

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 2331, Page 1, Section A, Line 2, by inserting after said section and line the
2 following:

3
4 "192.2225. 1. The department shall have the right to enter the premises of an applicant for
5 or holder of a license at any time during the hours of operation of a center to determine compliance
6 with provisions of sections 192.2200 to 192.2260 and applicable rules promulgated pursuant thereto.
7 Entry shall also be granted for investigative purposes involving complaints regarding the operations
8 of an adult day care program. The department shall make at least ~~[two inspections]~~ one inspection
9 per year, ~~[at least one of]~~ which shall be unannounced to the operator or provider. The department
10 may make such other inspections, announced or unannounced, as it deems necessary to carry out the
11 provisions of sections 192.2200 to 192.2260.

12 2. ~~[The department may reduce the frequency of inspections to once a year if an adult day~~
13 ~~care program is found to be in substantial compliance. The basis for such determination shall~~
14 ~~include, but not be limited to, the following:~~

15 (1) ~~Previous inspection reports;~~

16 (2) ~~The adult day care program's history of compliance with rules promulgated pursuant to~~
17 ~~this chapter; and~~

18 (3) ~~The number and severity of complaints received about the adult day care program.~~

19 3.] The applicant for or holder of a license shall cooperate with the investigation and
20 inspection by providing access to the adult day care program, records and staff, and by providing
21 access to the adult day care program to determine compliance with the rules promulgated pursuant
22 to sections 192.2200 to 192.2260.

23 [4.] 3. Failure to comply with any lawful request of the department in connection with the
24 investigation and inspection is a ground for refusal to issue a license or for the revocation of a
25 license.

26 [5.] 4. The department may designate to act for it, with full authority of law, any
27 instrumentality of any political subdivision of the state of Missouri deemed by the department to be
28 competent to investigate and inspect applicants for or holders of licenses.

29 197.100. 1. Any provision of chapter 198 and chapter 338 to the contrary notwithstanding,
30 the department of health and senior services shall have sole authority, and responsibility for

Action Taken _____ Date _____

1 inspection and licensure of hospitals in this state including, but not limited to, all parts, services,
2 functions, support functions and activities which contribute directly or indirectly to patient care of
3 any kind whatsoever. The department of health and senior services shall ~~[annually]~~ inspect each
4 licensed hospital in accordance with Title XVIII of the Social Security Act and shall make any other
5 inspections and investigations as it deems necessary for good cause shown. The department of
6 health and senior services shall accept reports of hospital inspections from or on behalf of
7 governmental agencies, the joint commission, and the American Osteopathic Association Healthcare
8 Facilities Accreditation Program, provided the accreditation inspection was conducted within one
9 year of the date of license renewal. Prior to granting acceptance of any other accrediting
10 organization reports in lieu of the required licensure survey, the accrediting organization's survey
11 process must be deemed appropriate and found to be comparable to the department's licensure
12 survey. It shall be the accrediting organization's responsibility to provide the department any and all
13 information necessary to determine if the accrediting organization's survey process is comparable
14 and fully meets the intent of the licensure regulations. The department of health and senior services
15 shall attempt to schedule inspections and evaluations required by this section so as not to cause a
16 hospital to be subject to more than one inspection in any twelve-month period from the department
17 of health and senior services or any agency or accreditation organization the reports of which are
18 accepted for licensure purposes pursuant to this section, except for good cause shown.

19 2. Other provisions of law to the contrary notwithstanding, the department of health and
20 senior services shall be the only state agency to determine life safety and building codes for
21 hospitals defined or licensed pursuant to the provisions of this chapter, including but not limited to
22 sprinkler systems, smoke detection devices and other fire safety-related matters so long as any new
23 standards shall apply only to new construction.

24 197.256. 1. A hospice shall apply for renewal of its certificate not less than once every
25 twelve months. In addition, such hospice shall apply for renewal not less than thirty days before any
26 change in ownership or management of the hospice. Such application shall be accompanied by the
27 appropriate fee as set forth in subsection 1 of section 197.254. Application shall be made upon a
28 form prescribed by the department.

