

FIRST REGULAR SESSION

SENATE BILL NO. 446

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GOODMAN.

Read 1st time February 5, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

1979S.011

AN ACT

To repeal sections 198.073 and 198.086, RSMo, and to enact in lieu thereof three new sections relating to fire safety standards in long-term care facilities.

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

Section A. Sections 198.073 and 198.086, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 198.073, 198.075,
3 and 198.086, to read as follows:

198.073. 1. A residential care facility shall admit or retain only those
2 persons who are capable mentally and physically of negotiating a normal path to
3 safety using assistive devices or aids when necessary, and who may need assisted
4 personal care within the limitations of such facilities, and who do not require
5 hospitalization or skilled nursing care.

6 2. Notwithstanding the provisions of subsection 1 of this section, those
7 persons previously qualified for residence who may have a temporary period of
8 incapacity due to illness, surgery, or injury, which period does not exceed
9 forty-five days, may be allowed to remain in a residential care facility or assisted
10 living facility if approved by a physician.

11 3. Any facility licensed as a residential care facility II on August 27, 2006,
12 shall be granted a license as an assisted living facility, as defined in section
13 198.006, on August 28, 2006, regardless of the laws, rules, and regulations for
14 licensure as an assisted living facility as long as such facility continues to meet
15 all laws, rules, and regulations that were in place on August 27, 2006, for a
16 residential care facility II. At such time that the average total reimbursement,
17 not including residents' cost-of-living increases in their benefits from the Social
18 Security Administration after August 28, 2006, for the care of persons eligible for

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

19 Medicaid in an assisted living facility is equal to or exceeds forty-one dollars per
20 day, all facilities with a license as an assisted living facility shall meet all laws,
21 rules, and regulations for licensure as an assisted living facility. Nothing in this
22 section shall be construed to allow any facility that has not met the requirements
23 of subsections 4 and 6 of this section to care for any individual with a physical,
24 cognitive, or other impairment that prevents the individual from safely
25 evacuating the facility.

26 4. Any facility licensed as an assisted living facility, as defined in section
27 198.006, except for facilities licensed under subsection 3 of this section, may
28 admit or retain an individual for residency in an assisted living facility only if the
29 individual does not require hospitalization or skilled nursing placement, and only
30 if the facility:

31 (1) Provides for or coordinates oversight and services to meet the needs
32 of the resident as documented in a written contract signed by the resident, or
33 legal representative of the resident;

34 (2) Has twenty-four-hour staff appropriate in numbers and with
35 appropriate skills to provide such services;

36 (3) Has a written plan for the protection of all residents in the event of
37 a disaster, including keeping residents in place, evacuating residents to areas of
38 refuge, evacuating residents from the building if necessary, or other methods of
39 protection based on the disaster and the individual building design;

40 (4) Completes a pre-move-in screening with participation of the
41 prospective resident;

42 (5) Completes for each resident a community-based assessment, as defined
43 in subdivision (7) of section 198.006:

44 (a) Upon admission;

45 (b) At least semiannually; and

46 (c) Whenever a significant change has occurred in the resident's condition
47 which may require a change in services;

48 (6) Based on the assessment in subsection 7 of this section and
49 subdivision (5) of this subsection, develops an individualized service plan in
50 partnership with the resident, or legal representative of the resident, that
51 outlines the needs and preferences of the resident. The individualized service
52 plan will be reviewed with the resident, or legal representative of the resident,
53 at least annually, or when there is a significant change in the resident's condition
54 which may require a change in services. The signatures of an authorized

55 representative of the facility and the resident, or the resident's legal
56 representative, shall be contained on the individualized service plan to
57 acknowledge that the service plan has been reviewed and understood by the
58 resident or legal representative;

59 (7) Makes available and implements self-care, productive and leisure
60 activity programs which maximize and encourage the resident's optimal
61 functional ability;

62 (8) Ensures that the residence does not accept or retain a resident who:

63 (a) Has exhibited behaviors that present a reasonable likelihood of serious
64 harm to himself or herself or others;

65 (b) Requires physical restraint;

66 (c) Requires chemical restraint. As used in this paragraph, the following
67 terms mean:

68 a. "Chemical restraint", a psychopharmacologic drug that is used for
69 discipline or convenience and not required to treat medical symptoms;

