

FIRST REGULAR SESSION

HOUSE BILL NO. 746

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LADD BAKER.

Read 1st time February 12, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1420L.02I

AN ACT

To repeal sections 660.260 and 660.300, RSMo 2000, relating to in-home care for the elderly, and to enact in lieu thereof four new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 660.260 and 660.300, RSMo 2000, are repealed and four new sections enacted in lieu thereof, to be known as sections 660.252, 660.260, 660.300 and 660.302, to read as follows:

660.252. All Medicaid participation agreements entered into between the department of social services and in-home service provider agencies shall include, as a part of the initial aide training, training on abuse and neglect identification, prevention and reporting which shall be successfully completed prior to unsupervised contact with clients. The department shall prescribe by rule the curriculum for such training.

660.260. Upon receipt of a report, the department shall [make] initiate a prompt and thorough investigation [to]. **Within twenty-four hours, the department shall investigate reports which indicate a clear and immediate danger. The department shall** determine whether or not an eligible adult is facing a likelihood of serious physical harm and is in need of protective services. The department shall provide for any of the following:

- (1) Identification of the eligible adult and determination that the eligible adult is eligible for services;
- (2) Evaluation and diagnosis of the needs of eligible adults;
- (3) Provision of social casework, counseling or referral to the appropriate local or state

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

10 authority;

11 (4) Assistance in locating and receiving alternative living arrangements as necessary;

12 (5) Assistance in locating and receiving necessary protective services; or

13 (6) The coordination and cooperation with other state agencies and public and private
14 agencies in exchange of information and the avoidance of duplication of services.

660.300. 1. [Beginning January 1, 1993,] When any physician, dentist, chiropractor,
2 optometrist, podiatrist, intern, nurse, medical examiner, social worker, psychologist, minister,
3 Christian Science practitioner, peace officer, pharmacist, physical therapist, in-home services
4 owner, **in-home services provider**, in-home services operator, in-home services employee, or
5 employee of the department of social services or of the department of health or of the department
6 of mental health **or employee for a local area agency on aging or for an organized area**
7 **agency on aging program** has reasonable cause to believe that an in-home services client has
8 been abused or neglected, as a result of in-home services, he **or she** shall immediately report or
9 cause a report to be made to the department.

10 **2. When any in-home service provider reports a client to the department for**
11 **suspected abuse or neglect, including self abuse or neglect or noncompliance with the plan**
12 **of services established by the department, the client's case manager and department nurse**
13 **shall investigate the allegation. The department may authorize the in-home service**
14 **provider nurse to assist the case manager with the investigation in lieu of the department**
15 **nurse. The department shall respond to the reporting in-home service provider within five**
16 **days regarding the progress of the investigation.**

17 **3. Local area agencies on aging may provide volunteer training, if requested, to**
18 **those persons listed in subsection 1 of this section regarding the detection and report of**
19 **abuse and neglect, pursuant to this section.**

20 [2.] **4.** Any person required in subsection 1 of this section to report or cause a report to
21 be made to the department who fails to do so within a reasonable time after the act of abuse or
22 neglect is guilty of a class A misdemeanor.

23 [3.] **5.** The report shall contain the names and addresses of the in-home services provider
24 agency, the in-home services employee, the in-home services client, information regarding the
25 nature of the abuse or neglect, the name of the complainant, and any other information which
26 might be helpful in an investigation.

27 [4.] **6.** In addition to those persons required to report [under] **pursuant to** subsection
28 1 of this section, any other person having reasonable cause to believe that an in-home services
29 client has been abused or neglected by an in-home services employee may report such
30 information to the department.

31 [5. Upon receipt of a report, the department shall initiate a prompt and thorough

32 investigation.

33 6.] **7.** If the investigation indicates possible abuse or neglect of an in-home services
34 client, the investigator shall refer the complaint together with his **or her** report to the department
35 director or his **or her** designee for appropriate action. If, during the investigation or at its
36 completion, the department has reasonable cause to believe that immediate removal is necessary
37 to protect the in-home services client from abuse or neglect, the department or the local
38 prosecuting attorney may, or the attorney general upon request of the department shall, file a
39 petition for temporary care and protection of the in-home services client in a circuit court of
40 competent jurisdiction. The circuit court in which the petition is filed shall have equitable
41 jurisdiction to issue an ex parte order granting the department authority for the temporary care
42 and protection of the in-home services client, for a period not to exceed thirty days.

