

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 815
103RD GENERAL ASSEMBLY

1136H.04C

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 198.009 and 198.029, RSMo, and to enact in lieu thereof three new sections relating to facilities that offer care or services to residents, with penalty provisions.

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

Section A. Sections 198.009 and 198.029, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 198.009, 198.029, and 198.700, to read as
3 follows:

198.009. 1. The provisions of sections 198.003 to 198.186 shall be administered by
2 the department. The department shall have authority to promulgate rules and regulations for
3 the purposes of administering sections 198.003 to 198.186. All such rules and regulations
4 shall be promulgated in accordance with this section and chapter 536. No rule or portion of a
5 rule promulgated under the authority of this chapter shall become effective unless it has been
6 promulgated pursuant to the provisions of section 536.024.

7 2. **No rule or regulation shall require a prospective employee to be assessed by a**
8 **physician in order to be employed by an assisted living facility or residential care**
9 **facility. An assisted living facility or residential care facility shall ensure that the**
10 **prospective employee is capable of performing the job for which he or she is being hired.**

11 3. All agencies of the state or any of its political subdivisions shall assist and
12 cooperate with the department whenever necessary to carry out the department's
13 responsibility under sections 198.003 to 198.186.

198.029. The provisions of section 198.026 notwithstanding, whenever a duly
2 authorized representative of the department finds upon inspection of a licensed facility, and
3 the director of the department finds upon review, that the facility or the operator is not in

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.

4 substantial compliance with a standard or standards the violations of which would present
5 either an imminent danger to the health, safety or welfare of any resident or a substantial
6 probability that death or serious physical harm would result and which is not immediately
7 corrected, the department shall:

8 (1) Give immediate written notice of the noncompliance to the operator, administrator
9 or person managing or supervising the conduct of the facility at the time the noncompliance is
10 found;

11 (2) Make public the fact that a notice of noncompliance has been issued to the facility.
12 Copies of the notice shall be sent to appropriate hospitals and social service agencies;

13 (3) Send a copy of the notice of noncompliance to the department of social services,
14 the department of mental health, and any other concerned federal, state or local government
15 agencies. The facility shall post in a conspicuous location in the facility a copy of the notice
16 of noncompliance and a copy of the most recent inspection report, **unless the facility**
17 **corrected the violation within twelve hours, or up to twenty-four hours if a third party is**
18 **required to remedy the noncompliance, and no resident experienced physical harm**
19 **before the correction of the noncompliance.**

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

2 (1) "Facility", an independent living facility or a long-term care facility, as those
3 terms are defined in this section;

4 (2) "Independent living facility", a communal living structure in which at least
5 fifty percent of the residents are fifty-five years of age or older that provides its residents
6 with on-site access to dining, transportation, medical care, and basic housekeeping and
7 laundry services and that is not licensed by the state;

8 (3) "Long-term care facility", any facility licensed under this chapter;

9 (4) "Referral agency", an individual or entity that provides referrals to a facility
10 for a fee that is collected from the facility. The term "referral agency" shall not include
11 a facility or its employees, a family member of a resident of a facility, or a resident of a
12 facility regardless of whether the resident who refers a prospective resident to a facility
13 receives a discount or other remuneration from the facility.

14 2. A referral agency shall disclose or provide, as applicable, to a prospective
15 resident or the representative of the prospective resident referred to a facility:

16 (1) Written or electronic documentation of the existence of any relationships
17 between the referral agency and the facility, including common ownership or control of
18 the facility and financial, business, management, or familial relationships between the
19 referral agency and the facility;

20 (2) That the referral agency receives a fee from the facility for the referral; and

21 **(3) Written or electronic documentation of the agreement between the referral**
22 **agency and the prospective resident or representative of the prospective resident. The**
23 **agreement shall include:**

24 **(a) A detailed description of the services provided by the referral agency in**
25 **exchange for the fee paid by the facility;**

26 **(b) The right of the prospective resident or representative of the prospective**
27 **resident to terminate the referral agency's services for any reason at any time without a**
28 **fee or other penalty for such termination;**

29 **(c) A requirement that the referral agency communicate the cancellation of the**
30 **agreement to all facilities to which the prospective resident has been referred;**

31 **(d) The right of the prospective resident or representative of the prospective**
32 **resident to request not to be contacted in the future by the referral agency; and**

33 **(e) The right of the prospective resident or representative of the prospective**
34 **resident to receive the referral agency's privacy policy upon request to the referral**
35 **agency.**

36 **3. (1) The referral agency and the prospective resident or representative of the**
37 **prospective resident shall sign and date, in writing or electronically, the agreement**
38 **required in subsection 2 of this section. The referral agency shall provide a written or**
39 **electronic copy of the signed agreement to the facility on or before the date the resident**
40 **becomes an occupant of or is admitted to the facility. No referral agency shall charge a**
41 **fee or other penalty to any facility resulting from the termination of an agreement by a**
42 **prospective resident or representative of a prospective resident.**

43 **(2) The facility shall:**

44 **(a) Not pay the referral agency a fee until such facility receives the written or**
45 **electronic agreement required in subsection 2 of this section and the resident becomes**
46 **an occupant of or is admitted to the facility; and**

47 **(b) Not sell or transfer the prospective resident's or prospective resident's**
48 **representative's contact information to a third party without the written consent of the**
49 **prospective resident or representative of the prospective resident.**

50 **4. A referral agency that violates this section is subject to a civil penalty of up to**
51 **five hundred dollars per violation.**

52 **5. The attorney general or a circuit attorney may bring a civil action on behalf of**
53 **the state to seek the imposition of a civil penalty for a violation of this section or to**
54 **enjoin the continuance of the violation by the referral agency.**