

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 1682

AN ACT

To repeal sections 190.092, 190.094, 190.105, 190.143, 190.196, 191.775, 192.2000, 192.2305, 195.070, 196.990, 208.909, 208.918, 208.924, 338.220, 376.383, 376.387, 376.945, and 376.1578, RSMo, and to enact in lieu thereof twenty-nine new sections relating to health care, with penalty provisions and an emergency clause for a certain section.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Sections 190.092, 190.094, 190.105, 190.143, 190.196, 191.775, 192.2000, 192.2305, 195.070, 196.990, 208.909, 208.918, 208.924, 338.220, 376.383, 376.387, 376.945, and 376.1578, RSMo, are repealed and twenty-nine new sections enacted in lieu thereof, to be known as sections 9.152, 9.166, 9.182, 190.092, 190.094, 190.105, 190.143, 190.196, 190.1005, 191.116, 191.775, 192.2000, 192.2305, 195.070, 195.805, 195.830, 196.990, 196.1050, 208.909, 208.918, 208.924, 208.935, 321.621, 338.220, 376.383, 376.387, 376.393, 376.945, and 376.1578, to read as follows:

9.152. The month of May is hereby designated as "Mental Health Awareness Month". The citizens of this state are encouraged to participate in appropriate awareness and educational activities that emphasize the importance of good

mental health and the effects of mental illness on Missourians.

9.166. The month of July shall be known as "Minority Mental Health Awareness Month". The citizens of this state are encouraged to observe the month with appropriate events and activities to raise awareness of the effects of mental illness on minorities.

9.182. The month of September shall be designated as "Deaf Awareness Month" and the last week of September shall be designated as "Deaf Awareness Week" in Missouri. The citizens of this state are encouraged to participate in appropriate activities and events to commemorate the first World Congress of the World Federation of the Deaf in 1951 and to increase awareness of deaf issues, people, and culture.

190.092. 1. This section shall be known and may be cited as the "Public Access to Automated External Defibrillator Act".

2. [A person or entity who acquires an automated external defibrillator shall ensure that:

(1) Expected defibrillator users receive training by the American Red Cross or American Heart Association in cardiopulmonary resuscitation and the use of automated external defibrillators, or an equivalent nationally recognized course in defibrillator use and cardiopulmonary resuscitation;

(2) The defibrillator is maintained and tested according to the manufacturer's operational guidelines;

(3) Any person who renders emergency care or treatment on a person in cardiac arrest by using an automated external defibrillator activates the emergency medical services system as soon as possible; and

(4) Any person or entity that owns an automated external defibrillator that is for use outside of a health care facility shall have a physician review and approve the clinical protocol for the use of the defibrillator, review and advise regarding the training and skill maintenance of the intended users of the defibrillator and assure proper review of all situations when the defibrillator is used to render emergency care.

3. Any person or entity who acquires an automated external defibrillator shall notify the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the automated external defibrillator is to be located.

4.] A person or entity that acquires an automated external defibrillator shall:

(1) Comply with all regulations governing the placement of an automated external defibrillator;

(2) Ensure that the automated external defibrillator is maintained and tested according to the operation and maintenance guidelines set forth by the manufacturer;

(3) Ensure that the automated external defibrillator is tested at least every two years and after each use; and

(4) Ensure that an inspection is made of all automated external defibrillators on the premises at least every ninety days for potential issues related to the operation of the device, including a blinking light or other obvious defect that may suggest tampering or that another problem has arisen with the functionality of the automated external defibrillator.

3. Any person who gratuitously and in good faith renders

emergency care by use of or provision of an automated external defibrillator shall not be held liable for any civil damages or subject to any criminal penalty as a result of such care or treatment, unless the person acts in a willful and wanton or reckless manner in providing the care, advice, or assistance. The person who or entity [who] that provides [appropriate] training to the person using an automated external defibrillator, the person or entity responsible for the site where the automated external defibrillator is located, and the person or entity that owns the automated external defibrillator[, the person or entity that provided clinical protocol for automated external defibrillator sites or programs, and the licensed physician who reviews and approves the clinical protocol] shall likewise not be held liable for civil damages or subject to any criminal penalty resulting from the use of an automated external defibrillator. [Nothing in this section shall affect any claims brought pursuant to chapter 537 or 538.]

[5.] 4. All basic life support ambulances and stretcher vans operated in the state of Missouri shall be equipped with an automated external defibrillator and be staffed by at least one individual trained in the use of an automated external defibrillator.

[6.] 5. The provisions of this section shall apply in all counties within the state and any city not within a county.

190.094. 1. Any ambulance licensed in this state, when used as an ambulance and staffed with volunteer staff, shall be staffed with a minimum of one emergency medical technician and one other crew member who may be a licensed emergency medical

technician, registered nurse, physician, physician assistant, or someone who has an emergency medical responder certification.

2. When transporting a patient, at least one licensed emergency medical technician, registered nurse, physician assistant, or physician shall be in attendance with the patient in the patient compartment at all times.

3. For purposes of this section, "volunteer" shall mean an individual who performs hours of service without promise, expectation or receipt of compensation for services rendered. Compensation such as a nominal stipend per call to compensate for fuel, uniforms, and training shall not nullify the volunteer status.

190.105. 1. No person, either as owner, agent or otherwise, shall furnish, operate, conduct, maintain, advertise, or otherwise be engaged in or profess to be engaged in the business or service of the transportation of patients by ambulance in the air, upon the streets, alleys, or any public way or place of the state of Missouri unless such person holds a currently valid license from the department for an ambulance service issued pursuant to the provisions of sections 190.001 to 190.245.

2. No ground ambulance shall be operated for ambulance purposes, and no individual shall drive, attend or permit it to be operated for such purposes in the state of Missouri unless the ground ambulance is under the immediate supervision and direction of a person who is holding a currently valid Missouri license as an emergency medical technician. Nothing in this section shall be construed to mean that a duly registered nurse [or], a duly

licensed physician, or a duly licensed physician assistant be required to hold an emergency medical technician's license. When a physician assistant is in attendance with a patient on an ambulance, the physician assistant shall be exempt from any mileage limitations in any collaborative practice arrangement prescribed under law. Each ambulance service is responsible for assuring that any person driving its ambulance is competent in emergency vehicle operations and has a safe driving record. Each ground ambulance shall be staffed with at least two licensed individuals when transporting a patient, except as provided in section 190.094. In emergency situations which require additional medical personnel to assist the patient during transportation, an emergency medical responder, firefighter, or law enforcement personnel with a valid driver's license and prior experience with driving emergency vehicles may drive the ground ambulance provided the ground ambulance service stipulates to this practice in operational policies.

3. No license shall be required for an ambulance service, or for the attendant of an ambulance, which:

(1) Is rendering assistance in the case of an emergency, major catastrophe or any other unforeseen event or series of events which jeopardizes the ability of the local ambulance service to promptly respond to emergencies; or

(2) Is operated from a location or headquarters outside of Missouri in order to transport patients who are picked up beyond the limits of Missouri to locations within or outside of Missouri, but no such outside ambulance shall be used to pick up patients within Missouri for transportation to locations within

Missouri, except as provided in subdivision (1) of this subsection.

4. The issuance of a license pursuant to the provisions of sections 190.001 to 190.245 shall not be construed so as to authorize any person to provide ambulance services or to operate any ambulances without a franchise in any city not within a county or in a political subdivision in any county with a population of over nine hundred thousand inhabitants, or a franchise, contract or mutual-aid agreement in any other political subdivision which has enacted an ordinance making it unlawful to do so.

5. Sections 190.001 to 190.245 shall not preclude the adoption of any law, ordinance or regulation not in conflict with such sections by any city not within a county, or at least as strict as such sections by any county, municipality or political subdivision except that no such regulations or ordinances shall be adopted by a political subdivision in a county with a population of over nine hundred thousand inhabitants except by the county's governing body.

6. In a county with a population of over nine hundred thousand inhabitants, the governing body of the county shall set the standards for all ambulance services which shall comply with subsection 5 of this section. All such ambulance services must be licensed by the department. The governing body of such county shall not prohibit a licensed ambulance service from operating in the county, as long as the ambulance service meets county standards.

