

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

**HOUSE BILL NO. 1516**

**94TH GENERAL ASSEMBLY**

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Reported from the Committee on Crime Prevention and Public Safety March 12, 2008 with recommendation that House Committee Substitute for House Bill No. 1516 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules April 10, 2008 with recommendation that House Committee Substitute for House Bill No. 1516 Do Pass, with no time limit for debate on Perfection.

Taken up for Perfection April 23, 2008. House Committee Substitute for House Bill No. 1516 ordered Perfected and printed, as amended.

D. ADAM CRUMBLISS, Chief Clerk

3834L.03P

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**AN ACT**

To repeal sections 192.667, 192.925, 197.150, 197.500, 198.006, 198.070, 198.074, 198.075, 198.090, 198.532, 208.152, 208.819, 208.909, 208.912, 208.915, 210.305, 210.565, 210.900, 210.906, 210.933, 565.180, 565.182, 565.184, 565.188, 565.200, 660.010, 660.050, 660.053, 660.054, 660.055, 660.057, 660.058, 660.060, 660.062, 660.067, 660.069, 660.070, 660.099, 660.250, 660.255, 660.260, 660.261, 660.263, 660.265, 660.270, 660.275, 660.280, 660.285, 660.290, 660.295, 660.300, 660.305, 660.310, 660.315, 660.317, 660.320, 660.321, 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.416, 660.418, 660.420, 660.512, 660.600, 660.603, 660.605, 660.608, 660.620, 660.625, and 660.725, RSMo, and to enact in lieu thereof sixty-nine new sections relating to protections for senior citizens, disabled persons, and children, with penalty provisions.

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

Section A. Sections 192.667, 192.925, 197.150, 197.500, 198.006, 198.070, 198.074,  
2 198.075, 198.090, 198.532, 208.152, 208.819, 208.909, 208.912, 208.915, 210.305, 210.565,  
3 210.900, 210.906, 210.933, 565.180, 565.182, 565.184, 565.188, 565.200, 660.010, 660.050,

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.

4 660.053, 660.054, 660.055, 660.057, 660.058, 660.060, 660.062, 660.067, 660.069, 660.070,  
5 660.099, 660.250, 660.255, 660.260, 660.261, 660.263, 660.265, 660.270, 660.275, 660.280,  
6 660.285, 660.290, 660.295, 660.300, 660.305, 660.310, 660.315, 660.317, 660.320, 660.321,  
7 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.416, 660.418, 660.420,  
8 660.512, 660.600, 660.603, 660.605, 660.608, 660.620, 660.625, and 660.725, RSMo, are  
9 repealed and sixty-nine new sections enacted in lieu thereof, to be known as sections 192.667,  
10 192.925, 192.975, 192.2000, 192.2001, 192.2003, 192.2006, 192.2009, 192.2012, 192.2015,  
11 192.2020, 192.2025, 192.2030, 192.2033, 192.2035, 192.2040, 192.2100, 192.2103, 192.2106,  
12 192.2109, 192.2112, 192.2115, 192.2118, 192.2121, 192.2124, 192.2127, 192.2130, 192.2150,  
13 192.2153, 192.2175, 192.2178, 192.2181, 192.2184, 192.2187, 192.2200, 192.2203, 192.2206,  
14 192.2209, 192.2212, 192.2215, 192.2218, 192.2221, 192.2224, 192.2227, 192.2250, 192.2253,  
15 197.150, 198.006, 198.074, 198.075, 198.090, 198.532, 198.700, 198.703, 198.705, 198.708,  
16 208.152, 208.819, 208.909, 210.305, 210.565, 210.900, 210.906, 565.180, 565.182, 565.184,  
17 565.188, 565.200, and 660.010, to read as follows:

192.667. 1. All health care providers shall at least annually provide to the department  
2 charge data as required by the department. All hospitals shall at least annually provide patient  
3 abstract data and financial data as required by the department. Hospitals as defined in section  
4 197.020, RSMo, shall report patient abstract data for outpatients and inpatients. Within one year  
5 of August 28, 1992, ambulatory surgical centers as defined in section 197.200, RSMo, shall  
6 provide patient abstract data to the department. The department shall specify by rule the types  
7 of information which shall be submitted and the method of submission.

8 2. The department shall collect data on required nosocomial infection incidence rates  
9 from hospitals, ambulatory surgical centers, and other facilities as necessary to generate the  
10 reports required by this section. Hospitals, ambulatory surgical centers, and other facilities shall  
11 provide such data in compliance with this section.

12 3. No later than July 1, 2005, the department shall promulgate rules specifying the  
13 standards and procedures for the collection, analysis, risk adjustment, and reporting of  
14 nosocomial infection incidence rates and the types of infections and procedures to be monitored  
15 pursuant to subsection 12 of this section. In promulgating such rules, the department shall:

16 (1) Use methodologies and systems for data collection established by the federal Centers  
17 for Disease Control and Prevention National [Nosocomial Infection Surveillance System]  
18 **Healthcare Safety Network**, or its successor; and

19 (2) Consider the findings and recommendations of the infection control advisory panel  
20 established pursuant to section 197.165, RSMo.

21 4. The infection control advisory panel created by section 197.165, RSMo, shall make  
22 a recommendation to the department regarding the appropriateness of implementing all or part

23 of the nosocomial infection data collection, analysis, and public reporting requirements of this  
24 act by authorizing hospitals, ambulatory surgical centers, and other facilities to participate in the  
25 federal Centers for Disease Control and Prevention's National [Nosocomial Infection  
26 Surveillance System] **Healthcare Safety Network**, or its successor. The advisory panel shall  
27 consider the following factors in developing its recommendation:

28 (1) Whether the public is afforded the same or greater access to facility-specific infection  
29 control indicators and rates than would be provided under subsections 2, 3, and 6 to 12 of this  
30 section;

31 (2) Whether the data provided to the public are subject to the same or greater accuracy  
32 of risk adjustment than would be provided under subsections 2, 3, and 6 to 12 of this section;

33 (3) Whether the public is provided with the same or greater specificity of reporting of  
34 infections by type of facility infections and procedures than would be provided under subsections  
35 2, 3, and 6 to 12 of this section;

36 (4) Whether the data are subject to the same or greater level of confidentiality of the  
37 identity of an individual patient than would be provided under subsections 2, 3, and 6 to 12 of  
38 this section;

39 (5) Whether the National [Nosocomial Infection Surveillance System] **Healthcare**  
40 **Safety Network**, or its successor, has the capacity to receive, analyze, and report the required  
41 data for all facilities;

42 (6) Whether the cost to implement the nosocomial infection data collection and reporting  
43 system is the same or less than under subsections 2, 3, and 6 to 12 of this section.

44 5. Based on the affirmative recommendation of the infection control advisory panel, and  
45 provided that the requirements of subsection 12 of this section can be met, the department may  
46 or may not implement the federal Centers for Disease Control and Prevention [Nosocomial  
47 Infection Surveillance System] **National Healthcare Safety Network**, or its successor, as an  
48 alternative means of complying with the requirements of subsections 2, 3, and 6 to 12 of this  
49 section. If the department chooses to implement the use of the federal Centers for Disease  
50 Control Prevention [Nosocomial Infection Surveillance System] **National Healthcare Safety**  
51 **Network**, or its successor, as an alternative means of complying with the requirements of  
52 subsections 2, 3, and 6 to 12 of this section, it shall be a condition of licensure for hospitals and  
53 ambulatory surgical centers which opt to participate in the federal program to permit the federal  
54 program to disclose facility-specific data to the department as necessary to provide the public  
55 reports required by the department. Any hospital or ambulatory surgical center which does not  
56 voluntarily participate in the National [Nosocomial Infection Surveillance System] **Healthcare**  
57 **Safety Network**, or its successor, shall be required to abide by all of the requirements of  
58 subsections 2, 3, and 6 to 12 of this section.

59           6. The department shall not require the resubmission of data which has been submitted  
60 to the department of health and senior services or the department of social services under any  
61 other provision of law. The department of health and senior services shall accept data submitted  
62 by associations or related organizations on behalf of health care providers by entering into  
63 binding agreements negotiated with such associations or related organizations to obtain data  
64 required pursuant to section 192.665 and this section. A health care provider shall submit the  
65 required information to the department of health and senior services:

66           (1) If the provider does not submit the required data through such associations or related  
67 organizations;

68           (2) If no binding agreement has been reached within ninety days of August 28, 1992,  
69 between the department of health and senior services and such associations or related  
70 organizations; or

71           (3) If a binding agreement has expired for more than ninety days.

72           7. Information obtained by the department under the provisions of section 192.665 and  
73 this section shall not be public information. Reports and studies prepared by the department  
74 based upon such information shall be public information and may identify individual health care  
75 providers. The department of health and senior services may authorize the use of the data by  
76 other research organizations pursuant to the provisions of section 192.067. The department shall  
77 not use or release any information provided under section 192.665 and this section which would  
78 enable any person to determine any health care provider's negotiated discounts with specific  
79 preferred provider organizations or other managed care organizations. The department shall not  
80 release data in a form which could be used to identify a patient. Any violation of this subsection  
81 is a class A misdemeanor.

82           8. The department shall undertake a reasonable number of studies and publish  
83 information, including at least an annual consumer guide, in collaboration with health care  
84 providers, business coalitions and consumers based upon the information obtained pursuant to  
85 the provisions of section 192.665 and this section. The department shall allow all health care  
86 providers and associations and related organizations who have submitted data which will be used  
87 in any report to review and comment on the report prior to its publication or release for general  
88 use. The department shall include any comments of a health care provider, at the option of the  
89 provider, and associations and related organizations in the publication if the department does not  
90 change the publication based upon those comments. The report shall be made available to the  
91 public for a reasonable charge.

92           9. Any health care provider which continually and substantially, as these terms are  
93 defined by rule, fails to comply with the provisions of this section shall not be allowed to  
94 participate in any program administered by the state or to receive any moneys from the state.

95 10. A hospital, as defined in section 197.020, RSMo, aggrieved by the department's  
96 determination of ineligibility for state moneys pursuant to subsection 9 of this section may appeal  
97 as provided in section 197.071, RSMo. An ambulatory surgical center as defined in section  
98 197.200, RSMo, aggrieved by the department's determination of ineligibility for state moneys  
99 pursuant to subsection 9 of this section may appeal as provided in section 197.221, RSMo.

100 11. The department of health may promulgate rules providing for collection of data and  
101 publication of nosocomial infection incidence rates for other types of health facilities determined  
102 to be sources of infections; except that, physicians' offices shall be exempt from reporting and  
103 disclosure of infection incidence rates.

104 12. In consultation with the infection control advisory panel established pursuant to  
105 section 197.165, RSMo, the department shall develop and disseminate to the public reports based  
106 on data compiled for a period of twelve months. Such reports shall be updated quarterly and  
107 shall show for each hospital, ambulatory surgical center, and other facility a risk-adjusted  
108 nosocomial infection incidence rate for the following types of infection:

109 (1) Class I surgical site infections;

110 (2) Ventilator-associated pneumonia; **provided that, upon the recommendation of the**  
111 **infection control advisory panel one or more other quality indicators designed to better**  
112 **measure the risk of acquiring ventilator-associated pneumonia can be substituted for a**  
113 **risk-adjusted nosocomial infection incidence rate;**

114 (3) Central line-related bloodstream infections;

115 (4) Other categories of infections that may be established by rule by the department.

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117 The department, in consultation with the advisory panel, shall be authorized to collect and report  
118 data on subsets of each type of infection described in this subsection.

119 13. In the event the provisions of this act are implemented by requiring hospitals,  
120 ambulatory surgical centers, and other facilities to participate in the federal Centers for Disease  
121 Control and Prevention National [Nosocomial Infection Surveillance System] **Healthcare Safety**  
122 **Network**, or its successor, the types of infections to be publicly reported shall be determined by  
123 the department by rule and shall be consistent with the infections tracked by the National  
124 Nosocomial Infection Surveillance System, or its successor.

125 14. Reports published pursuant to subsection 12 of this section shall be published on the  
126 department's Internet web site. The initial report shall be issued by the department not later than  
127 December 31, 2006. The reports shall be distributed at least annually to the governor and  
128 members of the general assembly.

129 15. The Hospital Industry Data Institute shall publish a report of Missouri hospitals' and  
130 ambulatory surgical centers' compliance with standardized quality of care measures established

131 by the federal Centers for Medicare and Medicaid Services for prevention of infections related  
132 to surgical procedures. If the Hospital Industry Data Institute fails to do so by July 31, 2008, and  
133 annually thereafter, the department shall be authorized to collect information from the Centers  
134 for Medicare and Medicaid Services or from hospitals and ambulatory surgical centers and  
135 publish such information in accordance with subsection 14 of this section.

136 16. The data collected or published pursuant to this section shall be available to the  
137 department for purposes of licensing hospitals and ambulatory surgical centers pursuant to  
138 chapter 197, RSMo.

139 17. The department shall promulgate rules to implement the provisions of section  
140 192.131 and sections 197.150 to 197.160, RSMo. Any rule or portion of a rule, as that term is  
141 defined in section 536.010, RSMo, that is created under the authority delegated in this section  
142 shall become effective only if it complies with and is subject to all of the provisions of chapter  
143 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo,  
144 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter  
145 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are  
146 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed  
147 or adopted after August 28, 2004, shall be invalid and void.

192.925. 1. To increase public awareness of the problem of elder abuse and neglect **and**  
2 **financial exploitation of the elderly**, the department of health and senior services shall  
3 implement an education and awareness program. Such program shall have the goal of reducing  
4 the incidences of elder abuse and neglect **and financial exploitation of the elderly**, and may  
5 focus on:

6 (1) The education and awareness of mandatory reporters on their responsibility to report  
7 elder abuse and neglect **and financial exploitation of the elderly**;

8 (2) Targeted education and awareness for the public on the problem, identification and  
9 reporting of elder abuse and neglect **and financial exploitation of the elderly**;

10 (3) Publicizing the elder abuse and neglect hot line telephone number;

11 (4) Education and awareness for law enforcement agencies and prosecutors on the  
12 problem and identification of elder abuse and neglect **and financial exploitation of the elderly**,  
13 and the importance of prosecuting cases pursuant to chapter 565, RSMo; and

14 (5) Publicizing the availability of background checks prior to hiring an individual for  
15 caregiving purposes.

16 2. The department of social services and facilities licensed pursuant to chapters 197 and  
17 198, RSMo, shall cooperate fully with the department of health and senior services in the  
18 distribution of information pursuant to this program.

192.975. 1. This section shall be known and may be cited as the "Evan de Mello  
2 Reimbursement Program".

3 2. For purposes of this section, the following terms shall mean:

4 (1) "Child", a resident of this state who is less than twenty-one years of age;

5 (2) "Condition or impairment", any disease, defect, or diagnosis that:

6 (a) Requires immediate lifesaving medical treatment; or

7 (b) Can cause a crippling disability if not treated; or

8 (c) Requires prolonged outpatient care; or

9 (d) Has a poor to fair prognosis regardless of treatment or a variable prognosis;

10 (3) "Departments", the departments of health and senior services, and mental  
11 health;

12 (4) "Payer of last resort", the Evan de Mello reimbursement program is the last  
13 financial resource for reimbursement after all other available sources of payment have  
14 been exhausted;

15 (5) "Services", the same as such term is defined in section 201.010, RSMo.

16 3. The department of health and senior services and the department of mental  
17 health shall establish a program to provide financial assistance for the cost of  
18 transportation and ancillary services associated with receipt of medical treatment of an  
19 eligible child.

20 4. To be eligible for assistance under the program, a child shall be:

21 (1) Suffering from a condition or impairment that results in severe physical illness  
22 or physical impairments;

23 (2) In need of transportation or ancillary services due to the child's condition;

24 (3) Certified by a physician of the child's choice as a child who will likely benefit  
25 from medical services;

26 (4) Required to travel a distance of one hundred miles or more for medical services,  
27 as defined in section 201.010, RSMo, is financially unable to pay for such transportation  
28 or ancillary services, and the child's parents, guardian, or person legally responsible for  
29 the child's support is unable to pay for such travel expenses.

30 5. Subject to appropriations, recipients under the program shall receive  
31 reimbursement for transportation or ancillary services; except that, if any person, firm,  
32 corporation, or public or private agency is liable by contract or otherwise to the parents  
33 or a recipient of such services due to personal injury to or disability or disease of the  
34 recipient of such services, the service is subrogated to the right of the parent or recipient  
35 to recover from that part of the award or settlement an amount equal to the amount  
36 expended by the service for such services which are not otherwise recoverable from the

37 parent or recipient. The acceptance of such services from the service constitutes  
38 acknowledgment of subrogation rights by the service, and the service may take any and all  
39 action necessary to enforce the subrogation rights.

40 **6. The program established under this section is a payer of last resort.**

41 **7. The departments shall promulgate rules to implement the provisions of this**  
42 **section. Such rules shall include, but shall not be limited to:**

43 **(1) An application and review process for program eligibility determinations;**

44 **(2) Any per-recipient dollar cap on benefits under the program, which shall not be**  
45 **less than five thousand dollars per recipient; and**

46 **(3) The household income eligibility limits under the program, which shall not**  
47 **exceed a household income of three hundred fifty percent of the federal poverty level.**

48 **8. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
49 **that is created under the authority delegated in this section shall become effective only if**  
50 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
51 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
52 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
53 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
54 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
55 **adopted after August 28, 2008, shall be invalid and void.**

[660.050.] **192.2000.** 1. The "Division of Aging" is hereby transferred from the  
2 department of social services to the department of health and senior services by a type I transfer  
3 as defined in the Omnibus State Reorganization Act of 1974. **All references in the revised**  
4 **statutes of Missouri to the division of aging shall include any division or divisions**  
5 **established by the department as a successor division or divisions to the division of aging.**  
6 The division shall aid and assist the elderly and low-income [handicapped] adults **with**  
7 **disabilities** living in the state of Missouri to secure and maintain maximum economic and  
8 personal independence and dignity. The division shall regulate adult long-term care facilities  
9 pursuant to the laws of this state and rules and regulations of federal and state agencies, to  
10 safeguard the lives and rights of residents in these facilities.

11 2. In addition to its duties and responsibilities enumerated pursuant to other provisions  
12 of law, the division shall:

13 (1) Serve as advocate for the elderly by promoting a comprehensive, coordinated service  
14 program through administration of Older Americans Act (OAA) programs (Title III) P.L. 89-73,  
15 (42 U.S.C. 3001, et seq.), as amended;

16 (2) Assure that an information and referral system is developed and operated for the  
17 elderly, including information on the Missouri care options program;

- 18 (3) Provide technical assistance, planning and training to local area agencies on aging;
- 19 (4) Contract with the federal government to conduct surveys of long-term care facilities  
20 certified for participation in the Title XVIII program;
- 21 (5) Serve as liaison between the department of health and senior services and the Federal  
22 Health Standards and Quality Bureau, as well as the Medicare and Medicaid portions of the  
23 United States Department of Health and Human Services;
- 24 (6) Conduct medical review (inspections of care) activities such as utilization reviews,  
25 independent professional reviews, and periodic medical reviews to determine medical and social  
26 needs for the purpose of eligibility for Title XIX, and for level of care determination;
- 27 (7) Certify long-term care facilities for participation in the Title XIX program;
- 28 (8) Conduct a survey and review of compliance with P.L. 96-566 Sec. 505(d) for  
29 Supplemental Security Income recipients in long-term care facilities and serve as the liaison  
30 between the Social Security Administration and the department of health and senior services  
31 concerning Supplemental Security Income beneficiaries;
- 32 (9) Review plans of proposed long-term care facilities before they are constructed to  
33 determine if they meet applicable state and federal construction standards;
- 34 (10) Provide consultation to long-term care facilities in all areas governed by state and  
35 federal regulations;
- 36 (11) Serve as the central state agency with primary responsibility for the planning,  
37 coordination, development, and evaluation of policy, programs, and services for elderly persons  
38 in Missouri consistent with the provisions of subsection 1 of this section and serve as the  
39 designated state unit on aging, as defined in the Older Americans Act of 1965;
- 40 (12) With the advice of the governor's advisory council on aging, develop long-range  
41 state plans for programs, services, and activities for elderly [and handicapped] persons **and long-**  
42 **term care options for elderly persons and adults with disabilities.** State plans should be  
43 revised annually and should be based on area agency on aging plans, statewide priorities, and  
44 state and federal requirements;
- 45 (13) Receive and disburse all federal and state funds allocated to the division and solicit,  
46 accept, and administer grants, including federal grants, or gifts made to the division or to the  
47 state for the benefit of elderly persons in this state;
- 48 (14) Serve, within government and in the state at large, as an advocate for elderly  
49 persons by holding hearings and conducting studies or investigations concerning matters  
50 affecting the health, safety, and welfare of elderly persons and by assisting elderly persons to  
51 assure their rights to apply for and receive services and to be given fair hearings when such  
52 services are denied;

53 (15) Provide information and technical assistance to the governor's advisory council on  
54 aging and keep the council continually informed of the activities of the division;

55 (16) After consultation with the governor's advisory council on aging, make  
56 recommendations for legislative action to the governor and to the general assembly;

57 (17) Conduct research and other appropriate activities to determine the needs of elderly  
58 persons in this state, including, but not limited to, their needs for social and health services, and  
59 to determine what existing services and facilities, private and public, are available to elderly  
60 persons to meet those needs;

61 (18) Maintain [and serve as a clearinghouse for] **information regarding resources that**  
62 **provide** up-to-date information and technical assistance related to the needs and interests of  
63 elderly persons and persons with Alzheimer's disease or related dementias, including information  
64 on the Missouri care options program, dementia-specific training materials and dementia-specific  
65 trainers. Such dementia-specific information and technical assistance shall be [maintained and]  
66 provided in consultation with agencies, organizations and/or institutions of higher learning with  
67 expertise in dementia care;

68 (19) Provide area agencies on aging with assistance in applying for federal, state, and  
69 private grants and identifying new funding sources;

70 (20) Determine area agencies on aging annual allocations for Title XX and Title III of  
71 the Older Americans Act expenditures;

72 (21) Provide transportation services, home-delivered and congregate meals, in-home  
73 services, counseling and other services to the elderly and low-income [handicapped] adults **with**  
74 **disabilities** as designated in the Social Services Block Grant Report, through contract with other  
75 agencies, and shall monitor such agencies to ensure that services contracted for are delivered and  
76 meet standards of quality set by the division;

77 (22) Monitor the process pursuant to the federal Patient Self-determination Act, 42  
78 U.S.C. 1396a (w), in long-term care facilities by which information is provided to patients  
79 concerning durable powers of attorney and living wills.

80 3. The division director, subject to the supervision of the director of the department of  
81 health and senior services, shall be the chief administrative officer of the division and shall  
82 exercise for the division the powers and duties of an appointing authority pursuant to chapter 36,  
83 RSMo, to employ such administrative, technical and other personnel as may be necessary for the  
84 performance of the duties and responsibilities of the division.

85 4. The division may withdraw designation of an area agency on aging only when it can  
86 be shown the federal or state laws or rules have not been complied with, state or federal funds  
87 are not being expended for the purposes for which they were intended, or the elderly are not  
88 receiving appropriate services within available resources, and after consultation with the director

89 of the area agency on aging and the area agency board. Withdrawal of any particular program  
90 of services may be appealed to the director of the department of health and senior services and  
91 the governor. In the event that the division withdraws the area agency on aging designation in  
92 accordance with the Older Americans Act, the division shall administer the services to clients  
93 previously performed by the area agency on aging until a new area agency on aging is designated.

94 5. Any person hired by the department of health and senior services after August 13,  
95 1988, to conduct or supervise inspections, surveys or investigations pursuant to chapter 198,  
96 RSMo, shall complete at least one hundred hours of basic orientation regarding the inspection  
97 process and applicable rules and statutes during the first six months of employment. Any such  
98 person shall annually, on the anniversary date of employment, present to the department evidence  
99 of having completed at least twenty hours of continuing education in at least two of the following  
100 categories: communication techniques, skills development, resident care, or policy update.

101 The department of health and senior services shall by rule describe the curriculum and structure  
102 of such continuing education.

103 6. The division may issue and promulgate rules to enforce, implement and effectuate the  
104 powers and duties established in this section [and sections 198.070 and 198.090, RSMo, and  
105 sections 660.250 and 660.300 to 660.320] , **section 192.2100, sections 192.2150 to 192.2187,**  
106 **and section 198.090, RSMo.** Any rule or portion of a rule, as that term is defined in section  
107 536.010, RSMo, that is created under the authority delegated in this section shall become  
108 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,  
109 and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are  
110 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,  
111 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently  
112 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
113 after August 28, 2001, shall be invalid and void.

114 7. Missouri care options is a program, operated and coordinated by the [division of  
115 aging] **department**, which informs individuals of the variety of care options available to them  
116 when they may need long-term care.

117 8. The division shall, by January 1, 2002, establish minimum dementia-specific training  
118 requirements for employees involved in the delivery of care to persons with Alzheimer's disease  
119 or related dementias who are employed by skilled nursing facilities, intermediate care facilities,  
120 residential care facilities, agencies providing in-home care services authorized by the [division  
121 of aging] **department**, adult day-care programs, independent contractors providing direct care  
122 to persons with Alzheimer's disease or related dementias and the [division of aging] **department**.  
123 Such training shall be incorporated into new employee orientation and ongoing in-service  
124 curricula for all employees involved in the care of persons with dementia. The department of

125 health and senior services shall, by January 1, 2002, establish minimum dementia-specific  
126 training requirements for employees involved in the delivery of care to persons with Alzheimer's  
127 disease or related dementias who are employed by home health and hospice agencies licensed  
128 by chapter 197, RSMo. Such training shall be incorporated into the home health and hospice  
129 agency's new employee orientation and ongoing in-service curricula for all employees involved  
130 in the care of persons with dementia. The dementia training need not require additional hours  
131 of orientation or ongoing in-service. Training shall include at a minimum, the following:

132 (1) For employees providing direct care to persons with Alzheimer's disease or related  
133 dementias, the training shall include an overview of Alzheimer's disease and related dementias,  
134 communicating with persons with dementia, behavior management, promoting independence in  
135 activities of daily living, and understanding and dealing with family issues;

136 (2) For other employees who do not provide direct care for, but may have daily contact  
137 with, persons with Alzheimer's disease or related dementias, the training shall include an  
138 overview of dementias and communicating with persons with dementia.

