing, setting forth therein the reasons and grounds for denial.**

55 (8) Each license issued under this section shall include the name of the operator, the
56 name of the home or homes, the location of the home or homes, the number of residents
57 who may be served in each home, and the period for which such license is valid.

58 (9) The department may grant an operator a temporary operating permit in order
59 to allow for state review of the application and inspection for the purposes of relicensure
60 if the application review and inspection process has not been completed prior to the
61 expiration of a license and the applicant is not at fault for the failure to complete the
62 application review and inspection process.

63 3. Whenever a duly authorized representative of the department finds, upon an
64 inspection of a home, that it is not in compliance with the provisions of this section and the
65 standards established thereunder, the operator shall be informed of the deficiencies in an
66 exit interview conducted with the operator or its designee.

67 (1) The department shall inform the operator or designee, in writing, of any
68 violation of a class I standard at the time the determination is made. If there is a violation
69 of any class I standard, immediate corrective action shall be taken by the operator or
70 designee and a written plan of correction shall be submitted to the department. A written
71 report shall be prepared of any deficiency, and a copy of such report and a written
72 correction order shall be sent to the operator or designee by certified mail, or other
73 delivery service that provides a dated receipt of delivery, at the home address within ten
74 working days after the inspection, stating separately each deficiency and the specific
75 statute or regulation violated.

76 (2) The operator or designee shall have five working days following receipt of a
77 written report and correction order regarding a violation of a class I standard, and ten
78 working days following receipt of the report and correction order regarding violations of
79 class II or class III standards, to submit a plan of correction for the department's approval
80 that contains specific dates for achieving compliance. Within five working days after
81 receiving a plan of correction regarding a violation of a class I standard, and within ten
82 working days after receiving a plan of correction regarding a violation of a class II or III
83 standard, the department shall give its written approval or rejection of the plan.

84 (3) If there was a violation of a class I standard, an unannounced reinspection shall
85 be conducted within twenty calendar days of the exit interview to determine if the violation
86 has been corrected. If there was a violation of any class II standard and the plan of
87 correction is acceptable, an unannounced reinspection shall be conducted between forty
88 and ninety calendar days from the date of the exit conference to determine the status of all
89 previously cited violations. If there was a violation of class III standards sufficient to
90 establish that the home was not in substantial compliance, an unannounced reinspection

11 shall be conducted within one hundred twenty days of the exit interview to determine the
12 status of previously identified deficiencies.

13 (4) In establishing standards for homes, the department shall classify the standards
14 into three categories as follows:

15 (a) Class I standards are standards the violation of which would present either an
16 imminent danger to the health, safety, or welfare of any resident or a substantial
17 probability that death or serious physical harm would result;

18 (b) Class II standards are standards that have a direct or immediate relationship
19 to the health, safety, or welfare of any resident but do not create imminent danger;

20 (c) Class III standards are standards that have an indirect or a potential impact on
21 the health, safety, or welfare of any resident.

22 (5) Every operator shall make available the most recent inspection report of the
23 home. If the operator determines that the inspection report of the home contains
24 individually identifiable health information, the operator may redact such information
25 prior to making the inspection report available.

26 (6) If an operator submits satisfactory documentation that establishes correction
27 of any deficiency contained within the written report of deficiency required by this section,
28 an on-site revisit of such home may not be required.

29 (7) If following the reinspection the home is found not in substantial compliance
30 with this section and the standards established thereunder or the operator is not correcting
31 the noncompliance in accordance with the plan of correction, the department shall issue
32 a notice of noncompliance, which shall be sent by certified mail or other delivery service
33 that provides a dated receipt of delivery to the operator, according to the most recent
34 information or documents on file with the department.

35 (8) The notice of noncompliance shall inform the operator that the department may
36 seek the imposition of any other action authorized by law.

37 (9) At any time after an inspection is conducted, the operator may choose to enter
38 into a consent agreement with the department to obtain a probationary license. The
39 consent agreement shall include a provision that the operator will voluntarily surrender
40 the license if substantial compliance is not reached in accordance with the terms and
41 deadlines established under the agreement. The agreement shall specify the stages, actions,
42 and time span to achieve substantial compliance.

43 (10) Whenever a notice of noncompliance has been issued, the operator shall post
44 a copy of the notice of noncompliance and a copy of the most recent inspection report in
45 a conspicuous location in the home, and the department shall send a copy of the notice of
46 noncompliance to concerned federal, state, or local governmental agencies.

127 **4. The department may revoke a license in any case in which it finds that:**

128 **(1) The operator failed or refused to comply with class I or II standards, as**
129 **established by the department pursuant to this section; or failed or refused to comply with**
130 **class III standards, where the aggregate effect of such noncompliance presents either an**
131 **imminent danger to the health, safety or welfare of any resident or a substantial**
132 **probability that death or serious physical harm would result;**

133 **(2) The operator refused to allow representatives of the department to inspect the**
134 **home for compliance with standards or denied representatives of the department access**
135 **to residents and employees necessary to carry out the duties set forth in this section and**
136 **rules promulgated thereunder, except where employees of the home are in the process of**
137 **rendering immediate care to a resident;**

138 **(3) The operator demonstrated financial incapacity to operate and conduct the**
139 **home;**

140 **(4) The operator or any of the principals in the operation of the home has ever been**
141 **convicted of or pled guilty or nolo contendere to a felony offense concerning the operation**
142 **of a facility or program that provides care to children or adults; or**