7. An ambulance service or vehicle when operated for the

purpose of transporting persons who are sick, injured, or otherwise incapacitated shall not be treated as a common or contract carrier under the jurisdiction of the Missouri division of motor carrier and railroad safety.

8. Sections 190.001 to 190.245 shall not apply to, nor be construed to include, any motor vehicle used by an employer for the transportation of such employer's employees whose illness or injury occurs on private property, and not on a public highway or property, nor to any person operating such a motor vehicle.

9. A political subdivision that is authorized to operate a licensed ambulance service may establish, operate, maintain and manage its ambulance service, and select and contract with a licensed ambulance service. Any political subdivision may contract with a licensed ambulance service.

10. Except as provided in subsections 5 and 6, nothing in section 67.300, or subsection 2 of section 190.109, shall be construed to authorize any municipality or county which is located within an ambulance district or a fire protection district that is authorized to provide ambulance service to promulgate laws, ordinances or regulations related to the provision of ambulance services. This provision shall not apply to any municipality or county which operates an ambulance service established prior to August 28, 1998.

11. Nothing in section 67.300 or subsection 2 of section 190.109 shall be construed to authorize any municipality or county which is located within an ambulance district or a fire protection district that is authorized to provide ambulance service to operate an ambulance service without a franchise in an

ambulance district or a fire protection district that is authorized to provide ambulance service which has enacted an ordinance making it unlawful to do so. This provision shall not apply to any municipality or county which operates an ambulance service established prior to August 28, 1998.

12. No provider of ambulance service within the state of Missouri which is licensed by the department to provide such service shall discriminate regarding treatment or transportation of emergency patients on the basis of race, sex, age, color, religion, sexual preference, national origin, ancestry, handicap, medical condition or ability to pay.

13. No provision of this section, other than subsections 5, 6, 10 and 11 of this section, is intended to limit or supersede the powers given to ambulance districts pursuant to this chapter or to fire protection districts pursuant to chapter 321, or to counties, cities, towns and villages pursuant to chapter 67.

14. Upon the sale or transfer of any ground ambulance service ownership, the owner of such service shall notify the department of the change in ownership within thirty days of such sale or transfer. After receipt of such notice, the department shall conduct an inspection of the ambulance service to verify compliance with the licensure standards of sections 190.001 to 190.245.

190.143. 1. Notwithstanding any other provisions of law, the department may grant a ninety-day temporary emergency medical technician license to all levels of emergency medical technicians who meet the following:

- (1) Can demonstrate that they have, or will have,

employment requiring an emergency medical technician license;

(2) Are not currently licensed as an emergency medical technician in Missouri or have been licensed as an emergency medical technician in Missouri and fingerprints need to be submitted to the Federal Bureau of Investigation to verify the existence or absence of a criminal history, or they are currently licensed and the license will expire before a verification can be completed of the existence or absence of a criminal history;

(3) Have submitted a complete application upon such forms as prescribed by the department in rules adopted pursuant to sections 190.001 to 190.245;

(4) Have not been disciplined pursuant to sections 190.001 to 190.245 and rules promulgated pursuant to sections 190.001 to 190.245;

(5) Meet all the requirements of rules promulgated pursuant to sections 190.001 to 190.245.

2. A temporary emergency medical technician license shall only authorize the license to practice while under the immediate supervision of a licensed emergency medical technician, registered nurse, physician assistant, or physician who is currently licensed, without restrictions, to practice in Missouri.

3. A temporary emergency medical technician license shall automatically expire either ninety days from the date of issuance or upon the issuance of a five-year emergency medical technician license.

190.196. 1. No employer shall knowingly employ or permit any employee to perform any services for which a license,

certificate or other authorization is required by sections 190.001 to 190.245, or by rules adopted pursuant to sections 190.001 to 190.245, unless and until the person so employed possesses all licenses, certificates or authorizations that are required.

2. Any person or entity that employs or supervises a person's activities as an emergency medical responder, emergency medical dispatcher, emergency medical technician, registered nurse, physician assistant, or physician shall cooperate with the department's efforts to monitor and enforce compliance by those individuals subject to the requirements of sections 190.001 to 190.245.

3. Any person or entity who employs individuals licensed by the department pursuant to sections 190.001 to 190.245 shall report to the department within seventy-two hours of their having knowledge of any charges filed against a licensee in their employ for possible criminal action involving the following felony offenses:

- (1) Child abuse or sexual abuse of a child;
- (2) Crimes of violence; or
- (3) Rape or sexual abuse.

4. Any licensee who has charges filed against him or her for the felony offenses in subsection 3 of this section shall report such an occurrence to the department within seventy-two hours of the charges being filed.

5. The department will monitor these reports for possible licensure action authorized pursuant to section 190.165.

190.1005. Notwithstanding any other provision of law to the

contrary, any training or course in cardiopulmonary resuscitation shall also include instruction on the proper use of automated external defibrillators. Such training or course shall follow the standards created by the American Red Cross or the American Heart Association, or equivalent evidence-based standards from a nationally recognized organization.

191.116. 1. There is hereby established in the department of health and senior services the "Alzheimer's State Plan Task Force". The task force shall consist of twenty-one members, as follows:

(1) The lieutenant governor, or his or her designee, who shall serve as chair of the task force;

(2) The directors of the departments of health and senior services, social services, and mental health, or their designees;

(3) One member of the house of representatives to be appointed by the speaker of the house of representatives;

(4) One member of the senate to be appointed by the president pro tempore of the senate;

(5) One member who has early-stage Alzheimer's disease or a related dementia;

(6) One member who is a family caregiver of a person with Alzheimer's disease or a related dementia;

(7) One member who is a licensed physician with experience in the diagnosis, treatment, and research of Alzheimer's disease;

(8) One member from the office of state ombudsman for long-term care facility residents;

(9) One member representing residential long-term care;

(10) One member representing the home care profession;

(11) One member representing the adult day services profession;

(12) One member representing the area agencies on aging;

(13) One member with expertise in minority health;

(14) One member representing the law enforcement community;

(15) One member from the department of higher education and workforce development with knowledge of workforce training;

(16) Two members representing voluntary health organizations in Alzheimer's disease care, support, and research, which may include the Greater Missouri Chapter of the Alzheimer's Association and the Heart of America Chapter of the Alzheimer's Association;

(17) One member representing licensed skilled nursing facilities; and

(18) One member representing Missouri veterans' homes.

2. The members of the task force, other than the lieutenant governor, members from the general assembly, and department and division directors, shall be appointed by the governor with the advice and consent of the senate. Members shall serve on the task force without compensation.

3. The task force shall assess all state programs that address Alzheimer's disease and update and maintain an integrated state plan to overcome the challenges caused by Alzheimer's disease. The state plan shall include implementation steps and recommendations for priority actions based on this assessment. The task force's actions shall include, but shall not be limited to, the following:

(1) Assess the current and future impact of Alzheimer's

disease on residents of the state of Missouri;

(2) Examine the existing services and resources addressing the needs of persons with Alzheimer's disease and their families and caregivers;

(3) Develop recommendations to respond to the escalating public health crisis regarding Alzheimer's disease;

(4) Ensure the inclusion of ethnic and racial populations that have a higher risk for Alzheimer's disease or are least likely to receive care in clinical, research, and service efforts, with the purpose of decreasing health disparities in Alzheimer's disease treatment;

(5) Identify opportunities for the state of Missouri to coordinate with federal government entities to integrate and inform the fight against Alzheimer's disease;

(6) Provide information and coordination of Alzheimer's disease research and services across all state agencies;

(7) Examine dementia-specific training requirements across health care, adult protective services workers, law enforcement, and all other areas in which staff are involved with the delivery of care to those with Alzheimer's disease and other dementias;
and

(8) Develop strategies to increase the diagnostic rate of Alzheimer's disease in Missouri.

4. The task force shall deliver a report of recommendations to the governor and members of the general assembly no later than June 1, 2021.

5. The task force shall continue to meet at the request of the chair and at a minimum of one time annually for the purpose

of evaluating the implementation and impact of the task force recommendations and shall provide annual supplemental report updates on the findings to the governor and the general assembly.