139

140 As used in this subsection, the term "employee" includes persons hired as independent  
141 contractors. The training requirements of this subsection shall not be construed as superceding  
142 any other laws or rules regarding dementia-specific training.

143 **9. All powers, duties, and functions of the board of nursing home administrators**  
144 **contained in chapter 344, RSMo, are transferred by type I transfer to the department of**  
145 **health and senior services.**

[660.060.] **192.2001.** All authority, powers, duties, functions, records, personnel,  
2 property, contracts, budgets, matters pending and other pertinent vestiges of the division of aging  
3 shall be transferred to the department of health and senior services.

[660.053.] **192.2003.** As used in [section 199.025, RSMo, and sections 660.050 to  
2 660.057 and 660.400 to 660.420] **sections 192.2000 to 192.2040 and sections 192.2200 to**  
3 **192.2227**, the following terms mean:

4 (1) "Area agency on aging", the agency designated by the division in a planning and  
5 service area to develop and administer a plan and administer available funds for a comprehensive  
6 and coordinated system of services for the elderly and persons with disabilities who require  
7 similar services;

8 (2) "Area agency board", the local policy-making board which directs the actions of the  
9 area agency on aging under state and federal laws and regulations;

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

11 (4) "Director", the director of the [division of aging of the Missouri] department of  
12 [social] **health and senior services, or the director's designee;**

13 [(4) "Division", the division of aging of the Missouri department of social services;]

14 (5) "Elderly" or "elderly persons", persons who are sixty years of age or older;

15 (6) "Disability", a mental or physical impairment that substantially limits one or more  
16 major life activities, whether the impairment is congenital or acquired by accident, injury or  
17 disease, where such impairment is verified by medical findings;

18 (7) "Local government", a political subdivision of the state whose authority is general  
19 or a combination of units of general purpose local governments;

20 (8) "Major life activities", functions such as caring for one's self, performing manual  
21 tasks, walking, seeing, hearing, speaking, breathing, learning, and working;

22 (9) ["Medicaid"] "**MO HealthNet**", medical assistance provided under section 208.151,  
23 RSMo, et seq., in compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social  
24 Security Act (42 U.S.C. 301 et seq.), as amended;

25 (10) "Protective services", a service provided by the [Missouri division of aging in  
26 response to the need for protection from harm or neglect to eligible adults under sections 660.250  
27 to 660.295] **state or other governmental or private organizations or individuals to ensure  
28 the safety and well being of elderly persons or adults with disabilities who are in danger  
29 of being mistreated or neglected, and are unable to take care of themselves or protect  
30 themselves from harm;**

31 (11) "Registered caregiver", a person who provides primary long-term care for an elderly  
32 person and wishes to receive information, services or support from the shared care program;

33 (12) "Shared care", a program administered by the [division of aging] **department** in  
34 which Missouri families who provide primary long-term care for an elderly person and register  
35 as a shared care member with the [division of aging] **department** shall receive access to certain  
36 supportive services and may receive a state tax credit;

37 (13) "Shared care community project", a project in a community that offers to help  
38 support shared care participation through development of programs;

39 (14) "Shared care member", a registered caregiver or shared care provider who registers  
40 with the [division of aging] **department** in order to participate in the shared care program;

41 (15) "Shared care provider", any state authorized long-term care provider in the state,  
42 including, but not limited to, in-home, home health, hospice, adult day care, residential care  
43 facility or assisted living facility, or nursing home, who voluntarily registers with the [division  
44 of aging] **department** to be available as a resource for the shared care program;

45 (16) "Shared care tax credit", a tax credit to registered caregivers who meet the  
46 requirements of section [660.055] **192.2009**.

[660.054.] **192.2006**. 1. The [division of aging of the department of social] **department  
2 of health and senior** services shall establish a program to help families who provide the primary

3 long-term care for an elderly person. This program shall be known as "shared care" and has the  
4 following goals:

5 (1) To provide services and support for families caring for an elderly person;

6 (2) To increase awareness of the variety of privately funded services which may be  
7 available to those persons caring for an elderly person;

8 (3) To increase awareness of the variety of government services which may be available  
9 to those caring for an elderly person;

10 (4) Recognition on an annual basis by the governor for those families participating in the  
11 shared care program and community project groups participating in the shared care program;

12 (5) To provide a tax credit to members who meet the qualifications pursuant to section  
13 [660.055] **192.2009**; and

14 (6) To promote community involvement by:

15 (a) Providing local communities information about the shared care program and to  
16 encourage the establishment of support groups where none are available and to support existing  
17 support groups, and other programs for shared care members and providers to share ideas,  
18 information and resources on caring for an elderly person; and

19 (b) Encouraging local home care, adult day care or other long-term care providers, who  
20 have regularly scheduled training sessions for paid caregivers, to voluntarily invite shared care  
21 members to participate in education and training sessions at no cost to the registered caregivers.  
22 Such providers shall not be held liable in any civil or criminal action related to or arising out of  
23 the participation or training of shared care members in such sessions.

24 2. To further the goals of the shared care program, the director shall:

25 (1) Promulgate specific rules and procedures for the shared care program. Any rule or  
26 portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the  
27 authority delegated in sections [660.050 to 660.057] **192.2000 to 192.2012** shall become  
28 effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,  
29 and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August  
30 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to  
31 repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully  
32 complied with all applicable provisions of law. This section and chapter 536, RSMo, are  
33 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,  
34 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently  
35 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted  
36 after August 28, 1999, shall be invalid and void;

37 (2) Maintain a registry of names and addresses of shared care members and shared care  
38 providers;

39 (3) [Compile a list, updated annually, of] **Maintain a web site with links to** public and  
40 private resources, services and programs which may be available to assist and support the  
41 registered caregiver with caring for the elderly. Such [list] **web site** shall be [given] **available**  
42 to shared care members along with information on shared care providers in their community.  
43 Private organizations and providers shall be responsible for [providing] **updating** information  
44 to the [division of aging] **department** for inclusion on the [list] **web site**. The [division of  
45 aging] **department** shall establish reporting procedures for private organizations and publicly  
46 disseminate the [division's] **department's** guidelines statewide;

47 (4) [Compile and distribute to shared care members] **Post information on the Internet**  
48 **regarding resources that contain** information about [the] services and benefits of the shared  
49 care program [and a bibliography of] **with links to** resources and materials with information  
50 helpful to such members. The [bibliography will give members an overview] **web links shall**  
51 **provide access to an array** of available information and is not required to be comprehensive;

52 (5) Encourage shared care providers, consumer groups, churches and other philanthropic  
53 organizations to help local communities develop local support systems where none are available  
54 and to support existing support groups for persons caring for elderly persons and make [division]  
55 **department** staff available, if possible;

56 (6) In conjunction with the director of revenue, develop a physician certification for  
57 shared care tax credit form to be given to registered caregivers upon request. The form shall  
58 require, but is not limited to:

59 (a) Identifying information about the registered caregiver for tax purposes, and the  
60 signature of the registered caregiver certifying that he or she qualifies for the shared care tax  
61 credit as provided in section [660.055] **192.2009**;

62 (b) Identifying information about the elderly person receiving care for verification  
63 purposes;

64 (c) Identifying information about and the signature of the physician licensed pursuant  
65 to the provisions of chapter 334, RSMo, for verification and certification purposes;

66 (d) A description by such physician of the physical or mental condition of the elderly  
67 person that makes them incapable of living alone and lists the care, assistance with daily living  
68 and oversight needed at home in order to prevent placement in a facility licensed pursuant to  
69 chapter 198, RSMo; and

70 (e) A complete explanation of the shared care tax credit and its guidelines and directions  
71 on completion of the form and how to file for the shared care tax credit with the department of  
72 revenue; and

73 (7) In conjunction with the director of revenue, develop a [division of aging]  
74 **department** certification for shared care tax credit form to be given at the request of the

75 registered caregivers when a [division of aging] **department** assessment has been completed for  
76 other purposes. The form shall require, but is not limited to:

77 (a) Identifying information about the registered caregiver for tax purposes, and the  
78 signature of the registered caregiver certifying that he or she qualifies for the shared care tax  
79 credit as provided in section [660.055] **192.2009**;

80 (b) Identifying information about the elderly person receiving care for verification  
81 purposes;

82 (c) Identifying information about and the signature of the [division of aging] **department**  
83 staff for verification and certification purposes;

84 (d) A description by the [division of aging] **department** staff of the physical or mental  
85 condition of the elderly person that makes them incapable of living alone and lists the care,  
86 assistance with daily living and oversight needed at home in order to prevent placement in a  
87 facility licensed pursuant to chapter 198, RSMo; and

88 (e) A complete explanation of the shared care tax credit and its guidelines and directions  
89 for completing the form and how to file for the shared care tax credit with the department of  
90 revenue.

91 3. Funds appropriated for the shared care program shall be appropriated to and  
92 administered by the department of [social] **health and senior** services.

[660.055.] **192.2009**. 1. Any registered caregiver who meets the requirements of this  
2 section shall be eligible for a shared care tax credit in an amount not to exceed five hundred  
3 dollars to defray the cost of caring for an elderly person. In order to be eligible for a shared care  
4 tax credit, a registered caregiver shall:

5 (1) Care for an elderly person, age sixty or older, who:

6 (a) Is physically or mentally incapable of living alone, as determined and certified by his  
7 or her physician licensed pursuant to chapter 334, RSMo, or by the [division of aging]  
8 **department** staff when an assessment has been completed for the purpose of qualification for  
9 other services; and

10 (b) Requires assistance with activities of daily living to the extent that without care and  
11 oversight at home would require placement in a facility licensed pursuant to chapter 198, RSMo;  
12 and

13 (c) Under no circumstances, is able or allowed to operate a motor vehicle; and

14 (d) Does not receive funding or services through [Medicaid] **MO HealthNet** or social  
15 services block grant funding;

16 (2) Live in the same residence to give protective oversight for the elderly person meeting  
17 the requirements described in subdivision (1) of this subsection for an aggregate of more than  
18 six months per tax year;

19 (3) Not receive monetary compensation for providing care for the elderly person meeting  
20 the requirements described in subdivision (1) of this subsection; and

21 (4) File the original completed and signed physician certification for shared care tax  
22 credit form or the original completed and signed [division of aging] **department** certification  
23 for shared care tax credit form provided for in subsection 2 of section [660.054] **192.2006** along  
24 with such caregiver's Missouri individual income tax return to the department of revenue.

25 2. The tax credit allowed by this section shall apply to any year beginning after  
26 December 31, 1999.

27 3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
28 is created under the authority delegated in sections [660.050 to 660.057] **192.2000 to 192.2012**  
29 shall become effective only if it complies with and is subject to all of the provisions of chapter  
30 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior  
31 to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be  
32 interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999,  
33 if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo,  
34 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter  
35 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are  
36 subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed  
37 or adopted after August 28, 1999, shall be invalid and void.

38 4. Any person who knowingly falsifies any document required for the shared care tax  
39 credit shall be subject to the same penalties for falsifying other tax documents as provided in  
40 chapter 143, RSMo.

[660.057.] **192.2012.** 1. On and after August 13, 1984, an area agency on aging shall  
2 operate with local administrative responsibility for Title III of the Older Americans Act, and  
3 other funds allocated to it by the [division] **department**. The area agency board shall be  
4 responsible for all actions of an area agency on aging in its jurisdiction, including, but not limited  
5 to, the accountability for funds and compliance with federal and state laws and rules. Such  
6 responsibility shall include all geographic areas in which the area agency on aging is designated  
7 to operate. The respective area agency board shall appoint a director of the area agency on aging  
8 in its jurisdiction. [Beginning January 1, 1995,] The director of the area agency on aging shall  
9 submit an annual performance report to the [division] **department** director, the speaker of the  
10 house of representatives, the president pro tempore of the senate and the governor. Such  
11 performance report shall give a detailed accounting of all funds which were available to and  
12 expended by the area agency on aging from state, federal and private sources.

13 2. Each area agency on aging shall have an area agency on aging advisory council, which  
14 shall:

15 (1) Recommend basic policy guidelines for the administration of the activities of the area  
16 agencies on aging on behalf of elderly persons and advise the area agency on aging on questions  
17 of policy;

18 (2) Advise the area agency on aging with respect to the development of the area plan and  
19 budget, and review and comment on the completed area plan and budget before its transmittal  
20 to the [division] **department**;

21 (3) Review and evaluate the effectiveness of the area agency on aging in meeting the  
22 needs of elderly persons in the planning and service area;

23 (4) Meet at least quarterly, with all meetings being subject to sections 610.010 to  
24 610.030, RSMo.

25 3. Each area agency board shall:

26 (1) Conduct local planning functions for Title III and Title XX, and such other funds as  
27 may be available;

28 (2) Develop a local plan for service delivery, subject to review and approval by the  
29 [division] **department**, that complies with federal and state requirements and in accord with  
30 locally determined objectives consistent with the state policy on aging;

31 (3) Assess the needs of elderly persons within the planning and service delivery area for  
32 service for social and health services, and determine what resources are currently available to  
33 meet those needs;

34 (4) Assume the responsibility of determining services required to meet the needs of  
35 elderly persons, assure that such services are provided within the resources available, and  
36 determine when such services are no longer needed;

37 (5) Endeavor to coordinate and expand existing resources in order to develop within its  
38 planning and service area a comprehensive and coordinated system for the delivery of social and  
39 health services to elderly persons;

40 (6) Serve as an advocate within government and within the community at large for the  
41 interests of elderly persons within its planning and service area;

42 (7) Make grants to or enter into contracts with any public or private agency for the  
43 provision of social or health services not otherwise sufficiently available to elderly persons  
44 within the planning and service area;

45 (8) Monitor and evaluate the activities of its service providers to ensure that the services  
46 being provided comply with the terms of the grant or contract. Where a provider is found to be  
47 in breach of the terms of its grant or contract, the area agency shall enforce the terms of the grant  
48 or contract;

49 (9) Conduct research, evaluation, demonstration or training activities appropriate to the  
50 achievement of the goal of improving the quality of life for elderly persons within its planning  
51 and service area;

52 (10) Comply with [division] **department** requirements that have been developed in  
53 consultation with the area agencies for client and fiscal information, and provide to the [division]  
54 **department** information necessary for federal and state reporting, program evaluation, program  
55 management, fiscal control and research needs.

56 4. [Beginning January 1, 1995,] The records of each area agency on aging shall be  
57 audited at least every other year. All audits required by the Older Americans Act of 1965, as  
58 amended, shall satisfy this requirement.

[660.058.] **192.2015.** 1. The [division of aging] **department** shall provide budget  
2 allotment tables to each area agency on aging by January first of each year. Each area agency on  
3 aging shall submit its area plan, area budget and service contracts to the [division of aging]  
4 **department** by March first of each year. Each April, the area agencies on aging shall present  
5 their plans to the [division of aging] **department** in a public hearing scheduled by the [division]  
6 **department** and held in the area served by the area agency on aging. Within thirty days of such  
7 hearing, the [division] **department** shall report findings and recommendations to the board of  
8 directors for the area agency on aging, the area agency on aging advisory council, the members  
9 of the senate budget committee and the members of the house appropriations committee for  
10 social services and corrections.

11 2. Each area agency on aging shall include in its area plan performance measures and  
12 outcomes to be achieved for each year covered by the plan. Such measures and outcomes shall  
13 also be presented to the [division] **department** during the public hearing.

14 3. The [division of aging] **department** shall conduct on-site monitoring of each area  
15 agency on aging at least once a year. The [division of aging] **department** shall send all  
16 monitoring reports to the area agency on aging advisory council and the board of directors for  
17 the area agency which is the subject of the reports.

[660.725.] **192.2020.** 1. Each area agency on aging may establish a program that  
2 provides for volunteers to provide transportation within the geographic area of the agency to  
3 elderly persons to health care facilities for scheduled appointments or for other health  
4 care-related purposes.

5 2. Such volunteers shall utilize their own vehicles and shall be reimbursed for miles  
6 driven to provide transportation for elderly persons under the program. The area agency on aging  
7 may pay each volunteer a mileage allowance or reimbursement at the same rate as for state  
8 employees under section 33.095, RSMo.

9           3. The area agency on aging may encourage passengers under the program to reimburse  
10 the agency for all or part of the cost of providing such transportation services.

11           4. Any volunteer seeking a mileage allowance or reimbursement shall submit a monthly  
12 report to the agency detailing the transportation services provided, the dates of such services, and  
13 the miles driven. The agency may request further information from the volunteer on the monthly  
14 report.

15           5. Subject to appropriations, each area agency on aging may request funding of up to one  
16 thousand dollars annually per county for each county within the agency's jurisdiction from the  
17 department of health and senior services to assist with the costs associated with administering  
18 this program.

19           6. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

20           (1) Any new program authorized under this section shall automatically sunset six years  
21 after August 28, 2007, unless reauthorized by an act of the general assembly; and

22           (2) If such program is reauthorized, the program authorized under this section shall  
23 automatically sunset twelve years after the effective date of the reauthorization of this section;  
24 and

25           (3) This section shall terminate on September first of the calendar year immediately  
26 following the calendar year in which a program authorized under this section is sunset.

[660.062.] **192.2025.** 1. There is hereby created a "State Board of Senior Services"  
2 which shall consist of seven members, who shall be appointed by the governor, by and with the  
3 advice and consent of the senate. No member of the state board of senior services shall hold any  
4 other office or employment under the state of Missouri other than in a consulting status relevant  
5 to the member's professional status, licensure or designation. Not more than four of the members  
6 of the state board of senior services shall be from the same political party.

7           2. Each member shall be appointed for a term of four years; except that of the members  
8 first appointed, two shall be appointed for a term of one year, two for a term of two years, two  
9 for a term of three years and one for a term of four years. The successors of each shall be  
10 appointed for full terms of four years. No person may serve on the state board of senior services  
11 for more than two terms. The terms of all members shall continue until their successors have  
12 been duly appointed and qualified. One of the persons appointed to the state board of senior  
13 services shall be a person currently working in the field of gerontology. One of the persons  
14 appointed to the state board of senior services shall be a physician with expertise in geriatrics.  
15 One of the persons appointed to the state board of senior services shall be a person with expertise  
16 in nutrition. One of the persons appointed to the state board of senior services shall be a person  
17 with expertise in rehabilitation services of persons with disabilities. One of the persons  
18 appointed to the state board of senior services shall be a person with expertise in mental health

19 issues. In making the two remaining appointments, the governor shall give consideration to  
20 individuals having a special interest in gerontology or disability-related issues, including senior  
21 citizens. Four of the seven members appointed to the state board of senior services shall be  
22 members of the governor's advisory council on aging. If a vacancy occurs in the appointed  
23 membership, the governor may appoint a member for the remaining portion of the unexpired  
24 term created by the vacancy. The members shall receive actual and necessary expenses plus  
25 twenty-five dollars per day for each day of actual attendance.

26 3. The board shall elect from among its membership a chairman and a vice chairman,  
27 who shall act as chairman in his or her absence. The board shall meet at the call of the chairman.  
28 The chairman may call meetings at such times as he or she deems advisable, and shall call a  
29 meeting when requested to do so by three or more members of the board.

30 4. The state board of senior services shall advise the department of health and senior  
31 services in the:

32 (1) Promulgation of rules and regulations by the department of health and senior  
33 services;

34 (2) Formulation of the budget for the department of health and senior services; and

35 (3) Planning for and operation of the department of health and senior services.

[660.067.] **192.2030**. As used in sections [660.067 to 660.070] **192.2030 to 192.2035**,  
2 the following terms shall mean:

3 (1) "Adult day care", a group program that emphasizes appropriate services for persons  
4 eighteen years of age or older [having Alzheimer's disease and related disorders] **who have**  
5 **functional impairments** and that provides services for periods of less than twenty-four hours  
6 but more than two hours per day in a place other than the adult's home;

7 (2) "Alzheimer's disease and related disorders", diseases resulting from significant  
8 destruction of brain tissue and characterized by a decline of memory and other intellectual  
9 functions. These diseases include but are not limited to progressive, degenerative and dementing  
10 illnesses such as presenile and senile dementias, Alzheimer's disease and other related disorders;

11 (3) "Appropriate services", services that emphasize surveillance, safety, behavior  
12 management and other techniques used to assist persons having Alzheimer's disease and related  
13 disorders;

14 (4) "Director", the director of the division of aging of the department of [social] **health**  
15 **and senior services, or the director's designee;**

16 (5) ["Division", the division of aging of the department of social services;

17 (6) "In-home companion", someone trained to provide appropriate services to persons  
18 having Alzheimer's disease and related disorders and who provides those services in the home;

19 [(7)] (6) "Respite care", a program that provides temporary and short-term residential  
20 care, sustenance, supervision and other appropriate services for persons having Alzheimer's  
21 disease and related disorders who otherwise reside in their own or in a family home.

[660.069.] **192.2033.** 1. To encourage development of appropriate services for persons  
2 having Alzheimer's disease and related disorders, the [division] **department** may make grants  
3 to public and private entities for pilot projects from funds specifically appropriated for this  
4 purpose. Pilot projects shall have the following goals:

5 (1) To prevent or postpone institutionalization of persons having Alzheimer's disease and  
6 related disorders who currently live in their own home or in a family home;

7 (2) To offer services that emphasize safety, surveillance and behavior management rather  
8 than, or in addition to, medical treatment, homemaker, chore or personal care services;

9 (3) To temporarily relieve family members or others who have assumed direct care  
10 responsibilities by offering services that allow care givers to leave the home. These services  
11 shall include but not be limited to adult day care, in-home companions and respite care;

12 (4) To test the practical and economic feasibility of providing services in settings and  
13 at levels designed for varying needs; and

14 (5) To develop program models that can be adapted and operated by other public and  
15 private entities.

16 2. The director, in accordance with chapter 536, RSMo, shall promulgate rules that  
17 establish procedures for grant application, review, selection, monitoring and auditing of grants  
18 made [pursuant to sections 660.067 to 660.070] **under this section and section 192.2035.**

19 3. The grants shall be limited to a duration of one year but may be renewable for one  
20 additional year at the director's discretion and if funds are appropriated for this purpose.

[660.070.] **192.2035.** The commissioner of administration, in consultation with the  
2 director of the [division of aging] **department**, shall promulgate rules that establish procedures  
3 for contracting with grantees receiving funds under [sections 660.067 to 660.070] **this section**  
4 **and section 192.2033.** No rule or portion of a rule promulgated under the authority of [sections  
5 660.067 to 660.070] **this section and section 192.2033** shall become effective unless it has been  
6 promulgated pursuant to the provisions of section 536.024, RSMo.

[660.099.] **192.2040.** 1. The general assembly may appropriate funds in addition to the  
2 amount currently being provided per annum for nutrition services for the elderly. Funds so  
3 designated to provide nutrition services for the elderly shall be allocated to the [Missouri division  
4 of aging] **department** to be placed on the formula basis and distributed to each area agency on  
5 aging throughout the state of Missouri.

6 2. The general assembly may appropriate funds in addition to the amount currently being  
7 provided per annum through the Missouri elderly and handicapped transportation program.

8 Funds so designated to provide transportation for the elderly and developmentally disabled shall  
9 be allocated to the [Missouri division of aging] **department** to be placed on the formula basis  
10 and distributed to each area agency on aging throughout the state of Missouri.

11 3. The general assembly may appropriate funds in addition to the amount currently being  
12 provided per annum for home-delivered meals for the elderly. Such additional funds shall be  
13 allocated to the [Missouri division of aging] **department** to be placed on the formula basis and  
14 distributed to each area agency on aging throughout the state of Missouri.

[660.250.] **192.2100**. As used in sections [660.250 to 660.321] **192.2100 to 192.2130**  
2 **and sections 192.2175 to 192.2187**, the following terms mean:

3 (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm including  
4 financial exploitation by any person, firm or corporation;

5 (2) "Court", the circuit court;

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

7 (4) "Director", director of the department of health and senior services or his or her  
8 designees;

9 (5) "Eligible adult", a person sixty years of age or older who is unable to protect his or  
10 her own interests or adequately perform or obtain services which are necessary to meet his or her  
11 essential human needs or an adult with a disability, as defined in section [660.053] **192.2003**,  
12 between the ages of eighteen and fifty-nine who is unable to protect his or her own interests or  
13 adequately perform or obtain services which are necessary to meet his or her essential human  
14 needs;

15 (6) "Home health agency", the same meaning as such term is defined in section 197.400,  
16 RSMo;

17 (7) "Home health agency employee", a person employed by a home health agency;

18 (8) "Home health patient", an eligible adult who is receiving services through any home  
19 health agency;

20 (9) "In-home services client", an eligible adult who is receiving services in his or her  
21 private residence through any in-home services provider agency;

22 (10) "In-home services employee", a person employed by an in-home services provider  
23 agency;

24 (11) "In-home services provider agency", a business entity under contract with the  
25 department or with a [Medicaid] **MO HealthNet** participation agreement, which employs  
26 persons to deliver any kind of services provided for eligible adults in their private homes;

27 (12) "Least restrictive environment", a physical setting where protective services for the  
28 eligible adult and accommodation is provided in a manner no more restrictive of an individual's  
29 personal liberty and no more intrusive than necessary to achieve care and treatment objectives;

30 (13) "Likelihood of serious physical harm", one or more of the following:

31 (a) A substantial risk that physical harm to an eligible adult will occur because of his or  
32 her failure or inability to provide for his or her essential human needs as evidenced by acts or  
33 behavior which has caused such harm or which gives another person probable cause to believe  
34 that the eligible adult will sustain such harm;

35 (b) A substantial risk that physical harm will be inflicted by an eligible adult upon  
36 himself or herself, as evidenced by recent credible threats, acts, or behavior which has caused  
37 such harm or which places another person in reasonable fear that the eligible adult will sustain  
38 such harm;

39 (c) A substantial risk that physical harm will be inflicted by another upon an eligible  
40 adult as evidenced by recent acts or behavior which has caused such harm or which gives another  
41 person probable cause to believe the eligible adult will sustain such harm;

42 (d) A substantial risk that further physical harm will occur to an eligible adult who has  
43 suffered physical injury, neglect, sexual or emotional abuse, or other maltreatment or wasting  
44 of his or her financial resources by another person;

45 (14) "Neglect", the failure to provide services to an eligible adult by any person, firm or  
46 corporation with a legal or contractual duty to do so, when such failure presents either an  
47 imminent danger to the health, safety, or welfare of the client or a substantial probability that  
48 death or serious physical harm would result;

49 (15) "Protective services", services provided by the state or other governmental or private  
50 organizations or individuals [which are necessary for the eligible adult to meet his or her  
51 essential human needs] **to ensure the safety and well-being of elderly persons or adults with**  
52 **disabilities who are in danger of being mistreated or neglected and are unable to take care**  
53 **of themselves or protect themselves from harm.**

[660.255.] **192.2103.** 1. Any person having reasonable cause to suspect that an eligible  
2 adult presents a likelihood of suffering serious physical harm and is in need of protective services  
3 shall report such information to the department.