29 2. Upon receipt of the application and fee, if a fee is required, the department ~~[shall]~~ may
30 conduct a survey to evaluate the quality of services rendered by an applicant for renewal. The
31 department shall inspect each licensed facility in accordance with Title XVIII of the Social Security
32 Act and approve the application and renew the certificate of any applicant which is in compliance
33 with sections 197.250 to 197.280 and the rules made pursuant thereto and which passes the
34 department's survey.

35 3. The certificate of any hospice which has not been renewed as required by this section
36 shall be void.

37 4. The department shall require all certificated hospices to submit statistical reports. The
38 content, format, and frequency of such reports shall be prescribed by the department.

39 197.258. 1. In addition to any survey pursuant to sections 197.250 to 197.280, the

1 department may make such surveys as it deems necessary during normal business hours. The
 2 department shall survey every hospice ~~[not less than once annually]~~ in accordance with Title XVIII
 3 of the Social Security Act. The hospice shall permit the department's representatives to enter upon
 4 any of its business premises during normal business hours for the purpose of a survey.

5 2. As a part of its survey of a hospice, the department may visit the home of any client of
 6 such hospice with such client's consent.

7 3. In lieu of any survey required by sections 197.250 to 197.280, the department may accept
 8 in whole or in part the survey of any state or federal agency, or of any professional accrediting
 9 agency, if such survey:

10 (1) Is comparable in scope and method to the department's surveys; and

11 (2) Is conducted ~~[within one year of initial application]~~ in accordance with Title XVIII of
 12 the Social Security Act for initial application or renewal of the hospice's certificate.

13 4. The department shall not be required to survey any hospice providing service to Missouri
 14 residents through an office located in a state bordering Missouri if such bordering state has a
 15 reciprocal agreement with Missouri on hospice certification and the area served in Missouri by the
 16 agency is contiguous to the area served in the bordering state.

17 5. Any hospice which has its parent office in a state which does not have a reciprocal
 18 agreement with Missouri on hospice certification shall maintain a branch office in Missouri. Such
 19 branch office shall maintain all records required by the department for survey and shall be
 20 certificated as a hospice.

21 197.415. 1. The department shall review the applications and shall issue a license to
 22 applicants who have complied with the requirements of sections 197.400 to 197.475 and have
 23 received approval of the department.

24 2. A license shall be renewed annually upon approval of the department when the following
 25 conditions have been met:

26 (1) The application for renewal is accompanied by a six-hundred-dollar license fee;

27 (2) The home health agency is in compliance with the requirements established pursuant to
 28 the provisions of sections 197.400 to 197.475 as evidenced by ~~[a survey]~~ an inspection by the
 29 department which shall occur~~[-at least every thirty-six months for agencies that have been in~~
 30 ~~operation thirty-six consecutive months from initial inspection. The frequency of inspections for~~
 31 ~~agencies in operation at least thirty-six consecutive months from the initial inspection shall be~~
 32 ~~determined by such factors as number of complaints received and changes in management,~~
 33 ~~supervision or ownership. The frequency of each survey inspection for any agency in operation less~~
 34 ~~than thirty-six consecutive months from the initial inspection shall occur and be conducted at least~~
 35 ~~every twelve months]~~ in accordance with Title XVIII of the Social Security Act;

36 (3) The application is accompanied by a statement of any changes in the information
 37 previously filed with the department pursuant to section 197.410.

38 3. Each license shall be issued only for the home health agency listed in the application.
 39 Licenses shall be posted in a conspicuous place in the main offices of the licensed home health

1 agency.

2 4. In lieu of any survey required by sections 197.400 to 197.475, the department may accept
3 in whole or in part written reports of the survey of any state or federal agency, or of any professional
4 accrediting agency, if such survey:

5 (1) Is comparable in scope and method to the department's surveys; and

6 (2) Is conducted ~~[within one year of initial application or within thirty-six months for the~~
7 ~~renewal of the home health license]~~ in accordance with Title XVIII of the Social Security Act as
8 required by subdivision (2) of subsection 2 of this section.

