

FIRST REGULAR SESSION

HOUSE BILL NO. 632

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROBERTS.

1149H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

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

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

Section A. Section 198.012, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 198.012 and 198.190, to read as follows:

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

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

198.190. 1. As used in this section, the following terms mean:

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

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

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

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

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

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

15 **(7) "Resident", an individual with a life expectancy of six months or less who is**
16 **enrolled in a hospice program and who resides in an end-of-life care home;**

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

21 **(9) "Volunteer", an unpaid person who is screened by the family care safety**
22 **registry under sections 210.900 to 210.936 and who supplements the care the resident's**
23 **family and friends are not able to provide by utilizing the plan of care provided by the**
24 **resident's contracted hospice team.**

25 **2. It shall be unlawful for any person to establish, maintain, or operate an end-of-**
26 **life care home that is not registered by the department under this section.**

27 **3. (1) An application for the registration of an end-of-life care home shall be made**
28 **on a form provided by the department for that purpose and in the manner prescribed by**
29 **the department. Each application shall be accompanied by a nonrefundable fee in an**
30 **amount determined by the department, not to exceed one hundred dollars.**

31 **(2) Upon receipt of an application to register a home, the department shall review**
32 **the application and investigate the applicant and the statements affirmed by the applicant**
33 **in the application for registration. The department shall issue a certificate of registration**
34 **if the following requirements are met:**

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

36 **(b) The home is in substantial compliance with the provisions of this section and**
37 **the standards established under this section;**

38 **(c) Neither the operator nor any principals in the operation of the home have ever**
39 **been convicted of a felony offense concerning the operation of any facility providing care**
40 **to children or adults;**

41 **(d) Neither the operator nor any principals in the operation of the home are listed**
42 **on the employee disqualification list maintained by the department in accordance with**
43 **section 192.2490; and**

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

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

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

50 **(5) Certificates of registration approved under this section shall include the name**
51 **of the operator, the name of the home, the location of the home, the number of residents**
52 **who can be served in the home, and the period for which the registration is valid.**

53 **4. The resident's contracted hospice provider shall direct and implement the**
54 **resident's plan of care in compliance with 19 CSR 30-35.010. A licensed physician who is**
55 **serving as the attending physician or as the hospice medical director shall direct**
56 **supervision of health care by the certified hospice provider. A home may also have a**
57 **physician serving in the capacity of a volunteer medical director; however, such position**
58 **shall not be construed to usurp the authority of the licensed physician serving as the**
59 **attending physician or as the hospice medical director. The medical director of the home**
60 **may consult with the hospice physician, serve as a liaison between the home and the**

61 hospice physician, participate in quality assurance activities, and assist in providing
62 education to the home's staff members and volunteers.

63 **5. (1) Home providers, staff members, and volunteers shall be familiar with and**
64 **shall be able to recognize situations of possible abuse, neglect, or exploitation of vulnerable**
65 **individuals and situations with a likelihood of causing serious physical harm to vulnerable**
66 **individuals. Such situations shall be immediately reported to the department in the**
67 **manner described in section 192.2410.**

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

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

73 **6. The provisions of this section shall not apply to:**

74 **(1) Any home operated by any residential care facility, assisted living facility,**
75 **intermediate care facility, or skilled nursing facility licensed under this chapter or by a**
76 **medical facility licensed under chapter 197;**

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

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

80 **7. Nothing in this section shall prohibit any person listed in subsection 6 of this**
81 **section from registering an end-of-life care home if the home that is owned or operated by**
82 **such person conforms to the provisions of this section and all applicable rules promulgated**
83 **under this section.**

84 **8. (1) The department may enter the premises of an applicant or a registered home**
85 **at any time to determine compliance with the provisions of this section and applicable rules**
86 **promulgated under this section. Entry into the home shall also be granted for investigative**
87 **purposes involving complaints.**

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

90 **(3) Failure to comply with any lawful request of the department in connection with**
91 **an investigation and inspection shall be grounds for refusal to issue a certificate of**
92 **registration.**

93 **(4) The department may designate to act on its behalf, with full authority of law,**
94 **any instrumentality of any political subdivision of the state of Missouri deemed by the**
95 **department to be competent to investigate and inspect applicants for or holders of**
96 **certificates of registration under this section.**

97 **9. Any person aggrieved by an official action of the department refusing to issue**
98 **a certificate of registration or revoking a registration may seek a determination thereon**
99 **by the administrative hearing commission under the provisions of section 621.045.**

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

104 **11. The department shall establish reasonable standards and regulations for homes**
105 **relating to registration, insurance, resident rights, and fire safety and other emergency**
106 **procedures. The department may promulgate any other necessary rules and regulations**
107 **for the administration of this section. Any rule or portion of a rule, as that term is defined**
108 **in section 536.010, that is created under the authority delegated in this section shall become**
109 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**
110 **if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any**
111 **of the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
112 **the effective date, or to disapprove and annul a rule are subsequently held**
113 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
114 **after August 28, 2021, shall be invalid and void.**

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