4 2. The report shall be made orally or in writing. It shall include, if known:

5 (1) The name, age, and address of the eligible adult;

6 (2) The name and address of any person responsible for the eligible adult's care;

7 (3) The nature and extent of the eligible adult's condition; and

8 (4) Other relevant information.

9 3. Reports regarding persons determined not to be eligible adults as defined in section  
10 [660.250] **192.2100** shall be referred to the appropriate state or local authorities.

11 4. The department shall maintain a statewide toll free phone number for receipt of  
12 reports.

13           **5. Any person complying with this section in the making of a report or in**  
14 **cooperating with the department in any of its activities under sections 192.2100 to 192.2130**  
15 **shall be immune from any civil or criminal liability for making such a report or in**  
16 **cooperating with the department, unless such person acted negligently, recklessly, in bad**  
17 **faith, or with malicious purpose. Any person who purposely files a false report of elder**  
18 **abuse or neglect is guilty of a crime under sections 565.186 and 565.188, RSMo.**

[660.260.] **192.2106. 1.** Upon receipt of a report, the department shall make a prompt  
2 and thorough investigation to determine whether or not an eligible adult is facing a likelihood  
3 of serious physical harm and is in need of protective services. The department shall provide for  
4 any of the following:

5           (1) Identification of the eligible adult and determination that the eligible adult is eligible  
6 for services;

7           (2) Evaluation and diagnosis of the needs of eligible adults;

8           (3) Provision of social casework, counseling or referral to the appropriate local or state  
9 authority;

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

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

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

14           **[660.261.] 2.** Upon receipt of a report that an eligible adult between the ages of eighteen  
15 and fifty-nine is facing a likelihood of serious physical harm, the department shall:

16           (1) Investigate or refer the report to appropriate law enforcement or state agencies; and

17           (2) Provide services or refer to local community or state agencies.

[660.263.] **192.2109. 1.** Reports made pursuant to sections [660.250 to 660.295]  
2 **192.2100 to 192.2130** shall be confidential and shall not be deemed a public record and shall not  
3 be subject to the provisions of section 109.180, RSMo, or chapter 610, RSMo.

4           2. Such reports shall be accessible for examination and copying only to the following  
5 persons or offices, or to their designees:

6           (1) The department or any person or agency designated by the department;

7           (2) The attorney general;

8           (3) The department of mental health for persons referred to that department;

9           (4) Any appropriate law enforcement agency; and

10          (5) The eligible adult or [his] **the eligible adult's** legal guardian.

11          3. The name of the reporter shall not be disclosed unless:

12          (1) Such reporter specifically authorizes disclosure of [his] **the reporter's** name; and

13 (2) The department determines that disclosure of the name of the reporter is necessary  
14 in order to prevent further harm to an eligible adult.

15 4. Any person who violates the provisions of this section, or who permits or encourages  
16 the unauthorized dissemination of information contained in the central registry and in reports and  
17 records made pursuant to sections [660.250 to 660.295] **192.2100 to 192.2130**, shall be guilty  
18 of a class A misdemeanor.

19 5. The department shall maintain a central registry capable of receiving and maintaining  
20 reports received in a manner that facilitates rapid access and recall of the information reported,  
21 and of subsequent investigations and other relevant information. The department shall  
22 electronically record any telephone report of suspected abuse and neglect received by the  
23 department and such recorded reports shall be retained by the department for a period of one year  
24 after recording.

25 6. Although reports to the central registry may be made anonymously, the department  
26 shall in all cases, after obtaining relevant information regarding the alleged abuse or neglect,  
27 attempt to obtain the name and address of any person making a report.

[660.265.] **192.2112.** When an eligible adult gives consent to receive protective services,  
2 the department shall assist the adult in locating and arranging for necessary services in the least  
3 restrictive environment reasonably available.

[660.270.] **192.2115.** When the department receives a report that there has been abuse  
2 or neglect, or that there otherwise is a likelihood of serious physical harm to an eligible adult and  
3 that he or she is in need of protective services and the department is unable to conduct an  
4 investigation because access to the eligible adult is barred by any person, the director may  
5 petition the appropriate court for a warrant or other order to enter upon the described premises  
6 and investigate the report or to produce the information. The application for the warrant or order  
7 shall identify the eligible adult and the facts and circumstances which require the issuance of the  
8 warrant or order. The director may also seek an order to enjoin the person from barring access  
9 to an eligible adult or from interfering with the investigation. If the court finds that, based on  
10 the report and relevant circumstances and facts, probable cause exists showing that the eligible  
11 adult faces abuse or neglect, or otherwise faces a likelihood of serious physical harm and is in  
12 need of protective services and the director has been prevented by another person from  
13 investigating the report, the court may issue the warrant or enjoin the interference with the  
14 investigation or both.

[660.275.] **192.2118.** If an eligible adult gives consent to receive protective services and  
2 any other person interferes with or prevents the delivery of such services, the director may  
3 petition the appropriate court for an order to enjoin the interference with the delivery of the  
4 services. The petition shall allege the consent of the eligible adult and shall allege specific facts

5 sufficient to show that the eligible adult faces a likelihood of serious physical harm and is in need  
6 of the protective services and that delivery is barred by the person named in the petition. If the  
7 court finds upon a preponderance of evidence that the allegations in the petition are true, the  
8 court may issue an order enjoining the interference with the delivery of the protective services  
9 and may establish such conditions and restrictions on the delivery as the court deems necessary  
10 and proper under the circumstances.

[660.280.] **192.2121.** When an eligible adult facing the likelihood of serious physical  
2 harm and in need of protective services is unable to give consent because of incapacity or legal  
3 disability and the guardian of the eligible adult refuses to provide the necessary services or allow  
4 the provision of such services, the director shall inform the court having supervisory jurisdiction  
5 over the guardian of the facts showing that the eligible adult faces the likelihood of serious  
6 physical harm and is in need of protective services and that the guardian refuses to provide the  
7 necessary services or allow the provision of such services under the provisions of sections  
8 [660.250 to 660.295] **192.2100 to 192.2130.** Upon receipt of such information, the court may  
9 take such action as it deems necessary and proper to insure that the eligible adult is able to meet  
10 his essential human needs.

[660.285.] **192.2124.** 1. If the director determines after an investigation that an eligible  
2 adult is unable to give consent to receive protective services and presents a likelihood of serious  
3 physical harm, the director may initiate proceedings pursuant to chapter 202, RSMo, or chapter  
4 475, RSMo, if appropriate.

5 2. In order to expedite adult guardianship and conservatorship cases, the department may  
6 retain, within existing funding sources of the department, legal counsel on a case-by-case basis.

[660.290.] **192.2127.** 1. When a peace officer has probable cause to believe that an  
2 eligible adult will suffer an imminent likelihood of serious physical harm if not immediately  
3 placed in a medical facility for care and treatment, that the adult is incapable of giving consent,  
4 and that it is not possible to follow the procedures in section [660.285] **192.2124**, the officer may  
5 transport, or arrange transportation for, the eligible adult to an appropriate medical facility which  
6 may admit the eligible adult and shall notify the next of kin, if known, and the director.

7 2. Where access to the eligible adult is barred and a substantial likelihood exists of  
8 serious physical harm resulting to the eligible adult if he is not immediately afforded protective  
9 services, the peace officer may apply to the appropriate court for a warrant to enter upon the  
10 described premises and remove the eligible adult. The application for the warrant shall identify  
11 the eligible adult and the circumstances and facts which require the issuance of the warrant.

12 3. If immediately upon admission to a medical facility, a person who is legally  
13 authorized to give consent for the provision of medical treatment for the eligible adult, has not  
14 given or refused to give such consent, and it is the opinion of the medical staff of the facility that

15 treatment is necessary to prevent serious physical harm, the director or the head of the medical  
16 facility shall file a petition in the appropriate court for an order authorizing specific medical  
17 treatment. The court shall hold a hearing and issue its decision forthwith. Notwithstanding the  
18 above, if a licensed physician designated by the facility for such purpose examines the eligible  
19 adult and determines that the treatment is immediately or imminently necessary and any delay  
20 occasioned by the hearing provided in this subsection would jeopardize the life of the person  
21 affected, the medical facility may treat the eligible adult prior to such court hearing.

22 4. The court shall conduct a hearing pursuant to chapter 475, RSMo, forthwith and, if  
23 the court finds the eligible adult incapacitated, it shall appoint a guardian ad litem for the person  
24 of the eligible adult to determine the nature and extent of the medical treatment necessary for the  
25 benefit of the eligible adult and to supervise the rendition of such treatment. The guardian ad  
26 litem shall promptly report the completion of treatment to the court, who shall thereupon conduct  
27 a restoration hearing or a hearing to appoint a permanent guardian.

28 5. The medical care under this section may not be rendered in a mental health facility  
29 unless authorized pursuant to the civil commitment procedures in chapter 632, RSMo.

30 6. Nothing contained in this section or [in any other section of sections 660.250 to  
31 660.295] **sections 192.2100 to 192.2130** shall be construed as requiring physician or medical  
32 care or hospitalization of any person who, because of religious faith or conviction, relies on  
33 spiritual means or prayer to cure or prevent disease or suffering nor shall any provision of  
34 sections [660.250 to 660.295] **192.2100 to 192.2130** be construed so as to designate any person  
35 as an eligible adult who presents a likelihood of suffering serious physical harm and is in need  
36 of protective services solely because such person, because of religious faith or conviction, relies  
37 on spiritual means or prayer to cure or prevent disease or suffering.

[660.295.] **192.2130.** If an eligible adult does not consent to the receipt of reasonable and  
2 necessary protective services, or if an eligible adult withdraws previously given consent, the  
3 protective services shall not be provided or continued; except that, if the director has reasonable  
4 cause to believe that the eligible adult lacks the capacity to consent, the director may seek a court  
5 order pursuant to the provisions of section [660.285] **192.2124.**

[198.070.] **192.2150.** 1. [When] **As used in sections 192.2150 to 192.2187, unless the**  
2 **context clearly indicates otherwise, the following terms mean:**

3 (1) "Consumer", a consumer of personal care assistance services as defined in  
4 **section 208.900, RSMo;**

5 (2) "In-home services client", the same meaning as such term is defined in section  
6 **192.2100 or a participant in a healthy children and youth program who receives in-home**  
7 **care authorized by the department in accordance with the provisions of Section 6403 of**  
8 **P.L. 101-239 and federal regulations promulgated thereunder;**

- 9           (3) **"Misappropriation", the dishonest conversion of property or moneys of a**  
10 **patient, resident, in-home services client, or consumer;**
- 11           (4) **"Patient", any patient of any entity licensed or certified under chapter 197,**  
12 **RSMo;**
- 13           (5) **"Personal care attendant", a person hired to provide personal care assistance**  
14 **services as defined in section 208.900, RSMo;**
- 15           (6) **"Principal", a provider officer, director, owner, partner, or other person with**  
16 **primary management or supervisory responsibilities;**
- 17           (7) **"Provider", any person or entity who:**
- 18           (a) **Is licensed or certified as an operator under chapter 197 or 198, RSMo;**
- 19           (b) **Provides in-home services under contract with the department;**
- 20           (c) **Employs health care staff for temporary or intermittent placement in health**  
21 **care facilities;**
- 22           (d) **Is a licensed adult day care provider;**
- 23           (e) **Is a vendor as defined in section 208.900, RSMo; or**
- 24           (f) **Has a MO HealthNet participation agreement and employs persons to deliver**  
25 **any kind of services provided for patients, in-home services clients, or consumers in their**  
26 **private homes;**
- 27           (8) **"Resident", any resident of any entity licensed or certified under chapter 198,**  
28 **RSMo, or a client of any adult day care provider, as defined in section 192.2200.**
- 29           2. Any adult day care worker; chiropractor; Christian Science practitioner; coroner;  
30 dentist; embalmer; employee of the departments of social services, mental health, or health and  
31 senior services; employee of a local area agency on aging or an organized area agency on aging  
32 program; funeral director; home health agency or home health agency employee; hospital and  
33 clinic personnel engaged in examination, care, or treatment of persons; in-home services owner,  
34 provider, operator, or employee; law enforcement officer; long-term care facility administrator  
35 or employee; medical examiner; medical resident or intern; mental health professional; minister;  
36 nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist;  
37 physical therapist; physician; physician's assistant; podiatrist; probation or parole officer;  
38 psychologist; social worker; **personal care attendant as defined in section 208.900, RSMo;**  
39 **owner, operator, or employee of a vendor as defined in section 208.900, RSMo; or other**  
40 **person charged with the care of or caring for a person sixty years of age or older or an eligible**  
41 **adult, as defined in section 192.2100, who has reasonable cause to believe that a [resident of**  
42 **a facility] patient, resident, in-home services client, or consumer has been abused or**  
43 **neglected, [he or she] that misappropriation of property or moneys belonging to a patient,**  
44 **resident, in-home services client, or consumer has occurred, or that the falsification of any**

45 **documents verifying service delivery of in-home services or consumer-directed services has**  
46 **occurred** shall [immediately] report or cause a report to be made to the department **within**  
47 **twenty-four hours after the act or discovery of the act by such person, whichever is later.**

48 [2.] **3. In addition to those persons required to report under subsection 2 of this**  
49 **section, any other person having reasonable cause to believe that a patient, resident, in-**  
50 **home services client, or consumer has been abused or neglected, that misappropriation of**  
51 **property or moneys belonging to a patient, resident, in-home services client, or consumer**  
52 **has occurred, or that falsification of any documents verifying service delivery of in-home**  
53 **services or consumer-directed services has occurred may report such information to the**  
54 **department.**

55 **4. If a report is made by the patient's, in-home services client's, consumer's, or**  
56 **resident's physician, the department shall provide information regarding the progress of**  
57 **the investigation to the physician upon request.**

58 **5. The report shall contain:**

59 (1) The name and address of the [facility, the name of the resident,] **provider and the**  
60 **patient, resident, in-home services client, or consumer;**

61 (2) Information regarding the nature of the abuse or neglect, **misappropriation, or**  
62 **falsification of documents verifying service delivery;**

63 (3) The name of the complainant[, ] ; and

64 (4) Any other information which might be helpful in an investigation.

65 [3. Any person required in subsection 1 of this section to report or cause a report to be  
66 made to the department who knowingly fails to make a report within a reasonable time after the  
67 act of abuse or neglect as required in this subsection is guilty of a class A misdemeanor.

68 **4. In addition to the penalties imposed by this section, any administrator who knowingly**  
69 **conceals any act of abuse or neglect resulting in death or serious physical injury, as defined in**  
70 **section 565.002, RSMo, is guilty of a class D felony.**

71 **5. In addition to those persons required to report pursuant to subsection 1 of this section,**  
72 **any other person having reasonable cause to believe that a resident has been abused or neglected**  
73 **may report such information to the department.]**

74 **6. Upon receipt of a report that indicates an imminent danger to the health, safety,**  
75 **or welfare of a patient, resident, in-home services client, or consumer, or substantial**  
76 **probability that death or serious physical injury will result, the department shall [initiate an**  
77 **investigation within twenty-four hours and] make a prompt and thorough investigation. The**  
78 **department shall initiate all other investigations as soon as practicable. As provided in**  
79 **section 565.186, RSMo, substantiated reports of elder abuse shall be promptly reported by**  
80 **the department to the appropriate law enforcement agency and prosecutor. In the case of**

81 **investigations alleging abuse, neglect, misappropriation, or exploitation of a resident of a**  
82 **facility licensed under chapter 198, RSMo, by a facility employee or other resident:**

83 **(1) If the resident has been appointed a guardian or conservator, or both, under**  
84 **chapter 475, RSMo, or if the resident has been certified to be incapacitated in accordance**  
85 **with sections 404.800 to 404.872, RSMo, the department,** as soon as possible during the  
86 course of the investigation, shall notify the resident's [next of kin or responsible party] **legal**  
87 **representative** of the report [and] , the investigation, and [further notify them] whether the  
88 report was substantiated or unsubstantiated unless such person is the alleged perpetrator [of the  
89 abuse or neglect.] ;

90 **(2) The department may notify family members or guardians or conservators of the**  
91 **results of investigations in accordance with section 198.532, RSMo.**

92

93 [As provided in section 565.186, RSMo, substantiated reports of elder abuse shall be promptly  
94 reported by the department to the appropriate law enforcement agency and prosecutor.]

95 7. If the investigation indicates possible abuse or neglect [of a resident],  
96 **misappropriation of property or moneys, or falsification of documents verifying service**  
97 **delivery of in-home services or consumer-directed services,** the investigator shall refer the  
98 complaint together with the investigator's report to the department director or the director's  
99 designee for appropriate action. **When information gained from an investigation indicates**  
100 **a crime has occurred, the department shall report such information to the appropriate law**  
101 **enforcement agency.**

102 8. If, during the investigation or at its completion, the department has reasonable cause  
103 to believe that immediate [removal] **action** is necessary to protect the resident, **patient, in-home**  
104 **services client, or consumer, or his or her assets,** from abuse or neglect, **or misappropriation**  
105 **of property or moneys,** the department or the local prosecuting attorney may, or the attorney  
106 general upon request of the department shall, file a petition for temporary care and protection of  
107 the resident, **patient, in-home services client, or consumer, or his or her assets,** in a circuit  
108 court of competent jurisdiction. The circuit court in which the petition is filed shall have  
109 equitable jurisdiction to issue an ex parte order granting the department authority for the  
110 temporary care and protection of the resident, **patient, in-home services client, or consumer**  
111 for a period not to exceed thirty days.

112 [8.] 9. Reports shall be confidential, [as provided pursuant to section 660.320, RSMo]  
113 **shall not be deemed a public record, and shall not be subject to the provisions of section**  
114 **109.180, RSMo, or chapter 610, RSMo. The name of the complainant or any person**  
115 **mentioned in the reports shall not be disclosed unless:**

116 (1) **The complainant, patient, resident, in-home services client, or consumer**  
117 **mentioned, or such person's legal representative agrees to disclosure of his or her name;**

118 (2) **The department determines that disclosure is necessary to prevent further abuse**  
119 **or neglect, misappropriation of property or moneys, or falsification of any documents**  
120 **verifying service delivery of in-home services or consumer-directed services;**

121 (3) **Release of a name is required for compliance with a lawful subpoena; except**  
122 **that, the name of the complainant or reporter shall only be required after a court of**  
123 **competent jurisdiction determines that it is necessary to avoid substantial and irreversible**  
124 **prejudice to the party requesting the name of the complainant or reporter;**

125 (4) **Release of a name is required in connection with a review by the administrative**  
126 **hearing commission in accordance with section 192.2187 or section 198.039, RSMo;**

127 (5) **The department determines that release of a name is appropriate when**  
128 **forwarding a report of findings of an investigation to a licensing authority; or**

129 (6) **Release of a name is requested by the department of social services for the**  
130 **purpose of licensure under chapter 210, RSMo.**

131 **10. Within five working days after a report required to be made under this section**  
132 **is received, the person making the report shall be notified of its receipt and the initiation**  
133 **of the investigation.**

134 [9.] **11. Anyone, except any person who has abused or neglected a resident [in a facility]**  
135 **, patient, in-home services client, or consumer, or who has benefited from the**  
136 **misappropriation of property or moneys of a patient, resident, in-home services client, or**  
137 **consumer, or who has falsified documents verifying service delivery of in-home services or**  
138 **consumer-directed services, who makes a report pursuant to this section or who testifies in any**  
139 **administrative or judicial proceeding arising from the report, or who cooperates with the**  
140 **department in any activities under this section shall be immune from any civil or criminal**  
141 **liability for making such a report or for testifying except for liability for perjury, unless such**  
142 **person acted negligently, recklessly, in bad faith or with malicious purpose. It is a crime**  
143 **pursuant to section 565.186 and 565.188, RSMo, for any person to purposely file a false report**  
144 **of elder abuse or neglect.**

145 [10. **Within five working days after a report required to be made pursuant to this section**  
146 **is received, the person making the report shall be notified in writing of its receipt and of the**  
147 **initiation of the investigation.**

148 **11. No person who directs or exercises any authority in a facility shall evict, harass,**  
149 **dismiss or retaliate against a resident or employee because such resident or employee or any**  
150 **member of such resident's or employee's family has made a report of any violation or suspected**  
151 **violation of laws, ordinances or regulations applying to the facility which the resident, the**

152 resident's family or an employee has reasonable cause to believe has been committed or has  
153 occurred. Through the existing department information and referral telephone contact line,  
154 residents, their families and employees of a facility shall be able to obtain information about their  
155 rights, protections and options in cases of eviction, harassment, dismissal or retaliation due to  
156 a report being made pursuant to this section.

157         12. Any person who abuses or neglects a resident of a facility is subject to criminal  
158 prosecution under section 565.180, 565.182, or 565.184, RSMo.

159         13.] **12.** The department shall maintain the employee disqualification list and place on  
160 the employee disqualification list the names of any persons who are or have been employed [in  
161 any facility] **by any provider or consumer** and who have been finally determined by the  
162 department pursuant to section [660.315, RSMo,] **192.2175:**

163         **(1)** To have **purposely**, knowingly, or recklessly abused or neglected a resident, **patient,**  
164 **in-home services client, or consumer.** For purposes of this section only, "**abuse**" and  
165 "**neglect**" shall have the same meaning as such terms are defined in section 192.2100, and  
166 "**purposely**", "knowingly" and "recklessly" shall have the meanings [that are ascribed to them  
167 in this section. A person acts "knowingly" with respect to the person's conduct when a  
168 reasonable person should be aware of the result caused by his or her conduct. A person acts  
169 "recklessly" when the person consciously disregards a substantial and unjustifiable risk that the  
170 person's conduct will result in serious physical injury and such disregard constitutes a gross  
171 deviation from the standard of care that a reasonable person would exercise in the situation] **as**  
172 **such terms are defined in chapter 562, RSMo;**

173         **(2)** To have falsified documents verifying service delivery to an in-home services  
174 **client or consumer;**

175         **(3)** To have misappropriated property or moneys belonging to a patient, resident,  
176 **in-home services client, or consumer.**

177         **13.** No person who directs or exercises any authority on behalf of a provider and  
178 no personal care attendant, as defined in section 208.900, RSMo, shall evict, harass,  
179 dismiss, or retaliate against a patient, resident, in-home services client, consumer, or  
180 employee because such patient, resident, in-home services client, consumer, or employee,  
181 or any member of such patient's, resident's, in-home services client's, consumer's, or  
182 employee's family has made a report of any violation or suspected violation of laws,  
183 standards, or regulations applying to the provider or attendant which the complainant has  
184 reasonable cause to believe has been committed or has occurred. Through existing  
185 department information and referral telephone contact line, patients, residents, in-home  
186 services clients, consumers, their families, and employees of a provider may obtain

187 information regarding their rights, protections, and options in cases of eviction,  
188 harassment, dismissal, or retaliation due to a report being made under this section.

189 14. In the case of investigations involving facilities licensed under chapter 198,  
190 RSMo, the timely self-reporting of incidents to the central registry by a facility shall continue  
191 to be investigated in accordance with department policy, and shall not be counted or reported by  
192 the department as a hot-line call but rather a self-reported incident. If the self-reported incident  
193 results in a regulatory violation, such incident shall be reported as a substantiated report.

194 15. Any potential consumer or in-home services client whose services are funded  
195 by MO HealthNet shall be screened to ascertain if they are included on the Missouri sexual  
196 offender registry maintained by the Missouri state highway patrol. If any potential  
197 consumer or in-home services client whose services are funded by MO HealthNet is listed  
198 on the Missouri sexual offender registry, the department shall notify the provider at the  
199 time of the referral.

2 192.2153. 1. Any person required to report or cause a report to be made to the  
3 department under subsection 2 of section 192.2150 who fails to make such a report or who  
4 causes such a report to not be made of abuse or neglect, misappropriation of property or  
5 moneys, or falsification of documents verifying service delivery of in-home services or  
6 consumer-directed services within twenty-four hours after the act or discovery of the act  
7 by such person, whichever is later, is guilty of a class A misdemeanor.

8 2. Any person who abuses or neglects an in-home services client, patient, resident,  
9 or consumer is subject to criminal prosecution under section 565.180, 565.182, or 565.184,  
10 RSMo. Any person who puts to his or her own use or the use of the provider, or otherwise  
11 diverts from the in-home services client's, patient's, resident's or consumer's use of any  
12 personal property or moneys of the in-home services client, patient, resident's or consumer,  
13 or falsifies any documents verifying service delivery of in-home services or consumer-  
14 directed services is guilty of a class A misdemeanor.

15 3. In addition to any other penalties imposed by this section, any provider,  
16 principal in the operation of a provider as defined in section 192.2150, or employee of a  
17 provider who knowingly conceals any act of abuse or neglect that results in death or  
18 serious physical injury, as defined in section 565.002, RSMo, is guilty of a class D felony.