70 b. "Convenience", any action taken by the facility to control resident
71 behavior or maintain residents with a lesser amount of effort by the facility and
72 not in the resident's best interest;

73 c. "Discipline", any action taken by the facility for the purpose of
74 punishing or penalizing residents;

75 (d) Requires skilled nursing services as defined in subdivision (23) of
76 section 198.006 for which the facility is not licensed or able to provide;

77 (e) Requires more than one person to simultaneously physically assist the
78 resident with any activity of daily living, with the exception of bathing and
79 transferring;

80 (f) Is bed-bound or similarly immobilized due to a debilitating or chronic
81 condition; and

82 (9) Develops and implements a plan to protect the rights, privacy, and
83 safety of all residents and to protect against the financial exploitation of all
84 residents;

85 (10) Complies with the training requirements of subsection 8 of section
86 660.050, RSMo.

87 5. Exceptions to paragraphs (d) to (f) of subdivision (8) of subsection 4 of
88 this section shall be made for residents on hospice, provided the resident,
89 designated representative, or both, and the assisted living provider, physician,
90 and licensed hospice provider all agree that such program of care is appropriate

91 for the resident.

92 6. If an assisted living facility accepts or retains any individual with a
93 physical, cognitive, or other impairment that prevents the individual from safely
94 evacuating the facility with minimal assistance, the facility shall:

95 (1) Have sufficient staff present and awake twenty-four hours a day to
96 assist in the evacuation;

97 (2) Include an individualized evacuation plan in the service plan of the
98 resident; [and]

99 (3) [Be equipped with an automatic sprinkler system in compliance with
100 National Fire Protection Association Code 13 or National Fire Protection
101 Association Code 13R, and an automated fire door system and smoke alarms in
102 compliance with 13-3.4 of the 1997 Life Safety Codes for Existing Health Care
103 Occupancy, or for multilevel facilities, be equipped with an automatic sprinkler
104 system in compliance with National Fire Protection Association Code 13 and each
105 floor shall be divided into at least two smoke sections and fire alarms in
106 compliance with 13-3.4 of the 1997 Life Safety Codes for Existing Health Care
107 Occupancy;

108 (4)] Take necessary measures to provide residents with the opportunity
109 to explore the facility and, if appropriate, its grounds; and

110 [(5)] (4) Use a personal electronic monitoring device for any resident
111 whose physician recommends the use of such device.

112 7. An individual admitted or readmitted to the facility shall have an
113 admission physical examination by a licensed physician. Documentation should
114 be obtained prior to admission but shall be on file not later than ten days after
115 admission and shall contain information regarding the individual's current
116 medical status and any special orders or procedures that should be followed. If
117 the individual is admitted directly from a hospital or another long-term care
118 facility and is accompanied on admission by a report that reflects his or her
119 current medical status, an admission physical shall not be required.

120 8. Facilities licensed as an assisted living facility shall disclose to a
121 prospective resident, or legal representative of the resident, information
122 regarding the services the facility is able to provide or coordinate, the costs of
123 such services to the resident, and the resident conditions that will require
124 discharge or transfer, including the provisions of subdivision (8) of subsection 4
125 of this section.

126 9. After January 1, 2008, no entity shall hold itself out as an assisted

127 living facility or advertise itself as an assisted living facility without obtaining
128 a license from the department to operate as an assisted living facility. Any
129 residential care facility II licensed under this chapter that does not use the term
130 assisted living in the name of its licensed facility on or before May 1, 2006, shall
131 be prohibited from using such term after August 28, 2006, unless such facility
132 meets the requirements for an assisted living facility in subsection 4 of this
133 section.

134 10. [For assisted living facilities built after August 28, 2006, or which
135 have major renovations after August 27, 2006, such single-level assisted living
136 facilities or the major renovation portion shall be equipped with an automatic
137 sprinkler system in compliance with National Fire Protection Association Code
138 13 or 13R of the 1997 Life Safety Codes for Existing Health Care Occupancy, or
139 for such multilevel assisted living facilities or the major renovation portion shall
140 be equipped with an automatic sprinkler system in compliance with National Fire
141 Protection Association Code 13 and each floor shall be divided into two smoke
142 sections and fire alarms in compliance with 13-3.4 of the 1997 Life Safety Codes
143 for Existing Health Care Occupancy. Existing facilities seeking to be licensed as
144 assisted living facilities shall meet the fire safety standards for residential care
145 facilities II in effect on August 28, 2006, unless such facilities seek to admit one
146 or more individuals with physical, cognitive, or other impairments that prevent
147 the individuals from safely evacuating the facility with minimal assistance, in
148 which case such facilities shall comply with subsection 6 of this section.

