

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 773
89TH GENERAL ASSEMBLY

Reported from the Committee on Critical Issues, May 8, 1998, with recommendation that the House Committee Substitute for Senate Bill No. 773 Do Pass.
ANNE C. WALKER, Chief Clerk
L3247.05C

AN ACT

To repeal sections 198.026 and 198.029, RSMo 1994, and section 197.317, RSMo Supp. 1997, relating to convalescent, nursing and boarding homes, and to enact in lieu thereof seven new sections relating to the same subject.

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

Section A. Sections 198.026 and 198.029, RSMo 1994, and section 197.317, RSMo Supp. 1997, are repealed and seven new sections enacted in lieu thereof, to be known as sections 197.317, 198.026, 198.029, 1, 2, 3 and 4, to read as follows:

197.317. After July 1, 1983, no certificate of need shall be issued for the following:

(1) Additional residential care facility I, residential care facility II, intermediate care facility or skilled nursing facility beds above the number then licensed by this state;

(2) Beds in a licensed hospital to be reallocated on a temporary or permanent basis to nursing care or beds in a long-term care hospital meeting the requirements described in 42 C.F.R., section 412.23(e), excepting those which are not subject to a certificate of need pursuant to paragraphs (e) and (g) of subdivision (12) of section 197.305; nor

(3) The reallocation of intermediate care facility or skilled nursing facility beds of existing licensed beds by transfer or sale of licensed beds between a hospital licensed under this chapter or a nursing care facility licensed under chapter 198, RSMo; except for beds in counties in which there is no existing nursing care facility. No certificate of need shall be issued for the reallocation of existing residential care facility I or II, or intermediate care facilities operated exclusively for the mentally retarded to intermediate care or skilled nursing facilities or beds. However, after [July 1, 1999] **April 30, 2000**, nothing in this section shall prohibit the Missouri health facilities review committee from issuing a certificate of need for additional beds in existing health care facilities or for new beds in new health care facilities or for the reallocation of licensed beds, provided that no construction shall begin prior to July 1, 2000. The provisions of subsections 16 and 17 of section 197.315 shall apply to the provisions of this section.

198.026. 1. Whenever a duly authorized representative of the department finds upon an inspection of a facility that it is not in compliance with the provisions of sections 198.003 to 198.096 and the standards established thereunder, the operator or administrator shall be informed of the deficiencies in an exit interview conducted with the operator or administrator or **[his] the operator's**

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

or administrator's designee. The department shall inform the operator or administrator, in writing, of any violation of a class I standard at the time the determination is made. **A written report describing the incident and a copy of the written correction order for any violation of a class I standard, regardless of the remedial action taken, shall be sent in a timely manner to the state representative and state senator for the district in which the facility is located.** A written report shall be prepared of any deficiency for which there has not been prompt remedial action, and a copy of such report and a written correction order shall be sent to the operator or administrator by certified mail or other delivery service that provides a dated receipt of delivery at the facility address within ten working days after the inspection, stating separately each deficiency and the specific statute or regulation violated.

2. The operator or administrator shall have five working days following receipt of a written report and correction order regarding a violation of a class I standard and ten working days following receipt of the report and correction order regarding violations of class II or class III standards to request any conference and to submit a plan of correction for the department's approval which contains specific dates for achieving compliance. Within five working days after receiving a plan of correction regarding a violation of a class I standard and within ten working days after receiving a plan of correction regarding a violation of a class II or III standard, the department shall give its written approval or rejection of the plan. If there was a violation of any class I standard, immediate corrective action shall be taken by the operator or administrator and a written plan of correction shall be submitted to the department. The department shall give its written approval or rejection of the plan and if the plan is acceptable, a reinspection shall be conducted within twenty calendar days of the exit interview to determine if deficiencies have been corrected. If there was a violation of any class II standard and the plan of correction is acceptable, an unannounced reinspection shall be conducted between forty and ninety calendar days from the date of the exit conference to determine the status of all previously cited deficiencies. If there was a violation of class III standards sufficient to establish that the facility was not in substantial compliance, an unannounced reinspection shall be conducted within one hundred twenty days of the exit interview to determine the status of previously identified deficiencies.