19 4. If a provider willfully and knowingly fails to report abuse by an employee of the  
20 provider and such employee is later found guilty or pleads guilty to a violation of section  
21 565.180, 565.182, or 565.184, RSMo, the provider may be subject to an administrative  
22 penalty of one thousand dollars per violation to be collected by the department. Any  
23 moneys collected shall be transferred to the state school moneys fund established in section  
166.051, RSMo, and distributed to the public schools of this state in the manner provided

24 **in section 163.031, RSMo. Any provider that has an administrative penalty imposed by the**  
25 **department may seek an administrative review of the department's action under chapter**  
26 **621, RSMo. Any decision of the administrative hearing commission may be appealed to**  
27 **the circuit court in the county where the violation occurred for judicial review as a**  
28 **contested case under chapter 536, RSMo.**

[660.315.] **192.2175.** 1. After an investigation and a determination has been made to  
2 place a person's name on the employee disqualification list, that person shall be notified in  
3 writing mailed to his or her last known address that:

4 (1) An allegation has been made against the person, the substance of the allegation and  
5 that an investigation has been conducted which tends to substantiate the allegation;

6 (2) The person's name will be included in the employee disqualification list of the  
7 department;

8 (3) The consequences of being so listed including the length of time to be listed; and

9 (4) The person's rights and the procedure to challenge the allegation.

10 2. **Notice by mail to the last known address, as provided by the person to the**  
11 **person's employer at the time of the allegation, shall satisfy the requirements of this**  
12 **section. If the person has provided the department with a more recent address, notice shall**  
13 **be sent to the more recent address. Notice shall be complete upon such mailing.** If no reply  
14 has been received within thirty days of mailing the notice, the department may include the name  
15 of such person on its list. The length of time the person's name shall appear on the employee  
16 disqualification list shall be determined by the director or the director's designee, based upon the  
17 criteria contained in subsection 9 of this section.

18 3. If the person so notified wishes to challenge the allegation, such person may file an  
19 application for a hearing with the department. The department shall grant the application within  
20 thirty days after receipt by the department and set the matter for hearing[, or the department shall  
21 notify the applicant that, after review, the allegation has been held to be unfounded and the  
22 applicant's name will not be listed].

23 4. If a person's name is included on the employee disqualification list without the  
24 department providing notice as required under [subsection 1] **subsections 1 and 2** of this section,  
25 such person may file a request with the department for removal of the name or for a hearing.  
26 Within thirty days after receipt of the request, the department shall either remove the name from  
27 the list or grant a hearing and set a date therefor.

28 5. Any hearing shall be conducted [in the county of the person's residence] by the  
29 director of the department or the director's designee **in Cole County or the county of the**  
30 **person's residence, or by telephone in the discretion of the director or the director's**  
31 **designee.** The provisions of chapter 536, RSMo, for a contested case except those provisions

32 or amendments which are in conflict with this section shall apply to and govern the proceedings  
33 contained in this section and the rights and duties of the parties involved. The person appealing  
34 such an action shall be entitled to present evidence, pursuant to the provisions of chapter 536,  
35 RSMo, relevant to the allegations.

36 6. Upon the record made at the hearing, the director of the department or the director's  
37 designee shall determine all questions presented and shall determine whether the person shall  
38 be listed on the employee disqualification list. The director of the department or the director's  
39 designee shall clearly state the reasons for his or her decision and shall include a statement of  
40 findings of fact and conclusions of law pertinent to the questions in issue.

41 7. A person aggrieved by the decision following the hearing shall be informed of his or  
42 her right to seek judicial review as provided under chapter 536, RSMo. If the person fails to  
43 appeal the director's findings, those findings shall constitute a final determination that the person  
44 shall be placed on the employee disqualification list.

45 8. A decision by the director shall be inadmissible in any civil action brought against a  
46 [facility or the in-home services provider agency] **provider or employee of such provider or**  
47 **personal care attendant** and arising out of the facts and circumstances which brought about the  
48 employment disqualification proceeding, unless the civil action is brought against the [facility  
49 or the in-home services provider agency] **provider or employee of such provider or personal**  
50 **care attendant** by the department of health and senior services or one of its divisions.

51 9. The length of time the person's name shall appear on the employee disqualification  
52 list shall be determined by the director of the department of health and senior services or the  
53 director's designee, based upon the following:

54 (1) Whether the person acted **purposely**, recklessly, or knowingly, as defined in chapter  
55 562, RSMo;

56 (2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the  
57 imminent danger to the health, safety or welfare of [a resident or in-home services client] **the**  
58 **alleged victim**;

59 (3) The degree of misappropriation of the property or funds, or falsification of any  
60 documents for service delivery of [an in-home services client] **a patient, resident, in-home**  
61 **services client, or consumer**;

62 (4) Whether the person has previously been listed on the employee disqualification list;

63 (5) Any mitigating circumstances;

64 (6) Any aggravating circumstances; and

65 (7) Whether alternative sanctions resulting in conditions of continued employment are  
66 appropriate in lieu of placing a person's name on the employee disqualification list. Such  
67 conditions of employment may include, but are not limited to, additional training and employee

68 counseling. Conditional employment shall terminate upon the expiration of the designated  
69 length of time and the person's submitting documentation which fulfills the department of health  
70 and senior services' requirements.

71 10. The removal of any person's name from the list under this section shall not prevent  
72 the director from keeping records of all acts finally determined to have occurred under this  
73 section.

74 11. The department shall [provide] **make available** the list maintained pursuant to this  
75 section to other state departments upon request and to any person, corporation, organization, or  
76 association who:

77 (1) Is licensed as an operator under chapter 198, RSMo;

78 (2) Provides in-home services under contract with the department;

79 (3) Employs [nurses and nursing assistants] **health care staff** for temporary or  
80 intermittent placement [in health care facilities] **with providers**;

81 (4) Is approved by the department to issue certificates for nursing assistants training;

82 (5) Is an entity licensed under chapter 197, RSMo; or

83 (6) **Is a personal care assistance services vendor agency, as defined in section**  
84 **208.900, RSMo**;

85 (7) **Is an adult day care provider licensed under sections 192.2200 to 192.2227; or**

86 (8) Is a recognized school of nursing, medicine, or other health profession **that receives**  
87 **the list** for the purpose of [determining whether students scheduled to] **checking its students**  
88 **who** participate in clinical rotations with entities described in [subdivision] **subdivisions (1)[,**  
89 **(2), or (5)] to (7) of this subsection [are included in the employee disqualification list].**

90

91 The department shall inform any person listed above who inquires of the department whether or  
92 not a particular name is on the list. The department may require that the request be made in  
93 writing. **No person, corporation, or association who is entitled to access the employee**  
94 **disqualification list shall disclose the information to any person, corporation, or association**  
95 **who is not entitled to access the list. Any person, corporation, or association who is entitled**  
96 **to access the employee disqualification list who discloses the information to any person,**  
97 **corporation, or association who is not entitled to access the list is guilty of an infraction.**

98 12. **The department shall, upon request, provide to the division of employment**  
99 **security within the department of labor and industrial relations copies of the investigative**  
100 **reports related to an employee being placed on the employee disqualification list.**

101 13. No person, corporation, organization, or association who received the employee  
102 disqualification list under subdivisions (1) to [(5)] (7) of subsection 11 of this section shall  
103 knowingly employ any person who is on the employee disqualification list. **No person who is**

104 **listed on the employee disqualification list shall be paid from public moneys as a personal**  
105 **care assistance services attendant.** Any person, corporation, organization, or association who  
106 received the employee disqualification list under subdivisions (1) to [(5)] (7) of subsection 11  
107 of this section, or any **consumer or** person responsible for providing health care service, who  
108 declines to employ or terminates a person whose name is listed in this section shall be immune  
109 from suit by that person or anyone else acting for or in behalf of that person for the failure to  
110 employ or for the termination of the person whose name is listed on the employee  
111 disqualification list.

112 [13.] **14.** Any employer who is required to discharge an employee because the employee  
113 was placed on [a] **the employee** disqualification list maintained by the department of health and  
114 senior services after the date of hire shall not be charged for unemployment insurance benefits  
115 based on wages paid to the employee for work prior to the date of discharge, pursuant to section  
116 288.100, RSMo.

117 [14.] **15.** Any person who has been listed on the employee disqualification list may  
118 request that the director remove his or her name from the employee disqualification list. The  
119 request shall be written and may not be made more than once every twelve months. The request  
120 will be granted by the director upon a clear showing, by written submission only, that the person  
121 will not commit additional acts of abuse, neglect, misappropriation of the property or funds, or  
122 the falsification of any documents [of] **verifying** service delivery to an in-home services client  
123 **or consumer.** The director may make conditional the removal of a person's name from the list  
124 on any terms that the director deems appropriate, and failure to comply with such terms may  
125 result in the person's name being relisted. The director's determination of whether to remove the  
126 person's name from the list is not subject to appeal.

[660.317.] **192.2178.** 1. For the purposes of this section, the term "provider" [means any  
2 person, corporation or association who:

3 (1) Is licensed as an operator pursuant to chapter 198, RSMo;

4 (2) Provides in-home services under contract with the department;

5 (3) Employs nurses or nursing assistants for temporary or intermittent placement in  
6 health care facilities;

7 (4) Is an entity licensed pursuant to chapter 197, RSMo;

8 (5) Is a public or private facility, day program, residential facility or specialized service  
9 operated, funded or licensed by the department of mental health; or

10 (6) Is a licensed adult day care provider] **has the same meaning as such term is defined**  
11 **in section 192.2150; except that, provider also includes a public or private facility, day**  
12 **program, residential facility, or specialized service operated, funded, or licensed by the**  
13 **department of mental health.**

14           2. For the purpose of this section "patient or resident" has the same meaning as such term  
15 is defined in section 43.540, RSMo, "**in-home services client**" **has the same meaning as such**  
16 **term is defined in section 192.2150, and "consumer" has the same meaning as such term**  
17 **is defined in section 208.900, RSMo.**

18           3. Prior to [allowing any person who has been hired as] **hiring** a full-time, part-time or  
19 temporary **employee for any** position to have contact with any patient [or] , resident, **in-home**  
20 **services client, consumer, or finding a personal care attendant eligible to have contact with**  
21 **a consumer**, the provider shall[, or] **make an inquiry to the department whether the person**  
22 **is listed on the employee disqualification list as provided in section 192.2175.** In the case of  
23 temporary employees hired through or contracted for an employment agency, the employment  
24 agency, shall prior to sending a temporary employee to a provider, **make an inquiry to the**  
25 **department of health and senior services whether the person is listed on the employee**  
26 **disqualification list as provided in section 192.2175.**

27           4. **Prior to allowing any person who has been hired in as a full-time, part-time, or**  
28 **temporary position to have contact with any patient, resident, in-home services client, or**  
29 **consumer, the provider shall or in the case of temporary employees hired through or**  
30 **contracted for an employment agency, the employment agency, prior to sending a**  
31 **temporary employee to a provider shall:**

32           (1) Request a criminal background check as provided in section 43.540, RSMo.  
33 Completion of an inquiry to the highway patrol **or family care safety registry** for criminal  
34 records that are available for disclosure to a provider for the purpose of conducting an employee  
35 criminal records background check shall be deemed to fulfill the provider's duty to conduct  
36 employee criminal background checks pursuant to this section; except that, completing the  
37 inquiries pursuant to this subsection shall not be construed to exempt a provider from further  
38 inquiry pursuant to common law requirements governing due diligence. If an applicant has not  
39 resided in this state for five consecutive years prior to the date of his or her application for  
40 employment, the provider shall request a nationwide check for the purpose of determining if the  
41 applicant has a prior criminal history in other states. The fingerprint cards and any required fees  
42 shall be sent to the highway patrol's criminal records division. The first set of fingerprints shall  
43 be used for searching the state repository of criminal history information. If no identification is  
44 made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation,  
45 Identification Division, for the searching of the federal criminal history files. The patrol shall  
46 notify the submitting state agency of any criminal history information or lack of criminal history  
47 information discovered on the individual. The provisions relating to applicants for employment  
48 who have not resided in this state for five consecutive years shall apply only to persons who have  
49 no employment history with a licensed Missouri facility during that five-year period.

50 Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal  
51 history information discovered shall be accessible and available to the provider making the  
52 record request; and

53 (2) [Make an inquiry to the department of health and senior services whether the person  
54 is listed on the employee disqualification list as provided in section 660.315] **Request of the**  
55 **person a physical address where the person may be located in addition to any other**  
56 **address provided by the person such as a post office box address;**

57 (3) **Make an inquiry to the department of mental health to determine whether the**  
58 **person is listed on the disqualification registry as provided in section 630.170, RSMo.**

59 **5. For any worker registered with the family care safety registry as required by**  
60 **sections 210.900 to 210.936, RSMo, a provider may access the family care safety registry**  
61 **in lieu of the requirements in subsections 3 and 4 of this section.**

62 [4.] **6.** When the provider requests a criminal background check pursuant to section  
63 43.540, RSMo, the requesting entity may require that the applicant reimburse the provider for  
64 the cost of such record check. When a provider requests a nationwide criminal background  
65 check pursuant to subdivision (1) of subsection [3] **4** of this section, the total cost to the provider  
66 of any background check required pursuant to this section shall not exceed five dollars which  
67 shall be paid to the state. State funding and the obligation of a provider to obtain a nationwide  
68 criminal background check shall be subject to the availability of appropriations.

69 [5.] **7.** An applicant for a position to have contact with patients, **in-home services**  
70 **clients, consumers,** or residents of a provider shall:

71 (1) Sign a consent form as required by section 43.540, RSMo, so the provider may  
72 request a criminal records review;

73 (2) Disclose the applicant's criminal history. For the purposes of this subdivision  
74 "criminal history" includes any conviction or a plea of guilty **or nolo contendere** to a  
75 misdemeanor or felony charge **in this state or any other state** and shall include any suspended  
76 imposition of sentence, any suspended execution of sentence or any period of probation or  
77 parole; and

78 (3) Disclose if the applicant is listed on the employee disqualification list as provided  
79 in section [660.315] **192.2175 and disclose whether the applicant is a registered sexual**  
80 **offender under section 589.400, RSMo, listed in the Missouri uniform law enforcement**  
81 **system (MULES).**

82 [6.] **8.** An applicant who knowingly fails to disclose his or her criminal history as  
83 required in subsection [5] **7** of this section is guilty of a class A misdemeanor. A provider is  
84 guilty of a class A misdemeanor if the provider knowingly hires or retains a person to have  
85 contact with patients, **in-home services clients, consumers,** or residents and the person has been

86 convicted of, pled guilty to or nolo contendere in this state or any other state or has been found  
87 guilty of a crime, which if committed in Missouri would be a class A or B felony violation of  
88 chapter **195**, 565, 566, **568** or 569, RSMo, [or any violation of subsection 3 of section 198.070,  
89 RSMo, or section 568.020, RSMo] **a violation of section 570.090, RSMo, a felony violation**  
90 **or three or more misdemeanor violations of section 570.030, RSMo, a violation of section**  
91 **570.145, RSMo, or any violation of subsection 1 of section 192.2153. For any person hired**  
92 **on or after August 28, 2008, a provider shall not hire any person with a disqualifying**  
93 **criminal history unless such person has first obtained a good cause waiver of the**  
94 **disqualifying criminal history. For any person employed as of August 28, 2008, a provider**  
95 **shall request a criminal background check as provided in section 43.540, RSMo, by**  
96 **January 1, 2009, and shall not knowingly retain any such person with a disqualifying**  
97 **criminal history after March 1, 2009, unless such person has submitted a completed good**  
98 **cause waiver application prior to January 1, 2009. If the good cause waiver is denied, the**  
99 **provider shall not continue to retain such person after the provider is notified of the denial**  
100 **of the good cause waiver.**

101 **9. For any persons hired on or after August 28, 2008, a provider is guilty of a class**  
102 **A misdemeanor if the provider knowingly hires or retains any person who is a registered**  
103 **sex offender under section 589.400, RSMo, whose name appears on the sexual offender**  
104 **registry, or who has been convicted of an offense which would require registry under**  
105 **section 589.400, RSMo.**

106 [7.] **10. Any in-home services provider agency [or] , consumer-directed services**  
107 **vendor, home health agency [shall be] , or hospice is guilty of a class A misdemeanor if such**  
108 **vendor, hospice, or agency knowingly [employs] hires or retains a person to provide in-home**  
109 **services, consumer-directed services, hospice services, or home health services to any in-home**  
110 **services client, consumer-directed services consumer, hospice patient, or home health patient,**  
111 **or determines a personal care attendant eligible to have contact with a consumer, and such**  
112 **person [either] refuses to register with the family care safety registry [or is listed on any of the**  
113 **background check lists in] . Any in-home services provider agency, home health agency, or**  
114 **hospice is guilty of a class A misdemeanor if such agency or hospice allows an employee to**  
115 **have contact with a patient or in-home services client prior to requesting a background**  
116 **screening from the family care safety registry pursuant to sections 210.900 to [210.937]**  
117 **210.936, RSMo.**

118 [8.] **11. The highway patrol shall examine whether protocols can be developed to allow**  
119 **a provider to request a statewide fingerprint criminal records review check through local law**  
120 **enforcement agencies.**

121 [9.] **12.** A provider may use a private investigatory agency rather than the highway patrol  
122 to do a criminal history records review check, and alternatively, the applicant pays the private  
123 investigatory agency such fees as the provider and such agency shall agree.

124 [10.] **13.** Except for the hiring restriction based on the department of health and senior  
125 services employee disqualification list established pursuant to section [660.315] **192.2175, and**  
126 **the registration as a sexual offender under section 589.400, RSMo**, the department of health  
127 and senior services shall promulgate rules and regulations to waive the hiring restrictions  
128 pursuant to this section for good cause. For purposes of this section, "good cause" means the  
129 department has made a determination by examining [the employee's prior work history and other]  
130 relevant factors [that such employee does not present a risk to the health or safety of residents]  
131 **as established by rule and determined that the hiring restriction contained in subsections**  
132 **8 and 10 of this section is removed and the hiring decision remains the responsibility of the**  
133 **provider.**

[660.300.] **192.2181.** 1. [When any adult day care worker; chiropractor; Christian  
2 Science practitioner; coroner; dentist; embalmer; employee of the departments of social services,  
3 mental health, or health and senior services; employee of a local area agency on aging or an  
4 organized area agency on aging program; funeral director; home health agency or home health  
5 agency employee; hospital and clinic personnel engaged in examination, care, or treatment of  
6 persons; in-home services owner, provider, operator, or employee; law enforcement officer;  
7 long-term care facility administrator or employee; medical examiner; medical resident or intern;  
8 mental health professional; minister; nurse; nurse practitioner; optometrist; other health  
9 practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant;  
10 podiatrist; probation or parole officer; psychologist; or social worker has reasonable cause to  
11 believe that an in-home services client has been abused or neglected, as a result of in-home  
12 services, he or she shall immediately report or cause a report to be made to the department. If  
13 the report is made by a physician of the in-home services client, the department shall maintain  
14 contact with the physician regarding the progress of the investigation.

15 2.] When a report of deteriorating physical condition resulting in possible abuse or  
16 neglect of an in-home services client **or consumer** is received by the department, [the client's  
17 case manager and] the department nurse shall be notified. The [client's case manager]  
18 **department** shall investigate and immediately report the results of the investigation to the  
19 department nurse. The department may authorize [the] **an** in-home services provider nurse to  
20 assist [the case manager] with the investigation.

21 [3.] **2.** If requested, local area agencies on aging shall provide volunteer training to those  
22 persons listed in subsection [1 of this section] **2 of section 192.2150** regarding the detection and  
23 report of abuse and neglect [pursuant to this section.

24           4. Any person required in subsection 1 of this section to report or cause a report to be  
25 made to the department who fails to do so within a reasonable time after the act of abuse or  
26 neglect is guilty of a class A misdemeanor.

27           5. The report shall contain the names and addresses of the in-home services provider  
28 agency, the in-home services employee, the in-home services client, the home health agency, the  
29 home health agency employee, information regarding the nature of the abuse or neglect, the name  
30 of the complainant, and any other information which might be helpful in an investigation.

31           6. In addition to those persons required to report under subsection 1 of this section, any  
32 other person having reasonable cause to believe that an in-home services client or home health  
33 patient has been abused or neglected by an in-home services employee or home health agency  
34 employee may report such information to the department.

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

46           8. Reports shall be confidential, as provided under section 660.320.

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

52           10. Within five working days after a report required to be made under this section is  
53 received, the person making the report shall be notified in writing of its receipt and of the  
54 initiation of the investigation.

55           11. No person who directs or exercises any authority in an in-home services provider  
56 agency or home health agency shall harass, dismiss or retaliate against an in-home services client  
57 or home health patient, or an in-home services employee or a home health agency employee  
58 because he or any member of his or her family has made a report of any violation or suspected  
59 violation of laws, standards or regulations applying to the in-home services provider agency or

60 home health agency or any in-home services employee or home health agency employee which  
61 he has reasonable cause to believe has been committed or has occurred.

62 12. Any person who abuses or neglects an in-home services client or home health patient  
63 is subject to criminal prosecution under section 565.180, 565.182, or 565.184, RSMo. If such  
64 person is an in-home services employee and has been found guilty by a court, and if the  
65 supervising in-home services provider willfully and knowingly failed to report known abuse by  
66 such employee to the department, the supervising in-home services provider may be subject to  
67 administrative penalties of one thousand dollars per violation to be collected by the department  
68 and the money received therefor shall be paid to the director of revenue and deposited in the state  
69 treasury to the credit of the general revenue fund. Any in-home services provider which has had  
70 administrative penalties imposed by the department or which has had its contract terminated may  
71 seek an administrative review of the department's action pursuant to chapter 621, RSMo. Any  
72 decision of the administrative hearing commission may be appealed to the circuit court in the  
73 county where the violation occurred for a trial de novo. For purposes of this subsection, the term  
74 "violation" means a determination of guilt by a court.

75 13.] .

76 3. The department shall establish a quality assurance and supervision process for **in-**  
77 **home services** clients that requires an in-home services provider agency to [conduct random  
78 visits to] verify compliance with program standards and verify the accuracy of records kept by  
79 an in-home services employee.

80 [14. The department shall maintain the employee disqualification list and place on the  
81 employee disqualification list the names of any persons who have been finally determined by the  
82 department, pursuant to section 660.315, to have recklessly, knowingly or purposely abused or  
83 neglected an in-home services client or home health patient while employed by an in-home  
84 services provider agency or home health agency. For purposes of this section only, "knowingly"  
85 and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts  
86 "knowingly" with respect to the person's conduct when a reasonable person should be aware of  
87 the result caused by his or her conduct. A person acts "recklessly" when the person consciously  
88 disregards a substantial and unjustifiable risk that the person's conduct will result in serious  
89 physical injury and such disregard constitutes a gross deviation from the standard of care that a  
90 reasonable person would exercise in the situation.

91 15.] 4. At the time [a] **an in-home services** client has been assessed to determine the  
92 level of care as required by rule and is eligible for in-home services, the department shall conduct  
93 a "Safe at Home Evaluation" to determine the **in-home services** client's physical, mental, and  
94 environmental capacity. The department shall develop the safe at home evaluation tool by rule  
95 in accordance with chapter 536, RSMo. The purpose of the safe at home evaluation is to assure

106 that each **in-home services** client has the appropriate level of services and professionals involved  
107 in the **in-home services** client's care. The plan of service or care for each in-home services client  
108 shall be authorized by a nurse. The department may authorize the licensed in-home services  
109 nurse, in lieu of the department nurse, to conduct the assessment of the **in-home services** client's  
110 condition and to establish a plan of services or care. The department may use the expertise,  
111 services, or programs of other departments and agencies on a case-by-case basis to establish the  
112 plan of service or care.

103

104 The department may, as indicated by the safe at home evaluation, refer any **in-home services**  
105 client to a mental health professional, as defined in 9 CSR 30-4.030, for evaluation and treatment  
106 as necessary.

107 [16.] **5.** Authorized nurse visits shall occur at least twice annually to assess [the client  
108 and the client's plan of services] **each in-home services client or consumer and his or her plan**  
109 **of care.** The [provider] nurse shall report the results of his or her visits to the [client's case  
110 manager] **department.** If the [provider] nurse believes that the plan of [service] **care** requires  
111 alteration, the department shall be notified and the department shall make [a client] **an**  
112 evaluation. All authorized nurse visits shall be reimbursed to the in-home services provider. All  
113 authorized nurse visits shall be reimbursed outside of the nursing home cap for in-home services  
114 clients **or consumers** whose services have reached one hundred percent of the average statewide  
115 charge for care and treatment in an intermediate care facility, provided that the services have  
116 been preauthorized by the department.

117 [17.] **6.** All in-home services clients **and consumers** shall be advised of their rights **and**  
118 **responsibilities** by the department **or the department's designee** at the initial evaluation. The  
119 rights shall include, but not be limited to, the right to call the department for any reason,  
120 including dissatisfaction with the provider or services. The department shall establish a process  
121 to receive such nonabuse and neglect calls other than the elder abuse and neglect hotline.

122 [18.] **7.** Subject to appropriations, all nurse visits authorized in [sections 660.250 to  
123 660.300] **this section and sections 192.2100 to 192.2130** shall be reimbursed to the in-home  
124 services provider agency.

[660.321.] **192.2184.** Notwithstanding any other provision of law, the department shall  
2 not disclose personally identifiable medical, social, personal, or financial records of any eligible  
3 adult being served by the [division of senior services] **department** except when disclosed in a  
4 manner that does not identify the eligible adult, or when ordered to do so by a court of competent  
5 jurisdiction. Such records shall be accessible without court order for examination and copying  
6 only to the following persons or offices, or to their designees:

- 7 (1) The department or any person or agency designated by the department for such  
8 purposes as the department may determine;
- 9 (2) The attorney general, to perform his or her constitutional or statutory duties;
- 10 (3) The department of mental health for residents placed through that department, to  
11 perform its constitutional or statutory duties;
- 12 (4) Any appropriate law enforcement agency, to perform its constitutional or statutory  
13 duties;
- 14 (5) The eligible adult, his or her legal guardian or any other person designated by the  
15 eligible adult; and
- 16 (6) The department of social services for individuals who receive [Medicaid] **MO**  
17 **HealthNet** benefits, to perform its constitutional or statutory duties.

