

SECOND REGULAR SESSION

HOUSE BILL NO. 2519

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHNELTING.

4725H.02I

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 198.036, RSMo, and to enact in lieu thereof two new sections relating to insurance requirements for long-term care facilities.

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

Section A. Section 198.036, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 198.019 and 198.036, to read as follows:

198.019. 1. As used in this section, the term "long-term care facility" means any facility licensed under this chapter.

2. Except as otherwise provided in subsection 3 of this section, each long-term care facility shall maintain liability insurance coverage in a minimum amount of two million dollars to insure against losses resulting from the negligent or criminal acts of the facility that constitute abuse, neglect, or wrongful death of any resident.

3. A long-term care facility shall be exempt from the requirement to maintain liability insurance coverage under subsection 2 of this section if the long-term care facility maintains a reserve account, segregated from its operational funds, of at least two million dollars to cover losses resulting from the negligent or criminal acts of the facility that constitute abuse, neglect, or wrongful death of any resident.

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

(1) The operator failed or refused to comply with class I or II standards, as established by the department pursuant to section 198.085; or failed or refused to comply with class III standards as established by the department pursuant to section 198.085, where the aggregate effect of such noncompliances presents either an imminent danger to the health, safety or

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.

6 welfare of any resident or a substantial probability that death or serious physical harm would
7 result;

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

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

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

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

25 (6) The operator or any principals involved in the operation of the facility have ever
26 been convicted of or pled guilty or nolo contendere to a felony in any state or federal court
27 arising out of conduct involving either management of a long-term care facility or the
28 provision or receipt of health care; **or**

29 **(7) The operator failed to maintain liability insurance coverage or a reserve**
30 **account as required under section 198.019.**

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

34 3. Upon revocation of a license, the director of the department shall so notify the
35 operator in writing, setting forth the reason and grounds for the revocation. Notice of such
36 revocation shall be sent by a delivery service that provides a dated receipt of delivery to the
37 operator and administrator, or served personally upon the operator and administrator. The
38 department shall provide the operator notice of such revocation at least ten days prior to its
39 effective date.