6. The provisions of this section shall expire on December 31, 2026.

191.775. No person shall smoke or otherwise use tobacco [or], tobacco products, or vapor products, as such term is defined in section 407.925, in any indoor area of a public elementary or secondary school building or educational facility, excluding institutions of higher education, or on buses used solely to transport students to or from school or to transport students to or from any place for educational purposes. Any school board of any school district may set policy on the permissible uses of tobacco products or vapor products in any other nonclassroom or nonstudent occupant facility, and on the school grounds or outdoor facility areas as the school board deems proper. [Any person who violates the provisions of this section shall be guilty of an infraction.]

192.2000. 1. The "Division of Aging" is hereby transferred from the department of social services to the department of health and senior services by a type I transfer as defined in the Omnibus State Reorganization Act of 1974. The department shall aid and assist the elderly and low-income disabled adults living in the state of Missouri to secure and maintain maximum economic and personal independence and dignity. The department shall regulate adult long-term care facilities pursuant to the laws of this state and rules and regulations of federal and state agencies, to safeguard the lives and rights of residents in these

facilities.

2. In addition to its duties and responsibilities enumerated pursuant to other provisions of law, the department shall:

(1) Serve as advocate for the elderly by promoting a comprehensive, coordinated service program through administration of Older Americans Act (OAA) programs (Title III) P.L. 89-73, (42 U.S.C. Section 3001, et seq.), as amended;

(2) Assure that an information and referral system is developed and operated for the elderly, including information on home and community based services;

(3) Provide technical assistance, planning and training to local area agencies on aging;

(4) Contract with the federal government to conduct surveys of long-term care facilities certified for participation in the Title XVIII program;

(5) Conduct medical review (inspections of care) activities such as utilization reviews, independent professional reviews, and periodic medical reviews to determine medical and social needs for the purpose of eligibility for Title XIX, and for level of care determination;

(6) Certify long-term care facilities for participation in the Title XIX program;

(7) Conduct a survey and review of compliance with P.L. 96-566 Sec. 505(d) for Supplemental Security Income recipients in long-term care facilities and serve as the liaison between the Social Security Administration and the department of health and senior services concerning Supplemental Security Income

beneficiaries;

(8) Review plans of proposed long-term care facilities before they are constructed to determine if they meet applicable state and federal construction standards;

(9) Provide consultation to long-term care facilities in all areas governed by state and federal regulations;

(10) Serve as the central state agency with primary responsibility for the planning, coordination, development, and evaluation of policy, programs, and services for elderly persons in Missouri consistent with the provisions of subsection 1 of this section and serve as the designated state unit on aging, as defined in the Older Americans Act of 1965;

(11) Develop long-range state plans for programs, services, and activities for elderly and handicapped persons. State plans should be revised annually and should be based on area agency on aging plans, statewide priorities, and state and federal requirements;

(12) Receive and disburse all federal and state funds allocated to the division and solicit, accept, and administer grants, including federal grants, or gifts made to the division or to the state for the benefit of elderly persons in this state;

(13) Serve, within government and in the state at large, as an advocate for elderly persons by holding hearings and conducting studies or investigations concerning matters affecting the health, safety, and welfare of elderly persons and by assisting elderly persons to assure their rights to apply for and receive services and to be given fair hearings when such services are denied;

(14) Conduct research and other appropriate activities to determine the needs of elderly persons in this state, including, but not limited to, their needs for social and health services, and to determine what existing services and facilities, private and public, are available to elderly persons to meet those needs;

(15) Maintain and serve as a clearinghouse for up-to-date information and technical assistance related to the needs and interests of elderly persons and persons with Alzheimer's disease or related dementias, including information on the home and community based services program, dementia-specific training materials and dementia-specific trainers. Such dementia-specific information and technical assistance shall be maintained and provided in consultation with agencies, organizations and/or institutions of higher learning with expertise in dementia care;

(16) Provide information and support to persons with Alzheimer's disease and related dementias by establishing a family support group in every county;

(17) Provide area agencies on aging with assistance in applying for federal, state, and private grants and identifying new funding sources;

[(17)] (18) Determine area agencies on aging annual allocations for Title XX and Title III of the Older Americans Act expenditures;

[(18)] (19) Provide transportation services, home-delivered and congregate meals, in-home services, counseling and other services to the elderly and low-income handicapped adults as designated in the Social Services Block Grant Report, through contract with other agencies, and shall monitor such agencies to

ensure that services contracted for are delivered and meet standards of quality set by the division;

[(19)] (20) Monitor the process pursuant to the federal Patient Self-determination Act, 42 U.S.C. Section 1396a (w), in long-term care facilities by which information is provided to patients concerning durable powers of attorney and living wills.

3. The department may withdraw designation of an area agency on aging only when it can be shown the federal or state laws or rules have not been complied with, state or federal funds are not being expended for the purposes for which they were intended, or the elderly are not receiving appropriate services within available resources, and after consultation with the director of the area agency on aging and the area agency board. Withdrawal of any particular program of services may be appealed to the director of the department of health and senior services and the governor. In the event that the division withdraws the area agency on aging designation in accordance with the Older Americans Act, the department shall administer the services to clients previously performed by the area agency on aging until a new area agency on aging is designated.

4. Any person hired by the department of health and senior services after August 13, 1988, to conduct or supervise inspections, surveys or investigations pursuant to chapter 198 shall complete at least one hundred hours of basic orientation regarding the inspection process and applicable rules and statutes during the first six months of employment. Any such person shall annually, on the anniversary date of employment, present to the department evidence of having completed at least

twenty hours of continuing education in at least two of the following categories: communication techniques, skills development, resident care, or policy update. The department of health and senior services shall by rule describe the curriculum and structure of such continuing education.

5. The department may issue and promulgate rules to enforce, implement and effectuate the powers and duties established in this section and sections 198.070 and 198.090 and sections 192.2400 and 192.2475 to 192.2500. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

6. Home and community based services is a program, operated and coordinated by the department of health and senior services, which informs individuals of the variety of care options available to them when they may need long-term care.

7. The division shall maintain minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by skilled nursing facilities, intermediate care

facilities, residential care facilities, agencies providing in-home care services authorized by the division of aging, adult day-care programs, independent contractors providing direct care to persons with Alzheimer's disease or related dementias and the division of aging. Such training shall be incorporated into new employee orientation and ongoing in-service curricula for all employees involved in the care of persons with dementia. The department of health and senior services shall maintain minimum dementia-specific training requirements for employees involved in the delivery of care to persons with Alzheimer's disease or related dementias who are employed by home health and hospice agencies licensed by chapter 197. Such training shall be incorporated into the home health and hospice agency's new employee orientation and ongoing in-service curricula for all employees involved in the care of persons with dementia. The dementia training need not require additional hours of orientation or ongoing in-service. Training shall include at a minimum, the following:

(1) For employees providing direct care to persons with Alzheimer's disease or related dementias, the training shall include an overview of Alzheimer's disease and related dementias, communicating with persons with dementia, behavior management, promoting independence in activities of daily living, and understanding and dealing with family issues;

(2) For other employees who do not provide direct care for, but may have daily contact with, persons with Alzheimer's disease or related dementias, the training shall include an overview of dementias and communicating with persons with dementia.

As used in this subsection, the term "employee" includes persons hired as independent contractors. The training requirements of this subsection shall not be construed as superceding any other laws or rules regarding dementia-specific training.

192.2305. 1. There is hereby established within the department of health and senior services the "Office of State Ombudsman for Long-Term Care Facility Residents", for the purpose of helping to assure the adequacy of care received by residents of long-term care facilities and Missouri veterans' homes, as defined in section 42.002, and to improve the quality of life experienced by them, in accordance with the federal Older Americans Act, 42 U.S.C. Section 3001, et seq.

2. The office shall be administered by the state ombudsman, who shall devote his or her entire time to the duties of his or her position.

3. The office shall establish and implement procedures for receiving, processing, responding to, and resolving complaints made by or on behalf of residents of long-term care facilities and Missouri veterans' homes relating to action, inaction, or decisions of providers, or their representatives, of long-term care services, of public agencies or of social service agencies, which may adversely affect the health, safety, welfare or rights of such residents.