[660.310.] **192.2187.** 1. Notwithstanding any other provision of law, if the department  
2 of health and senior services proposes to deny, suspend, place on probation, or terminate an  
3 in-home services provider agency contract, the department of health and senior services shall  
4 serve upon the applicant or contractor written notice of the proposed action to be taken. The  
5 notice shall contain a statement of the type of action proposed, the basis for it, the date the action  
6 will become effective, and a statement that the applicant or contractor shall have thirty days from  
7 the date of mailing or delivery of the notice to file a complaint requesting a hearing before the  
8 administrative hearing commission. The administrative hearing commission may consolidate  
9 an applicant's or contractor's complaint with any proceeding before the administrative hearing  
10 commission filed by such contractor or applicant pursuant to subsection 3 of section 208.156,  
11 RSMo, involving a common question of law or fact. Upon the filing of the complaint, the  
12 provisions of sections 621.110, 621.120, 621.125, 621.135, and 621.145, RSMo, shall apply.  
13 With respect to cases in which the department has denied a contract to an in-home services  
14 provider agency, the administrative hearing commission shall conduct a hearing to determine the  
15 underlying basis for such denial. However, if the administrative hearing commission finds that  
16 the contract denial is supported by the facts and the law, the case need not be returned to the  
17 department. The administrative hearing commission's decision shall constitute affirmation of  
18 the department's contract denial.

19 2. The department of health and senior services may issue letters of censure or warning  
20 without formal notice or hearing.

21 3. The administrative hearing commission may stay the suspension or termination of an  
22 in-home services provider agency's contract, or the placement of the contractor on probation,  
23 pending the commission's findings and determination in the cause, upon such conditions, with  
24 or without the agreement of the parties, as the commission deems necessary and appropriate,  
25 including the posting of bond or other security except that the commission shall not grant a stay,

26 or if a stay has already been entered shall set aside its stay, unless the commission finds that the  
27 contractor has established that servicing the department's clients pending the commission's final  
28 determination would not present an imminent danger to the health, safety, or welfare of any  
29 client or a substantial probability that death or serious physical harm would result. The  
30 commission may remove the stay at any time that it finds that the contractor has violated any of  
31 the conditions of the stay. Such stay shall remain in effect, unless earlier removed by the  
32 commission, pending the decision of the commission and any subsequent departmental action  
33 at which time the stay shall be removed. In any case in which the department has refused to issue  
34 a contract, the commission shall have no authority to stay or to require the issuance of a contract  
35 pending final determination by the commission.

36 4. Stays granted to contractors by the administrative hearing commission shall, as a  
37 condition of the stay, require at a minimum that the contractor under the stay operate under the  
38 same contractual requirements and regulations as are in effect, from time to time, as are  
39 applicable to all other contractors in the program.

40 5. The administrative hearing commission shall make its final decision based upon the  
41 circumstances and conditions as they existed at the time of the action of the department and not  
42 based upon circumstances and conditions at the time of the hearing or decision of the  
43 commission.

44 6. In any proceeding before the administrative hearing commission pursuant to this  
45 section, the burden of proof shall be on the contractor or applicant seeking review.

46 7. Any person, including the department, aggrieved by a final decision of the  
47 administrative hearing commission may seek judicial review of such decision as provided in  
48 section 621.145, RSMo.

[660.400.] **192.2200.** As used in sections [199.025, RSMo, and 660.403 to 660.420]  
2 **192.2203 to 192.2227**, unless the context clearly indicates otherwise, the following terms mean:

3 (1) "Adult", an individual over the age of eighteen;

4 (2) "Adult day care program", a group program designed to provide care and supervision  
5 to meet the needs of functionally impaired adults for periods of less than twenty-four hours but  
6 more than two hours per day in a place other than the adult's own home;

7 (3) "Adult day care provider", the person, corporation, partnership, association or  
8 organization legally responsible for the overall operation of the adult day care program;

9 (4) "Department", the department of [social] **health and senior** services;

10 (5) "Director", the director of the [division of aging] **department of health and senior**  
11 **services**;

12 (6) ["Division", the division of aging;

13 (7) "Functionally impaired adult", an adult who by reason of age or infirmity requires  
14 care and supervision;

15 [(8)] (7) "License", the document issued by the [division] **department** in accordance  
16 with the provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**  
17 to an adult day care program which authorizes the adult day care provider to operate the program  
18 in accordance with the provisions of sections [199.025, RSMo, and 660.403 to 660.420]  
19 **192.2203 to 192.2227** and the applicable rules promulgated pursuant thereto;

20 [(9)] (8) "Participant", a functionally impaired adult who is enrolled in an adult day care  
21 program;

22 [(10)] (9) "Person", any individual, firm, corporation, partnership, association, agency,  
23 or an incorporated or unincorporated organization regardless of the name used;

24 [(11)] (10) "Provisional license", the document issued by the [division] **department** in  
25 accordance with the provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203**  
26 **to 192.2227** to an adult day care provider which is not currently meeting the requirements  
27 necessary to obtain a license;

28 [(12)] (11) "Related", any of the following by blood, marriage or adoption: parent, child,  
29 grandchild, brother, sister, half-brother, half-sister, stepparent, uncle, aunt, niece, nephew, or first  
30 cousin;

31 [(13)] (12) "Staff participant ratio", the number of adult care staff required by the  
32 [division] **department** in relation to the number of adults being cared for by such staff.

[660.403.] **192.2203.** 1. It shall be unlawful for any person to establish, maintain, or  
2 operate an adult day care program, or to advertise or hold himself out as being able to perform  
3 any adult day care service, unless he has obtained the proper license.

4 2. All applications for licenses shall be made on forms provided by the [division]  
5 **department** and in the manner prescribed by the [division] **department**. All forms provided  
6 shall include a fee schedule.

7 3. The [division] **department** shall conduct an investigation of the adult day care  
8 program, and the applicant, for which a license is sought in order to determine if such program  
9 is complying with the following:

10 (1) Local fire safety requirements or fire safety requirements of the [division]  
11 **department** if there are no local codes;

12 (2) Local or state sanitation requirements;

13 (3) Local building and zoning requirements, where applicable;

14 (4) Staff/adult ratios required by the [division] **department**; and

15 (5) Other applicable provisions of sections [199.025, RSMo, and 660.403 to 660.420]  
16 **192.2203 to 192.2227** and all applicable rules promulgated pursuant thereto, including but not  
17 limited to:

18 (a) The applicant's ability to render adult day care;

19 (b) The proposed plan for providing adult day care;

20 (c) The proposed plan of operation of the adult day care program, so that, in the  
21 judgment of the [division] **department**, minimum standards are being met to insure the health  
22 and safety of the participants.

23 4. Following completion of its investigation made pursuant to subsection 3 of this  
24 section and a finding that the applicant for a license has complied with all applicable rules  
25 promulgated pursuant to sections [199.025, RSMo, and 660.403 to 660.420 the division]  
26 **192.2203 to 192.2227, the department** shall issue a license to such applicant. Such license shall  
27 be valid for the period designated by the [division] **department**, which period shall not exceed  
28 two years from the date of issuance, for the premises and persons named in the application.

29 5. Each license issued under sections [199.025, RSMo, and 660.403 to 660.420]  
30 **192.2203 to 192.2227** shall include the name of the provider, owner and operator; the name of  
31 the adult day care program; the location of the adult day care program; the hours of operations;  
32 the number and any limitations or the type of participants who may be served; and the period for  
33 which such license is valid.

34 6. The [division] **department** may issue a provisional license to an adult day care  
35 program that is not currently meeting requirements for a license but which demonstrates the  
36 potential capacity to meet full requirements for license; except that, no provisional license shall  
37 be issued unless the director is satisfied that the operation of the adult day care program is not  
38 detrimental to the health and safety of the participants being served. The provisional license  
39 shall be nonrenewable and shall be valid for the period designated by the [division] **department**,  
40 which period shall not exceed six months from the date of issuance. Upon issuance of a regular  
41 license, a day care program's provisional license shall immediately be null and void.

42 [660.405.] **192.2206.** 1. The provisions of sections [199.025, RSMo, and 660.403 to 660.420]  
43 **192.2203 to 192.2227** shall not apply to the following:

44 (1) Any adult day care program operated by a person in which care is offered for no more  
45 than two hours per day;

46 (2) Any adult day care program maintained or operated by the federal government except  
47 where care is provided through a management contract;

48 (3) Any person who cares solely for persons related to the provider or who has been  
49 designated as guardian of that person;

50 (4) Any adult day care program which cares for no more than four persons unrelated to  
51 the provider;

52 (5) Any adult day care program licensed by the department of mental health under  
53 chapter 630, RSMo, which provides care, treatment and habilitation exclusively to adults who  
54 have a primary diagnosis of mental disorder, mental illness, mental retardation or developmental  
55 disability as defined;

56 (6) Any adult day care program administered or maintained by a religious not-for-profit  
57 organization serving a social or religious function if the adult day care program does not hold  
58 itself out as providing the prescription or usage of physical or medical therapeutic activities or  
59 as providing or administering medicines or drugs.

60 2. Nothing in this section shall prohibit any person listed in subsection 1 of this section  
61 from applying for a license or receiving a license if the adult day care program owned or operated  
62 by such person conforms to the provisions of sections [199.025, RSMo, and 660.403 to 660.420]  
63 **192.2203 to 192.2227** and all applicable rules promulgated pursuant thereto.

[660.407.] **192.2209.** 1. The director, or his authorized representative, shall have the  
2 right to enter the premises of an applicant for or holder of a license at any time during the hours  
3 of operation of a center to determine compliance with provisions of sections [199.025, RSMo,  
4 and 660.403 to 660.420] **192.2203 to 192.2227** and applicable rules promulgated pursuant  
5 thereto. Entry shall also be granted for investigative purposes involving complaints regarding  
6 the operations of an adult day care program. The [division] **department** shall make at least two  
7 inspections per year, at least one of which shall be unannounced to the operator or provider. The  
8 [division] **department** may make such other inspections, announced or unannounced, as it  
9 deems necessary to carry out the provisions of sections [199.025, RSMo, and 660.403 to  
10 660.420] **192.2203 to 192.2227**.

11 2. The applicant for or holder of a license shall cooperate with the investigation and  
12 inspection by providing access to the adult day care program, records and staff, and by providing  
13 access to the adult day care program to determine compliance with the rules promulgated  
14 pursuant to sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**.

15 3. Failure to comply with any lawful request of the [division] **department** in connection  
16 with the investigation and inspection is a ground for refusal to issue a license or for the  
17 suspension or revocation of a license.

18 4. The [division] **department** may designate to act for it, with full authority of law, any  
19 instrumentality of any political subdivision of the state of Missouri deemed by the [division]  
20 **department** to be competent to investigate and inspect applicants for or holders of licenses.

[660.409.] **192.2212.** Each application for a license, or the renewal thereof, issued  
2 pursuant to sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227** shall be

3 accompanied by a nonrefundable fee in the amount required by the [division] **department**. The  
4 fee, to be determined by the director [of the division], shall not exceed one hundred dollars and  
5 shall be based on the licensed capacity of the applicant.

[660.411.] **192.2215**. The [division] **department** shall offer technical assistance or  
2 consultation to assist applicants for or holders of licenses or provisional licenses in meeting the  
3 requirements of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, staff  
4 qualifications, and other aspects involving the operation of an adult day care program, and to  
5 assist in the achievement of programs of excellence related to the provision of adult day care.

[660.414.] **192.2218**. 1. Whenever the [division] **department** is advised or has reason  
2 to believe that any person is operating an adult day care program without a license, or provisional  
3 license, or that any holder of license, or provisional license is not in compliance with the  
4 provisions of sections [199.025, RSMo, and 660.403 to 660.420, the division] **192.2203 to**  
5 **192.2227**, the **department** shall make an investigation and inspection to ascertain the facts. If  
6 the [division] **department** is not permitted access to the adult day care program in question, the  
7 [division] **department** may apply to the circuit court of the county in which the program is  
8 located for an order authorizing entry for inspection. The court shall issue the order if it finds  
9 reasonable grounds necessitating the inspection.

10 2. If the [division] **department** finds that the adult day care program is being operated  
11 in violation of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, it may  
12 seek, among other remedies, injunctive relief against the adult day care program.

[660.416.] **192.2221**. 1. Any person aggrieved by an official action of the [division]  
2 **department** either refusing to issue a license or revoking or suspending a license may seek a  
3 determination thereon by the administrative hearing commission [pursuant to the provisions of  
4 section 161.272] **under section 621.045**, RSMo, et seq.; except that, the petition must be filed  
5 with the administrative hearing commission within thirty days after the mailing or delivery of  
6 notice to the applicant for or holder of such license or certificate. When the notification of the  
7 official action is mailed to the applicant for or holder of such a license, there shall be included  
8 in the notice a statement of the procedure whereby the applicant for or holder of such license may  
9 appeal the decision of the [division] **department** before the administrative hearing commission.  
10 It shall not be a condition to such determination that the person aggrieved seek a reconsideration,  
11 a rehearing or exhaust any other procedure within the [division] **department**.

12 2. The administrative hearing commission may stay the revocation or suspension of such  
13 certificate or license, pending the commission's findings and determination in the cause, upon  
14 such conditions as the commission deems necessary and appropriate including the posting of  
15 bond or other security; except that, the commission shall not grant a stay or if a stay has already  
16 been entered shall set aside its stay, if, upon application of the [division] **department**, the

17 commission finds reason to believe that continued operation of the facility to which the  
18 certificate or license in question applies pending the commission's final determination would  
19 present an imminent danger to the health, safety or welfare of any person or a substantial  
20 probability that death or serious physical harm would result. In any case in which the [division]  
21 **department** has refused to issue a certificate or license, the commission shall have no authority  
22 to stay or to require the issuance of a license pending final determination by the commission.

23 3. The administrative hearing commission shall make the final decision as to the  
24 issuance, suspension, or revocation of a license. Any person aggrieved by a final decision of the  
25 administrative hearing commission, including the [division] **department**, may seek judicial  
26 review of such decision by filing a petition for review in the court of appeals for the district in  
27 which the adult day care program to which the license in question applies is located. Review  
28 shall be had in accordance with the provisions of sections [161.337 and 161.338] **621.189 and**  
29 **621.193**, RSMo.

[660.418.] **192.2224**. The director [of the division] shall have the authority to promulgate  
2 rules pursuant to this section and chapter 536, RSMo, in order to carry out the provisions of  
3 sections [199.025, RSMo, and 660.403 to 660.420. No rule or portion of a rule promulgated  
4 under the authority of section 199.025, RSMo, and sections 660.403 to 660.420 shall become  
5 effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo]  
6 **192.2203 to 192.2227. Any rule or portion of a rule, as that term is defined in section**  
7 **536.010, RSMo, that is created under the authority delegated in this section shall become**  
8 **effective only if it complies with and is subject to all of the provisions of chapter 536,**  
9 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**  
10 **nonseverable and if any of the powers vested with the general assembly pursuant to**  
11 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**  
12 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**  
13 **rule proposed or adopted after August 28, 2008, shall be invalid and void.**

[660.420.] **192.2227**. 1. Any person who violates any provision of sections [199.025,  
2 RSMo, and 660.403 to 660.420] **192.2203 to 192.2227**, or who, for himself or for any other  
3 person, makes materially false statements in order to obtain a certificate or license, or the renewal  
4 thereof, issued pursuant to sections [199.025, RSMo, and 660.403 to 660.420, shall be] **192.2203**  
5 **to 192.2227, is guilty of a class A misdemeanor.**

6 2. Any person who is convicted pursuant to this section shall, in addition to all other  
7 penalties provided by law, have any license issued to [him] **such person** under sections  
8 [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227** revoked, and shall not operate,  
9 nor hold any license to operate, any adult day care program, or other entity governed by the

10 provisions of sections [199.025, RSMo, and 660.403 to 660.420] **192.2203 to 192.2227** for a  
11 period of three years after such conviction.

[660.620.] **192.2250.** 1. There is hereby established an "Office of Advocacy and  
2 Assistance for Senior Citizens" within the office of lieutenant governor.

3 2. The senior citizen advocate shall coordinate activities with the long-term care  
4 ombudsman program, as defined in section [660.600] **198.700, RSMo**, on complaints made by  
5 or on behalf of senior citizens residing in long-term care facilities.

6 3. The senior citizen advocate shall conduct a suitable investigation into any actions  
7 complained of unless the senior citizen advocate finds that the complaint pertains to a matter  
8 outside the scope of the authority of the senior citizen advocate, the complainant has no  
9 substantive or procedural interest which is directly affected by the matter complained about, or  
10 the complaint is trivial, frivolous, vexatious or not made in good faith.

11 4. After completing his investigation of a complaint, the senior citizen advocate shall  
12 inform the complainant, the agency, official or employee of action recommended by the senior  
13 citizen advocate. The senior citizen advocate shall make such reports and recommendations to  
14 the affected agencies, the governor and the general assembly as he deems necessary to further  
15 the purposes of sections [660.620 and 660.625] **192.2250 and 192.2253.**

16 5. The senior citizen advocate shall, in conjunction with the [division of senior services,  
17 act as a clearinghouse for] **department, maintain** information pertaining to and of interest to  
18 senior citizens and shall disseminate such information as is necessary to inform senior citizens  
19 of their rights and of governmental and nongovernmental services available to them.

[660.625.] **192.2253.** The senior citizen advocate shall maintain confidentiality with  
2 respect to all matters, including the identities of the complainants or witnesses coming before  
3 the senior citizen advocate unless the complainant consents to the use of his or her name in the  
4 course of the investigation.

197.150. **1.** The department shall require that each hospital, ambulatory surgical center,  
2 and other facility have in place procedures for monitoring and enforcing compliance with  
3 infection control regulations and standards. Such procedures shall be coordinated with  
4 administrative staff, personnel staff, and the quality improvement program. Such procedures  
5 shall include, at a minimum, requirements for the facility's infection control program to conduct  
6 surveillance of personnel with a portion of the surveillance to be done in such manner that  
7 employees and medical staff are observed without their knowledge of such observation, provided  
8 that this unobserved surveillance requirement shall not be considered to be grounds for licensure  
9 enforcement action by the department until the department establishes clear and verifiable  
10 criteria for determining compliance. Such surveillance also may include monitoring of the rate  
11 of use of hand hygiene products.

12           **2. Beginning January 1, 2009, the department shall require every hospital licensed**  
13 **in this state to establish a methicillin-resistant staphylococcus aureus (MRSA) control**  
14 **program. The program shall be developed by the hospital's administrative staff, medical**  
15 **staff, and quality improvement program, and shall:**

16           **(1) Establish procedures to isolate identified MRSA-colonized and MRSA-infected**  
17 **patients or use alternative methods to reduce the risk of MRSA transmission when private**  
18 **rooms are not available;**

19           **(2) Establish procedures, protocols, and education for staff known to be MRSA-**  
20 **colonized or MRSA-infected;**

21           **(3) Establish an infection-control intervention protocol that includes at a minimum**  
22 **the following elements:**

23           **(a) Infection control precautions, based on nationally recognized standards, for**  
24 **general surveillance of infected or colonized patients;**

25           **(b) Intervention protocols based on evidence-based standards;**

26           **(c) Physical plant operations related to infection control and environmental**  
27 **cleaning;**

28           **(d) Strict hand washing hygiene protocols and the use of contact barriers;**

29           **(e) Appropriate use of antimicrobial agents; and**

30           **(f) Mandatory educational programs for personnel.**

198.006. As used in sections 198.003 to 198.186, unless the context clearly indicates  
2 otherwise, the following terms mean:

3           **(1) "Abuse", the infliction of physical, sexual, or emotional injury or harm, or financial**  
4 **exploitation by any person, firm, or corporation as defined in section 570.145, RSMo;**

5           **(2) "Activities of daily living" or "ADL", one or more of the following activities of daily**  
6 **living:**

7           **(a) Eating;**

8           **(b) Dressing;**

9           **(c) Bathing;**

10           **(d) Toileting;**

11           **(e) Transferring; and**

12           **(f) Walking;**

13           **(3) "Administrator", the person who is in general administrative charge of a facility;**

14           **(4) "Affiliate":**

15           **(a) With respect to a partnership, each partner thereof;**

16           **(b) With respect to a limited partnership, the general partner and each limited partner**  
17 **with an interest of five percent or more in the limited partnership;**

18 (c) With respect to a corporation, each person who owns, holds or has the power to vote  
19 five percent or more of any class of securities issued by the corporation, and each officer and  
20 director;

21 (d) With respect to a natural person, any parent, child, sibling, or spouse of that person;

22 (5) "Appropriately trained and qualified individual", an individual who is licensed or  
23 registered with the state of Missouri in a health care-related field or an individual with a degree  
24 in a health care-related field or an individual with a degree in a health care, social services, or  
25 human services field or an individual licensed under chapter 344, RSMo, and who has received  
26 facility orientation training under 19 CSR [30-86042(18)] **30-86.042(18)**, and dementia training  
27 under section [660.050, RSMo] **192.2000**, and twenty-four hours of additional training, approved  
28 by the department, consisting of definition and assessment of activities of daily living,  
29 assessment of cognitive ability, service planning, and interview skills;

30 (6) "Assisted living facility", any premises, other than a residential care facility,  
31 intermediate care facility, or skilled nursing facility, that is utilized by its owner, operator, or  
32 manager to provide twenty-four-hour care and services and protective oversight to three or more  
33 residents who are provided with shelter, board, and who may need and are provided with the  
34 following:

35 (a) Assistance with any activities of daily living and any instrumental activities of daily  
36 living;

37 (b) Storage, distribution, or administration of medications; and

38 (c) Supervision of health care under the direction of a licensed physician, provided that  
39 such services are consistent with a social model of care;

40

41 Such term shall not include a facility where all of the residents are related within the fourth  
42 degree of consanguinity or affinity to the owner, operator, or manager of the facility;

43 (7) "Community-based assessment", documented basic information and analysis  
44 provided by appropriately trained and qualified individuals describing an individual's abilities  
45 and needs in activities of daily living, instrumental activities of daily living, vision/hearing,  
46 nutrition, social participation and support, and cognitive functioning using an assessment tool  
47 approved by the department of health and senior services that is designed for community-based  
48 services and that is not the nursing home minimum data set;

49 (8) "Dementia", a general term for the loss of thinking, remembering, and reasoning so  
50 severe that it interferes with an individual's daily functioning, and may cause symptoms that  
51 include changes in personality, mood, and behavior;

52 (9) "Department", the Missouri department of health and senior services;

53 (10) "Emergency", a situation, physical condition or one or more practices, methods or  
54 operations which presents imminent danger of death or serious physical or mental harm to  
55 residents of a facility;

56 (11) "Facility", any residential care facility, assisted living facility, intermediate care  
57 facility, or skilled nursing facility;

58 (12) "Health care provider", any person providing health care services or goods to  
59 residents and who receives funds in payment for such goods or services under [Medicaid] **MO**  
60 **HealthNet**;

61 (13) "Instrumental activities of daily living", or "IADL", one or more of the following  
62 activities:

63 (a) Preparing meals;

64 (b) Shopping for personal items;

65 (c) Medication management;

66 (d) Managing money;

67 (e) Using the telephone;

68 (f) Housework; and

69 (g) Transportation ability;

70 (14) "Intermediate care facility", any premises, other than a residential care facility,  
71 assisted living facility, or skilled nursing facility, which is utilized by its owner, operator, or  
72 manager to provide twenty-four-hour accommodation, board, personal care, and basic health and  
73 nursing care services under the daily supervision of a licensed nurse and under the direction of  
74 a licensed physician to three or more residents dependent for care and supervision and who are  
75 not related within the fourth degree of consanguinity or affinity to the owner, operator or  
76 manager of the facility;

77 (15) "Manager", any person other than the administrator of a facility who contracts or  
78 otherwise agrees with an owner or operator to supervise the general operation of a facility,  
79 providing such services as hiring and training personnel, purchasing supplies, keeping financial  
80 records, and making reports;

81 (16) ["Medicaid"] "**MO HealthNet**", medical assistance under section 208.151, RSMo,  
82 et seq., in compliance with Title XIX, Public Law 89-97, 1965 amendments to the Social  
83 Security Act (42 U.S.C. 301, et seq.), as amended;

84 (17) "Neglect", the failure to provide, by those responsible for the care, custody, and  
85 control of a resident in a facility, the services which are reasonable and necessary to maintain the  
86 physical and mental health of the resident, when such failure presents either an imminent danger  
87 to the health, safety or welfare of the resident or a substantial probability that death or serious  
88 physical harm would result;

89 (18) "Operator", any person licensed or required to be licensed under the provisions of  
90 sections 198.003 to 198.096 in order to establish, conduct or maintain a facility;

91 (19) "Owner", any person who owns an interest of five percent or more in:

92 (a) The land on which any facility is located;

93 (b) The structure or structures in which any facility is located;

94 (c) Any mortgage, contract for deed, or other obligation secured in whole or in part by  
95 the land or structure in or on which a facility is located; or

96 (d) Any lease or sublease of the land or structure in or on which a facility is located.