3. If, following the reinspection, the facility is found not in substantial compliance with sections 198.003 to 198.096 and the standards established thereunder or the operator is not correcting the noncompliance in accordance with the approved plan of correction, the department shall issue a notice of noncompliance, which shall be sent by certified mail or other delivery service that provides a dated receipt of delivery to each person disclosed to be an owner or operator of the facility, according to the most recent information or documents on file with the department.

4. The notice of noncompliance shall inform the operator or administrator that the department may seek the imposition of any of the sanctions and remedies provided for in section 198.067, or any other action authorized by law.

5. At any time after an inspection is conducted, the operator may choose to enter into a consent agreement with the department to obtain a probationary license. The consent agreement shall include a provision that the operator will voluntarily surrender the license if substantial compliance is not reached in accordance with the terms and deadlines established [under] **pursuant to** the agreement. The agreement shall specify the stages, actions and time span to achieve substantial compliance.

6. Whenever a notice of noncompliance has been issued, the operator shall post a copy of the notice of noncompliance and a copy of the most recent inspection report in a conspicuous location

in the facility, and the department shall send a copy of the notice of noncompliance to the division of family services of the department of social services, the department of mental health, **the state representative and state senator for the district in which the facility is located**, and any other concerned federal, state or local governmental agencies.

198.029. The provisions of section 198.026 notwithstanding, whenever a duly authorized representative of the department finds upon inspection of a licensed facility, and the director of the department finds upon review, that the facility or the operator is not in substantial compliance with a standard or standards the violations of which would present either an imminent danger to the health, safety or welfare of any resident or a substantial probability that death or serious physical harm would result and which is not immediately corrected, the department shall:

- (1) Give immediate written notice of the noncompliance to the operator, administrator or person managing or supervising the conduct of the facility at the time the noncompliance is found;
- (2) Make public the fact that a notice of noncompliance has been issued to the facility. Copies of the notice shall be sent to appropriate hospitals and social service agencies;
- (3) Send a copy of the notice of noncompliance to the division of family services of the department of social services, the department of mental health, **the state representative and state senator for the district in which the facility is located**, and any other concerned federal, state or local government agencies. The facility shall post in a conspicuous location in the facility a copy of the notice of noncompliance and a copy of the most recent inspection report.

Section 1. The division of aging may establish a pilot project to provide the elderly who suffer from Alzheimer's disease or dementia with enhanced and specialized care by allowing no more than six Alzheimer or dementia care facilities to be developed. Such facilities shall:

- (1) Be developed in conjunction with, and work collaboratively with the school of medicine or school of nursing affiliated with a Missouri institution of higher education; and
- (2) As a minimum, comply with all life safety codes and comply with staffing patterns as determined by an agreement between the division of aging, participating medical school or school of nursing and such facility administrator. However, in no case may the requirements be less than such requirements required for facilities defined in section 198.006, RSMo. Such agreement shall address:

- (a) Physical design of the facility to enhance the care of the elderly to be served;
- (b) Staffing patterns;
- (c) Admission criteria;
- (d) Assessment and monitoring of the residents;
- (e) Education of staff employed by the facility; and
- (f) Program development.

Section 2. Three of the six facilities for this pilot project shall be facilities currently licensed under chapter 198, RSMo, and three shall be newly constructed after the division of aging grants approval as a pilot project pursuant to this section.

Section 3. Such facilities described in section 1 of this act shall be exempt from the provisions of sections 197.300 to 197.366, RSMo.

Section 4. The division of aging, participating facilities and the school of medicine or school of nursing shall complete a report by December 1, 2001, on the pilot project for each of the four facilities participating in the project.