4. The department shall establish and implement procedures for resolution of complaints. The ombudsman or representatives of the office shall have the authority to:

(1) Enter any long-term care facility or Missouri veterans' homes and have access to residents of the facility at a

reasonable time and in a reasonable manner. The ombudsman shall have access to review resident records, if given permission by the resident or the resident's legal guardian. Residents of the facility shall have the right to request, deny, or terminate visits with an ombudsman;

(2) Make the necessary inquiries and review such information and records as the ombudsman or representative of the office deems necessary to accomplish the objective of verifying these complaints.

5. The office shall acknowledge complaints, report its findings, make recommendations, gather and disseminate information and other material, and publicize its existence.

6. The ombudsman may recommend to the relevant governmental agency changes in the rules and regulations adopted or proposed by such governmental agency which do or may adversely affect the health, safety, welfare, or civil or human rights of any resident in a facility. The office shall analyze and monitor the development and implementation of federal, state and local laws, regulations and policies with respect to long-term care facilities and services and Missouri veterans' homes in the state and shall recommend to the department changes in such laws, regulations and policies deemed by the office to be appropriate.

7. The office shall promote community contact and involvement with residents of facilities through the use of volunteers and volunteer programs directed by the regional ombudsman coordinators.

8. The office shall develop and establish by regulation of the department statewide policies and standards for implementing

the activities of the ombudsman program, including the qualifications and the training of regional ombudsman coordinators and ombudsman volunteers.

9. The office shall develop and propose programs for use, training and coordination of volunteers in conjunction with the regional ombudsman coordinators and may:

(1) Establish and conduct recruitment programs for volunteers;

(2) Establish and conduct training seminars, meetings and other programs for volunteers; and

(3) Supply personnel, written materials and such other reasonable assistance, including publicizing their activities, as may be deemed necessary.

10. The regional ombudsman coordinators and ombudsman volunteers shall have the authority to report instances of abuse and neglect to the ombudsman hotline operated by the department.

11. If the regional ombudsman coordinator or volunteer finds that a nursing home administrator is not willing to work with the ombudsman program to resolve complaints, the state ombudsman shall be notified. The department shall establish procedures by rule in accordance with chapter 536 for implementation of this subsection.

12. The office shall prepare and distribute to each facility written notices which set forth the address and telephone number of the office, a brief explanation of the function of the office, the procedure to follow in filing a complaint and other pertinent information.

13. The administrator of each facility shall ensure that

such written notice is given to every resident or the resident's guardian upon admission to the facility and to every person already in residence, or to his or her guardian. The administrator shall also post such written notice in a conspicuous, public place in the facility in the number and manner set forth in the regulations adopted by the department.

14. The office shall inform residents, their guardians or their families of their rights and entitlements under state and federal laws and rules and regulations by means of the distribution of educational materials and group meetings.

195.070. 1. A physician, podiatrist, dentist, a registered optometrist certified to administer pharmaceutical agents as provided in section 336.220, or an assistant physician in accordance with section 334.037 or a physician assistant in accordance with section 334.747 in good faith and in the course of his or her professional practice only, may prescribe, administer, and dispense controlled substances or he or she may cause the same to be administered or dispensed by an individual as authorized by statute.

2. An advanced practice registered nurse, as defined in section 335.016, but not a certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, who holds a certificate of controlled substance prescriptive authority from the board of nursing under section 335.019 and who is delegated the authority to prescribe controlled substances under a collaborative practice arrangement under section 334.104 may prescribe any controlled substances listed in Schedules III, IV, and V of section 195.017, and may have restricted authority in

Schedule II. Prescriptions for Schedule II medications prescribed by an advanced practice registered nurse who has a certificate of controlled substance prescriptive authority are restricted to only those medications containing hydrocodone. However, no such certified advanced practice registered nurse shall prescribe controlled substance for his or her own self or family. Schedule III narcotic controlled substance and Schedule II - hydrocodone prescriptions shall be limited to a one hundred twenty-hour supply without refill.

3. A veterinarian, in good faith and in the course of the veterinarian's professional practice only, and not for use by a human being, may prescribe, administer, and dispense controlled substances and the veterinarian may cause them to be administered by an assistant or orderly under his or her direction and supervision.

4. A practitioner shall not accept any portion of a controlled substance unused by a patient, for any reason, if such practitioner did not originally dispense the drug, except:

(1) When the controlled substance is delivered to the practitioner to administer to the patient for whom the medication is prescribed as authorized by federal law. Practitioners shall maintain records and secure the medication as required by this chapter and regulations promulgated pursuant to this chapter; or

(2) As provided in section 195.265.

5. An individual practitioner shall not prescribe or dispense a controlled substance for such practitioner's personal use except in a medical emergency.

195.805. 1. No edible marijuana-infused product sold in

Missouri pursuant to Article XIV of the Missouri Constitution shall be designed, produced, or marketed in a manner that is designed to appeal to persons under eighteen years of age, including, but not limited to, the following:

(1) Candies, including gummies, lollipops, cotton candy, or any product using the word "candy" or "candies" on the label; or

(2) Products in the shape of a human, animal, or fruit, including realistic, artistic, caricature, or cartoon renderings. However, geometric shapes, including, but not limited to, circles, squares, rectangles, and triangles, shall be permitted.

2. Any licensed or certified entity regulated by the department of health and senior services pursuant to Article XIV of the Missouri Constitution found to have violated the provisions of this section shall be subject to department sanctions, including an administrative penalty, in accordance with the regulations promulgated by the department pursuant to Article XIV of the Missouri Constitution.

3. Each individually wrapped edible marijuana-infused product containing any amount of tetrahydrocannabinols (THC) shall be stamped or the package or wrapping otherwise labeled with a diamond containing the letters "THC" and the number of milligrams of THC in that individually wrapped product.

4. The department shall promulgate rules and regulations regarding edible marijuana-infused products designed to appeal to persons under eighteen years of age, as well as promulgate rules and regulations to establish a process by which a licensed or certified entity may seek approval of an edible product design, package, or label prior to such product's manufacture or sale in

order to determine compliance with the provisions of this section and any rules promulgated pursuant to this section. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2020, shall be invalid and void.

195.830. 1. The department of health and senior services shall require all officers, managers, contractors, employees, and other support staff of licensed or certified medical marijuana facilities, and all owners of such medical marijuana facilities who will have access to the facilities or to the facilities' medical marijuana, to submit fingerprints to the Missouri state highway patrol for the purpose of conducting a state and federal fingerprint-based criminal background check.

2. The department may require that such fingerprint submissions be made as part of a medical marijuana facility application for licensure or certification, a medical marijuana facility application for renewal of licensure or certification, and an individual's application for an identification card authorizing that individual to be an owner, officer, manager, contractor, employee, or other support staff of a medical

marijuana facility.

3. Fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's central repository. The fingerprints shall be used for searching the state criminal records repository and shall also be forwarded to the Federal Bureau of Investigation for a federal criminal records search under section 43.540. The Missouri state highway patrol shall notify the department of any criminal history record information or lack of criminal history record information discovered on the individual. Notwithstanding the provisions of section 610.120 to the contrary, all records related to any criminal history information discovered shall be accessible and available to the department.

4. For purposes of this section, a "medical marijuana facility" shall include a medical marijuana cultivation facility, a medical marijuana dispensary facility, a medical marijuana-infused products manufacturing facility, and a medical marijuana testing facility, as such terms are defined in Section 1 of Article XIV of the Missouri Constitution, or any facility licensed or certified by the department under the authority of Article XIV.

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

(1) "Administer", the direct application of an epinephrine auto-injector to the body of an individual;

(2) "Authorized entity", any entity or organization at or in connection with which allergens capable of causing anaphylaxis may be present including, but not limited to, qualified first

responders, as such term is defined in section 321.621,
restaurants, recreation camps, youth sports leagues, amusement
parks, and sports arenas. "Authorized entity" shall not include
any public school or public charter school;

(3) "Epinephrine auto-injector", a single-use device used
for the automatic injection of a premeasured dose of epinephrine
into the human body;

(4) "Physician", a physician licensed in this state under
chapter 334;

(5) "Provide", the supply of one or more epinephrine
auto-injectors to an individual;

(6) "Self-administration", a person's discretionary use of
an epinephrine auto-injector.