97

98 "Owner" does not include a holder of a debenture or bond purchased at public issue nor does it  
99 include any regulated lender unless the entity or person directly or through a subsidiary operates  
100 a facility;

101 (20) "Protective oversight", an awareness twenty-four hours a day of the location of a  
102 resident, the ability to intervene on behalf of the resident, the supervision of nutrition,  
103 medication, or actual provisions of care, and the responsibility for the welfare of the resident,  
104 except where the resident is on voluntary leave;

105 (21) "Resident", a person who by reason of aging, illness, disease, or physical or mental  
106 infirmity receives or requires care and services furnished by a facility and who resides or boards  
107 in or is otherwise kept, cared for, treated or accommodated in such facility for a period exceeding  
108 twenty-four consecutive hours;

109 (22) "Residential care facility", any premises, other than an assisted living facility,  
110 intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator or  
111 manager to provide twenty-four-hour care to three or more residents, who are not related within  
112 the fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility  
113 and who need or are provided with shelter, board, and with protective oversight, which may  
114 include storage and distribution or administration of medications and care during short-term  
115 illness or recuperation, except that, for purposes of receiving supplemental welfare assistance  
116 payments under section 208.030, RSMo, only any residential care facility licensed as a  
117 residential care facility II immediately prior to August 28, 2006, and that continues to meet such  
118 licensure requirements for a residential care facility II licensed immediately prior to August 28,  
119 2006, shall continue to receive after August 28, 2006, the payment amount allocated immediately  
120 prior to August 28, 2006, for a residential care facility II under section 208.030;

121 (23) "Skilled nursing facility", any premises, other than a residential care facility, an  
122 assisted living facility, or an intermediate care facility, which is utilized by its owner, operator  
123 or manager to provide for twenty-four-hour accommodation, board and skilled nursing care and  
124 treatment services to at least three residents who are not related within the fourth degree of

125 consanguinity or affinity to the owner, operator or manager of the facility. Skilled nursing care  
126 and treatment services are those services commonly performed by or under the supervision of  
127 a registered professional nurse for individuals requiring twenty-four- hours-a-day care by  
128 licensed nursing personnel including acts of observation, care and counsel of the aged, ill, injured  
129 or infirm, the administration of medications and treatments as prescribed by a licensed physician  
130 or dentist, and other nursing functions requiring substantial specialized judgment and skill;

131 (24) "Social model of care", long-term care services based on the abilities, desires, and  
132 functional needs of the individual delivered in a setting that is more home-like than institutional  
133 and promotes the dignity, individuality, privacy, independence, and autonomy of the individual.  
134 Any facility licensed as a residential care facility II prior to August 28, 2006, shall qualify as  
135 being more home-like than institutional with respect to construction and physical plant standards;

136 (25) "Vendor", any person selling goods or services to a health care provider;

137 (26) "Voluntary leave", an off-premise leave initiated by:

138 (a) A resident that has not been declared mentally incompetent or incapacitated by a  
139 court; or

140 (b) A legal guardian of a resident that has been declared mentally incompetent or  
141 incapacitated by a court.

142 198.074. 1. Effective August 28, 2007, all new facilities licensed **under this chapter** on  
143 or after August 28, 2007, or any [facilities completing a] **section of a facility licensed under this**  
144 **chapter in which a** major renovation [to the facility] **has been completed** on or after August 28,  
145 2007, as defined and approved by the department, [and which are licensed under this chapter] shall  
146 install and maintain an approved sprinkler system in accordance with National Fire Protection  
147 Association (NFPA) 13.

148 2. Facilities that were initially licensed and had an approved sprinkler system prior to  
149 August 28, 2007, shall continue to meet all laws, rules, and regulations for testing, inspection and  
150 maintenance of the sprinkler system that were in effect for such facilities on August 27, 2007.

151 3. Multi-level assisted living facilities that accept or retain any individual with a physical,  
152 cognitive, or other impairment that prevents the individual from safely evacuating the facility with  
153 minimal assistance shall install and maintain an approved sprinkler system in accordance with  
154 NFPA 13. Single-story assisted living facilities that accept or retain any individual with a physical,  
155 cognitive, or other impairment that prevents the individual from safely evacuating the facility with  
156 minimal assistance shall install and maintain an approved sprinkler system in accordance with  
157 NFPA 13R.

158 4. All residential care and assisted living facilities [with] **licensed for** more than twenty  
159 [residents] **beds** not included in subsection 3 of this section, which are initially licensed under this  
160 chapter prior to August 28, 2007, and that do not have installed an approved sprinkler system in  
161 accordance with NFPA 13R prior to August 28, 2007, shall install and maintain an approved

162 sprinkler system in accordance with NFPA 13R by December 31, 2012, unless the facility meets  
163 the safety requirements of Chapter 33 of existing residential board and care occupancies of NFPA  
164 101 life safety code. **Any such facilities that do not have an approved sprinkler system in**  
165 **accordance with NFPA 13R by December 31, 2012, shall be required to install and maintain**  
166 **an approved sprinkler system in accordance with NFPA 13 by December 13, 2013.**

167 5. All skilled nursing and intermediate care facilities not required prior to August 28, 2007,  
168 to install and maintain an approved sprinkler system shall install and maintain an approved  
169 sprinkler system in accordance with NFPA 13 by December 31, 2012, unless the facility receives  
170 an exemption from the department and presents evidence in writing from a certified sprinkler  
171 system representative or licensed engineer that the facility is unable to install an approved  
172 [National Fire Protection Association] **NFPA 13** system due to the unavailability of water supply  
173 requirements associated with this system or the facility meets the safety requirements of Chapter  
174 33 of existing residential board and care occupancies of NFPA 101 life safety code.

175 6. Facilities that [take a substantial step] **have submitted a plan for compliance**, as  
176 [specified in] **required by** subsection [7] **10** of this section, to install an approved **NFPA 13 or**  
177 **13R** system prior to December 31, 2012, may apply to the department for a loan in accordance  
178 with section 198.075 to install such system. **All facilities described in subsections 3, 4, and 5**  
179 **of this section shall be eligible for the loan.** However, such loan shall [not] **only** be available  
180 [if by December 31, 2009,] **until** the average total reimbursement for the care of persons eligible  
181 for Medicaid public assistance in an assisted living facility and residential care facility is equal to  
182 or exceeds fifty-two dollars per day. The average total reimbursement includes room, board, and  
183 care delivered by the facility, but shall not include payments to the facility for care or services not  
184 provided by the facility. [If a facility under this subsection does not have an approved sprinkler  
185 system installed by December 31, 2012, such facility shall be required to install and maintain an  
186 approved sprinkler system in accordance with NFPA 13 by December 31, 2013.] Such loans  
187 received under this subsection and in accordance with section 198.075, shall be paid in full as  
188 follows:

189 (1) Ten years for those facilities approved for the loan and whose average total  
190 reimbursement rate for the care of persons eligible for Medicaid public assistance is equal to  
191 forty-eight and no more than forty-nine dollars per day;

192 (2) Eight years for those facilities approved for the loan and whose average total  
193 reimbursement rate for the care of persons eligible for Medicaid public assistance is greater than  
194 forty-nine and no more than fifty-two dollars per day; or

195 (3) Five years for those facilities approved for the loan and whose average total  
196 reimbursement rate for the care of persons eligible for Medicaid public assistance is greater than  
197 fifty-two dollars per day.

198 (4) No payments or interest shall be due until the average total reimbursement rate for the  
199 care of persons eligible for Medicaid public assistance is equal to or greater than forty-eight  
200 dollars.

201 7. (1) All facilities licensed under this chapter shall be equipped with a complete fire  
202 alarm system in compliance with [NFPA 101, Life Safety Code for Detection, Alarm, and  
203 Communication Systems as referenced in] NFPA 72, or shall maintain a system that was approved  
204 by the department when such facility was constructed so long as such system is a complete fire  
205 alarm system. A complete fire alarm system shall include, but not be limited to, interconnected  
206 smoke detectors throughout the facility, automatic transmission to the fire department, dispatching  
207 agency, or central monitoring company, manual pull stations at each required exit and attendant's  
208 station, heat detectors, and audible and visual alarm indicators.

209 (2) In addition, each floor accessed by residents shall be divided into at least two smoke  
210 sections by one-hour rated smoke partitions. No smoke section shall exceed one hundred fifty feet  
211 in length. If neither the length nor the width of the floor exceeds seventy-five feet, no smoke-stop  
212 partition shall be required. Facilities with a complete fire alarm system and smoke sections  
213 meeting the requirements of this subsection prior to August 28, 2007, shall continue to meet such  
214 requirements. Facilities initially licensed on or after August 28, 2007, shall comply with such  
215 requirements beginning August 28, 2007, or on the effective date of licensure.

216 (3) Except as otherwise provided in this subsection, the requirements for complete fire  
217 alarm systems and smoke sections shall be enforceable on December 31, 2008.

218 8. The requirements of this section shall be construed to supersede the provisions of  
219 section 198.058 relating to the exemption of facilities from construction standards.

220 9. Fire safety inspections of facilities licensed under this chapter for compliance with this  
221 section shall be conducted annually by the state fire marshal [if such inspections are not available  
222 to be conducted by local fire protection districts or fire departments. The provisions of this section  
223 shall be enforced by the state fire marshal or by the local fire protection district or fire department,  
224 depending on which entity conducted the inspection] **or by local fire protection districts or fire  
225 departments if such districts or departments are deemed qualified to conduct facility  
226 inspections by the state fire marshal. The state fire marshal shall report the results of  
227 facility inspections to the department in order for the department to make licensure and  
228 other appropriate decisions.**

229 10. By July 1, [2008] **2009**, all facilities licensed under this chapter shall submit a plan for  
230 compliance with the provisions of this section to the state fire marshal.

198.075. 1. There is hereby created in the state treasury the "Fire Safety Standards Loan  
2 Fund", for implementing the provisions of subsection [3] **6** of section 198.074. Moneys deposited  
3 in the fund shall be considered state funds under article IV, section 15 of the Missouri Constitution.  
4 The state treasurer shall be custodian of the fund and may disburse moneys from the fund in

5 accordance with sections 30.170 and 30.180, RSMo. Any moneys remaining in the fund at the end  
6 of the biennium shall revert to the credit of the general revenue fund. The state treasurer shall  
7 invest moneys in the fund in the same manner as other funds are invested. Any interest and  
8 moneys earned on such investments shall be credited to the fund.

9         2. Qualifying facilities shall make an application to the department of health and senior  
10 services upon forms provided by the department. **Such application and loan shall be available**  
11 **to facilities by January 1, 2009.** Upon receipt of an application for a loan, the department shall  
12 review the application and advise the governor before state funds are allocated for a loan. For  
13 purposes of this section, a "qualifying facility" shall mean a facility licensed under this chapter that  
14 is in substantial compliance. "Substantial compliance" shall mean a facility that has no uncorrected  
15 deficiencies and is in compliance with department of health and senior services rules and  
16 regulations governing such facility.

17         3. The fund shall be a loan of which the interest rate shall not exceed two and one-half  
18 percent.

19         4. The fund shall be administered by the department of health and senior services.

198.090. 1. An operator may make available to any resident the service of holding in  
2 trust personal possessions and funds of the resident and shall, as authorized by the resident,  
3 expend the funds to meet the resident's personal needs. In providing this service the operator  
4 shall:

5         (1) At the time of admission, provide each resident or his next of kin or legal guardian  
6 with a written statement explaining the resident's rights regarding personal funds;

7         (2) Accept funds and personal possessions from or for a resident for safekeeping and  
8 management, only upon written authorization by the resident or by his designee, or guardian in  
9 the case of an adjudged incompetent;

10         (3) Deposit any personal funds received from or on behalf of a resident in an account  
11 separate from the facility's funds, except that an amount to be established by rule of the [division  
12 of aging] **department** may be kept in a petty cash fund for the resident's personal needs;

13         (4) Keep a written account, available to a resident and his designee or guardian,  
14 maintained on a current basis for each resident, with written receipts, for all personal possessions  
15 and funds received by or deposited with the facility and for all disbursements made to or on  
16 behalf of the resident;

17         (5) Provide each resident or his designee or guardian with a quarterly accounting of all  
18 financial transactions made on behalf of the resident;

19         (6) Within five days of the discharge of a resident, provide the resident, or his designee  
20 or guardian, with an up-to-date accounting of the resident's personal funds and return to the  
21 resident the balance of his funds and all his personal possessions;

22           (7) Upon the death of a resident who has been a recipient of aid, assistance, care,  
23 services, or who has had moneys expended on his behalf by the department of social services,  
24 provide the department a complete account of all the resident's personal funds within sixty days  
25 from the date of death.

26

27 The total amount paid to the decedent or expended upon his behalf by the department shall be  
28 a debt due the state and recovered from the available funds upon the department's claim on such  
29 funds. The department shall make a claim on the funds within sixty days from the date of the  
30 accounting of the funds by the facility. The nursing facility shall pay the claim made by the  
31 department of social services from the resident's personal funds within sixty days. Where the  
32 name and address are reasonably ascertainable, the department of social services shall give notice  
33 of the debt due the state to the person whom the recipient had designated to receive the quarterly  
34 accounting of all financial transactions made under this section, or the resident's guardian or  
35 conservator or the person or persons listed in nursing home records as a responsible party or the  
36 fiduciary of the resident's estate. If any funds are available after the department's claim, the  
37 remaining provisions of this section shall apply to the balance, unless the funds belonged to a  
38 person other than the resident, in which case the funds shall be paid to that person;

39           (8) Upon the death of a resident who has not been a recipient of aid, assistance, care,  
40 services, or who has not had moneys expended on his behalf by the department of social services  
41 or the department has not made a claim on the funds, provide the fiduciary of resident's estate,  
42 at the fiduciary's request, a complete account of all the resident's personal funds and possessions  
43 and deliver to the fiduciary all possessions of the resident and the balance of the resident's funds.  
44 If, after one year from the date of death, no fiduciary makes claim upon such funds or  
45 possessions, the operator shall notify the department that the funds remain unclaimed. Such  
46 unclaimed funds or possessions shall be disposed of as follows:

47           (a) If the unclaimed funds or possessions have a value totaling one hundred and fifty  
48 dollars or less, the funds or the proceeds of the sale of the possessions may be deposited in a fund  
49 to be used for the benefit of all residents of the facility by providing the residents social or  
50 educational activities. The facility shall keep an accounting of the acquisitions and expenditure  
51 of these funds; or

52           (b) If the unclaimed funds or possessions have a value greater than one hundred and fifty  
53 dollars, the funds or possessions shall be immediately presumed to be abandoned property under  
54 sections 447.500 to 447.585, RSMo, and the procedures provided for in those sections shall  
55 apply notwithstanding any other provisions of those sections which require a period greater than  
56 two years for a presumption of abandonment;

57 (9) Upon ceasing to be the operator of a facility, all funds and property held in trust  
58 pursuant to this section shall be transferred to the new operator in accordance with sound  
59 accounting principles, and a closeout report signed by both the outgoing operator and the  
60 successor operator shall be prepared. The closeout report shall include a list of current balances  
61 of all funds held for residents respectively and an inventory of all property held for residents  
62 respectively. If the outgoing operator refuses to sign the closeout report, he shall state in writing  
63 the specific reasons for his failure to so sign, and the successor operator shall complete the report  
64 and attach an affidavit stating that the information contained therein is true to the best of his  
65 knowledge and belief. Such report shall be retained with all other records and accounts required  
66 to be maintained under this section;

67 (10) Not be required to invest any funds received from or on behalf of a resident, nor to  
68 increase the principal of any such funds.

69 2. Any owner, operator, manager, employee, or affiliate of an owner or operator who  
70 receives any personal property or anything else of value from a resident, shall, if the thing  
71 received has a value of ten dollars or more, make a written statement giving the date it was  
72 received, from whom it was received, and its estimated value. Statements required to be made  
73 pursuant to this subsection shall be retained by the operator and shall be made available for  
74 inspection by the department, or by the department of mental health when the resident has been  
75 placed by that department, and by the resident, and his designee or legal guardian. Any person  
76 who fails to make a statement required by this subsection is guilty of a class C misdemeanor.

77 3. No owner, operator, manager, employee, or affiliate of an owner or operator shall in  
78 one calendar year receive any personal property or anything else of value from the residents of  
79 any facility which have a total estimated value in excess of one hundred dollars.

80 4. Subsections 2 and 3 of this section shall not apply if the property or other thing of  
81 value is held in trust in accordance with subsection 1 of this section, is received in payment for  
82 services rendered or pursuant to the terms of a lawful contract, or is received from a resident who  
83 is related to the recipient within the fourth degree of consanguinity or affinity.

84 5. Any operator who fails to maintain records or who fails to maintain any resident's  
85 personal funds in an account separate from the facility's funds as required by this section shall  
86 be guilty of a class C misdemeanor.

87 6. Any operator, or any affiliate or employee of an operator, who puts to his own use or  
88 the use of the facility or otherwise diverts from the resident's use any personal funds of the  
89 resident shall be guilty of a class A misdemeanor.

90 [7. Any person having reasonable cause to believe that a misappropriation of a resident's  
91 funds or property has occurred may report such information to the department.

92 8. For each report the division shall attempt to obtain the name and address of the  
93 facility, the name of the facility employee, the name of the resident, information regarding the  
94 nature of the misappropriation, the name of the complainant, and any other information which  
95 might be helpful in an investigation.

96 9. Upon receipt of a report, the department shall initiate an investigation.

97 10. If the investigation indicates probable misappropriation of property or funds of a  
98 resident, the investigator shall refer the complaint together with his report to the department  
99 director or his designee for appropriate action.

100 11. Reports shall be confidential, as provided under section 660.320, RSMo.

101 12. Anyone, except any person participating in or benefiting from the misappropriation  
102 of funds, who makes a report pursuant to this section or who testifies in any administrative or  
103 judicial proceeding arising from the report shall be immune from any civil or criminal liability  
104 for making such a report or for testifying except for liability for perjury, unless such person acted  
105 negligently, recklessly, in bad faith, or with malicious purpose.

106 13. Within five working days after a report required to be made under this section is  
107 received, the person making the report shall be notified in writing of its receipt and of the  
108 initiation of the investigation.

109 14. No person who directs or exercises any authority in a facility shall evict, harass,  
110 dismiss or retaliate against a resident or employee because he or any member of his family has  
111 made a report of any violation or suspected violation of laws, ordinances or regulations applying  
112 to the facility which he has reasonable cause to believe has been committed or has occurred.

113 15. The department shall maintain the employee disqualification list and place on the  
114 employee disqualification list the names of any persons who have been finally determined by the  
115 department, pursuant to section 660.315, RSMo, to have misappropriated any property or funds  
116 of a resident while employed in any facility.]

198.532. 1. Complaints filed with the department of health and senior services against  
2 a long-term care facility which allege that harm has occurred or is likely to occur to a resident  
3 or residents of the facility due to actions or the lack of actions taken by the facility shall be  
4 investigated within thirty days of receipt of such complaints. The purpose of such investigation  
5 shall be to ensure the safety, protection and care of all residents of the facility likely to be  
6 affected by the alleged action or inaction. Such investigation shall be in addition to the  
7 investigation requirements for abuse and neglect reports pursuant to section [198.070] **192.2150**,  
8 **RSMo**.

9 2. The department shall provide the results of all investigations in accordance with  
10 section [660.320] **192.2150**, RSMo. The department shall provide the results of such  
11 investigation in writing to all parties to the complaint, and if requested, to any of the facility's

12 residents, or their family members or guardians. Complaints and written results will be readily  
 13 available for public access and review at the department of health and senior services and at the  
 14 long-term care facility. Personal information identifying the resident will be blanked out, except  
 15 in regard to immediate family, the attorney-in-fact or the legal guardian of the resident in  
 16 question. This information will remain readily available for a period of time determined by the  
 17 department of health and senior services.

[660.600.] **198.700.** As used in sections [660.600 to 660.608] **198.700 to 198.708**, the  
 2 following terms mean:

3 (1) ["Division", the division of aging of] "**Department**", the department of [social]  
 4 **health and senior** services;

5 (2) "Long-term care facility", any facility licensed pursuant to chapter 198, RSMo, and  
 6 long-term care facilities connected with hospitals licensed pursuant to chapter 197, RSMo;

7 (3) "Office", the office of the state ombudsman for long-term care facility residents;

8 (4) "Ombudsman", the state ombudsman for long-term care facility residents;

9 (5) "Regional ombudsman coordinators", designated individuals working for, or under  
 10 contract with, the area agencies on aging, and who are so designated by the area agency on aging  
 11 and certified by the ombudsman as meeting the qualifications established by the [division]  
 12 **department**;

13 (6) "Resident", any person who is receiving care or treatment in a long-term care facility.

[660.603.] **198.703.** 1. There is hereby established within the department of health and  
 2 senior services the "Office of State Ombudsman for Long-Term Care Facility Residents", for the  
 3 purpose of helping to assure the adequacy of care received by residents of long-term care  
 4 facilities and to improve the quality of life experienced by them, in accordance with the federal  
 5 Older Americans Act, 42 U.S.C. 3001, et seq.

6 2. The office shall be administered by the state ombudsman, who shall devote his or her  
 7 entire time to the duties of his or her position.

8 3. The office shall establish and implement procedures for receiving, processing,  
 9 responding to, and resolving complaints made by or on behalf of residents of long-term care  
 10 facilities relating to action, inaction, or decisions of providers, or their representatives, of  
 11 long-term care services, of public agencies or of social service agencies, which may adversely  
 12 affect the health, safety, welfare or rights of such residents.

13 4. The department shall establish and implement procedures for resolution of complaints.  
 14 The ombudsman or representatives of the office shall have the authority to:

15 (1) Enter any long-term care facility and have access to residents of the facility at a  
 16 reasonable time and in a reasonable manner. The ombudsman shall have access to review

17 resident records, if given permission by the resident or the resident's legal guardian. Residents  
18 of the facility shall have the right to request, deny, or terminate visits with an ombudsman;

19 (2) Make the necessary inquiries and review such information and records as the  
20 ombudsman or representative of the office deems necessary to accomplish the objective of  
21 verifying these complaints.

22 5. The office shall acknowledge complaints, report its findings, make recommendations,  
23 gather and disseminate information and other material, and publicize its existence.

24 6. The ombudsman may recommend to the relevant governmental agency changes in the  
25 rules and regulations adopted or proposed by such governmental agency which do or may  
26 adversely affect the health, safety, welfare, or civil or human rights of any resident in a facility.  
27 The office shall analyze and monitor the development and implementation of federal, state and  
28 local laws, regulations and policies with respect to long-term care facilities and services in the  
29 state and shall recommend to the department changes in such laws, regulations and policies  
30 deemed by the office to be appropriate.

31 7. The office shall promote community contact and involvement with residents of  
32 facilities through the use of volunteers and volunteer programs directed by the regional  
33 ombudsman coordinators.

34 8. The office shall develop and establish by regulation of the department statewide  
35 policies and standards for implementing the activities of the ombudsman program, including the  
36 qualifications and the training of regional ombudsman coordinators and ombudsman volunteers.

37 9. The office shall develop and propose programs for use, training and coordination of  
38 volunteers in conjunction with the regional ombudsman coordinators and may:

39 (1) Establish and conduct recruitment programs for volunteers;

40 (2) Establish and conduct training seminars, meetings and other programs for volunteers;  
41 and

42 (3) Supply personnel, written materials and such other reasonable assistance, including  
43 publicizing their activities, as may be deemed necessary.

44 10. The regional ombudsman coordinators and ombudsman volunteers shall have the  
45 authority to report instances of abuse and neglect to the ombudsman hotline operated by the  
46 department.

47 11. If the regional ombudsman coordinator or volunteer finds that a nursing home  
48 administrator is not willing to work with the ombudsman program to resolve complaints, the  
49 state ombudsman shall be notified. The department shall establish procedures by rule in  
50 accordance with chapter 536, RSMo, for implementation of this subsection.

51           12. The office shall prepare and distribute to each facility written notices which set forth  
52 the address and telephone number of the office, a brief explanation of the function of the office,  
53 the procedure to follow in filing a complaint and other pertinent information.

54           13. The administrator of each facility shall ensure that such written notice is given to  
55 every resident or the resident's guardian upon admission to the facility and to every person  
56 already in residence, or to his guardian. The administrator shall also post such written notice in  
57 a conspicuous, public place in the facility in the number and manner set forth in the regulations  
58 adopted by the department.

59           14. The office shall inform residents, their guardians or their families of their rights and  
60 entitlements under state and federal laws and rules and regulations by means of the distribution  
61 of educational materials and group meetings.

[660.605.] **198.705.** 1. Any files maintained by the ombudsman program shall be  
2 disclosed only at the discretion of the ombudsman having authority over the disposition of such  
3 files, except that the identity of any complainant or resident of a long-term care facility shall not  
4 be disclosed by such ombudsman unless:

5           (1) Such complainant or resident, or the complainant's or resident's legal representative,  
6 consents in writing to such disclosure; or

7           (2) Such disclosure is required by court order.

8           2. Any representative of the office conducting or participating in any examination of a  
9 complaint who shall knowingly and willfully disclose to any person other than the office, or  
10 those authorized by the office to receive it, the name of any witness examined or any information  
11 obtained or given upon such examination, shall be guilty of a class A misdemeanor. However,  
12 the ombudsman conducting or participating in any examination of a complaint shall disclose the  
13 final result of the examination to the facility with the consent of the resident.

14           3. Any statement or communication made by the office relevant to a complaint received  
15 by, proceedings before or activities of the office and any complaint or information made or  
16 provided in good faith by any person, shall be absolutely privileged and such person shall be  
17 immune from suit.

18           4. The office shall not be required to testify in any court with respect to matters held to  
19 be confidential in this section except as the court may deem necessary to enforce the provisions  
20 of sections [660.600 to 660.608] **198.700 to 198.708**, or where otherwise required by court order.

[660.608.] **198.708.** 1. Any regional coordinator or local program staff, whether an  
2 employee or an unpaid volunteer, shall be treated as a representative of the office. No  
3 representative of the office shall be held liable for good faith performance of his **or her** official  
4 duties under the provisions of sections [660.600 to 660.608] **198.700 to 198.708** and shall be

5 immune from suit for the good faith performance of such duties. Every representative of the  
6 office shall be considered a state employee under section 105.711, RSMo.

7         2. No reprisal or retaliatory action shall be taken against any resident or employee of a  
8 long-term care facility for any communication made or information given to the office. Any  
9 person who knowingly or willfully violates the provisions of this subsection shall be guilty of  
10 a class A misdemeanor. Any person who serves or served on a quality assessment and assurance  
11 committee required under 42 U.S.C. sec. 1396r(b)(1)(B) and 42 CFR sec. 483.75(r), or as  
12 amended, shall be immune from civil liability only for acts done directly as a member of such  
13 committee so long as the acts are performed in good faith, without malice and are required by  
14 the activities of such committee as defined in 42 CFR sec. 483.75(r).

