

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 567

97TH GENERAL ASSEMBLY

Reported from the Committee on Seniors, Families and Pensions, February 13, 2014, with recommendation that the Senate Committee Substitute do pass.

4341S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 660.414, 660.416, 660.418, and 660.420, RSMo, and to enact in lieu thereof sixteen new sections relating to adult day care, with penalty provisions.

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

Section A. Sections 660.400, 660.403, 660.405, 660.407, 660.409, 660.411, 2 660.414, 660.416, 660.418, and 660.420, RSMo, are repealed and sixteen new 3 sections enacted in lieu thereof, to be known as sections 660.400, 660.403, 4 660.404, 660.405, 660.406, 660.407, 660.409, 660.411, 660.414, 660.416, 660.417, 5 660.418, 660.420, 660.422, 660.423, and 660.424, to read as follows:

660.400. As used in sections 199.025 and 660.403 to 660.420, unless the 2 context clearly indicates otherwise, the following terms mean:

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

5 (2) "Adult", an individual over the age of eighteen;

6 [(2)] (3) "Adult day care program", a group program designed to provide
7 care and supervision to meet the needs of functionally impaired adults for periods
8 of less than twenty-four hours but more than two hours per day in a place other
9 than the adult's own home;

10 [(3)] (4) "Adult day care provider", the person, corporation, partnership,
11 association or organization legally responsible for the overall operation of the
12 adult day care program;

13 [(4)] (5) "Department", the department of [social services] **health and**
14 **senior services;**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

15 [(5) "Director", the director of the division of aging;

16 (6) "Division", the division of aging;

17 (7)] (6) "Functionally impaired adult", an adult who by reason of age or
18 infirmity requires care and supervision;

19 [(8)] (7) "License", the document issued by the [division] **department**
20 in accordance with the provisions of sections [199.025 and] 660.403 to 660.420 to
21 an adult day care program which authorizes the adult day care provider to
22 operate the program in accordance with the provisions of sections [199.025 and]
23 660.403 to 660.420 and the applicable rules promulgated pursuant thereto;

24 (8) **"Operator", any person licensed or required to be licensed**
25 **under the provisions of sections 660.400 to 660.420 in order to establish,**
26 **conduct, or maintain an adult day care program;**

27 (9) "Participant", a functionally impaired adult who is enrolled in an adult
28 day care program;

29 (10) "Person", any individual, firm, corporation, partnership, association,
30 agency, or an incorporated or unincorporated organization regardless of the name
31 used;

32 (11) ["Provisional license", the document issued by the division in
33 accordance with the provisions of sections 199.025 and 660.403 to 660.420 to an
34 adult day care provider which is not currently meeting the requirements
35 necessary to obtain a license;

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

39 [(13)] (12) "Staff participant ratio", the number of adult care staff
40 required by the division in relation to the number of adults being cared for by
41 such staff;

42 (13) **"Substantial noncompliance", any violation of a class I or**
43 **class II standard or twenty or more violations of class III standards.**

660.403. 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
3 able to perform any adult day care service, unless he has obtained the proper
4 license.

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

8 3. **The applicant shall submit all documents required by the**
9 **department under this section attesting by signature that the**
10 **statements contained in the application are true and correct to the best**
11 **of the applicant's knowledge and belief, and that all required**
12 **documents are either included with the application or are currently on**
13 **file with the department.**

14 4. **Within ten working days of the effective date of any document**
15 **that replaces, succeeds, or amends any of the documents required by**
16 **the department to be filed pursuant to this section, an operator shall**
17 **file with the department a copy of such document. The operator shall**
18 **attest by signature that the document is true and correct.**

19 5. **If an operator fails to file documents or amendments to**
20 **documents as required pursuant to this section and such failure is part**
21 **of a pattern or practice of concealment, such failure shall be sufficient**
22 **grounds for revocation of a license or disapproval of an application for**
23 **a license.**