149 11.] The department of health and senior services shall promulgate rules
150 to ensure compliance with this section. Any rule or portion of a rule, as that term
151 is defined in section 536.010, RSMo, that is created under the authority delegated
152 in this section shall become effective only if it complies with and is subject to all
153 of the provisions of chapter 536, RSMo, and, if applicable, section 536.028,
154 RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the
155 powers vested with the general assembly pursuant to chapter 536, RSMo, to
156 review, to delay the effective date, or to disapprove and annul a rule are
157 subsequently held unconstitutional, then the grant of rulemaking authority and
158 any rule proposed or adopted after August 28, 2006, shall be invalid and void.

**198.075. 1. All facilities licensed under chapter 198, RSMo, shall
2 install and maintain an approved sprinkler system in accordance with
3 National Fire Protection Association (NFPA) 13, except that the
4 department may provide exceptions from this requirement for**

5 residential care facilities and single story assisted living facilities that
6 admit or retain individuals who require no more than minimal
7 assistance to evacuate the facility to allow the installation and
8 maintenance of an approved sprinkler system in accordance with NFPA
9 13R.

10 2. Effective August 28, 2007, all skilled nursing facilities and
11 intermediate care facilities initially licensed on or after August 28,
12 2007, shall install and maintain an approved sprinkler system in
13 accordance with NFPA 13. Effective August 28, 2007, multi-level
14 assisted living facilities that accept or retain any individual with a
15 physical, cognitive, or other impairment that prevents the individual
16 from safely evacuating the facility with minimal assistance shall install
17 and maintain an approved sprinkler system in accordance with NFPA
18 13. Effective August 28, 2007, single story assisted living facilities that
19 accept or retain any individual with a physical, cognitive, or other
20 impairment that prevents the individual from safely evacuating the
21 facility with minimal assistance shall install and maintain an approved
22 sprinkler system in accordance with NFPA 13 or 13R. Effective August
23 28, 2010, such single story assisted living facilities shall install and
24 maintain an approved sprinkler system in accordance with NFPA 13.

25 3. Residential care facilities, single story assisted living facilities
26 that admit or retain individuals who require no more than minimal
27 assistance to evacuate the facility, intermediate care facilities and
28 skilled nursing facilities, that were initially licensed and had an
29 approved sprinkler system installed prior to August 28, 2007, shall
30 continue to meet all laws, rules, and regulations for testing, inspection
31 and maintenance of the sprinkler system that were in effect for such
32 facilities on August 27, 2007, until compliance with NFPA 13 is
33 implemented on or before August 28, 2010.

34 4. All facilities licensed under chapter 198, RSMo, shall be
35 equipped with a complete fire alarm system in compliance with 13-3.4
36 of the 1997 Life Safety Code for Existing Health Care Occupancy. In
37 addition, each floor accessed by residents shall be divided into at least
38 two smoke sections by one-hour rated smoke-stop partitions. No smoke
39 section shall exceed one hundred fifty feet in length. If neither the
40 length nor the width of a floor exceeds seventy-five feet, no smoke-stop
41 partition shall be required. Facilities with a complete fire alarm

42 **system and smoke sections meeting the requirements of this subsection**
43 **prior to August 28, 2007, shall continue to meet such**
44 **requirements. Facilities initially licensed on or after August 28, 2007,**
45 **shall comply with these requirements effective August 28, 2007, or on**
46 **the effective date of licensure.**

47 **5. Except as otherwise provided in this section, the requirements**
48 **for approved sprinkler systems, complete fire alarm systems, and smoke**
49 **sections set forth in subsections 1 to 4 of this section shall be effective**
50 **on August 28, 2010.**

51 **6. The requirements of this section shall supersede the**
52 **provisions of section 198.058, relating to the exemption of facilities**
53 **from construction standards.**

198.086. 1. The department of health and senior services shall develop
2 and implement a demonstration project designed to establish a licensure category
3 for health care facilities that wish to provide treatment to persons with
4 Alzheimer's disease or Alzheimer's-related dementia. The division shall also:

