

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 118
96TH GENERAL ASSEMBLY

0839L.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 198.006 and 198.074, RSMo, and to enact in lieu thereof two new sections relating to sprinkler system requirements in long-term care facilities.

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

Section A. Sections 198.006 and 198.074, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 198.006 and 198.074, to read as follows:

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

- 3 (1) "Abuse", the infliction of physical, sexual, or emotional injury or harm;
- 4 (2) "Activities of daily living" or "ADL", one or more of the following activities of daily
- 5 living:
 - 6 (a) Eating;
 - 7 (b) Dressing;
 - 8 (c) Bathing;
 - 9 (d) Toileting;
 - 10 (e) Transferring; and
 - 11 (f) Walking;
- 12 (3) "Administrator", the person who is in general administrative charge of a facility;
- 13 (4) "Affiliate":
 - 14 (a) With respect to a partnership, each partner thereof;
 - 15 (b) With respect to a limited partnership, the general partner and each limited partner
 - 16 with an interest of five percent or more in the limited partnership;

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

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

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

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

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

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

37 (c) Supervision of health care under the direction of a licensed physician, provided that
38 such services are consistent with a social model of care; Such term shall not include a facility
39 where all of the residents are related within the fourth degree of consanguinity or affinity to the
40 owner, operator, or manager of the facility;

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

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

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

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

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

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

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

60 (a) Preparing meals;

61 (b) Shopping for personal items;

62 (c) Medication management;

63 (d) Managing money;

64 (e) Using the telephone;

65 (f) Housework; and

66 (g) Transportation ability;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

122 and treatment services are those services commonly performed by or under the supervision of
123 a registered professional nurse for individuals requiring twenty-four-hours-a-day care by licensed
124 nursing personnel including acts of observation, care and counsel of the aged, ill, injured or
125 infirm, the administration of medications and treatments as prescribed by a licensed physician
126 or dentist, and other nursing functions requiring substantial specialized judgment and skill;

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

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

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

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

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

198.074. 1. Effective August 28, 2007, all new facilities licensed under this chapter on
2 or after August 28, 2007, or any section of a facility licensed under this chapter in which a major
3 renovation has been completed on or after August 28, 2007, as defined and approved by the
4 department, shall install and maintain an approved sprinkler system in accordance with National
5 Fire Protection Association (NFPA) 13.

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

9 3. Multi-level assisted living facilities that accept or retain any individual with a
10 physical, cognitive, or other impairment that prevents the individual from safely evacuating the
11 facility with minimal assistance shall install and maintain an approved sprinkler system in
12 accordance with NFPA 13. Single-story assisted living facilities that accept or retain any
13 individual with a physical, cognitive, or other impairment that prevents the individual from
14 safely evacuating the facility with minimal assistance shall install and maintain an approved
15 sprinkler system in accordance with NFPA 13R.

16 4. All residential care and assisted living facilities with more than twenty residents not
17 included in subsection 3 of this section, which are initially licensed under this chapter prior to
18 August 28, 2007, and that do not have installed an approved sprinkler system in accordance with
19 NFPA 13R or 13 prior to August 28, 2007, shall install and maintain an approved sprinkler
20 system in accordance with NFPA 13R or 13 by December 31, [2012] **2014**, unless the facility

21 meets the safety requirements of Chapter 33 of existing residential board and care occupancies
22 of NFPA 101 life safety code.

23 5. All skilled nursing and intermediate care facilities not required prior to August 28,
24 2007, to install and maintain an approved sprinkler system shall install and maintain an approved
25 sprinkler system in accordance with NFPA 13 by December 31, [2012] **2014**, unless the facility
26 receives an exemption from the department and presents evidence in writing from a certified
27 sprinkler system representative or licensed engineer that the facility is unable to install an
28 approved National Fire Protection Association 13 system due to the unavailability of water
29 supply requirements associated with this system.

30 6. Facilities that take a substantial step, as specified in subsections 4 and 5 of this
31 section, to install an approved NFPA 13R or 13 system prior to December 31, 2012, may apply
32 to the state treasurer's office for a loan in accordance with section 198.075 to install such system.
33 However, such loan shall not be available if by December 31, 2009, the average total
34 reimbursement for the care of persons eligible for Medicaid public assistance in an assisted
35 living facility and residential care facility is equal to or exceeds fifty-two dollars per day. The
36 average total reimbursement includes room, board, and care delivered by the facility, but shall
37 not include payments to the facility for care or services not provided by the facility. If a facility
38 under this subsection does not have an approved sprinkler system installed by December 31,
39 2012, such facility shall be required to install and maintain an approved sprinkler system in
40 accordance with NFPA 13 by December 31, 2013. Such loans received under this subsection
41 and in accordance with section 198.075, shall be paid in full as follows:

42 (1) Ten years for those facilities approved for the loan and whose average total
43 reimbursement rate **for fiscal year 2012** for the care of persons eligible for Medicaid public
44 assistance is equal to forty-eight and no more than forty-nine dollars per day;

45 (2) Eight years for those facilities approved for the loan and whose average total
46 reimbursement rate **for fiscal year 2012** for the care of persons eligible for Medicaid public
47 assistance is greater than forty-nine and no more than fifty-two dollars per day; or

48 (3) Five years for those facilities approved for the loan and whose average total
49 reimbursement rate **for fiscal year 2012** for the care of persons eligible for Medicaid public
50 assistance is greater than fifty-two dollars per day.

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

54 7. (1) All facilities licensed under this chapter shall be equipped with a complete fire
55 alarm system in compliance with NFPA 101, Life Safety Code for Detection, Alarm, and
56 Communication Systems, or shall maintain a system that was approved by the department when

57 such facility was constructed so long as such system is a complete fire alarm system. A complete
58 fire alarm system shall include, but not be limited to, interconnected smoke detectors, automatic
59 transmission to the fire department, dispatching agency, or central monitoring company, manual
60 pull stations at each required exit and attendant's station, heat detectors, and audible and visual
61 alarm indicators. If a facility submits a plan of compliance for installation of a sprinkler system
62 required by this chapter, such facility shall install a complete fire alarm system that complies
63 with NFPA 72 upon installation of the sprinkler system. Until such time that the sprinkler
64 system is installed in the facility which has submitted a plan of compliance, each resident room
65 or any room designated for sleeping in the facility shall be equipped with at least one
66 battery-powered smoke alarm installed, tested, and maintained in accordance with NFPA 72.
67 In addition, any such facility shall be equipped with heat detectors interconnected to the fire
68 alarm system which are installed, tested, and maintained in accordance with NFPA 72 in all areas
69 subject to nuisance alarms, including but not limited to kitchens, laundries, bathrooms,
70 mechanical air handling rooms, and attic spaces.

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

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

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

82 9. Fire safety inspections of skilled nursing and intermediate care facilities licensed
83 under this chapter for compliance with this section shall be conducted annually by the
84 department. All department inspectors who inspect facilities for compliance under this section
85 shall complete a fire inspector course, as developed by the division of fire safety within the
86 department of public safety, by December 31, 2012. Fire safety inspections of residential care
87 and assisted living facilities licensed under this chapter for compliance with this section shall be
88 conducted annually by the state fire marshal. The provisions of this section shall be enforced by
89 the department or the state fire marshal, depending on which entity conducted the inspection.

90 10. By July 1, 2008, all facilities licensed under this chapter shall submit a plan for
91 compliance with the provisions of this section to the state fire marshal.

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