24 6. **Upon receipt of an application for a license to operate an**
25 **adult day care program, the [division] department shall [conduct an**
26 **investigation of the adult day care program, and the applicant, for which a license**
27 **is sought in order to determine if such program is complying with the following]**
28 **review the application, investigate the applicant and the statements**
29 **sworn to in the application for license and conduct any necessary**
30 **inspections. A license shall be issued if the following requirements are**
31 **met:**

32 (1) **[Local fire safety requirements or fire safety requirements of the**
33 **division if there are no local codes] The statements in the application are**
34 **true and correct;**

35 (2) **[Local or state sanitation requirements] The adult day care**
36 **program and the operator are in substantial compliance with the**
37 **provisions of sections 660.400 to 660.420 and the standards established**
38 **thereunder;**

39 (3) **[Local building and zoning requirements, where applicable] Neither**
40 **the operator nor any principals in the operation of the adult day care**
41 **program have ever been convicted of a felony offense concerning the**
42 **operation of an adult day care program, long-term health care facility**
43 **or other health care facility;**

44 (4) **[Staff/adult ratios required by the division] Neither the operator**

45 **or any principals in the operation of the adult day care program are**
46 **listed on the employee disqualification list maintained by the**
47 **department; and**

48 (5) [Other applicable provisions of sections 199.025 and 660.403 to
49 660.420 and all applicable rules promulgated pursuant thereto, including but not
50 limited to:

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

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

53 (c) The proposed plan of operation of the adult day care program, so that,
54 in the judgment of the division, minimum standards are being met to insure the
55 health and safety of the participants] **All fees due to the state have been**
56 **paid.**

57 [4. Following completion of its investigation made pursuant to subsection
58 3 of this section and a finding that the applicant for a license has complied with
59 all applicable rules promulgated pursuant to sections 199.025 and 660.403 to
60 660.420 the division shall issue a license to such applicant.]

61 7. Such license shall be valid for the period designated by the division,
62 which period shall not exceed two years from the date of issuance, for the
63 premises and persons named in the application.

64 8. **Upon denial of any application for a license, the department**
65 **shall notify the applicant in writing, set forth therein the reasons and**
66 **grounds for denial.**

67 [5.] 9. Each license issued under sections [199.025 and] 660.403 to
68 660.420 shall include the name of the [provider, owner and] operator; the name
69 of the adult day care program; the location of the adult day care program; the
70 hours of operations; the number [and any limitations or the type] of participants
71 who may be served; and the period for which such license is valid.

72 [6. The division may issue a provisional license to an adult day care
73 program that is not currently meeting requirements for a license but which
74 demonstrates the potential capacity to meet full requirements for license; except
75 that, no provisional license shall be issued unless the director is satisfied that the
76 operation of the adult day care program is not detrimental to the health and
77 safety of the participants being served. The provisional license shall be
78 nonrenewable and shall be valid for the period designated by the division, which
79 period shall not exceed six months from the date of issuance. Upon issuance of
80 a regular license, a day care program's provisional license shall immediately be

81 null and void]

82 **10. The department may grant an operator a temporary**
83 **operating permit in order to allow for state review of the application**
84 **and inspection for the purposes of relicensure if the application review**
85 **and inspection process has not been completed prior to the expiration**
86 **of a license and the applicant is not at fault for the failure to complete**
87 **the application review and inspection process.**

660.404. 1. Whenever a duly authorized representative of the
2 **department finds upon an inspection of an adult day care program that**
3 **it is not in compliance with the provisions of sections 660.400 to 660.420**
4 **and the standards established thereunder, the operator shall be**
5 **informed of the deficiencies in an exit interview conducted with the**
6 **operator or his designee. The department shall inform the operator or**
7 **designee, in writing, of any violation of a class I standard at the time**
8 **the determination is made. If there was a violation of any class I**
9 **standard, immediate corrective action shall be taken by the operator**
10 **or designee and a written plan of correction shall be submitted to the**
11 **department. A written report shall be prepared of any deficiency and**
12 **a copy of such report and a written correction order shall be sent to the**
13 **operator or designee by certified mail or other delivery service that**
14 **provides a dated receipt of delivery at the adult day care program**
15 **address within ten working days after the inspection, stating separately**
16 **each deficiency and the specific statute or regulation violated.**