2. A physician may prescribe epinephrine auto-injectors in
the name of an authorized entity for use in accordance with this
section, and pharmacists, physicians, and other persons
authorized to dispense prescription medications may dispense
epinephrine auto-injectors under a prescription issued in the
name of an authorized entity.

3. An authorized entity may acquire and stock a supply of
epinephrine auto-injectors under a prescription issued in
accordance with this section. Such epinephrine auto-injectors
shall be stored in a location readily accessible in an emergency
and in accordance with the epinephrine auto-injector's
instructions for use and any additional requirements established
by the department of health and senior services by rule. An
authorized entity shall designate employees or agents who have
completed the training required under this section to be

responsible for the storage, maintenance, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

4. An authorized entity that acquires a supply of epinephrine auto-injectors under a prescription issued in accordance with this section shall ensure that:

(1) Expected epinephrine auto-injector users receive training in recognizing symptoms of severe allergic reactions including anaphylaxis and the use of epinephrine auto-injectors from a nationally recognized organization experienced in training laypersons in emergency health treatment or another entity or person approved by the department of health and senior services;

(2) All epinephrine auto-injectors are maintained and stored according to the epinephrine auto-injector's instructions for use;

(3) Any person who provides or administers an epinephrine auto-injector to an individual who the person believes in good faith is experiencing anaphylaxis activates the emergency medical services system as soon as possible; and

(4) A proper review of all situations in which an epinephrine auto-injector is used to render emergency care is conducted.

5. Any authorized entity that acquires a supply of epinephrine auto-injectors under a prescription issued in accordance with this section shall notify the emergency communications district or the ambulance dispatch center of the primary provider of emergency medical services where the epinephrine auto-injectors are to be located within the entity's facility.

6. No person shall provide or administer an epinephrine auto-injector to any individual who is under eighteen years of age without the verbal consent of a parent or guardian who is present at the time when provision or administration of the epinephrine auto-injector is needed. Provided, however, that a person may provide or administer an epinephrine auto-injector to such an individual without the consent of a parent or guardian if the parent or guardian is not physically present and the person reasonably believes the individual shall be in imminent danger without the provision or administration of the epinephrine auto-injector.

7. The following persons and entities shall not be liable for any injuries or related damages that result from the administration or self-administration of an epinephrine auto-injector in accordance with this section that may constitute ordinary negligence:

(1) An authorized entity that possesses and makes available epinephrine auto-injectors and its employees, agents, and other trained persons;

(2) Any person who uses an epinephrine auto-injector made available under this section;

(3) A physician that prescribes epinephrine auto-injectors to an authorized entity; or

(4) Any person or entity that conducts the training described in this section.

Such immunity does not apply to acts or omissions constituting a reckless disregard for the safety of others or willful or wanton

conduct. The administration of an epinephrine auto-injector in accordance with this section shall not be considered the practice of medicine. The immunity from liability provided under this subsection is in addition to and not in lieu of that provided under section 537.037. An authorized entity located in this state shall not be liable for any injuries or related damages that result from the provision or administration of an epinephrine auto-injector by its employees or agents outside of this state if the entity or its employee or agent is not liable for such injuries or related damages under the laws of the state in which such provision or administration occurred. No trained person who is in compliance with this section and who in good faith and exercising reasonable care fails to administer an epinephrine auto-injector shall be liable for such failure.

8. All basic life support ambulances and stretcher vans operated in the state shall be equipped with epinephrine auto-injectors and be staffed by at least one individual trained in the use of epinephrine auto-injectors.

9. The provisions of this section shall apply in all counties within the state and any city not within a county.

10. Nothing in this section shall be construed as superseding the provisions of section 167.630.

196.1050. 1. The proceeds of any monetary settlement or portion of a global settlement between the attorney general of the state and any drug manufacturers, distributors, or combination thereof to resolve an opioid-related cause of action against such drug manufacturers, distributors, or combination thereof in a state or federal court shall only be utilized to pay

for opioid addiction treatment and prevention services and health care and law enforcement costs related to opioid addiction treatment and prevention. Under no circumstances shall such settlement moneys be utilized to fund other services, programs, or expenses not reasonably related to opioid addiction treatment and prevention.

2. (1) There is hereby established in the state treasury the "Opioid Addiction Treatment and Recovery Fund", which shall consist of the proceeds of any settlement described in subsection 1 of this section, as well as any funds appropriated by the general assembly, or gifts, grants, donations, or bequests. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a dedicated fund and money in the fund shall be used by the department of mental health, the department of health and senior services, the department of social services, and the department of public safety for the purposes set forth in subsection 1 of this section.

(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

208.909. 1. Consumers receiving personal care assistance services shall be responsible for:

- (1) Supervising their personal care attendant;

(2) Verifying wages to be paid to the personal care attendant;

(3) Preparing and submitting time sheets, signed by both the consumer and personal care attendant, to the vendor on a biweekly basis;

(4) Promptly notifying the department within ten days of any changes in circumstances affecting the personal care assistance services plan or in the consumer's place of residence;

(5) Reporting any problems resulting from the quality of services rendered by the personal care attendant to the vendor. If the consumer is unable to resolve any problems resulting from the quality of service rendered by the personal care attendant with the vendor, the consumer shall report the situation to the department; [and]

(6) Providing the vendor with all necessary information to complete required paperwork for establishing the employer identification number;

(7) Allowing the vendor to comply with its quality assurance and supervision process, which shall include, but not be limited to, annual face-to-face home visits and monthly case management activities; and

(8) Report to the department significant changes in their health and ability to self-direct care.

2. Participating vendors shall be responsible for:

(1) Collecting time sheets or reviewing reports of delivered services and certifying the accuracy thereof;

(2) The Medicaid reimbursement process, including the filing of claims and reporting data to the department as required

by rule;

(3) Transmitting the individual payment directly to the personal care attendant on behalf of the consumer;

(4) Monitoring the performance of the personal care assistance services plan. Such monitoring shall occur during the annual face-to-face home visit under section 208.918. The vendor shall document whether services are being provided to the consumer as set forth in the plan of care. If the attendant was not providing services as set forth in the plan of care, the vendor shall notify the department and the department may suspend services to the consumer; and

(5) Report to the department significant changes in the consumer's health or ability to self-direct care.

3. No state or federal financial assistance shall be authorized or expended to pay for services provided to a consumer under sections 208.900 to 208.927, if the primary benefit of the services is to the household unit, or is a household task that the members of the consumer's household may reasonably be expected to share or do for one another when they live in the same household, unless such service is above and beyond typical activities household members may reasonably provide for another household member without a disability.

4. No state or federal financial assistance shall be authorized or expended to pay for personal care assistance services provided by a personal care attendant who has not undergone the background screening process under section 192.2495. If the personal care attendant has a disqualifying finding under section 192.2495, no state or federal assistance

shall be made, unless a good cause waiver is first obtained from the department in accordance with section 192.2495.

5. (1) All vendors shall, by July 1, 2015, have, maintain, and use a telephone tracking system for the purpose of reporting and verifying the delivery of consumer-directed services as authorized by the department of health and senior services or its designee. [Use of such a system prior to July 1, 2015, shall be voluntary.] The telephone tracking system shall be used to process payroll for employees and for submitting claims for reimbursement to the MO HealthNet division. At a minimum, the telephone tracking system shall:

- (a) Record the exact date services are delivered;
- (b) Record the exact time the services begin and exact time the services end;
- (c) Verify the telephone number from which the services are registered;
- (d) Verify that the number from which the call is placed is a telephone number unique to the client;
- (e) Require a personal identification number unique to each personal care attendant;
- (f) Be capable of producing reports of services delivered, tasks performed, client identity, beginning and ending times of service and date of service in summary fashion that constitute adequate documentation of service; and
- (g) Be capable of producing reimbursement requests for consumer approval that assures accuracy and compliance with program expectations for both the consumer and vendor.

(2) [The department of health and senior services, in

collaboration with other appropriate agencies, including centers for independent living, shall establish telephone tracking system pilot projects, implemented in two regions of the state, with one in an urban area and one in a rural area. Each pilot project shall meet the requirements of this section and section 208.918. The department of health and senior services shall, by December 31, 2013, submit a report to the governor and general assembly detailing the outcomes of these pilot projects. The report shall take into consideration the impact of a telephone tracking system on the quality of the services delivered to the consumer and the principles of self-directed care.

