

SECOND REGULAR SESSION

# HOUSE BILL NO. 2838

102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CROSSLEY.

5917H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 198.022, 198.525, and 198.526, RSMo, and to enact in lieu thereof three new sections relating to inspections of facilities licensed by the department of health and senior services.

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

Section A. Sections 198.022, 198.525, and 198.526, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 198.022, 198.525, and 198.526,  
3 to read as follows:

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 an assisted living facility, a skilled nursing facility, or an  
10 intermediate care facility is currently licensed under the provisions of chapter 344;

11 (5) Neither the operator nor any principals in the operation of the facility have ever  
12 been convicted of a felony offense concerning the operation of a long-term health care facility  
13 or other health care facility or ever knowingly acted or knowingly failed to perform any duty  
14 which materially and adversely affected the health, safety, welfare or property of a resident,  
15 while acting in a management capacity. The operator of the facility or any principal in the

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.

16 operation of the facility shall not be under exclusion from participation in the Title XVIII  
17 (Medicare) or Title XIX (Medicaid) program of any state or territory;

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

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

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

25 3. The department may inspect any facility and any records and may make copies of  
26 records, at the facility, at the department's own expense, required to be maintained by sections  
27 198.003 to 198.096 or by the rules and regulations promulgated thereunder at any time if a  
28 license has been issued to or an application for a license has been filed by the operator of such  
29 facility. Copies of any records requested by the department shall be prepared by the staff of  
30 such facility within two business days or as determined by the department. The department  
31 shall not remove or disassemble any medical record during any inspection of the facility, but  
32 may observe the photocopying or may make its own copies if the facility does not have the  
33 technology to make the copies. In accordance with the provisions of section 198.525, the  
34 department shall make at least ~~[one inspection]~~ **two inspections** per year, which shall be  
35 unannounced to the operator. The department may make such other inspections, announced  
36 or unannounced, as it deems necessary to carry out the provisions of sections 198.003 to  
37 198.136.

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

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

198.525. 1. In order to comply with sections 198.012 and 198.022, the department of  
2 health and senior services shall inspect residential care facilities, assisted living facilities,

3 intermediate care facilities, and skilled nursing facilities, including those facilities attached to  
4 acute care hospitals at least ~~once~~ **twice** a year.

5         2. The department shall not assign an individual to inspect or survey a long-term care  
6 facility licensed under this chapter, for any purpose, in which the inspector or surveyor was an  
7 employee of such facility within the preceding two years.

8         3. For any inspection or survey of a facility licensed under this chapter, regardless of  
9 the purpose, the department shall require every newly hired inspector or surveyor at the time  
10 of hiring or, with respect to any currently employed inspector or surveyor as of August 28,  
11 2009, to disclose:

12             (1) The name of every Missouri licensed long-term care facility in which he or she  
13 has been employed; and

14             (2) The name of any member of his or her immediate family who has been employed  
15 or is currently employed at a Missouri licensed long-term care facility.

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17 The disclosures under this subsection shall be disclosed to the department whenever the event  
18 giving rise to disclosure first occurs.

19         4. For purposes of this section, the phrase "immediate family member" shall mean  
20 husband, wife, natural or adoptive parent, child, sibling, stepparent, stepchild, stepbrother,  
21 stepsister, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-  
22 law, grandparent or grandchild.

23         5. The information called for in this section shall be a public record under the  
24 provisions of subdivision (6) of section 610.010.

25         6. Any person may notify the department if facts exist that would lead a reasonable  
26 person to conclude that any inspector or surveyor has any personal or business affiliation that  
27 would result in a conflict of interest in conducting an inspection or survey for a facility. Upon  
28 receiving that notice, the department, when assigning an inspector or surveyor to inspect or  
29 survey a facility, for any purpose, shall take steps to verify the information and, if the  
30 department has probable cause to believe that it is correct, shall not assign the inspector or  
31 surveyor to the facility or any facility within its organization so as to avoid an appearance of  
32 prejudice or favor to the facility or bias on the part of the inspector or surveyor.

198.526. 1. The department of health and senior services shall inspect all facilities  
2 licensed by the department at least ~~once~~ **twice** each year. Such inspections shall be  
3 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 department shall annually reevaluate the inspection process to ensure the  
8 requirements of subsection 1 of this section are met.

9           3. Information regarding unannounced inspections shall be disclosed to employees of  
10 the department on a need-to-know basis only. Any employee of the department who  
11 knowingly discloses the time of an unannounced inspection in violation of this section is  
12 guilty of a class A misdemeanor and shall have his or her employment immediately  
13 terminated.

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