17 **2. The operator or designee shall have five working days**
18 **following receipt of a written report and correction order regarding a**
19 **violation of a class I standard and ten working days following receipt**
20 **of the report and correction order regarding violations of class II or**
21 **class III standards to submit a plan of correction for the department's**
22 **approval which contains specific dates for achieving**
23 **compliance. Within five working days after receiving a plan of**
24 **correction regarding a violation of a class I standard and within ten**
25 **working days after receiving a plan of correction regarding a violation**
26 **of a class II or III standard, the department shall give its written**
27 **approval or rejection of the plan.**

28 **3. If there was a violation of a class I standard, an unannounced**
29 **reinspection shall be conducted within twenty calendar days of the exit**
30 **interview to determine if deficiencies have been corrected. If there was**

31 a violation of any class II standard and the plan of correction is
32 acceptable, an unannounced reinspection shall be conducted between
33 forty and ninety calendar days from the date of the exit conference to
34 determine the status of all previously cited deficiencies. If there was
35 a violation of class III standards sufficient to establish that the adult
36 day care program was not in substantial compliance, an unannounced
37 reinspection shall be conducted within one hundred twenty days of the
38 exit interview to determine the status of previously identified
39 deficiencies.

40 4. In establishing standards for each type of adult day care
41 program, the department shall classify the standards into three
42 categories as follows:

43 (1) Class I standards are standards the violation of which would
44 present either an imminent danger to the health, safety or welfare of
45 any participant or a substantial probability that death or serious
46 physical harm would result;

47 (2) Class II standards are standards which have a direct or
48 immediate relationship to the health, safety or welfare of any
49 participant, but which do not create imminent danger;

50 (3) Class III standards are standards which have an indirect or
51 a potential impact on the health, safety or welfare of any participant.

52 5. Every adult day care program shall make available the most
53 recent inspection report of the adult day care program. If the operator
54 determines that the inspection report of the adult day care program
55 contains individually identifiable health information, the operator may
56 redact such information prior to making the inspection report
57 available.

58 6. If an adult day care program submits satisfactory
59 documentation that establishes correction of any deficiency contained
60 within the written report of deficiency required by section 600.404, an
61 on-site revisit of such deficiency may not be required.

62 7. If, following the reinspection, the adult day care program is
63 found not in substantial compliance with sections 660.400 to 660.420
64 and the standards established thereunder or the operator is not
65 correcting the noncompliance in accordance with the plan of
66 correction, the department shall issue a notice of noncompliance, which
67 shall be sent by certified mail or other delivery service that provides

68 a dated receipt of delivery to the operator of the adult day care
69 program, according to the most recent information or documents on file
70 with the department.

71 8. The notice of noncompliance shall inform the operator or
72 administrator that the department may seek the imposition of any
73 other action authorized by law.

74 9. At any time after an inspection is conducted, the operator may
75 choose to enter into a consent agreement with the department to obtain
76 a probationary license. The consent agreement shall include a
77 provision that the operator will voluntarily surrender the license if
78 substantial compliance is not reached in accordance with the terms and
79 deadlines established under the agreement. The agreement shall
80 specify the stages, actions and time span to achieve substantial
81 compliance.

82 10. Whenever a notice of noncompliance has been issued, the
83 operator shall post a copy of the notice of noncompliance and a copy of
84 the most recent inspection report in a conspicuous location in the adult
85 day care program, and the department shall send a copy of the notice
86 of noncompliance to concerned federal, state or local governmental
87 agencies.