(3) As new technology becomes available, the department may allow use of a more advanced tracking system, provided that such system is at least as capable of meeting the requirements of this subsection.

[(4)] (3) The department of health and senior services shall promulgate by rule the minimum necessary criteria of the telephone tracking system. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be invalid and void.

[6. In the event that a consensus between centers for independent living and representatives from the executive branch cannot be reached, the telephony report issued to the general assembly and governor shall include a minority report which shall detail those elements of substantial dissent from the main report.

7. No interested party, including a center for independent living, shall be required to contract with any particular vendor or provider of telephony services nor bear the full cost of the pilot program.]

208.918. 1. In order to qualify for an agreement with the department, the vendor shall have a philosophy that promotes the consumer's ability to live independently in the most integrated setting or the maximum community inclusion of persons with physical disabilities, and shall demonstrate the ability to provide, directly or through contract, the following services:

(1) Orientation of consumers concerning the responsibilities of being an employer[,] and supervision of personal care attendants including the preparation and verification of time sheets. Such orientation shall include notifying customers that falsification of attendant visit verification records shall be considered fraud and shall be reported to the department. Such orientation shall take place in the presence of the personal care attendant, to the fullest extent possible;

(2) Training for consumers about the recruitment and training of personal care attendants;

(3) Maintenance of a list of persons eligible to be a

personal care attendant;

(4) Processing of inquiries and problems received from consumers and personal care attendants;

(5) Ensuring the personal care attendants are registered with the family care safety registry as provided in sections 210.900 to ~~[210.937]~~ 210.936; and

(6) The capacity to provide fiscal conduit services through a telephone tracking system by the date required under section 208.909.

2. In order to maintain its agreement with the department, a vendor shall comply with the provisions of subsection 1 of this section and shall:

(1) Demonstrate sound fiscal management as evidenced on accurate quarterly financial reports and an annual financial statement audit [submitted to the department] performed by a certified public accountant if the vendor's annual gross revenue is two hundred thousand dollars or more or, if the vendor's annual gross revenue is less than two hundred thousand dollars, an annual financial statement audit or annual financial statement review performed by a certified public accountant. Such reports, audits, and reviews shall be completed and made available upon request to the department; [and]

(2) Demonstrate a positive impact on consumer outcomes regarding the provision of personal care assistance services as evidenced on accurate quarterly and annual service reports submitted to the department;

(3) Implement a quality assurance and supervision process that ensures program compliance and accuracy of records,

including, but not limited to:

(a) The department of health and senior services shall promulgate by rule a consumer-directed services division provider certification manager course; and

(b) The vendor shall perform ongoing monitoring of the provision of services in the plan of care and shall assess the quality of care being delivered. Such monitoring shall include at least one annual face-to-face visit and may include electronic monitoring, telephone checks, written case notes, or other department-approved methods. The ongoing monitoring shall not preclude the vendor's responsibility of ongoing diligence of case management activity oversight;

(4) Comply with all provisions of sections 208.900 to 208.927, and the regulations promulgated thereunder; and

(5) Maintain a business location which shall comply with any and all applicable city, county, state, and federal requirements.

3. No state or federal funds shall be authorized or expended to pay for personal care assistance services under sections 208.900 to 208.927 if any direct employee of the consumer-directed services vendor conducts the face-to-face home visit of a consumer for whom such employee is also the personal care attendant, unless such person provides services solely on a temporary basis on no more than three days in a thirty-day period.

208.924. 1. A consumer's personal care assistance services may be discontinued under circumstances such as the following:

(1) The department learns of circumstances that require

closure of a consumer's case, including one or more of the following: death, admission into a long-term care facility, no longer needing service, or inability of the consumer to consumer-direct personal care assistance service;

(2) The consumer has falsified records; provided false information of his or her condition, functional capacity, or level of care needs; or committed fraud;

(3) The consumer is noncompliant with the plan of care. Noncompliance requires persistent actions by the consumer which negate the services provided in the plan of care;

(4) The consumer or member of the consumer's household threatens or abuses the personal care attendant or vendor to the point where their welfare is in jeopardy and corrective action has failed;

(5) The maintenance needs of a consumer are unable to continue to be met because the plan of care hours exceed availability; and

(6) The personal care attendant is not providing services as set forth in the personal care assistance services plan and attempts to remedy the situation have been unsuccessful.

2. The personal care attendant shall report to the department if he or she witnesses significant deterioration of the health of the consumer or if he or she has a belief that the consumer is no longer capable of self-directed care.

208.935. Subject to appropriations, the department of health and senior services shall develop, or contract with a state agency or third party to develop an interactive assessment tool, which may include mobile as well as centralized

functionality, for utilization when implementing the assessment and authorization process for MO HealthNet home and community-based services authorized by the division of senior and disability services.

321.621. 1. For the purposes of this section, "qualified first responder" shall mean any state and local law enforcement agency staff, fire department personnel, fire district personnel, or licensed emergency medical technician who is acting under the directives and established protocols of a medical director of a local licensed ground ambulance service licensed under section 190.109 who comes in contact with a person suffering from an anaphylactic reaction and who has received training in recognizing and responding to anaphylactic reactions and the administration of epinephrine auto-injector devices to a person suffering from an apparent anaphylactic reaction. "Qualified first responder agencies" shall mean any state or local law enforcement agency, fire department, or ambulance service that provides documented training to its staff related to the administration of epinephrine auto-injector devices in an apparent anaphylactic reaction.

2. The department of health and senior services shall issue epinephrine auto-injector devices for adult patients to fire protection districts in nonmetropolitan areas in Missouri as such areas are determined according to the United States Census Bureau's American Community Survey, based on the most recent of five-year period estimate data in which the final year of the estimate ends in either zero or five.

3. Possession and use of epinephrine auto-injector devices

for adult patients shall be limited as follows:

(1) No person shall use an epinephrine auto-injector device unless such person has successfully completed a training course in the use of epinephrine auto-injector devices for adult patients approved by the director of the department of health and senior services. Nothing in this section shall prohibit the use of an epinephrine auto-injector device:

(a) By a health care professional licensed or certified by this state who is acting within the scope of his or her practice;
or

(b) By a person acting pursuant to a lawful prescription;

(2) Every person, firm, organization and entity authorized to possess and use epinephrine auto-injector devices for adult patients pursuant to this section shall use, maintain and dispose of such devices for adult patients in accordance with the rules of the department;

(3) Every use of an epinephrine auto-injector device pursuant to this section shall immediately be reported to the emergency health care provider as defined in section 190.246.

4. (1) Use of an epinephrine auto-injector device pursuant to this section shall be considered first aid or emergency treatment for the purpose of any law relating to liability.

(2) Purchase, acquisition, possession or use of an epinephrine auto-injector device pursuant to this section shall not constitute the unlawful practice of medicine or the unlawful practice of a profession.

(3) Any person otherwise authorized to sell or provide an epinephrine auto-injector device may sell or provide it to a

person authorized to possess it pursuant to this section.

5. (1) There is hereby created in the state treasury the "Epinephrine Auto-injector Devices for Fire Personnel Fund", which shall consist of money collected under this section. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve disbursements. The moneys in the fund as set forth in this section shall be subject to appropriation by the general assembly for the particular purpose for which collected. The fund shall be a dedicated fund and money in the fund shall be used solely by the department of health and senior services for the purposes of providing epinephrine auto-injector devices for adult patients to qualified first responder agencies as used in this section.

