

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 567

97TH GENERAL ASSEMBLY
2014

4341H.06T

AN ACT

To repeal sections 174.335, 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 nineteen new sections relating to public health, with penalty provisions.

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

Section A. Sections 174.335, 660.400, 660.403, 660.405, 660.407, 660.409, 2 660.411, 660.414, 660.416, 660.418, and 660.420, RSMo, are repealed and 3 nineteen new sections enacted in lieu thereof, to be known as sections 174.335, 4 191.761, 197.168, 660.400, 660.403, 660.404, 660.405, 660.406, 660.407, 660.409, 5 660.411, 660.414, 660.416, 660.417, 660.418, 660.420, 660.422, 660.423, and 6 660.424, to read as follows:

174.335. 1. Beginning with the 2004-2005 school year and for each school 2 year thereafter, every public institution of higher education in this state shall 3 require all students who reside in on-campus housing to [sign a written waiver 4 stating that the institution of higher education has provided the student, or if the 5 student is a minor, the student's parents or guardian, with detailed written 6 information on the risks associated with meningococcal disease and the 7 availability and effectiveness of] **have received** the meningococcal vaccine 8 **unless a signed statement of medical or religious exemption is on file** 9 **with the institution's administration. A student shall be exempted from** 10 **the immunization requirement of this section upon signed certification** 11 **by a physician licensed under chapter 334, indicating that either the** 12 **immunization would seriously endanger the student's health or life or** 13 **the student has documentation of the disease or laboratory evidence of** 14 **immunity to the disease. A student shall be exempted from the** 15 **immunization requirement of this section if he or she objects in writing**

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

16 **to the institution's administration that immunization violates his or her**
17 **religious beliefs.**

18 2. [Any student who elects to receive the meningococcal vaccine shall not
19 be required to sign a waiver referenced in subsection 1 of this section and shall
20 present a record of said vaccination to the institution of higher education.

21 3.] Each public university or college in this state shall maintain records
22 on the meningococcal vaccination status of every student residing in on-campus
23 housing at the university or college[, including any written waivers executed
24 pursuant to subsection 1 of this section].

25 [4.] **3.** Nothing in this section shall be construed as requiring any
26 institution of higher education to provide or pay for vaccinations against
27 meningococcal disease.

191.761. 1. Beginning July 1, 2015, the department of health and
2 **senior services shall provide a courier service to transport collected,**
3 **donated umbilical cord blood samples to a nonprofit umbilical cord**
4 **blood bank located in a city not within a county in existence as of the**
5 **effective date of this section. The collection sites shall only be those**
6 **facilities designated and trained by the blood bank in the collection**
7 **and handling of umbilical cord blood specimens.**

8 2. The department may promulgate rules to implement the
9 provisions of this section. Any rule or portion of a rule, as that term is
10 defined in section 536.010, that is created under the authority delegated
11 in this section shall become effective only if it complies with and is
12 subject to all of the provisions of chapter 536 and, if applicable, section
13 536.028. This section and chapter 536 are nonseverable, and if any of
14 the powers vested with the general assembly under chapter 536 to
15 review, to delay the effective date, or to disapprove and annul a rule
16 are subsequently held unconstitutional, then the grant of rulemaking
17 authority and any rule proposed or adopted after August 28, 2014, shall
18 be invalid and void.

197.168. Each year between October first and March first and in
2 **accordance with the latest recommendations of the Advisory Committee**
3 **on Immunization Practices of the Centers for Disease Control and**
4 **Prevention, each hospital licensed under this chapter shall offer, prior**
5 **to discharge and with the approval of the attending physician or other**
6 **practitioner authorized to order vaccinations or as authorized by**
7 **physician-approved hospital policies or protocols for influenza**
8 **vaccinations pursuant to state hospital regulations, immunizations**

9 **against influenza virus to all inpatients sixty-five years of age and**
10 **older unless contraindicated for such patient and contingent upon the**
11 **availability of the vaccine.**

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;**

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] **department** in relation to the number of adults being
41 cared for by 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 **department, which period shall not exceed two years from the date of issuance,**
63 **for the 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] **department** shall make at least two inspections per
8 year, at least one of which shall be unannounced to the operator or provider. The
9 [division] **department** may make such other inspections, announced or
10 unannounced, as it deems necessary to carry out the provisions of sections
11 [199.025 and] 660.403 to 660.420.

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

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

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

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

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

25 and] 660.403 to 660.420.

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

29 [4.] 5. The [division] **department** may designate to act for it, with full
30 authority of law, any instrumentality of any political subdivision of the state of
31 Missouri deemed by the [division] **department** to be competent to investigate
32 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
5 and] 660.403 to 660.420, the [division] **department** shall make an investigation
6 and inspection to ascertain the facts. If the [division] **department** is not
7 permitted access to the adult day care program in question, the [division]
8 **department** may apply to the circuit court of the county in which the program
9 is located for an order authorizing entry for inspection. The court shall issue the
10 order if it finds 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] **department** either refusing to issue a license or revoking [or suspending] a license may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section [161.272, et seq.] **621.045**; except that, the petition must be filed with the administrative hearing commission within thirty **calendar** days after the [mailing or] delivery of notice to the applicant for or holder of such license or certificate. When the notification of the official action is mailed to the applicant for or holder of such a license, there shall be included in the notice a statement of the procedure whereby the applicant for or holder of such license may appeal the decision of the [division] **department** before the administrative hearing commission. It shall not be a condition to such determination that the person aggrieved seek a reconsideration, a rehearing or exhaust any other procedure within the [division] **department**.

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

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

660.417. The department shall promulgate reasonable standards and regulations for adult day care programs. The standards and 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 sections 660.403 to 660.420. The IDR process, including
19 conferences, shall constitute an informal administrative process and
20 shall not be construed to be a formal evidentiary hearing. Use of IDR
21 under this section shall not waive the program's right to pursue further
22 or 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.

660.424. Adult day care programs licensed under sections 660.403
2 to 660.420 shall evaluate the program rate structure in FY 2015 and
3 determine a cost-based uniform rate for services to be presented as a
4 budget line item in the Department of Health and Senior Services FY
5 2016 budget request for adult day programs which provide care,

6 treatment, rehabilitation, and habilitation exclusively to adults and
7 seniors with physical disabilities, mental, neurological, and cognitive
8 disorders such as brain injuries, dementia, and other intellectual
9 impairments, excluding in the budget request, the cost for individuals
10 already funded by a department of mental health waiver.

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