9 198.006. As used in sections 198.003 to 198.186, unless the context clearly indicates
10 otherwise, the following terms mean:

11 (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm;

12 (2) "Activities of daily living" or "ADL", one or more of the following activities of daily
13 living:

14 (a) Eating;

15 (b) Dressing;

16 (c) Bathing;

17 (d) Toileting;

18 (e) Transferring; and

19 (f) Walking;

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

21 (4) "Affiliate":

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

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

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

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

28 (5) "Appropriately trained and qualified individual", an individual who is licensed or
29 registered with the state of Missouri in a health care-related field or an individual with a degree in a
30 health care-related field or an individual with a degree in a health care, social services, or human
31 services field or an individual licensed under chapter 344 and who has received facility orientation
32 training under 19 CSR ~~[30-86042(18)]~~ 30-86.047, and dementia training under section 192.2000 and
33 twenty-four hours of additional training, approved by the department, consisting of definition and
34 assessment of activities of daily living, assessment of cognitive ability, service planning, and
35 interview skills;

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

1 following:

- 2 (a) Assistance with any activities of daily living and any instrumental activities of daily
3 living;
4 (b) Storage, distribution, or administration of medications; and
5 (c) Supervision of health care under the direction of a licensed physician, provided that such
6 services are consistent with a social model of care;

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

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

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

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

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

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

24 (12) "Health care provider", any person providing health care services or goods to residents
25 and who receives funds in payment for such goods or services under Medicaid;

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

- 28 (a) Preparing meals;
29 (b) Shopping for personal items;
30 (c) Medication management;
31 (d) Managing money;
32 (e) Using the telephone;
33 (f) Housework; and
34 (g) Transportation ability;

35 (14) "Intermediate care facility", any premises, other than a residential care facility, assisted
36 living facility, or skilled nursing facility, which is utilized by its owner, operator, or manager to
37 provide twenty-four-hour accommodation, board, personal care, and basic health and nursing care
38 services under the daily supervision of a licensed nurse and under the direction of a licensed

1 physician to three or more residents dependent for care and supervision and who are not related
2 within the fourth degree of consanguinity or affinity to the owner, operator or manager of the
3 facility;

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

8 (16) "Medicaid", medical assistance under section 208.151, et seq., in compliance with Title
9 XIX, Public Law 89-97, 1965 amendments to the Social Security Act (42 U.S.C. 301, et seq.), as
10 amended;

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

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

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

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

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

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

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

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

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

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

34 (22) "Residential care facility", any premises, other than an assisted living facility,
35 intermediate care facility, or skilled nursing facility, which is utilized by its owner, operator or
36 manager to provide twenty-four-hour care to three or more residents, who are not related within the
37 fourth degree of consanguinity or affinity to the owner, operator, or manager of the facility and who
38 need or are provided with shelter, board, and with protective oversight, which may include storage

1 and distribution or administration of medications and care during short-term illness or recuperation,
 2 except that, for purposes of receiving supplemental welfare assistance payments under section
 3 208.030, only any residential care facility licensed as a residential care facility II immediately prior
 4 to August 28, 2006, and that continues to meet such licensure requirements for a residential care
 5 facility II licensed immediately prior to August 28, 2006, shall continue to receive after August 28,
 6 2006, the payment amount allocated immediately prior to August 28, 2006, for a residential care
 7 facility II under section 208.030;

8 (23) "Skilled nursing facility", any premises, other than a residential care facility, an assisted
 9 living facility, or an intermediate care facility, which is utilized by its owner, operator or manager to
 10 provide for twenty-four-hour accommodation, board and skilled nursing care and treatment services
 11 to at least three residents who are not related within the fourth degree of consanguinity or affinity to
 12 the owner, operator or manager of the facility. Skilled nursing care and treatment services are those
 13 services commonly performed by or under the supervision of a registered professional nurse for
 14 individuals requiring twenty-four-hours-a-day care by licensed nursing personnel including acts of
 15 observation, care and counsel of the aged, ill, injured or infirm, the administration of medications
 16 and treatments as prescribed by a licensed physician or dentist, and other nursing functions requiring
 17 substantial specialized judgment and skill;

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

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

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

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

26 or

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

29 198.022. 1. Upon receipt of an application for a license to operate a facility, the department
 30 shall review the application, investigate the applicant and the statements sworn to in the application
 31 for license and conduct any necessary inspections. A license shall be issued if the following
 32 requirements are met:

33 (1) The statements in the application are true and correct;