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

3 (1) The operator failed or refused to comply with class I or II
4 standards, as established by the department pursuant to section
5 660.404; or failed or refused to comply with class III standards as
6 established by the department pursuant to section 660.404, where the
7 aggregate effect of such noncompliances presents either an imminent
8 danger to the health, safety or welfare of any participant or a
9 substantial probability that death or serious physical harm would
10 result;

11 (2) The operator refused to allow representatives of the
12 department to inspect the adult day care program for compliance with
13 standards or denied representatives of the department access to
14 participants and employees necessary to carry out the duties set forth
15 in this chapter and rules promulgated thereunder, except where
16 employees of the adult day care program are in the process of
17 rendering immediate care to a participant of such adult day care

18 **program;**

19 **(3) The operator demonstrated financial incapacity to operate**
20 **and conduct the adult day care program in accordance with the**
21 **provisions of sections 660.400 to 660.420;**

22 **(4) The operator or any principals in the operation of the adult**
23 **day care program have ever been convicted of, or pled guilty or nolo**
24 **contendere to a felony offense concerning the operation of an adult day**
25 **care program, long-term health care facility or other health care**
26 **facility; or**

27 **(5) The operator or any principals in the operation of the adult**
28 **day care program are listed on the EDL maintained by the department.**

29 **2. Upon revocation of a license, the department shall so notify**
30 **the operator in writing, setting forth the reason and grounds for the**
31 **revocation. Notice of such revocation shall be sent either by certified**
32 **mail, return receipt requested, to the operator at the address of the**
33 **adult day care program, or served personally upon the operator. The**
34 **department shall provide the operator notice of such revocation at**
35 **least ten calendar days prior to its effective date.**

[660.405.] 660.406. 1. The provisions of sections [199.025 and] 660.403
2 **to 660.420 shall not apply to the following:**

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

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

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

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

11 **(5) Any adult day care program licensed by the department of mental**
12 **health under chapter 630 which provides care, treatment and habilitation**
13 **exclusively to adults who have a primary diagnosis of mental disorder, mental**
14 **illness, [mental retardation] intellectual disability, or developmental disability**
15 **as defined;**

16 **(6) Any adult day care program administered or maintained by a religious**
17 **not-for-profit organization serving a social or religious function if the adult day**
18 **care program does not hold itself out as providing the prescription or usage of**

19 physical or medical therapeutic activities or as providing or administering
20 medicines or drugs.

21 2. Nothing in this section shall prohibit any person listed in subsection
22 1 of this section from applying for a license or receiving a license if the adult day
23 care program owned or operated by such person conforms to the provisions of
24 sections [199.025 and] 660.403 to 660.420 and all applicable rules promulgated
25 pursuant thereto.

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

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

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

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

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

20 3. The applicant for or holder of a license shall cooperate with the
21 investigation and inspection by providing access to the adult day care program,
22 records and staff, and by providing access to the adult day care program to
23 determine compliance with the rules promulgated pursuant to sections [199.025
24 and] 660.403 to 660.420.

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

28 [4.] 5. The [division] **department** may designate to act for it, with full
29 authority of law, any instrumentality of any political subdivision of the state of

30 Missouri deemed by the [division] **department** to be competent to investigate
31 and inspect applicants for or holders of licenses.

660.409. Each application for a license, or the renewal thereof, issued
2 pursuant to sections [199.025 and] 660.403 to 660.420 shall be accompanied by
3 a nonrefundable fee in the amount required by the [division] **department**. The
4 fee, to be determined by the [director of the division] **department**, shall not
5 exceed one hundred dollars and shall be based on the licensed capacity of the
6 applicant.