208.152. 1. MO HealthNet payments shall be made on behalf of those eligible needy  
2 persons as defined in section 208.151 who are unable to provide for it in whole or in part, with  
3 any payments to be made on the basis of the reasonable cost of the care or reasonable charge for  
4 the services as defined and determined by the MO HealthNet division, unless otherwise  
5 hereinafter provided, for the following:

6         (1) Inpatient hospital services, except to persons in an institution for mental diseases who  
7 are under the age of sixty-five years and over the age of twenty-one years; provided that the MO  
8 HealthNet division shall provide through rule and regulation an exception process for coverage  
9 of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile  
10 professional activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay  
11 schedule; and provided further that the MO HealthNet division shall take into account through  
12 its payment system for hospital services the situation of hospitals which serve a disproportionate  
13 number of low-income patients;

14         (2) All outpatient hospital services, payments therefor to be in amounts which represent  
15 no more than eighty percent of the lesser of reasonable costs or customary charges for such  
16 services, determined in accordance with the principles set forth in Title XVIII A and B, Public  
17 Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. 301, et seq.), but the  
18 MO HealthNet division may evaluate outpatient hospital services rendered under this section and  
19 deny payment for services which are determined by the MO HealthNet division not to be  
20 medically necessary, in accordance with federal law and regulations;

21         (3) Laboratory and X-ray services;

22         (4) Nursing home services for participants, except to persons with more than five  
23 hundred thousand dollars equity in their home or except for persons in an institution for mental  
24 diseases who are under the age of sixty-five years, when residing in a hospital licensed by the  
25 department of health and senior services or a nursing home licensed by the department of health  
26 and senior services or appropriate licensing authority of other states or government-owned and

27 -operated institutions which are determined to conform to standards equivalent to licensing  
28 requirements in Title XIX of the federal Social Security Act (42 U.S.C. 301, et seq.), as  
29 amended, for nursing facilities. The MO HealthNet division may recognize through its payment  
30 methodology for nursing facilities those nursing facilities which serve a high volume of MO  
31 HealthNet patients. The MO HealthNet division when determining the amount of the benefit  
32 payments to be made on behalf of persons under the age of twenty-one in a nursing facility may  
33 consider nursing facilities furnishing care to persons under the age of twenty-one as a  
34 classification separate from other nursing facilities;

35 (5) Nursing home costs for participants receiving benefit payments under subdivision  
36 (4) of this subsection for those days, which shall not exceed twelve per any period of six  
37 consecutive months, during which the participant is on a temporary leave of absence from the  
38 hospital or nursing home, provided that no such participant shall be allowed a temporary leave  
39 of absence unless it is specifically provided for in his plan of care. As used in this subdivision,  
40 the term "temporary leave of absence" shall include all periods of time during which a participant  
41 is away from the hospital or nursing home overnight because he is visiting a friend or relative;

42 (6) Physicians' services, whether furnished in the office, home, hospital, nursing home,  
43 or elsewhere;

44 (7) Drugs and medicines when prescribed by a licensed physician, dentist, or podiatrist;  
45 except that no payment for drugs and medicines prescribed on and after January 1, 2006, by a  
46 licensed physician, dentist, or podiatrist may be made on behalf of any person who qualifies for  
47 prescription drug coverage under the provisions of P.L. 108-173;

48 (8) Emergency ambulance services and, effective January 1, 1990, medically necessary  
49 transportation to scheduled, physician-prescribed nonelective treatments;

50 (9) Early and periodic screening and diagnosis of individuals who are under the age of  
51 twenty-one to ascertain their physical or mental defects, and health care, treatment, and other  
52 measures to correct or ameliorate defects and chronic conditions discovered thereby. Such  
53 services shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and  
54 federal regulations promulgated thereunder;

55 (10) Home health care services;

56 (11) Family planning as defined by federal rules and regulations; provided, however, that  
57 such family planning services shall not include abortions unless such abortions are certified in  
58 writing by a physician to the MO HealthNet agency that, in his professional judgment, the life  
59 of the mother would be endangered if the fetus were carried to term;

60 (12) Inpatient psychiatric hospital services for individuals under age twenty-one as  
61 defined in Title XIX of the federal Social Security Act (42 U.S.C. 1396d, et seq.);

62 (13) Outpatient surgical procedures, including presurgical diagnostic services performed  
63 in ambulatory surgical facilities which are licensed by the department of health and senior  
64 services of the state of Missouri; except, that such outpatient surgical services shall not include  
65 persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965  
66 amendments to the federal Social Security Act, as amended, if exclusion of such persons is  
67 permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security  
68 Act, as amended;

69 (14) Personal care services which are medically oriented tasks having to do with a  
70 person's physical requirements, as opposed to housekeeping requirements, which enable a person  
71 to be treated by his physician on an outpatient rather than on an inpatient or residential basis in  
72 a hospital, intermediate care facility, or skilled nursing facility. Personal care services shall be  
73 rendered by an individual not a member of the participant's family who is qualified to provide  
74 such services where the services are prescribed by a physician in accordance with a plan of  
75 treatment and are supervised by a licensed nurse. Persons eligible to receive personal care  
76 services shall be those persons who would otherwise require placement in a hospital,  
77 intermediate care facility, or skilled nursing facility. Benefits payable for personal care services  
78 shall not exceed for any one participant one hundred percent of the average statewide charge for  
79 care and treatment in an intermediate care facility for a comparable period of time. Such  
80 services, when delivered in a residential care facility or assisted living facility licensed under  
81 chapter 198, RSMo, shall be authorized on a tier level based on the services the resident requires  
82 and the frequency of the services. A resident of such facility who qualifies for assistance under  
83 section 208.030 shall, at a minimum, if prescribed by a physician, qualify for the tier level with  
84 the fewest services. The rate paid to providers for each tier of service shall be set subject to  
85 appropriations. Subject to appropriations, each resident of such facility who qualifies for  
86 assistance under section 208.030 and meets the level of care required in this section shall, at a  
87 minimum, if prescribed by a physician, be authorized up to one hour of personal care services  
88 per day. Authorized units of personal care services shall not be reduced or tier level lowered  
89 unless an order approving such reduction or lowering is obtained from the resident's personal  
90 physician. Such authorized units of personal care services or tier level shall be transferred with  
91 such resident if her or she transfers to another such facility. Such provision shall terminate upon  
92 receipt of relevant waivers from the federal Department of Health and Human Services. If the  
93 Centers for Medicare and Medicaid Services determines that such provision does not comply  
94 with the state plan, this provision shall be null and void. The MO HealthNet division shall notify  
95 the revisor of statutes as to whether the relevant waivers are approved or a determination of  
96 noncompliance is made;

97 (15) Mental health services. The state plan for providing medical assistance under Title  
98 XIX of the Social Security Act, 42 U.S.C. 301, as amended, shall include the following mental  
99 health services when such services are provided by community mental health facilities operated  
100 by the department of mental health or designated by the department of mental health as a  
101 community mental health facility or as an alcohol and drug abuse facility or as a child-serving  
102 agency within the comprehensive children's mental health service system established in section  
103 630.097, RSMo. The department of mental health shall establish by administrative rule the  
104 definition and criteria for designation as a community mental health facility and for designation  
105 as an alcohol and drug abuse facility. Such mental health services shall include:

106 (a) Outpatient mental health services including preventive, diagnostic, therapeutic,  
107 rehabilitative, and palliative interventions rendered to individuals in an individual or group  
108 setting by a mental health professional in accordance with a plan of treatment appropriately  
109 established, implemented, monitored, and revised under the auspices of a therapeutic team as a  
110 part of client services management;

111 (b) Clinic mental health services including preventive, diagnostic, therapeutic,  
112 rehabilitative, and palliative interventions rendered to individuals in an individual or group  
113 setting by a mental health professional in accordance with a plan of treatment appropriately  
114 established, implemented, monitored, and revised under the auspices of a therapeutic team as a  
115 part of client services management;

116 (c) Rehabilitative mental health and alcohol and drug abuse services including home and  
117 community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions  
118 rendered to individuals in an individual or group setting by a mental health or alcohol and drug  
119 abuse professional in accordance with a plan of treatment appropriately established,  
120 implemented, monitored, and revised under the auspices of a therapeutic team as a part of client  
121 services management. As used in this section, mental health professional and alcohol and drug  
122 abuse professional shall be defined by the department of mental health pursuant to duly  
123 promulgated rules.

124

125 With respect to services established by this subdivision, the department of social services, MO  
126 HealthNet division, shall enter into an agreement with the department of mental health.  
127 Matching funds for outpatient mental health services, clinic mental health services, and  
128 rehabilitation services for mental health and alcohol and drug abuse shall be certified by the  
129 department of mental health to the MO HealthNet division. The agreement shall establish a  
130 mechanism for the joint implementation of the provisions of this subdivision. In addition, the  
131 agreement shall establish a mechanism by which rates for services may be jointly developed;

132 (16) Such additional services as defined by the MO HealthNet division to be furnished  
133 under waivers of federal statutory requirements as provided for and authorized by the federal  
134 Social Security Act (42 U.S.C. 301, et seq.) subject to appropriation by the general assembly;

135 (17) Beginning July 1, 1990, the services of a certified pediatric or family nursing  
136 practitioner with a collaborative practice agreement to the extent that such services are provided  
137 in accordance with chapters 334 and 335, RSMo, and regulations promulgated thereunder;

138 (18) Nursing home costs for participants receiving benefit payments under subdivision  
139 (4) of this subsection to reserve a bed for the participant in the nursing home during the time that  
140 the participant is absent due to admission to a hospital for services which cannot be performed  
141 on an outpatient basis, subject to the provisions of this subdivision:

142 (a) The provisions of this subdivision shall apply only if:

143 a. The occupancy rate of the nursing home is at or above ninety-seven percent of MO  
144 HealthNet certified licensed beds, according to the most recent quarterly census provided to the  
145 department of health and senior services which was taken prior to when the participant is  
146 admitted to the hospital; and

147 b. The patient is admitted to a hospital for a medical condition with an anticipated stay  
148 of three days or less;

149 (b) The payment to be made under this subdivision shall be provided for a maximum of  
150 three days per hospital stay;

151 (c) For each day that nursing home costs are paid on behalf of a participant under this  
152 subdivision during any period of six consecutive months such participant shall, during the same  
153 period of six consecutive months, be ineligible for payment of nursing home costs of two  
154 otherwise available temporary leave of absence days provided under subdivision (5) of this  
155 subsection; and

156 (d) The provisions of this subdivision shall not apply unless the nursing home receives  
157 notice from the participant or the participant's responsible party that the participant intends to  
158 return to the nursing home following the hospital stay. If the nursing home receives such  
159 notification and all other provisions of this subsection have been satisfied, the nursing home shall  
160 provide notice to the participant or the participant's responsible party prior to release of the  
161 reserved bed;

162 (19) Prescribed medically necessary durable medical equipment. An electronic  
163 web-based prior authorization system using best medical evidence and care and treatment  
164 guidelines consistent with national standards shall be used to verify medical need;

165 (20) Hospice care. As used in this subsection, the term "hospice care" means a  
166 coordinated program of active professional medical attention within a home, outpatient and  
167 inpatient care which treats the terminally ill patient and family as a unit, employing a medically

168 directed interdisciplinary team. The program provides relief of severe pain or other physical  
169 symptoms and supportive care to meet the special needs arising out of physical, psychological,  
170 spiritual, social, and economic stresses which are experienced during the final stages of illness,  
171 and during dying and bereavement and meets the Medicare requirements for participation as a  
172 hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO  
173 HealthNet division to the hospice provider for room and board furnished by a nursing home to  
174 an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement  
175 which would have been paid for facility services in that nursing home facility for that patient,  
176 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget  
177 Reconciliation Act of 1989);

178 (21) Prescribed medically necessary dental services. Such services shall be subject to  
179 appropriations. An electronic web-based prior authorization system using best medical evidence  
180 and care and treatment guidelines consistent with national standards shall be used to verify  
181 medical need;

182 (22) Prescribed medically necessary optometric services. Such services shall be subject  
183 to appropriations. An electronic web-based prior authorization system using best medical  
184 evidence and care and treatment guidelines consistent with national standards shall be used to  
185 verify medical need;

186 (23) The MO HealthNet division shall, by January 1, 2008, and annually thereafter,  
187 report the status of MO HealthNet provider reimbursement rates as compared to one hundred  
188 percent of the Medicare reimbursement rates and compared to the average dental reimbursement  
189 rates paid by third-party payors licensed by the state. The MO HealthNet division shall, by July  
190 1, 2008, provide to the general assembly a four-year plan to achieve parity with Medicare  
191 reimbursement rates and for third-party payor average dental reimbursement rates. Such plan  
192 shall be subject to appropriation and the division shall include in its annual budget request to the  
193 governor the necessary funding needed to complete the four-year plan developed under this  
194 subdivision;

195 **(24) (a) Subject to appropriations, home nursing visits for newborn infants. Such**  
196 **nursing services shall consist of home visits by registered nurses designed to prevent infant**  
197 **mortality, child abuse and neglect for at-risk infants by providing health care, health**  
198 **education, and positive parenting skills, and shall be capable of providing follow-up care**  
199 **as needed until the infant's second birthday. For purposes of this subdivision, "at risk"**  
200 **may include infants born medically fragile, chemically dependent, or deemed by the**  
201 **treating physician as displaying failure to thrive or born to a chemically dependent mother,**  
202 **a teenage mother, a mentally or physically challenged mother, or into a family where there**  
203 **has been a history of prior premature births, abuse or neglect, or domestic violence.**

204           **(b) Such services shall be developed as a three-year pilot project in a county with**  
205 **a charter form of government and with more than six hundred thousand but fewer than**  
206 **seven hundred thousand inhabitants, in a county of the first classification with more than**  
207 **eighty-five thousand but fewer than eighty-seven thousand inhabitants, and in a county of**  
208 **the first classification with more than two hundred forty thousand three hundred but fewer**  
209 **than two hundred forty thousand four hundred inhabitants, with no more than five**  
210 **hundred thousand dollars to be expended in each county.**

211           **(c) The division shall request appropriate waivers or state plan amendments from**  
212 **the Secretary of the federal Department of Health and Human Services to carry out the**  
213 **requirements of this section.**

214           2. Additional benefit payments for medical assistance shall be made on behalf of those  
215 eligible needy children, pregnant women and blind persons with any payments to be made on the  
216 basis of the reasonable cost of the care or reasonable charge for the services as defined and  
217 determined by the division of medical services, unless otherwise hereinafter provided, for the  
218 following:

219           (1) Dental services;

220           (2) Services of podiatrists as defined in section 330.010, RSMo;

221           (3) Optometric services as defined in section 336.010, RSMo;

222           (4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids,  
223 and wheelchairs;

224           (5) Hospice care. As used in this subsection, the term "hospice care" means a  
225 coordinated program of active professional medical attention within a home, outpatient and  
226 inpatient care which treats the terminally ill patient and family as a unit, employing a medically  
227 directed interdisciplinary team. The program provides relief of severe pain or other physical  
228 symptoms and supportive care to meet the special needs arising out of physical, psychological,  
229 spiritual, social, and economic stresses which are experienced during the final stages of illness,  
230 and during dying and bereavement and meets the Medicare requirements for participation as a  
231 hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO  
232 HealthNet division to the hospice provider for room and board furnished by a nursing home to  
233 an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement  
234 which would have been paid for facility services in that nursing home facility for that patient,  
235 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget  
236 Reconciliation Act of 1989);

237           (6) Comprehensive day rehabilitation services beginning early posttrauma as part of a  
238 coordinated system of care for individuals with disabling impairments. Rehabilitation services  
239 must be based on an individualized, goal-oriented, comprehensive and coordinated treatment

240 plan developed, implemented, and monitored through an interdisciplinary assessment designed  
241 to restore an individual to optimal level of physical, cognitive, and behavioral function. The MO  
242 HealthNet division shall establish by administrative rule the definition and criteria for  
243 designation of a comprehensive day rehabilitation service facility, benefit limitations and  
244 payment mechanism. Any rule or portion of a rule, as that term is defined in section 536.010,  
245 RSMo, that is created under the authority delegated in this subdivision shall become effective  
246 only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if  
247 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and  
248 if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review,  
249 to delay the effective date, or to disapprove and annul a rule are subsequently held  
250 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after  
251 August 28, 2005, shall be invalid and void.

252 3. The MO HealthNet division may require any participant receiving MO HealthNet  
253 benefits to pay part of the charge or cost until July 1, 2008, and an additional payment after July  
254 1, 2008, as defined by rule duly promulgated by the MO HealthNet division, for all covered  
255 services except for those services covered under subdivisions (14) and (15) of subsection 1 of  
256 this section and sections 208.631 to 208.657 to the extent and in the manner authorized by Title  
257 XIX of the federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations thereunder.  
258 When substitution of a generic drug is permitted by the prescriber according to section 338.056,  
259 RSMo, and a generic drug is substituted for a name-brand drug, the MO HealthNet division may  
260 not lower or delete the requirement to make a co-payment pursuant to regulations of Title XIX  
261 of the federal Social Security Act. A provider of goods or services described under this section  
262 must collect from all participants the additional payment that may be required by the MO  
263 HealthNet division under authority granted herein, if the division exercises that authority, to  
264 remain eligible as a provider. Any payments made by participants under this section shall be in  
265 addition to and not in lieu of payments made by the state for goods or services described herein  
266 except the participant portion of the pharmacy professional dispensing fee shall be in addition  
267 to and not in lieu of payments to pharmacists. A provider may collect the co-payment at the time  
268 a service is provided or at a later date. A provider shall not refuse to provide a service if a  
269 participant is unable to pay a required payment. If it is the routine business practice of a provider  
270 to terminate future services to an individual with an unclaimed debt, the provider may include  
271 uncollected co-payments under this practice. Providers who elect not to undertake the provision  
272 of services based on a history of bad debt shall give participants advance notice and a reasonable  
273 opportunity for payment. A provider, representative, employee, independent contractor, or agent  
274 of a pharmaceutical manufacturer shall not make co-payment for a participant. This subsection  
275 shall not apply to other qualified children, pregnant women, or blind persons. If the Centers for

276 Medicare and Medicaid Services does not approve the Missouri MO HealthNet state plan  
277 amendment submitted by the department of social services that would allow a provider to deny  
278 future services to an individual with uncollected co-payments, the denial of services shall not be  
279 allowed. The department of social services shall inform providers regarding the acceptability  
280 of denying services as the result of unpaid co-payments.

281 4. The MO HealthNet division shall have the right to collect medication samples from  
282 participants in order to maintain program integrity.

283 5. Reimbursement for obstetrical and pediatric services under subdivision (6) of  
284 subsection 1 of this section shall be timely and sufficient to enlist enough health care providers  
285 so that care and services are available under the state plan for MO HealthNet benefits at least to  
286 the extent that such care and services are available to the general population in the geographic  
287 area, as required under subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations  
288 promulgated thereunder.

289 6. Beginning July 1, 1990, reimbursement for services rendered in federally funded  
290 health centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404  
291 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations  
292 promulgated thereunder.

293 7. Beginning July 1, 1990, the department of social services shall provide notification  
294 and referral of children below age five, and pregnant, breast-feeding, or postpartum women who  
295 are determined to be eligible for MO HealthNet benefits under section 208.151 to the special  
296 supplemental food programs for women, infants and children administered by the department  
297 of health and senior services. Such notification and referral shall conform to the requirements  
298 of Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

299 8. Providers of long-term care services shall be reimbursed for their costs in accordance  
300 with the provisions of Section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. 1396a, as  
301 amended, and regulations promulgated thereunder.

302 9. Reimbursement rates to long-term care providers with respect to a total change in  
303 ownership, at arm's length, for any facility previously licensed and certified for participation in  
304 the MO HealthNet program shall not increase payments in excess of the increase that would  
305 result from the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C.  
306 1396a (a)(13)(C).

307 10. The MO HealthNet division, may enroll qualified residential care facilities and  
308 assisted living facilities, as defined in chapter 198, RSMo, as MO HealthNet personal care  
309 providers.

310 11. Any income earned by individuals eligible for certified extended employment at a  
 311 sheltered workshop under chapter 178, RSMo, shall not be considered as income for purposes  
 312 of determining eligibility under this section.

208.819. 1. **Subject to appropriations**, persons institutionalized in nursing homes who  
 2 are [Medicaid] **MO HealthNet** eligible and who wish to move back into the community shall  
 3 be eligible for a one-time [Missouri] transition [to independence] grant. The [Missouri]  
 4 transition [to independence] grant shall be limited to up to [fifteen] **twenty-four** hundred dollars  
 5 to offset the initial down payments [and] , setup costs, **and other expenditures** associated with  
 6 housing a **senior or** person with disabilities **needing home and community-based services** as  
 7 such person moves out of a nursing home. Such grants shall be established and administered by  
 8 the division of [vocational rehabilitation] **senior and disability services** in consultation with the  
 9 department of social services. The division of [vocational rehabilitation] **senior and disability**  
 10 **services** and the department of social services shall cooperate in actively seeking federal and  
 11 private grant moneys to **further** fund this program; except that, such federal and private grant  
 12 moneys shall not limit the general assembly's ability to appropriate moneys for the [Missouri]  
 13 transition [to independence] grants.

14 2. The [division of medical services within the department of social services, the]  
 15 department of health and senior services and the [division of vocational rehabilitation within the  
 16 department of elementary and secondary education] **department of mental health** shall work  
 17 together to develop information and training on community-based service options for residents  
 18 transitioning into the community[. Representatives of disability-related community  
 19 organizations shall complete such training before initiating contact with institutionalized  
 20 individuals] **and shall promulgate rules as needed.**

208.909. 1. Consumers receiving personal care assistance services shall be responsible  
 2 for:

- 3 (1) Supervising their personal care attendant;
- 4 (2) Verifying wages to be paid to the personal care attendant;
- 5 (3) Preparing and submitting time sheets, signed by both the consumer and personal care  
 6 attendant, to the vendor on a biweekly basis;
- 7 (4) Promptly notifying the department within ten days of any changes in circumstances  
 8 affecting the personal care assistance services plan or in the consumer's place of residence; and
- 9 (5) Reporting any problems resulting from the quality of services rendered by the  
 10 personal care attendant to the vendor. If the consumer is unable to resolve any problems  
 11 resulting from the quality of service rendered by the personal care attendant with the vendor, the  
 12 consumer shall report the situation to the department.

13 2. Participating vendors shall be responsible for:

- 14 (1) Collecting time sheets and certifying their accuracy;
- 15 (2) The [Medicaid] **MO HealthNet** reimbursement process, including the filing of
- 16 claims and reporting data to the department as required by rule;
- 17 (3) Transmitting the individual payment directly to the personal care attendant on behalf
- 18 of the consumer;
- 19 (4) Monitoring the performance of the personal care assistance services plan.

20 3. No state or federal financial assistance shall be authorized or expended to pay for

21 services provided to a consumer under sections 208.900 to 208.927, if the primary benefit of the

22 services is to the household unit, or is a household task that the members of the consumer's

23 household may reasonably be expected to share or do for one another when they live in the same

24 household, unless such service is above and beyond typical activities household members may

25 reasonably provide for another household member without a disability.

26 4. No state or federal financial assistance shall be authorized or expended to pay for

27 personal care assistance services provided by a personal care attendant who [is listed on any of

28 the background check lists in the family care safety registry under sections 210.900 to 210.937,

29 RSMo, unless a good cause waiver is first obtained from the department in accordance with

30 section 660.317, RSMo] :

31 **(1) Is listed on the employee disqualification list maintained by the department of**

32 **health and senior services under section 192.2150, RSMo;**

33 **(2) Is registered as a sexual offender under section 589.400, RSMo, and whose name**

34 **appears on the sexual offender registry; or;**

35 **(3) Has a disqualifying criminal history under section 192.2178, RSMo, unless a**

36 **good cause waiver is first obtained from the department in accordance with section**

37 **192.2178, RSMo.**

**210.305. 1. If emergency placement of a child in a private home is deemed**

2 **necessary, the children's division shall make diligent efforts to contact and place the child**

3 **with a grandparent or grandparents of the child, except when the children's division**

4 **determines that placement with a grandparent or grandparents is not in the best interest**

5 **of the child. Such an emergency placement with a grandparent or grandparents shall be**

6 **subject to the provisions of section 210.482 regarding background checks for emergency**

7 **placements.**

8 **2. For purposes of this section, the following terms shall mean:**

9 **(1) "Diligent efforts", a good faith attempt by the children's division, which**

10 **exercises reasonable efforts and care to utilize all available services and resources related**

11 **to meeting the ongoing health and safety needs of the child, to locate a grandparent or**

12 **grandparents of the child after all of the child's physical health needs have been attended**  
13 **to by the children's division;**

14 (2) "Emergency placement", those limited instances when the children's division  
15 is placing a child in the home of private individuals, including neighbors, friends, or  
16 relatives, as a result of a sudden unavailability of the child's primary caretaker.

17 3. Diligent efforts shall be made, if possible, to contact the grandparent or  
18 grandparents of the child within three hours from the time the emergency placement is  
19 deemed necessary for the child. If a grandparent or grandparents of the child cannot be  
20 located within the three-hour period, the child may be placed in a foster home; except that,  
21 during the initial twenty-four-hour period after the emergency placement is deemed  
22 necessary, the children's division shall continue to make diligent efforts to locate and place  
23 the child with a grandparent or grandparents.

210.565. 1. Whenever a child is placed in a foster home and the court has determined  
2 pursuant to subsection 3 of this section that foster home placement with relatives is not contrary  
3 to the best interest of the child, the children's division shall give foster home placement to  
4 relatives of the child. Notwithstanding any rule of the division to the contrary, **the children's**  
5 **division shall make diligent efforts to locate the grandparents of the child and determine**  
6 **whether they wish to be considered for placement of the child.** Grandparents who request  
7 consideration shall be given preference and first consideration for foster home placement **of the**  
8 **child.**

9 2. As used in this section, the term "relative" means a **grandparent or any other** person  
10 related to another by blood or affinity within the third degree. The status of a grandparent shall  
11 not be affected by the death or the dissolution of the marriage of a son or daughter.

12 3. The preference for placement with **grandparents or other** relatives created by this  
13 section shall only apply where the court finds that placement with such **grandparents or other**  
14 relatives is not contrary to the best interest of the child considering all circumstances. If the court  
15 finds that it is contrary to the best interest of a child to be placed with **grandparents or other**  
16 relatives, the court shall make specific findings on the record detailing the reasons why the best  
17 interests of the child necessitate placement of the child with persons other than **grandparents**  
18 **or other** relatives.

19 4. The age of the child's **grandparent or other** relative shall not be the only factor that  
20 the children's division takes into consideration when it makes placement decisions and  
21 recommendations to the court about placing the child with such **grandparent or other** relative.

22 5. For any Native American child placed in protective custody, the children's division  
23 shall comply with the placement requirements set forth in 25 U.S.C. Section 1915.