(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

338.220. 1. It shall be unlawful for any person, copartnership, association, corporation or any other business entity to open, establish, operate, or maintain any pharmacy as defined by statute without first obtaining a permit or license to do so from the Missouri board of pharmacy. A permit shall not be required for an individual licensed pharmacist to perform nondispensing activities outside of a pharmacy, as provided by the rules of the board. A permit shall not be required for an

individual licensed pharmacist to administer drugs, vaccines, and biologicals by protocol, as permitted by law, outside of a pharmacy. The following classes of pharmacy permits or licenses are hereby established:

- (1) Class A: Community/ambulatory;
- (2) Class B: Hospital pharmacy;
- (3) Class C: Long-term care;
- (4) Class D: Nonsterile compounding;
- (5) Class E: Radio pharmaceutical;
- (6) Class F: Renal dialysis;
- (7) Class G: Medical gas;
- (8) Class H: Sterile product compounding;
- (9) Class I: Consultant services;
- (10) Class J: Shared service;
- (11) Class K: Internet;
- (12) Class L: Veterinary;
- (13) Class M: Specialty (bleeding disorder);
- (14) Class N: Automated dispensing system (health care facility);
- (15) Class O: Automated dispensing system (ambulatory care);
- (16) Class P: Practitioner office/clinic;
- (17) Class Q: Charitable pharmacy.

2. Application for such permit or license shall be made upon a form furnished to the applicant; shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of

making a false affidavit or declaration; and shall be accompanied by a permit or license fee. The permit or license issued shall be renewable upon payment of a renewal fee. Separate applications shall be made and separate permits or licenses required for each pharmacy opened, established, operated, or maintained by the same owner.

3. All permits, licenses or renewal fees collected pursuant to the provisions of sections 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general assembly.

4. Class L: veterinary permit shall not be construed to prohibit or interfere with any legally registered practitioner of veterinary medicine in the compounding, administering, prescribing, or dispensing of their own prescriptions, or medicine, drug, or pharmaceutical product to be used for animals.

5. Except for any legend drugs under 21 U.S.C. Section 353, the provisions of this section shall not apply to the sale, dispensing, or filling of a pharmaceutical product or drug used for treating animals.

6. A "class B hospital pharmacy" shall be defined as a pharmacy owned, managed, or operated by a hospital as defined by section 197.020 or a clinic or facility under common control, management or ownership of the same hospital or hospital system. This section shall not be construed to require a class B hospital pharmacy permit or license for hospitals solely providing

services within the practice of pharmacy under the jurisdiction of, and the licensure granted by, the department of health and senior services under and pursuant to chapter 197.

7. Upon application to the board, any hospital that holds a pharmacy permit or license on August 28, 2014, shall be entitled to obtain a class B pharmacy permit or license without fee, provided such application shall be submitted to the board on or before January 1, 2015.

376.383. 1. For purposes of this section and section 376.384, the following terms shall mean:

(1) "Claimant", any individual, corporation, association, partnership or other legal entity asserting a right to payment arising out of a contract or a contingency or loss covered under a health benefit plan as defined in section 376.1350;

(2) "Clean claim", a claim that has no defect, impropriety, lack of any required substantiating documentation, or particular circumstance requiring special treatment that prevents timely payment;

(3) "Deny" or "denial", when the health carrier refuses to reimburse all or part of the claim;

(4) "Health care provider", health care provider as defined in section 376.1350;

(5) "Health care services", health care services as defined in section 376.1350;

(6) "Health carrier", health carrier as defined in section 376.1350 and any self-insured health plan, to the extent allowed by federal law; except that health carrier shall not include a workers' compensation carrier providing benefits to an employee

pursuant to chapter 287. For the purposes of this section and section 376.384, third-party contractors are health carriers;

(7) "Processing days", number of days the health carrier or any of its agents, subsidiaries, contractors, subcontractors, or third-party contractors has the claim in its possession.

Processing days shall not include days in which the health carrier is waiting for a response to a request for additional information from the claimant;

(8) "Request for additional information", a health carrier's electronic or facsimile request for additional information from the claimant specifying all of the documentation or information necessary to process all of the claim, or all of the claim on a multi-claim form, as a clean claim for payment;

(9) "Third-party contractor", a third party contracted with the health carrier to receive or process claims for reimbursement of health care services.

2. Within forty-eight hours after receipt of an electronically filed claim by a health carrier or a third-party contractor, a health carrier shall send an electronic acknowledgment of the date of receipt.

3. Within thirty processing days after receipt of a filed claim by a health carrier or a third-party contractor, a health carrier shall send an electronic or facsimile notice of the status of the claim that notifies the claimant:

(1) Whether the claim is a clean claim as defined under this section; or

(2) The claim requires additional information from the claimant.

If the claim is a clean claim, then the health carrier shall pay or deny the claim. If the claim requires additional information, the health carrier shall include in the notice a request for additional information. If a health carrier pays the claim, this subsection shall not apply.

4. Within ten processing days after receipt of additional information by a health carrier or a third-party contractor, a health carrier shall pay the claim or any undisputed part of the claim in accordance with this section or send an electronic or facsimile notice of receipt and status of the claim:

(1) That denies all or part of the claim and specifies each reason for denial; or

(2) That makes a final request for additional information.

5. Within five processing days after the day on which the health carrier or a third-party contractor receives the additional requested information in response to a final request for information, it shall pay the claim or any undisputed part of the claim or deny the claim.

6. (1) If the health carrier has not paid the claimant on or before the forty-fifth processing day from the date of receipt of the claim, the health carrier shall pay the claimant one percent interest per month and a penalty in an amount equal to one percent of the claim per day. The interest and penalty shall be calculated based upon the unpaid balance of the claim as of the forty-fifth processing day. The interest and penalty paid pursuant to this subsection shall be included in any late reimbursement without the necessity for the person that filed the original claim to make an additional claim for that interest and

penalty. A health carrier may combine interest payments and make payment once the aggregate amount reaches one hundred dollars. Any claim or portion of a claim subject to interest and penalties under this section where the amount owed by a health carrier to a claimant exceeds ten thousand dollars for such claim, interest and penalties shall accrue for no more than one hundred days, unless the claimant makes a separate demand for payment of the claim after the interest and penalties begin to accrue and prior to the ninetieth day interest and penalties have accrued.

(2) Any claim or portion of a claim which has been properly denied before the forty-fifth processing day under this section and section 376.384 shall not be subject to interest or penalties. For a claim or any portion of such claim that was denied before the forty-fifth processing day, interest and penalties shall begin to accrue beginning on the date the first appeal is filed by the claimant with the health carrier until such claim is paid, if the claim or portion of the claim is approved. If any appeal filed with the health carrier does not result in the disputed claim or portion of such claim being approved for payment to the claimant, and a petition is filed in a court of competent jurisdiction to recover payment of all or part of such claim, interest and penalties shall continue to accrue for no more than one hundred days from the day the first appeal was filed by the claimant with the health carrier, and such interest and penalties shall [cease] continue to accrue [on the day] ten days after [a petition is filed in] a court of competent jurisdiction [to recover payment of such claim] finds that the claim or portion of the claim shall be paid to the

claimant. Upon a finding by a court of competent jurisdiction that the health carrier failed to pay a claim, interest, or penalty without good cause, the court shall enter judgment for reasonable attorney fees for services necessary for recovery. Upon a finding that a health care provider filed suit without reasonable grounds to recover a claim, the court shall award the health carrier reasonable attorney fees necessary to the defense.

7. The department of commerce and insurance shall monitor denials and determine whether the health carrier acted reasonably.

8. If a health carrier or third-party contractor has reasonable grounds to believe that a fraudulent claim is being made, the health carrier or third-party contractor shall notify the department of commerce and insurance of the fraudulent claim pursuant to sections 375.991 to 375.994.

9. Denial of a claim shall be communicated to the claimant and shall include the specific reason why the claim was denied. Any claim for which the health carrier has not communicated a specific reason for the denial shall not be considered denied under this section or section 376.384.

10. Requests for additional information shall specify all of the documentation and additional information that is necessary to process all of the claim, or all of the claims on a multi-claim form, as a clean claim for payment. Information requested shall be reasonable and pertain solely to the health carrier's liability. The health carrier shall acknowledge receipt of the requested additional information to the claimant within five calendar days or pay the claim.

376.387. 1. For purposes of this section, the following terms shall mean:

(1) "Covered person", the same meaning as such term is defined in section 376.1257;

(2) "Health benefit plan", the same meaning as such term is defined in section 376.1350;

(3) "Health carrier" or "carrier", the same meaning as such term is defined in section 376.1350;

(4) "Pharmacy", the same meaning as such term is defined in chapter 338;

(5) "Pharmacy benefits manager", the same meaning as such term is defined in section 376.388.