660.411. The [division] **department** shall [offer] **create an adult day
2 care program manual in partnership with the provider association to
3 establish uniformity across the state and shall offer regional training
4 sessions in order to provide** technical assistance or consultation to assist
5 applicants for or holders of licenses or provisional licenses in meeting the
6 requirements of sections [199.025 and] 660.403 to 660.420, staff qualifications,
7 and other aspects involving the operation of an adult day care program, and to
8 assist in the achievement of programs of excellence related to the provision of
9 adult day care. **The program manual and regional training sessions
10 required under this section shall be made available to adult day care
11 programs by January 1, 2015.**

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

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

660.416. 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
3 may seek a determination thereon by the administrative hearing commission
4 pursuant to the provisions of section [161.272, et seq.] **621.045**; except that, the

5 petition must be filed with the administrative hearing commission within thirty
6 **calendar** days after the [mailing or] delivery of notice to the applicant for or
7 holder of such license or certificate. When the notification of the official action
8 is mailed to the applicant for or holder of such a license, there shall be included
9 in the notice a statement of the procedure whereby the applicant for or holder of
10 such license may appeal the decision of the [division] **department** before the
11 administrative hearing commission. It shall not be a condition to such
12 determination that the person aggrieved seek a reconsideration, a rehearing or
13 exhaust any other procedure within the [division] **department**.

14 2. The administrative hearing commission may stay the revocation [or
15 suspension] of such certificate or license, pending the commission's findings and
16 determination in the cause, upon such conditions as the commission deems
17 necessary and appropriate including the posting of bond or other security; except
18 that, the commission shall not grant a stay or if a stay has already been entered
19 shall set aside its stay, if, upon application of the [division] **department**, the
20 commission finds reason to believe that continued operation of the [facility] **adult**
21 **day care program** to which the certificate or license in question applies pending
22 the commission's final determination would present an imminent danger to the
23 health, safety or welfare of any person or a substantial probability that death or
24 serious physical harm would result. In any case in which the [division]
25 **department** has refused to issue a certificate or license, the commission shall
26 have no authority to stay or to require the issuance of a license pending final
27 determination by the commission.

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

**660.417. The department shall promulgate reasonable standards
2 and regulations for adult day care programs. The standards and
3 regulations shall relate to licensure requirements, staffing
4 requirements, program policies and participant care requirements,
5 participant right requirements, record keeping requirements, fire**

6 safety requirements and physical plant requirements.

660.418. The [director of the division] **department** shall have the
2 authority to promulgate rules pursuant to this section and chapter 536 in order
3 to carry out the provisions of sections [199.025 and] 660.403 to 660.420. No rule
4 or portion of a rule promulgated under the authority of section 199.025 and
5 sections 660.403 to 660.420 shall become effective unless it has been promulgated
6 pursuant to the provisions of section 536.024.

660.420. 1. Any person who violates any provision of sections [199.025
2 and] 660.403 to 660.420, or who, for himself or for any other person, makes
3 materially false statements in order to obtain a certificate or license, or the
4 renewal thereof, issued pursuant to sections [199.025 and] 660.403 to 660.420,
5 shall be guilty of a class A misdemeanor. **Any person violating this
6 subsection wherein abuse or neglect of a participant of the program
7 has occurred is guilty of a class D felony.**

8 2. Any person who is convicted pursuant to this section shall, in addition
9 to all other penalties provided by law, have any license issued to him under
10 sections [199.025 and] 660.403 to 660.420 revoked, and shall not operate, nor
11 hold any license to operate, any adult day care program, or other entity governed
12 by the provisions of sections [199.025 and] 660.403 to 660.420 for a period of
13 three years after such conviction.

**660.422. 1. The department may provide through its internet
2 website:**

3 **(1) The most recent inspection of every adult day care program
4 licensed in this state and any such findings of deficiencies and the
5 effect the deficiency would have on such program. If such inspection
6 is in dispute, the inspection shall not be posted on the website until the
7 program's informal dispute resolution process resolves the dispute; and**

8 **(2) The program's proposed plan of correction.**

9 2. **Nothing in this section shall be construed as requiring the
10 department to post any information on its internet website that is
11 prohibited from disclosure pursuant to the federal Health Insurance
12 Portability and Accountability Act, as amended.**