210.900. 1. Sections 210.900 to 210.936 shall be known and may be cited as the  
2 "Family Care Safety Act".

3 2. As used in sections 210.900 to 210.936, the following terms shall mean:

4 (1) "Child-care provider", any licensed or license-exempt child-care home, any licensed  
5 or license-exempt child-care center, **in-home provider under contract with the department**  
6 **of health and senior services**, child-placing agency, residential care facility for children, group  
7 home, foster family group home, foster family home, employment agency that refers a child-care  
8 worker to parents or guardians as defined in section 289.005, RSMo. The term "child-care  
9 provider" does not include summer camps or voluntary associations designed primarily for  
10 recreational or educational purposes;

11 (2) "Child-care worker", any person who is employed by a child-care provider, or  
12 receives state or federal funds, either by direct payment, reimbursement or voucher payment, as  
13 remuneration for child-care services;

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

15 (4) "Elder-care provider", any operator licensed pursuant to chapter 198, RSMo, or any  
16 person, corporation, or association who provides in-home services under contract with the  
17 [division of aging] **department**, or any employer of nurses or nursing assistants of home health  
18 agencies licensed pursuant to sections 197.400 to 197.477, RSMo, or any nursing assistants  
19 employed by a hospice pursuant to sections 197.250 to 197.280, RSMo, or that portion of a  
20 hospital for which subdivision (3) of subsection 1 of section 198.012, RSMo, applies;

21 (5) "Elder-care worker", any person who is employed by an elder-care provider, or who  
22 receives state or federal funds, either by direct payment, reimbursement or voucher payment, as  
23 remuneration for elder-care services;

24 (6) "Patrol", the Missouri state highway patrol;

25 (7) "Employer", any child-care provider, elder-care provider, or personal-care provider  
26 as defined in this section;

27 (8) "Personal-care attendant" or "personal-care worker", a person who performs routine  
28 services or supports necessary for a person with a physical or mental disability to enter and  
29 maintain employment or to live independently;

30 (9) "Personal-care provider", any person, corporation, or association who provides  
31 personal-care services or supports under contract with the department of mental health, [the  
32 division of aging,] the department of health and senior services or the department of elementary  
33 and secondary education;

34 (10) "Related child care", child care provided only to a child or children by such child's  
35 or children's grandparents, great-grandparents, aunts or uncles, or siblings living in a residence  
36 separate from the child or children;

37 (11) "Related elder care", care provided only to an elder by an adult child, a spouse, a  
38 grandchild, a great-grandchild or a sibling of such elder;

39 (12) **"Related personal care", care provided for a person with a physical or mental**  
40 **disability by an adult child, spouse, grandchild, great-grandchild, or sibling of such person.**

210.906. 1. Every child-care worker or elder-care worker hired on or after January 1,  
2 2001, or personal-care worker hired on or after January 1, 2002, shall complete a registration  
3 form provided by the department. The department shall make such forms available no later than  
4 January 1, 2001, and may, by rule, determine the specific content of such form, but every form  
5 shall:

6 (1) Request the valid Social Security number of the applicant;

7 (2) Include information on the person's right to appeal the information contained in the  
8 registry pursuant to section 210.912;

9 (3) Contain the signed consent of the applicant for the background checks required  
10 pursuant to this section; and

11 (4) Contain the signed consent for the release of information contained in the  
12 background check for employment purposes only.

13 2. Every child-care worker or elder-care worker hired on or after January 1, 2001, and  
14 every personal-care worker hired on or after January 1, 2002, shall complete a registration form  
15 within fifteen days of the beginning of such person's employment. Any person employed as a  
16 child-care, elder-care or personal-care worker who fails to submit a completed registration form  
17 to the department of health and senior services as required by sections 210.900 to 210.936  
18 without good cause, as determined by the department, is guilty of a class B misdemeanor.

19 3. The costs of the criminal background check may be paid by the individual applicant,  
20 or by the provider if the applicant is so employed, or for those applicants receiving public  
21 assistance, by the state through the terms of the self-sufficiency pact pursuant to section 208.325,  
22 RSMo. Any moneys remitted to the patrol for the costs of the criminal background check shall  
23 be deposited to the credit of the criminal record system fund as required by section 43.530,  
24 RSMo.

25 4. Any person licensed pursuant to sections 210.481 to 210.565 shall be automatically  
26 registered in the family care safety registry at no additional cost other than the costs required  
27 pursuant to sections 210.481 to 210.565.

28 5. Any person not required to register pursuant to the provisions of sections 210.900 to  
29 210.936 may also be included in the registry if such person voluntarily applies to the department  
30 for registration and meets the requirements of this section and section 210.909, including  
31 submitting to the background checks in subsection 1 of section 210.909.

32           6. The provisions of sections 210.900 to 210.936 shall not extend to related child care,  
33 related elder care or related personal care **that is not reimbursed from state or federal moneys**  
34 **directly or indirectly.**

          565.180. 1. A person commits the crime of elder abuse in the first degree if he attempts  
2 to kill, knowingly causes or attempts to cause serious physical injury, as defined in section  
3 565.002, to any person sixty years of age or older or an eligible adult as defined in section  
4 [660.250] **192.2100**, RSMo.

          2. Elder abuse in the first degree is a class A felony.

          565.182. 1. A person commits the crime of elder abuse in the second degree if [he] **such**  
2 **person:**

          (1) Knowingly causes, attempts to cause physical injury to any person sixty years of age  
3 or older or an eligible adult, as defined in section [660.250] **192.2100**, RSMo, by means of a  
4 deadly weapon or dangerous instrument; or

          (2) Recklessly [and purposely] causes serious physical injury, as defined in section  
5 565.002, to a person sixty years of age or older or an eligible adult as defined in section  
6 [660.250] **192.2100**, RSMo.

          2. Elder abuse in the second degree is a class B felony.

          565.184. 1. A person commits the crime of elder abuse in the third degree if [he] **such**  
2 **person:**

          (1) Knowingly causes or attempts to cause physical contact with any person sixty years  
3 of age or older or an eligible adult as defined in section [660.250] **192.2100**, RSMo, knowing  
4 the other person will regard the contact as harmful or provocative; or

          (2) Purposely engages in conduct involving more than one incident that causes grave  
5 emotional distress to a person sixty years of age or older or an eligible adult, as defined in section  
6 [660.250] **192.2100**, RSMo. The course of conduct shall be such as would cause a reasonable  
7 person age sixty years of age or older or an eligible adult, as defined in section [660.250]  
8 **192.2100**, RSMo, to suffer substantial emotional distress; or

          (3) Purposely or knowingly places a person sixty years of age or older or an eligible  
9 adult, as defined in section [660.250] **192.2100**, RSMo, in apprehension of immediate physical  
10 injury; or

          (4) Intentionally fails to provide care, goods or services to a person sixty years of age or  
11 older or an eligible adult, as defined in section [660.250] **192.2100**, RSMo. The result of the  
12 conduct shall be such as would cause a reasonable person age sixty or older or an eligible adult,  
13 as defined in section [660.250] **192.2100**, RSMo, to suffer physical or emotional distress; or  
14  
15  
16  
17

18 (5) Knowingly acts or knowingly fails to act in a manner which results in a grave risk  
19 to the life, body or health of a person sixty years of age or older or an eligible adult, as defined  
20 in section [660.250] **192.2100**, RSMo.

21 2. Elder abuse in the third degree is a class A misdemeanor.

565.188. 1. When any adult day care worker; chiropractor; Christian Science  
2 practitioner; coroner; dentist; embalmer; employee of the departments of social services, mental  
3 health, or health and senior services; employee of a local area agency on aging or an organized  
4 area agency on aging program; funeral director; home health agency or home health agency  
5 employee; hospital and clinic personnel engaged in examination, care, or treatment of persons;  
6 in-home services owner, provider, operator, or employee; law enforcement officer; long-term  
7 care facility administrator or employee; medical examiner; medical resident or intern; mental  
8 health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner;  
9 peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist;  
10 probation or parole officer; psychologist; social worker; **personal care attendant as defined in**  
11 **section 208.900, RSMo; owner, operator, or employee of a vendor as defined in section**  
12 **208.900, RSMo; or other person with responsibility for the care of a person sixty years of age**  
13 **or older has reasonable cause to suspect that such a person has been subjected to abuse or**  
14 **neglect, or financial exploitation by any person, firm, or corporation as defined in section**  
15 **570.145, RSMo, or observes such a person being subjected to conditions or circumstances which**  
16 **would reasonably result in abuse or neglect or financial exploitation by any person, firm, or**  
17 **corporation as defined in section 570.145, RSMo, he or she shall immediately report or cause**  
18 **a report to be made to the department in accordance with the provisions of sections [660.250 to**  
19 **660.295] 192.2100 to 192.2130, RSMo. Any other person who becomes aware of circumstances**  
20 **which may reasonably be expected to be the result of or result in abuse or neglect, or financial**  
21 **exploitation by any person, firm, or corporation as defined in section 570.145, RSMo, may**  
22 **report to the department.**

23 2. Any person who knowingly fails to make a report as required in subsection 1 of this  
24 section is guilty of a class A misdemeanor.

25 3. Any person who purposely files a false report of elder abuse or neglect, **or financial**  
26 **exploitation by any person, firm, or corporation as defined in section 570.145, RSMo, is**  
27 **guilty of a class [A misdemeanor] D felony.**

28 4. Every person who has been previously convicted of or pled guilty to making a false  
29 report to the department and who is subsequently convicted of making a false report under  
30 subsection 3 of this section is guilty of a class [D] C felony.

31           5. Evidence of prior convictions of false reporting shall be heard by the court, out of the  
32 hearing of the jury, prior to the submission of the case to the jury, and the court shall determine  
33 the existence of the prior convictions.

          565.200. 1. Any owner or employee of a skilled nursing facility, as defined in section  
2 198.006, RSMo, or an Alzheimer's special unit or program, as defined in section 198.505,  
3 RSMo, who:

4           (1) Has sexual contact, as defined in section 566.010, RSMo, with a resident is guilty  
5 of a class [B] **A** misdemeanor. Any person who commits a second or subsequent violation of  
6 this subdivision is guilty of a class [A misdemeanor] **D felony**; or

7           (2) Has sexual intercourse or deviate sexual intercourse, as defined in section 566.010,  
8 RSMo, with a resident is guilty of a class [A misdemeanor] **C felony**. Any person who commits  
9 a second or subsequent violation of this subdivision is guilty of a class [D] **B** felony.

10          2. The provisions of this section shall not apply to an owner or employee of a skilled  
11 nursing facility or Alzheimer's special unit or program who engages in sexual conduct, as defined  
12 in section 566.010, RSMo, with a resident to whom the owner or employee is married.

13          3. Consent of the victim is not a defense to a prosecution pursuant to this section.

          660.010. 1. There is hereby created a "Department of Social Services" in charge of a  
2 director appointed by the governor, by and with the advice and consent of the senate. All the  
3 powers, duties and functions of the director of the department of public health and welfare,  
4 chapters 191 and 192, RSMo and others, not previously reassigned by executive reorganization  
5 plan number 2 of 1973 as submitted by the governor under chapter 26, RSMo, except those  
6 assigned to the department of mental health, are transferred by type I transfer to the director of  
7 the department of social services and the office of the director, department of public health and  
8 welfare is abolished. The department of public health and welfare is abolished. All employees  
9 of the department of social services shall be covered by the provisions of chapter 36, RSMo,  
10 except the director of the department and his secretary, all division directors and their secretaries,  
11 and no more than three additional positions in each division which may be designated by the  
12 division director.

13          2. It is the intent of the general assembly in establishing the department of social  
14 services, as provided herein, to authorize the director of the department to coordinate the state's  
15 programs devoted to those unable to provide for themselves and for the rehabilitation of victims  
16 of social disadvantage. The director shall use the resources provided to the department to  
17 provide comprehensive programs and leadership striking at the roots of dependency, disability  
18 and abuse of society's rules with the purpose of improving service and economical operations.  
19 The department is directed to take all steps possible to consolidate and coordinate the field  
20 operations of the department to maximize service to the citizens of the state.

21           3. All the powers, duties and functions of the division of welfare, chapters 205, 207, 208,  
22 209, and 210, RSMo, and others, are transferred by type I transfer to the "Division of Family  
23 Services" which is hereby created in the department of social services. The director of the  
24 division shall be appointed by the director of the department. All references to the division of  
25 welfare shall hereafter be construed to mean the division of family services of the department  
26 of social services.

27           4. [All the powers, duties and functions of the board of nursing home administrators,  
28 chapter 344, RSMo, are transferred by type I transfer to the department of social services. The  
29 public members of the board shall be appointed by the director of the department.

30           5.] The state's responsibility under public law 452 of the eighty-eighth Congress and  
31 others, pertaining to the Office of Economic Opportunity, is transferred by type I transfer to the  
32 department of social services.

33           [6. The state's responsibility under public law 73, Older Americans Act of 1965, of the  
34 eighty-ninth Congress is transferred by type I transfer to the department of social services.

35           7.] **5.** All the powers, duties and functions vested by law in the curators of the University  
36 of Missouri relating to crippled children's services, chapter 201, RSMo, are transferred by type  
37 I transfer to the department of social services.

38           [8.] **6.** All the powers, duties and functions vested in the state board of training schools,  
39 chapter 219, RSMo, and others, are transferred by type I transfer to the "Division of Youth  
40 Services" hereby authorized in the department of social services headed by a director appointed  
41 by the director of the department. The state board of training schools shall be reconstituted as  
42 an advisory board on youth services, appointed by the director of the department. The advisory  
43 board shall visit each facility of the division as often as possible, shall file a written report with  
44 the director of the department and the governor on conditions they observed relating to the care  
45 and rehabilitative efforts in behalf of children assigned to the facility, the security of the facility  
46 and any other matters pertinent in their judgment. Copies of these reports shall be filed with the  
47 legislative library. Members of the advisory board shall receive reimbursement for their  
48 expenses and twenty-five dollars a day for each day they engage in official business relating to  
49 their duties. The members of the board shall be provided with identification means by the  
50 director of the division permitting immediate access to all facilities enabling them to make  
51 unannounced entrance to facilities they wish to inspect.

2                           [197.500. 1. The department shall maintain an employee disqualification  
3 list and place on the employee disqualification list the names of any persons who  
4 are or who have been employed by any entity licensed pursuant to this chapter  
5 and who have been finally determined by the department pursuant to section  
6 660.315, RSMo, to have knowingly or recklessly abused or neglected a patient.  
For the purpose of this section, "abuse" and "neglect" shall have the same

7 meanings as such terms are defined in section 198.006, RSMo. For purposes of  
8 this section only, "knowingly" and "recklessly" shall have the meanings that are  
9 ascribed to them in this section. A person acts "knowingly" with respect to the  
10 person's conduct when a reasonable person should be aware of the result caused  
11 by his or her conduct. A person acts "recklessly" when the person consciously  
12 disregards a substantial and unjustifiable risk that the person's conduct will result  
13 in serious physical injury and such disregard constitutes a gross deviation from  
14 the standard of care that a reasonable person would exercise in the situation.

15 2. The department shall compile and maintain an employee  
16 disqualification list in the same manner as the employee disqualification list  
17 compiled and maintained by the department pursuant to section 660.315, RSMo.]  
18

[208.912. 1. When any adult day care worker; chiropractor, Christian  
2 Science practitioner, coroner, dentist, embalmer, employee of the departments of  
3 social services, mental health, or health and senior services; employee of a local  
4 area agency on aging or an organized area agency on aging program; funeral  
5 director; home health agency or home health agency employee; hospital and  
6 clinic personnel engaged in examination, care, or treatment of persons; in-home  
7 services owner, provider, operator, or employee; law enforcement officer;  
8 long-term care facility administrator or employee; medical examiner; medical  
9 resident or intern; mental health professional; minister; nurse; nurse practitioner;  
10 optometrist; other health practitioner; peace officer; pharmacist; physical  
11 therapist; physician; physician's assistant; podiatrist; probation or parole officer;  
12 psychologist; vendor as defined in section 208.900; personal care attendant; or  
13 social worker has reasonable cause to believe that a consumer has been abused  
14 or neglected as defined in section 660.250, RSMo, as a result of the delivery of  
15 or failure to deliver personal care assistance services, he or she shall immediately  
16 report or cause a report to be made to the department. If the report is made by a  
17 physician of the consumer, the department shall maintain contact with the  
18 physician regarding the progress of the investigation.

19 2. When a report of deteriorating physical condition resulting in possible  
20 abuse or neglect of a consumer is received by the department, the department's  
21 case manager and the department nurse shall be notified. The case manager shall  
22 investigate and immediately report the results of the investigation to the  
23 department nurse.

24 3. If requested, local area agencies on aging shall provide volunteer  
25 training to those persons listed in subsection 1 of this section regarding the  
26 detection and reporting of abuse and neglect under this section.

27 4. Any person required in subsection 1 of this section to report or cause  
28 a report to be made to the department who fails to do so within a reasonable time  
29 after the act of abuse or neglect is guilty of a class A misdemeanor.

30 5. The report shall contain the names and addresses of the vendor, the  
31 personal care attendant, and the consumer, and information regarding the nature

32 of the abuse or neglect, the name of the complainant, and any other information  
33 which might be helpful in an investigation.

34 6. In addition to those persons required to report under subsection 1 of  
35 this section, any other person having reasonable cause to believe that a consumer  
36 has been abused or neglected by a personal care attendant may report such  
37 information to the department.

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

49 8. Reports shall be confidential, as provided under section 660.320,  
50 RSMo.

51 9. Anyone, except any person who has abused or neglected a consumer,  
52 who makes a report pursuant to this section or who testifies in any administrative  
53 or judicial proceeding arising from the report shall be immune from any civil or  
54 criminal liability for making such a report or for testifying, except for liability for  
55 perjury, unless such person acted negligently, recklessly, in bad faith, or with  
56 malicious purpose.

57 10. Within five working days after a report required to be made under  
58 this section is received, the person making the report shall be notified of its  
59 receipt and of the initiation of the investigation.

60 11. No person who directs or exercises any authority as a vendor, and no  
61 personal care attendant, shall harass, dismiss or retaliate against a consumer  
62 because he or she or any member of his or her family has made a report of any  
63 violation or suspected violation of laws, standards or regulations applying to the  
64 vendor or personal care attendant which he or she has reasonable cause to believe  
65 has been committed or has occurred.

66 12. The department shall place on the employee disqualification list  
67 established in section 660.315, RSMo, the names of any persons who have been  
68 finally determined by the department to have recklessly, knowingly or purposely  
69 abused or neglected a consumer while employed by a vendor, or employed by a  
70 consumer as a personal care attendant.

71 13. The department shall provide the list maintained pursuant to section  
72 660.315, RSMo, to vendors as defined in section 208.900.

73 14. Any person, corporation or association who received the employee  
74 disqualification list under subsection 13 of this section, or any person responsible

75 for providing health care service, who declines to employ or terminates a person  
76 whose name is listed in this section shall be immune from suit by that person or  
77 anyone else acting for or in behalf of that person for the failure to employ or for  
78 the termination of the person whose name is listed on the employee  
79 disqualification list.]  
80

2 [208.915. 1. Any person having reasonable cause to believe that a  
3 misappropriation of a consumer's property or funds, or the falsification of any  
4 documents verifying personal care assistance services delivery to the consumer,  
5 has occurred may report such information to the department.

6 2. For each report the department shall attempt to obtain the name and  
7 address of the vendor, the personal care attendant, the personal care assistance  
8 services consumer, information regarding the nature of the misappropriation or  
9 falsification, the name of the complainant, and any other information which  
10 might be helpful in an investigation.

11 3. Any personal care assistance services vendor, or personal care  
12 attendant who puts to his or her own use or the use of the personal care assistance  
13 services vendor or otherwise diverts from the personal care assistance services  
14 consumer's use any personal property or funds of the consumer, or falsifies any  
15 documents for service delivery, is guilty of a class A misdemeanor.

16 4. Upon receipt of a report, the department shall immediately initiate an  
17 investigation and report information gained from such investigation to  
18 appropriate law enforcement authorities.

19 5. If the investigation indicates probable misappropriation of property or  
20 funds, or falsification of any documents for service delivery of a personal care  
21 assistance services consumer, the investigator shall refer the complaint together  
22 with the investigator's report to the department director or the director's designee  
23 for appropriate action.

24 6. Reports shall be confidential, as provided under section 660.320,  
25 RSMo.

26 7. Anyone, except any person participating in or benefitting from the  
27 misappropriation of funds, who makes a report under this section or who testifies  
28 in any administrative or judicial proceeding arising from the report shall be  
29 immune from any civil or criminal liability for making such a report or for  
30 testifying except for liability for perjury, unless such person acted negligently,  
31 recklessly, in bad faith, or with malicious purpose.

32 8. Within five working days after a report required to be made under this  
33 section is received, the person making the report shall be notified in writing of  
34 its receipt and of the initiation of the investigation.

35 9. No person who directs or exercises any authority in a personal care  
36 assistance services vendor agency shall harass, dismiss or retaliate against a  
37 personal care assistance services consumer or a personal care attendant because  
he or she or any member of his or her family has made a report of any violation

38 or suspected violation of laws, ordinances or regulations applying to the personal  
39 care assistance services vendor or any personal care attendant which he or she has  
40 reasonable cause to believe has been committed or has occurred.

41 10. The department shall maintain the employee disqualification list and  
42 place on the employee disqualification list the names of any personal care  
43 attendants who are or have been employed by a personal care assistance services  
44 consumer, and the names of any persons who are or have been employed by a  
45 vendor as defined in subdivision (10) of section 208.900, and who have been  
46 finally determined by the department under section 660.315, RSMo, to have  
47 misappropriated any property or funds, or falsified any documents for service  
48 delivery to a personal care assistance services consumer and who came to be  
49 known to the consumer, directly or indirectly by virtue of the consumer's  
50 participation in the personal care assistance services program.]  
51

2 [210.933. For any elder-care worker listed in the registry or who has  
3 submitted the registration form as required by sections 210.900 to 210.936, an  
4 elder-care provider may access the registry in lieu of the requirements established  
5 pursuant to section 660.315, RSMo, or to subsections 3, 4 and 5 of section  
6 660.317, RSMo.]

2 [660.305. 1. Any person having reasonable cause to believe that a  
3 misappropriation of an in-home services client's property or funds, or the  
4 falsification of any documents verifying service delivery to the in-home services  
5 client has occurred, may report such information to the department.

6 2. For each report the department shall attempt to obtain the names and  
7 addresses of the in-home services provider agency, the in-home services  
8 employee, the in-home services client, information regarding the nature of the  
9 misappropriation or falsification, the name of the complainant, and any other  
10 information which might be helpful in an investigation.

11 3. Any in-home services provider agency or in-home services employee  
12 who puts to his or her own use or the use of the in-home services provider agency  
13 or otherwise diverts from the in-home services client's use any personal property  
14 or funds of the in-home services client, or falsifies any documents for service  
15 delivery, is guilty of a class A misdemeanor.

16 4. Upon receipt of a report, the department shall immediately initiate an  
17 investigation and report information gained from such investigation to  
18 appropriate law enforcement authorities.

19 5. If the investigation indicates probable misappropriation of property or  
20 funds, or falsification of any documents for service delivery of an in-home  
21 services client, the investigator shall refer the complaint together with the  
22 investigator's report to the department director or the director's designee for  
23 appropriate action.

24 6. Reports shall be confidential, as provided under section 660.320.

24           7. Anyone, except any person participating in or benefiting from the  
25 misappropriation of funds, who makes a report pursuant to this section or who  
26 testifies in any administrative or judicial proceeding arising from the report shall  
27 be immune from any civil or criminal liability for making such a report or for  
28 testifying except for liability for perjury, unless such person acted negligently,  
29 recklessly, in bad faith, or with malicious purpose.

30           8. Within five working days after a report required to be made under this  
31 section is received, the person making the report shall be notified in writing of  
32 its receipt and of the initiation of the investigation.

33           9. No person who directs or exercises any authority in an in-home  
34 services provider agency shall harass, dismiss or retaliate against an in-home  
35 services client or employee because he or she or any member of his or her family  
36 has made a report of any violation or suspected violation of laws, ordinances or  
37 regulations applying to the in-home services provider agency or any in-home  
38 services employee which he or she has reasonable cause to believe has been  
39 committed or has occurred.

40           10. The department shall maintain the employee disqualification list and  
41 place on the employee disqualification list the names of any persons who are or  
42 have been employed by an in-home service provider agency and who have been  
43 finally determined by the department to, pursuant to section 660.315, have  
44 misappropriated any property or funds, or falsified any documents for service  
45 delivery of an in-home services client and who came to be known to the person,  
46 directly, or indirectly while employed by an in-home services provider agency.]  
47

          [660.320. 1. Reports confidential under section 198.070, RSMo, and  
2 sections 660.300 to 660.315 shall not be deemed a public record and shall not be  
3 subject to the provisions of section 109.180, RSMo, or chapter 610, RSMo. The  
4 name of the complainant or any person mentioned in the reports shall not be  
5 disclosed unless:

6           (1) The complainant, resident or the in-home services client mentioned  
7 agrees to disclosure of his or her name;

8           (2) The department determines that disclosure is necessary in order to  
9 prevent further abuse, neglect, misappropriation of property or funds, or  
10 falsification of any documents verifying service delivery to an in-home services  
11 client;

12           (3) Release of a name is required for conformance with a lawful  
13 subpoena;

14           (4) Release of a name is required in connection with a review by the  
15 administrative hearing commission in accordance with section 198.039, RSMo;

16           (5) The department determines that release of a name is appropriate when  
17 forwarding a report of findings of an investigation to a licensing authority; or

18           (6) Release of a name is requested by the division of family services for  
19 the purpose of licensure under chapter 210, RSMo.

20                   2. The department shall, upon request, provide to the division of  
21 employment security within the department of labor and industrial relations  
22 copies of the investigative reports that led to an employee being placed on the  
23 disqualification list.]  
24

2                   [660.512. No rule or portion of a rule promulgated under the authority of  
3 chapter 210, RSMo, shall become effective unless it has been promulgated  
pursuant to the provisions of section 536.024, RSMo.]

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