43 [7.] **8.** Reports shall be confidential, as provided [under] **pursuant to** section 660.320.

44 [8.] **9.** Anyone, except any person who has abused or neglected an in-home services
45 client, who makes a report pursuant to this section or who testifies in any administrative or
46 judicial proceeding arising from the report shall be immune from any civil or criminal liability
47 for making such a report or for testifying except for liability for perjury, unless such person acted
48 negligently, recklessly, in bad faith, or with malicious purpose.

49 [9.] **10.** Within five working days after a report required to be made [under] **pursuant**
50 **to** this section is received, the person making the report shall be notified in writing of its receipt
51 and of the initiation of the investigation.

52 [10.] **11.** No person who directs or exercises any authority in an in-home services
53 provider agency shall harass, dismiss or retaliate against an in-home services client or an in-home
54 services employee because he **or she** or any member of his **or her** family has made a report of
55 any violation or suspected violation of laws, standards or regulations applying to the in-home
56 services provider agency or any in-home services employee which he **or she** has reasonable
57 cause to believe has been committed or has occurred.

58 [11.] **12.** Any person who knowingly abuses or neglects an in-home services client shall
59 be guilty of a class D felony.

60 [12.] **13.** The department shall maintain the employee disqualification list and place on
61 the employee disqualification list the names of any persons who have been finally determined
62 by the department, pursuant to section 660.315, to have recklessly, knowingly or purposely
63 abused or neglected an in-home services client while employed by an in-home services provider
64 agency.

65 **14. At the time a client has been assessed to determine the level of care as required**
66 **by rule and is eligible for in-home services, the department shall conduct a "Safe at Home**
67 **Evaluation" to determine the client's physical, mental and environmental capacity. The**

68 department shall develop the safe at home evaluation tool by rule in accordance with
69 chapter 536, RSMo. The purpose of the safe at home evaluation is to assure that each
70 client has the appropriate level of services and professionals involved in the client's care.
71 The plan of service or care for each in-home client shall be authorized by a nurse. The
72 department may authorize the in-home services nurse, licensed pursuant to chapter 335,
73 RSMo, in lieu of the department nurse to conduct the assessment of the client's condition
74 and to establish a plan of services or care. The department may use the expertise, services
75 or programs of other departments and agencies on a case-by-case basis to establish the
76 plan of service or care.

77 **15. Authorized nurse visits shall be conducted at a minimum annually to assess the**
78 **client and the client's plan of services. The provider nurse shall report the results of his**
79 **or her visits to the client's case manager. If the provider nurse believes that the plan of**
80 **service requires alteration, the department shall be notified and make a client evaluation.**
81 **All authorized nurse visits shall be reimbursed to the in-home services provider and**
82 **reimbursed outside of the nursing home cap for in-home clients whose services have**
83 **reached one hundred percent of the average statewide charge for care and treatment in an**
84 **intermediate care facility, provided that the services have been preauthorized by the**
85 **department.**

86 **16. The department shall establish a quality assurance and supervision process for**
87 **clients that assures the in-home services provider is reimbursed for any nurse assessment**
88 **portion of the process.**

660.302. 1. The department of social services shall investigate incidents and reports
2 **of elder abuse using the procedures established in sections 660.250 to 660.295 and shall**
3 **promptly refer all suspected cases of elder abuse to the appropriate law enforcement**
4 **agency and prosecutor and shall determine whether protective services are required**
5 **pursuant to sections 660.250 to 660.295.**

6 **2. The division of aging and law enforcement agencies shall require training and**
7 **cross-training of personnel regarding the proper handling of cases involving elder abuse.**
8 **The division of aging, in cooperation with law enforcement agencies, shall, by rule, develop**
9 **a checklist for division and law enforcement personnel to follow when investigating**
10 **possible elder abuse.**

11 **3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
12 **that is created pursuant to the authority delegated in this section shall become effective**
13 **only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and,**
14 **if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
15 **nonseverable and if any of the powers vested with the general assembly pursuant to**

16 **chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule**
17 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
18 **rule proposed or adopted after August 28, 2001, shall be invalid and void.**