34 (2) The facility and the operator are in substantial compliance with the provisions of
 35 sections 198.003 to 198.096 and the standards established thereunder;

36 (3) The applicant has the financial capacity to operate the facility;

37 (4) The administrator of an assisted living facility, a skilled nursing facility, or an
 38 intermediate care facility is currently licensed under the provisions of chapter 344;

39 (5) Neither the operator nor any principals in the operation of the facility have ever been

convicted of a felony offense concerning the operation of a long-term health care facility or other health care facility or ever knowingly acted or knowingly failed to perform any duty which materially and adversely affected the health, safety, welfare or property of a resident, while acting in a management capacity. The operator of the facility or any principal in the operation of the facility shall not be under exclusion from participation in the Title XVIII (Medicare) or Title XIX (Medicaid) program of any state or territory;

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

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

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

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

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

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

198.026. 1. Whenever a duly authorized representative of the department finds upon an inspection of a facility that it is not in compliance with the provisions of sections 198.003 to 198.096 and the standards established thereunder, the operator or administrator shall be informed of the deficiencies in an exit interview conducted with the operator or administrator, or his or her

1 designee. The department shall inform the operator or administrator, in writing, of any violation of
2 a class I standard at the time the determination is made. A written report shall be prepared of any
3 deficiency for which there has not been prompt remedial action, and a copy of such report and a
4 written correction order shall be sent to the operator or administrator by ~~[certified mail or other]~~ a
5 delivery service that provides a dated receipt of delivery ~~[at the facility address]~~ within ten working
6 days after the inspection, stating separately each deficiency and the specific statute or regulation
7 violated.

8 2. The operator or administrator shall have five working days following receipt of a written
9 report and correction order regarding a violation of a class I standard and ten working days
10 following receipt of the report and correction order regarding violations of class II or class III
11 standards to request any conference and to submit a plan of correction for the department's approval
12 which contains specific dates for achieving compliance. Within five working days after receiving a
13 plan of correction regarding a violation of a class I standard and within ten working days after
14 receiving a plan of correction regarding a violation of a class II or III standard, the department shall
15 give its written approval or rejection of the plan. If there was a violation of any class I standard,
16 immediate corrective action shall be taken by the operator or administrator and a written plan of
17 correction shall be submitted to the department. The department shall give its written approval or
18 rejection of the plan and if the plan is acceptable, a reinspection shall be conducted within twenty
19 calendar days of the exit interview to determine if deficiencies have been corrected. If there was a
20 violation of any class II standard and the plan of correction is acceptable, an unannounced
21 reinspection shall be conducted between forty and ninety calendar days from the date of the exit
22 conference to determine the status of all previously cited deficiencies. If there was a violation of
23 class III standards sufficient to establish that the facility was not in substantial compliance, an
24 unannounced reinspection shall be conducted within one hundred twenty days of the exit interview
25 to determine the status of previously identified deficiencies.

26 3. If, following the reinspection, the facility is found not in substantial compliance with
27 sections 198.003 to 198.096 and the standards established thereunder or the operator is not
28 correcting the noncompliance in accordance with the approved plan of correction, the department
29 shall issue a notice of noncompliance, which shall be sent by ~~[certified mail or other]~~ a delivery
30 service that provides a dated receipt of delivery to ~~[each person disclosed to be an owner or]~~ the
31 operator or administrator of the facility, according to the most recent information or documents on
32 file with the department.

33 4. The notice of noncompliance shall inform the operator or administrator that the
34 department may seek the imposition of any of the sanctions and remedies provided for in section
35 198.067, or any other action authorized by law.

36 5. At any time after an inspection is conducted, the operator may choose to enter into a
37 consent agreement with the department to obtain a probationary license. The consent agreement
38 shall include a provision that the operator will voluntarily surrender the license if substantial
39 compliance is not reached in accordance with the terms and deadlines established under the

1 agreement. The agreement shall specify the stages, actions and time span to achieve substantial
2 compliance.

3 6. Whenever a notice of noncompliance has been issued, the operator shall post a copy of
4 the notice of noncompliance and a copy of the most recent inspection report in a conspicuous
5 location in the facility, and the department shall send a copy of the notice of noncompliance to the
6 department of social services, the department of mental health, and any other concerned federal,
7 state or local governmental agencies.