2. No pharmacy benefits manager shall include a provision in a contract entered into or modified on or after August 28, 2018, with a pharmacy or pharmacist that requires a covered person to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:

(1) The copayment amount as required under the health benefit plan; or

(2) The amount an individual would pay for a prescription if that individual paid with cash.

3. A pharmacy or pharmacist shall have the right to provide to a covered person information regarding the amount of the covered person's cost share for a prescription drug, the covered person's cost of an alternative drug, and the covered person's cost of the drug without adjudicating the claim through the pharmacy benefits manager. Neither a pharmacy nor a pharmacist shall be proscribed by a pharmacy benefits manager from

discussing any such information or from selling a more affordable alternative to the covered person.

4. No pharmacy benefits manager shall, directly or indirectly, charge or hold a pharmacist or pharmacy responsible for any fee amount related to a claim that is not known at the time of the claim's adjudication, unless the amount is a result of improperly paid claims or charges for administering a health benefit plan.

5. This section shall not apply with respect to claims under Medicare Part D, or any other plan administered or regulated solely under federal law, and to the extent this section may be preempted under the Employee Retirement Income Security Act of 1974 for self-funded employer-sponsored health benefit plans.

6. A pharmacy benefits manager shall notify in writing any health carrier or pharmacy with which it contracts if the pharmacy benefits manager has a potential conflict of interest, including, but not limited to, any commonality of ownership, or any other relationship, financial or otherwise, between the pharmacy benefits manager and any other health carrier or pharmacy with which the pharmacy benefits manager contracts.

7. The department of commerce and insurance shall enforce this section.

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

(1) "Health carrier" or "carrier", the same meaning as is ascribed to such term in section 376.1350;

(2) "Pharmacy benefits manager", the same meaning as is

ascribed to such term in section 376.388.

2. No entity subject to the jurisdiction of this state shall act as a pharmacy benefits manager without a license issued by the department. The department shall establish by rule the application process and license fee for pharmacy benefits managers.

3. The department may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621 against any holder of a license issued under this section for:

(1) Violation of the laws or regulations of any state or of the United States, where the offense is reasonably related to the qualifications, functions, or duties of a pharmacy benefit manager, including, but not limited to, where an essential element of the offense is fraud, dishonesty, or an act of violence, or where the offense involves moral turpitude, or where the offense involves failure to comply with a requirement of this chapter, whether or not sentence or penalty is imposed;

(2) Use of fraud, deception, misrepresentation, or bribery for any reason;

(3) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by fraud, deception, or misrepresentation;

(4) Incompetence, misconduct, gross negligence, or dishonesty in the performance of the functions or duties of a pharmacy benefits manager or other regulated profession or activity; or

(5) Disciplinary action taken against the holder of a license or other right to practice as a pharmacy benefits manager

or other regulated profession.

After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by the administrative hearing commission that grounds provided in this subsection for disciplinary action are met, the department may, singly or in combination, censure or place the person named in the complaint on probation with such terms and conditions as the department deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit. An individual whose license has been revoked shall wait at least one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the department.

376.945. 1. The department shall, as a condition of the issuance of a certificate of authority pursuant to section 376.935, require that the provider establish a reserve of an amount equal to at least fifty percent of any entrance fee paid by the first occupant of a living unit under a life care contract. The reserve shall be maintained by the provider on a current basis, in escrow with a bank, trust company, or other escrow agent approved by the department. ~~Such~~ The entire amount of such reserve shall be amortized and earned by and available for release to the provider at the rate of one percent per month on the balance of the reserve, provided, however, that at no time shall the entrance fee reserve together with all interest earned thereon total less than an amount equal to one ~~and one-half times the percentage~~ hundred percent of the annual

long-term debt principal and interest payments of the provider applicable only to living units occupied under life care contracts. Such portion of each entrance fee as is necessary to maintain the entrance fee reserve as set forth herein shall be paid to the reserve fund for the second and all subsequent occupancies of a living unit occupied under a life care contract. The requirements of this subsection may be met in whole or in part by other reserve funds held for the purpose of meeting loan obligations, provided that the total amount equals or exceeds the amount required under this subsection.

2. In addition, each provider shall establish and maintain separately for each facility, a reserve equal to not less than five percent of the facility's total outstanding balance of contractually obligated move-out refunds at the close of each fiscal year. [All reserves required hereunder for move-out refunds]

3. All reserve funds held under subsections 1 or 2 of this section shall be held in liquid assets consisting of federal government or other marketable securities, deposits, or accounts insured by the federal government.

4. This section shall be applicable only to life care contracts executed for occupancy of living units constructed after September 28, 1981.

376.1578. 1. Within two working days after receipt of a [faxed or mailed completed] credentialing application, the health carrier shall send a notice of receipt to the practitioner. A health carrier shall provide access to a provider web portal that allows the practitioner to receive notice of the status of an

electronically submitted application.

2. If a health carrier determines the application is not a completed application, the health carrier shall have ten days from the date the notice of receipt was sent as required in subsection 1 of this section to request any additional information from the practitioner. The application shall be considered a completed application upon receipt of the requested additional information from the practitioner. Within two working days of receipt of the requested additional information, the health carrier shall send a notice to the practitioner informing him or her that he or she has submitted a completed application. If the health carrier does not request additional information, the application shall be deemed completed as of the date the notice of receipt was sent as required under subsection 1 of this section.

3. A health carrier shall assess a health care practitioner's completed credentialing [information] application and make a decision as to whether to approve or deny the practitioner's credentialing application and notify the practitioner of such decision within sixty [business] days of the date of receipt of the completed application. The sixty-day deadline established in this section shall not apply if the application or subsequent verification of information indicates that the practitioner has:

(1) A history of behavioral disorders or other impairments affecting the practitioner's ability to practice, including but not limited to substance abuse;

(2) Licensure disciplinary actions against the

practitioner's license to practice imposed by any state or territory or foreign jurisdiction;

(3) Had the practitioner's hospital admitting or surgical privileges or other organizational credentials or authority to practice revoked, restricted, or suspended based on the practitioner's clinical performance; or

(4) A judgment or judicial award against the practitioner arising from a medical malpractice liability lawsuit.

4. If a practitioner's application is approved, the health carrier shall provide payments for covered patient care services delivered by the practitioner during the credentialing period if the provision of services were on behalf of an entity that had a contract with such health carrier during the credentialing period. The contracted entity for which the practitioner is providing services shall submit to the health carrier all claims for services provided by such practitioner during the credentialing period within six months after the health carrier has approved that practitioner's credentialing application. Claims submitted for reimbursement under this section shall be sent to the carrier by the provider in a single request or as few requests as practical subject to any technical constraints or other issues out of the contracted provider's control. "Credentialing period" shall mean the time between the date the practitioner submits a completed application to the health carrier to be credentialed and the date the practitioner's credentialing is approved by the health carrier.

5. A health carrier shall not require a practitioner to be credentialed in order to receive payments for covered patient

care services if the practitioner is providing patient care services on behalf of an absent credentialed practitioner during a temporary period of time not to exceed sixty days. Any practitioner authorized to receive payments for covered services under this section shall provide notice to the health carrier, including, but not limited to, name, medical license information, estimated duration of absence, and practitioner's name and medical license information providing coverage for such absent credentialed practitioner. A health carrier may deny payments if the practitioner providing services in lieu of the credentialed provider meets one of the conditions in subdivisions (1) to (4) of subsection 3 of this section.

6. All claims eligible for payment under subsection 4 or 5 of this section shall be subject to section 376.383.

7. For the purposes of this section, "covered health services" shall mean any services provided by a practitioner that would otherwise be covered if provided by a credentialed provider.

[3.] 8. The department of commerce and insurance shall establish a mechanism for reporting alleged violations of this section to the department.

Section B. Because immediate action is necessary to ensure that all owners, officers, managers, contractors, employees, and other support staff of medical marijuana facilities be subjected to state and federal fingerprint-based criminal background checks to insure the integrity of the Missouri medical marijuana industry, the enactment of section 195.830 of this act is deemed necessary for the immediate preservation of the public health,

welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 195.830 of this act shall be in full force and effect on July 1, 2020, or upon its passage and approval, whichever occurs later.