5 (1) Inform potential providers of the demonstration project and seek
6 letters of intent;

7 (2) Review letters of intent and select provider organizations to
8 participate in the demonstration project. Ten such organizations may develop
9 such projects using an existing license and additional organizations shall be
10 newly licensed facilities with no more than thirty beds per project. One
11 demonstration project shall be at a stand-alone facility of no more than one
12 hundred twenty beds designed and operated exclusively for the care of residents
13 with Alzheimer's disease or dementia within a county of the first classification
14 with a charter form of government with a population over nine hundred thousand.
15 A total of not more than three hundred beds may be newly licensed through the
16 demonstration projects. All projects shall maintain their pilot status until a
17 complete evaluation is completed by the division of aging, in conjunction with a
18 qualified Missouri school or university, and a written determination is made from
19 such evaluation that the pilot project is successful;

20 (3) Monitor the participants' compliance with the criteria established in
21 this section;

22 (4) Recommend legislation regarding the licensure of dementia-specific
23 residential care based on the results of the demonstration project; and

24 (5) Submit a report regarding the division's activities and

25 recommendations for administrative or legislative action on or before November
26 fifteenth of each year to the governor, the president pro tem of the senate and the
27 speaker of the house of representatives.

28 2. The director of the division [of aging] shall:

29 (1) Develop a reimbursement methodology to reasonably and adequately
30 compensate the pilot projects for the costs of operation of the project, and require
31 the filing of annual cost reports by each participating facility which shall include,
32 but not be limited to, the cost equivalent of unpaid volunteer or donated labor;

33 (2) Process the license applications of project participants;

34 (3) Monitor each participant to assure its compliance with the
35 requirements and that the life, health and safety of residents are assured;

36 (4) Require each participating facility to complete a minimum data set
37 form for each resident occupying a pilot bed;

38 (5) Require the division of aging to assign a single team of the same
39 surveyors to inspect and survey all participating facilities at least twice a year
40 for the entire period of the project; and

41 (6) Submit to the president pro tem of the senate and speaker of the house
42 of representatives copies of any statements of deficiencies, plans of correction and
43 complaint investigation reports applying to project participants.

44 3. Project participants shall:

45 (1) Be licensed by the division [of aging];

46 (2) Provide care only to persons who have been diagnosed with
47 Alzheimer's disease or Alzheimer's-related dementia;

48 (3) Have buildings and furnishings that are designed to provide for the
49 resident's safety. Facilities shall have indoor and outdoor activity areas, and
50 electronically controlled exits from the buildings and grounds to allow residents
51 the ability to explore while preventing them from exiting the facility's grounds
52 unattended;

53 (4) Be staffed twenty-four hours a day by the appropriate number and
54 type of personnel necessary for the proper care of residents and upkeep of the
55 facility;

56 (5) Conduct special staff training relating to the needs, care and safety of
57 persons with Alzheimer's disease or Alzheimer's-related dementia within the first
58 thirty days of employment;

59 (6) Utilize personal electronic monitoring devices for any resident whose
60 physician recommends use of such device;

61 (7) Permit the resident's physician, in consultation with the family
62 members or health care advocates of the resident, to determine whether the
63 facility meets the needs of the resident; **and**

64 (8) [Be equipped with an automatic sprinkler system, in compliance with
65 the National Fire Protection Association Code 13 or National Fire Protection
66 Association Code 13R, and an automated fire alarm system and smoke barriers
67 in compliance with the 1997 Life Safety Codes for Existing Health Care
68 Occupancy; and

69 (9)] Implement a social model for the residential environment rather than
70 an institutional medical model.

71 4. For purposes of this section, "health care facilities for persons with
72 Alzheimer's disease or Alzheimer's-related dementia" means facilities that are
73 specifically designed and operated to provide elderly individuals who have chronic
74 confusion or dementia illness, or both, with a safe, structured but flexible
75 environment that encourages physical activity through a well-developed
76 recreational and aging-in-place and activity program. Such program shall
77 continually strive to promote the highest practicable physical and mental abilities
78 and functioning of each resident.

79 5. Nothing in this section shall be construed to prohibit project
80 participants from accommodating a family member or other caregiver from
81 residing with the resident in accordance with all life, health, and safety standards
82 of the facility.

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