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

3 **(1) "Deficiency", a program's failure to meet a participation
4 requirement or standard supported by evidence gathered from**

5 observation, interview, or record review;

6 (2) "IDR", informal dispute resolution as provided for in this
7 section;

8 (3) "Independent third party", the federally designated Medicare
9 Quality Improvement Organization in this state;

10 (4) "Plan of correction", a program's response to deficiencies
11 which explains how corrective action will be accomplished, how the
12 program will identify other participants who may be affected by the
13 deficiency practice, what measures will be used or systemic changes
14 made to ensure that the deficient practice will not reoccur, and how the
15 program will monitor to ensure that solutions are sustained.

16 2. The department may contract with an independent third party
17 to conduct informal dispute resolution (IDR) for programs licensed
18 under this chapter. The IDR process, including conferences, shall
19 constitute an informal administrative process and shall not be
20 construed to be a formal evidentiary hearing. Use of IDR under this
21 section shall not waive the program's right to pursue further or
22 additional legal actions.

23 3. The department shall establish an IDR process to determine
24 whether a cited deficiency as evidenced by a statement of deficiencies
25 against a program shall be upheld. The IDR process shall include the
26 following minimum requirements:

27 (1) Within ten working days of the end of the inspection, the
28 department shall transmit to the program a statement of deficiencies
29 committed by the program. Notification of the availability of an IDR
30 and IDR process shall be included in the transmittal;

31 (2) Within ten working days of receipt of the statement of
32 deficiencies, the program shall return a plan of correction to the
33 department. Within such ten-day period, the program may request in
34 writing an IDR conference to refute the deficiencies cited in the
35 statement of deficiencies;

36 (3) Within ten working days of receipt for an IDR conference
37 made by an adult day care program, the department shall hold an IDR
38 conference unless otherwise requested by the program. The IDR
39 conference shall provide the program with an opportunity to provide
40 additional information or clarification in support of the program's
41 contention that the deficiencies were erroneously cited. The program

42 may be accompanied by counsel during the IDR conference. The type
43 of IDR held shall be at the discretion of the program, but shall be
44 limited to:

45 (a) A desk review of written information submitted by the
46 program; or

47 (b) A telephonic conference; or

48 (c) A face-to-face conference.

49 4. Within ten calendar days of the IDR conference described in
50 subsection 3 of this section, the department shall make a
51 determination, based upon the facts and findings presented, and shall
52 transmit the decision and rationale for the outcome in writing to the
53 program.

54 5. If the original statement of deficiencies should be changed as
55 a result of the IDR conference, the department shall transmit a revised
56 statement of deficiencies to the program with the notification of the
57 determination within ten calendar days of the decision to change the
58 statement of deficiencies.

59 6. Within ten working days of receipt of the determination and
60 the revised statement of deficiencies, the program shall submit a plan
61 of correction to the department.

62 7. The department shall not post on its website any information
63 about the deficiencies which are in dispute unless the dispute
64 determination is made and the program has responded with a revised
65 plan of correction, if needed.

66 8. Any rule or portion of a rule, as that term is defined in section
67 536.010 that is created under the authority delegated in this section
68 shall become effective only if it complies with and is subject to all of
69 the provisions of chapter 536, and, if applicable, section 536.028. This
70 section and chapter 536 are nonseverable and if any of the powers
71 vested with the general assembly pursuant to chapter 536, to review, to
72 delay the effective date, or to disapprove and annul a rule are
73 subsequently held unconstitutional, then the grant of rulemaking
74 authority and any rule proposed or adopted after August 28, 2014, shall
75 be invalid and void.

2 660.424. Adult day care programs licensed under sections 660.403
3 to 660.420, shall receive comparable reimbursement rates as adult day
care programs licensed by the department of mental health under

4 **chapter 630, which provide care, treatment and habilitation exclusively**
5 **to adults who have a primary diagnosis of a mental disorder, mental**
6 **illness, or developmental disability for providing similar day program**
7 **services.**

✓

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