

SECOND REGULAR SESSION

HOUSE BILL NO. 1773

100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROBERTS (161).

4160H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 198.012, RSMo, and to enact in lieu thereof two new sections relating to end-of-life care homes, with penalty provisions.

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

Section A. Section 198.012, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 198.012 and 198.190, to read as follows:

198.012. 1. The provisions of sections 198.003 to 198.136 shall not apply to any of the following entities:

(1) Any hospital, facility or other entity operated by the state or the United States;

(2) Any facility or other entity otherwise licensed by the state and operating exclusively under such license and within the limits of such license, unless the activities and services are or are held out as being activities or services normally provided by a licensed facility under sections 198.003 to 198.186, 198.200, 208.030, and 208.159, except hospitals licensed under the provisions of chapter 197;

(3) Any hospital licensed under the provisions of chapter 197, provided that the assisted living facility, intermediate care facility or skilled nursing facility are physically attached to the acute care hospital; and provided further that the department of health and senior services in promulgating rules, regulations and standards pursuant to section 197.080, with respect to such facilities, shall establish requirements and standards for such hospitals consistent with the intent of this chapter, and sections 198.067, 198.070, 198.090, 198.093 and 198.139 to 198.180 shall apply to every assisted living facility, intermediate care facility or skilled nursing facility regardless of physical proximity to any other health care facility;

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.

17 (4) Any facility licensed pursuant to sections 630.705 to 630.760 which provides care,
18 treatment, habilitation and rehabilitation exclusively to persons who have a primary diagnosis
19 of mental disorder, mental illness, or developmental disabilities, as defined in section 630.005;

20 (5) Any provider of care under a life care contract, except to any portion of the provider's
21 premises on which the provider offers services provided by an intermediate care facility or
22 skilled nursing facility as defined in section 198.006. For the purposes of this section, "provider
23 of care under a life care contract" means any person contracting with any individual to furnish
24 specified care and treatment to the individual for the life of the individual, with significant
25 prepayment for such care and treatment;

26 **(6) Any end-of-life care home registered as provided under section 198.190.**

27 2. Nothing in this section shall prohibit any of these entities from applying for a license
28 under sections 198.003 to 198.136.

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) "Care", activities of daily living including, but not limited to, bathing, feeding,**
4 **turning, dressing, and medication administration under the direction of the hospice**
5 **provider;**

6 **(3) "Department", the department of health and senior services;**

7 **(4) "End-of-life care home" or "home", a residence operated by a nonprofit**
8 **organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code**
9 **that provides a home-like place for terminally ill individuals who are enrolled in a hospice**
10 **program and cannot receive care in their own homes;**

11 **(5) "Family", persons bound by biology or legality to a resident and persons who**
12 **function for a resident in a familial way;**

13 **(6) "Operator", any entity operating an end-of-life care home under the provisions**
14 **of this section;**

15 **(7) "Register", an official list of any end-of-life care homes as defined by the**
16 **department of health and senior services;**

17 **(8) "Resident", individuals with a life expectancy of six months or less who are**
18 **enrolled in a hospice program and who reside in an end-of-life care home;**

19 **(9) "Staff", a person who is screened by the family care safety registry under**
20 **sections 210.900 to 210.936 and paid to supplement the care the resident's family and**
21 **friends are not able to provide by utilizing the plan of care provided by the resident's**
22 **contracted hospice team;**

23 **(10) "Volunteer", an unpaid person who is screened by the family care safety**
24 **registry under sections 210.900 to 210.936 and who supplements the care the resident's**

25 family and friends are not able to provide by utilizing the plan of care provided by the
26 resident's contracted hospice team.

27 2. It shall be unlawful for any person to establish, maintain, or operate an end-of-
28 life care home that is not registered by the department of health and senior services as
29 provided under this section.

30 3. (1) An application for the registration of an end-of-life care home shall be made
31 on a form provided by the department for that purpose, and in the manner prescribed by
32 the department. Each application shall be accompanied by a nonrefundable fee in an
33 amount determined by the department, not to exceed one hundred dollars.