143 **(5) The operator or any of the principals in the operation of the home is listed on**
144 **the employee disqualification list maintained by the department.**

145
146 **Upon revocation of a license, the department shall so notify the operator in writing, setting**
147 **forth the reason and grounds for the revocation. Notice of such revocation shall be sent**
148 **either by certified mail, return receipt requested, to the operator at the address of the**
149 **home, or served personally upon the operator. The department shall provide the operator**
150 **notice of such revocation at least ten calendar days prior to its effective date.**

151 **5. The provisions of this section shall not apply to the following:**

152 **(1) Any home operated by a facility licensed under this chapter or a medical facility**
153 **licensed under chapter 197;**

154 **(2) Any person who cares solely for persons related to the provider or who has been**
155 **designated as guardian of that person; or**

156 **(3) Any home which cares for no more than two persons unrelated to the provider.**

157
158 **Nothing in this section shall prohibit any person listed in subsection 5 of this section from**
159 **applying for a license or receiving a license if the home owned or operated by such person**
160 **conforms to the provisions of this section and all applicable rules promulgated pursuant**
161 **thereto.**

162 **6. The department shall have the right to enter the premises of an applicant for or**
163 **holder of a license at any time to determine compliance with provisions of this section and**
164 **applicable rules promulgated pursuant thereto. Entry shall also be granted for**
165 **investigative purposes involving complaints.**

166 **(1) The department shall make at least one inspection per year. The department**
167 **may make such other inspections, announced or unannounced, as it deems necessary to**
168 **carry out the provisions of this section.**

169 **(2) The department may reduce the frequency of inspections to once per licensing**
170 **period if the home is found to be in substantial compliance. The basis for such**
171 **determination shall include, but not be limited to, the following:**

172 **(a) Previous inspection reports;**

173 **(b) The home's history of compliance with rules promulgated pursuant to this**
174 **section; and**

175 **(c) The number and severity of complaints received about the home.**

176 **(3) The applicant for or holder of a license shall cooperate with the investigation**
177 **and inspection by providing access to the home, records, and staff, and by providing access**
178 **to the home to determine compliance with the rules promulgated pursuant to this section.**

179 **(4) Failure to comply with any lawful request of the department in connection with**
180 **the investigation and inspection is a ground for refusal to issue a license or for the**
181 **revocation of a license.**

182 **(5) The department may designate to act for it, with full authority of law, any**
183 **instrumentality of any political subdivision of the state of Missouri deemed by the**
184 **department to be competent to investigate and inspect applicants for or holders of licenses.**

185 **7. If the department is advised or has reason to believe that any person is operating**
186 **a home without a license, or that any holder of a license is not in compliance with the**
187 **provisions of this section, the department shall make an investigation and inspection to**
188 **ascertain the facts.**

189 **(1) If the department is not permitted access to the home in question, the**
190 **department may apply to the circuit court of the county in which the home is located for**
191 **an order authorizing entry for inspection. The court shall issue the order if it finds**
192 **reasonable grounds necessitating the inspection.**

193 **(2) If the department finds that the home is being operated in violation of this**
194 **section, it may seek, among other remedies, injunctive relief against the home.**

195 **8. Any person aggrieved by an official action of the department either refusing to**
196 **issue a license or revoking a license may seek a determination thereon by the**
197 **administrative hearing commission pursuant to the provisions of section 621.045; except**

that, the petition shall be filed with the administrative hearing commission within thirty calendar days after the delivery of notice to the applicant for or holder of such license. When the notification of the official action is mailed to the applicant for or holder of such a license, there shall be included in the notice a statement of the procedure whereby the applicant for or holder of such license may appeal the decision of the department before the administrative hearing commission. It shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other procedure within the department.

(1) The administrative hearing commission may stay the revocation of such license, pending the commission's findings and determination in the cause, upon such conditions as the commission deems necessary and appropriate, including the posting of bond or other security; except that, the commission shall not grant a stay or, if a stay has already been entered, shall set aside its stay if, upon application of the department, the commission finds reason to believe that continued operation of the home to which the license in question applies pending the commission's final determination would present an imminent danger to the health, safety, or welfare of any person or a substantial probability that death or serious physical harm would result. In any case in which the department has refused to issue a license, the commission shall have no authority to stay or to require the issuance of a license pending final determination by the commission.

(2) The administrative hearing commission shall make the final decision as to the issuance or revocation of a license. Any person aggrieved by a final decision of the administrative hearing commission, including the department, may seek judicial review of such decision by filing a petition for review in the court of appeals for the district in which the home to which the license in question applies is located. Review shall be had, except as provided in this section, in accordance with the provisions of sections 621.189 and 621.193.

9. The department shall promulgate rules necessary to implement this section and reasonable standards and regulations for homes. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2019, shall be invalid and void. The standards and regulations shall relate to licensure, staff-resident ratios, home policies, policies regarding

234 support persons, resident care, training and certification of the director and staff,
235 residents' rights, fire safety and other emergency procedures, physical plant, and
236 insurance.

237 **10. Any person who violates any provision of this section, or who, for himself or**
238 **herself, or for any other person, makes materially false statements in order to obtain a**
239 **license, or the renewal thereof, shall be guilty of a class A misdemeanor. Any person**
240 **violating this subsection wherein abuse or neglect of a resident has occurred is guilty of a**
241 **class E felony.**

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