8 198.036. 1. The department may revoke a license in any case in which it finds that:

9 (1) The operator failed or refused to comply with class I or II standards, as established by
10 the department pursuant to section 198.085; or failed or refused to comply with class III standards as
11 established by the department pursuant to section 198.085, where the aggregate effect of such
12 noncompliances presents either an imminent danger to the health, safety or welfare of any resident
13 or a substantial probability that death or serious physical harm would result;

14 (2) The operator refused to allow representatives of the department to inspect the facility for
15 compliance with standards or denied representatives of the department access to residents and
16 employees necessary to carry out the duties set forth in this chapter and rules promulgated
17 thereunder, except where employees of the facility are in the process of rendering immediate care to
18 a resident of such facility;

19 (3) The operator knowingly acted or knowingly omitted any duty in a manner which would
20 materially and adversely affect the health, safety, welfare or property of a resident;

21 (4) The operator demonstrated financial incapacity to operate and conduct the facility in
22 accordance with the provisions of sections 198.003 to 198.096;

23 (5) The operator or any principals in the operation of the facility have ever been convicted
24 of, or pled guilty or nolo contendere to a felony offense concerning the operation of a long-term
25 health care facility or other health care facility, or ever knowingly acted or knowingly failed to
26 perform any duty which materially and adversely affected the health, safety, welfare, or property of
27 a resident while acting in a management capacity. The operator of the facility or any principal in the
28 operation of the facility shall not be under exclusion from participation in the Title XVIII
29 (Medicare) or Title XIX (Medicaid) program of any state or territory; or

30 (6) The operator or any principals involved in the operation of the facility have ever been
31 convicted of or pled guilty or nolo contendere to a felony in any state or federal court arising out of
32 conduct involving either management of a long-term care facility or the provision or receipt of
33 health care.

34 2. Nothing in subdivision (2) of subsection 1 of this section shall be construed as allowing
35 the department access to information not necessary to carry out the duties set forth in sections
36 198.006 to 198.186.

37 3. Upon revocation of a license, the director of the department shall so notify the operator in
38 writing, setting forth the reason and grounds for the revocation. Notice of such revocation shall be
39 sent ~~[either by certified mail, return receipt requested,]~~ by a delivery service that provides a dated

1 receipt of delivery to the operator [at the address of the facility] and administrator, or served
 2 personally upon the operator and administrator. The department shall provide the operator notice of
 3 such revocation at least ten days prior to its effective date.

4 198.525. 1. ~~[Except as otherwise provided pursuant to section 198.526,]~~ In order to comply
 5 with sections 198.012 and 198.022, the department of health and senior services shall inspect
 6 residential care facilities, assisted living facilities, intermediate care facilities, and skilled nursing
 7 facilities, including those facilities attached to acute care hospitals at least ~~[twice]~~ once a year.

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

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

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

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

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

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

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

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

34 198.526. 1. ~~[Except as provided in subsection 3 of this section,]~~ The department of health
 35 and senior services shall inspect all facilities licensed by the department at least ~~[twice]~~ once each
 36 year. Such inspections shall be conducted:

37 (1) Without the prior notification of the facility; and

38 (2) At times of the day, on dates and at intervals which do not permit facilities to anticipate

1 such inspections.

2 2. The department shall annually reevaluate the inspection process to ensure the
3 requirements of subsection 1 of this section are met.

4 3. ~~[The department may reduce the frequency of inspections to once a year if a facility is~~
5 ~~found to be in substantial compliance. The basis for such determination shall include, but not be~~
6 ~~limited to, the following:~~

7 (1) ~~Previous inspection reports;~~

8 (2) ~~The facility's history of compliance with rules promulgated pursuant to this chapter;~~

9 (3) ~~The number and severity of complaints received about the facility; and~~

10 (4) ~~In the year subsequent to a finding of no class I violations or class II violations, the~~
11 ~~facility does not have a change in ownership, operator, or, if the department finds it significant, a~~
12 ~~change in director of nursing.~~

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

17 198.545. 1. This section shall be known and may be cited as the "Missouri Informal
18 Dispute Resolution Act".