34 (2) Upon receipt of an application to register a home, the department shall review
35 the application and investigate the applicant and the statements affirmed to in the
36 application for registration. The department shall issue a notice of registration if the
37 following requirements are met:

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

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

41 (c) Neither the operator or any principals in the operation of the home have ever
42 been convicted of a felony offense concerning the operation of any facility providing care
43 to children or adults;

44 (d) Neither the operator or any principals in the operation of the home are listed
45 on the employee disqualification list maintained by the department; and

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

47 (3) Registration shall be valid for the period designated by the department, not to
48 exceed two years from the date of registration, for the homes and persons named in the
49 application.

50 (4) Upon denial of any application for registration, the department shall notify the
51 applicant in writing of the grounds for denial.

52 (5) Certificates of registration approved under this section shall include the name
53 of the operator, the name of the home or homes, the location of the home or homes, the
54 number of residents who can be served in each home, and the period for which the
55 registration is valid.

56 4. The resident's contracted hospice provider shall direct and implement the
57 resident's plan of care in compliance with CSR 30-35.010. A licensed physician who is
58 serving as the attending physician or as the hospice medical director shall direct
59 supervision of health care by the certified hospice provider. A home may also have a
60 physician serving in the capacity of a volunteer medical director; however, such position

61 shall not be construed to usurp the licensed physician serving as the attending physician
62 or as the hospice medical director. The medical director of the home may consult with the
63 hospice physician, serve as a liaison between the home and the hospice physician,
64 participate in quality assurance activities, and assist in providing education to the home's
65 staff and volunteers.

66 5. (1) Home providers, staff, and volunteers shall be familiar with and shall be able
67 to recognize situations of possible abuse, neglect, exploitation, or situations with a
68 likelihood of serious physical harm involving vulnerable individuals. Conditions or
69 circumstances that place the vulnerable individual or the home in serious physical harm
70 shall be immediately reported to the department's adult abuse and neglect hotline
71 (1-800-392-0210).

72 (2) Each home shall have a system through which residents and support persons
73 may present grievances concerning the operation of the home and the delivery of care.

74 (3) All allegations of abuse, neglect, or financial exploitation shall be investigated
75 by the department in the same manner as if the resident were residing in a community
76 setting.

77 6. The provisions of this section shall not apply to the following:

78 (1) Any home operated by any residential care facility, assisted living facility,
79 intermediate care facility, or skilled nursing facility licensed under this chapter, or by a
80 medical facility licensed under chapter 197;

81 (2) Any person who cares solely for a person or persons related to the provider or
82 who has been designated as guardian of that person or persons; or

83 (3) Any home that cares for no more than two persons unrelated to the provider.

84 7. Nothing in this section shall prohibit any person listed in subsection 6 of this
85 section from registering an end-of-life care home if the home that is owned or operated by
86 such person conforms to the provisions of this section and all applicable rules promulgated
87 pursuant thereto.

88 8. (1) The department may enter the premises of an applicant or a registered home
89 at any time to determine compliance with provisions of this section and applicable rules
90 promulgated pursuant thereto. Entry into the home shall also be granted for investigative
91 purposes involving complaints.

92 (2) The department may make inspections, announced or unannounced, as it deems
93 necessary to carry out the provisions of this section.

94 (3) Failure to comply with any lawful request of the department in connection with
95 an investigation and inspection shall be grounds for refusal to place a home on the registry.

96 **(4) The department may designate to act on its behalf, with full authority of law,**
97 **any instrumentality of any political subdivision of the state of Missouri deemed by the**
98 **department to be competent to investigate and inspect applicants for or holders of**
99 **registered homes.**

100 **9. Any person aggrieved by an official action of the department refusing to place**
101 **a home on or removing a home from the registry may seek a determination thereon by the**
102 **administrative hearing commission under the provisions of section 621.045.**

103 **10. Any person who violates any provision of this section or who makes materially**
104 **false statements in order to register a home or renew the registration on a home shall be**
105 **guilty of a class A misdemeanor. Any person violating this section wherein abuse or**
106 **neglect of a resident has occurred is guilty of a class E felony.**

107 **11. The department shall establish reasonable standards and regulations for homes**
108 **relating to registration, insurance, resident rights, and fire safety and other emergency**
109 **procedures. The department may promulgate all necessary rules and regulations for the**
110 **administration of this section. Any rule or portion of a rule, as that term is defined in**
111 **section 536.010, that is created under the authority delegated in this section shall become**
112 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**
113 **if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any**
114 **of the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
115 **the effective date, or to disapprove and annul a rule are subsequently held**
116 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
117 **after August 28, 2020, shall be invalid and void.**

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