19 2. As used in this section, the following terms shall mean:

20 (1) "Deficiency", a facility's failure to meet a participation requirement or standard, whether
21 state or federal, supported by evidence gathered from observation, interview, or record review;

22 (2) "Department", the department of health and senior services;

23 (3) "Facility", a long-term care facility licensed under this chapter;

24 (4) "IDR", informal dispute resolution as provided for in this section;

25 (5) "Independent third party", the federally designated Medicare Quality Improvement
26 Organization in this state;

27 (6) "Plan of correction", a facility's response to deficiencies which explains how corrective
28 action will be accomplished, how the facility will identify other residents who may be affected by
29 the deficiency practice, what measures will be used or systemic changes made to ensure that the
30 deficient practice will not reoccur, and how the facility will monitor to ensure that solutions are
31 sustained;

32 (7) "QIO", the federally designated Medicare Quality Improvement Organization in this
33 state.

34 3. The department of health and senior services shall contract with an independent third
35 party to conduct informal dispute resolution (IDR) for facilities licensed under this chapter. The
36 IDR process, including conferences, shall constitute an informal administrative process and shall not
37 be construed to be a formal evidentiary hearing. Use of IDR under this section shall not waive the
38 facility's right to pursue further or additional legal actions.

39 4. The department shall establish an IDR process to determine whether a cited deficiency as

1 evidenced by a statement of deficiencies against a facility shall be upheld. The department shall
2 promulgate rules to incorporate by reference the provisions of 42 CFR 488.331 regarding the IDR
3 process and to include the following minimum requirements for the IDR process:

4 (1) Within ten working days of the end of the survey, the department shall by ~~[certified~~
5 ~~mail]~~ a delivery service that provides dated receipt of delivery transmit to the facility a statement of
6 deficiencies committed by the facility. Notification of the availability of an IDR and IDR process
7 shall be included in the transmittal;

8 (2) Within ten ~~[calendar]~~ working days of receipt of the statement of deficiencies, the
9 facility shall return a plan of correction to the department. Within such ten-day period, the facility
10 may request in writing an IDR conference to refute the deficiencies cited in the statement of
11 deficiencies;

12 (3) Within ten working days of receipt of a request for an IDR conference made by a
13 facility, the QIO shall hold an IDR conference unless otherwise requested by the facility. The IDR
14 conference shall provide the facility with an opportunity to provide additional information or
15 clarification in support of the facility's contention that the deficiencies were erroneously cited. The
16 facility may be accompanied by counsel during the IDR conference. The type of IDR held shall be
17 at the discretion of the facility, but shall be limited to:

18 (a) A desk review of written information submitted by the facility; or

19 (b) A telephonic conference; or

20 (c) A face-to-face conference held at the headquarters of the QIO or at the facility at the
21 request of the facility.

22 If the QIO determines the need for additional information, clarification, or discussion after
23 conclusion of the IDR conference, the department and the facility shall be present.

24 5. Within ten days of the IDR conference described in subsection 4 of this section, the QIO
25 shall make a determination, based upon the facts and findings presented, and shall transmit the
26 decision and rationale for the outcome in writing to the facility and the department.

27 6. If the department disagrees with such determination, the department shall transmit the
28 department's decision and rationale for the reversal of the QIO's decision to the facility within ten
29 calendar days of receiving the QIO's decision.

30 7. If the QIO determines that the original statement of deficiencies should be changed as a
31 result of the IDR conference, the department shall transmit a revised statement of deficiencies to the
32 facility with the notification of the determination within ten calendar days of the decision to change
33 the statement of deficiencies.

34 8. Within ten calendar days of receipt of the determination made by the QIO and the revised
35 statement of deficiencies, the facility shall submit a plan of correction to the department.

36 9. The department shall not post on its website or enter into the Centers for Medicare &
37 Medicaid Services Online Survey, Certification and Reporting System, or report to any other
38 agency, any information about the deficiencies which are in dispute unless the dispute determination

1 is made and the facility has responded with a revised plan of correction, if needed.

2 10. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
3 under the authority delegated in this section shall become effective only if it complies with and is
4 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
5 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to
6 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
7 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
8 August 28, 2009, shall be invalid and void."; and

9 Further amend said bill by amending the title, enacting clause, and intersectional references
10 accordingly.