

FIRST REGULAR SESSION

HOUSE BILL NO. 1147

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HINSON.

2523H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 192.2475 as enacted by house revision bill no. 1299 merged with senate bill no. 491, ninety-seventh general assembly, second regular session, section 192.2475 as enacted by house revision bill no. 1299, ninety-seventh general assembly, second regular session, sections 197.1002, 197.1030, and 198.070 as enacted by senate bill no. 491, ninety-seventh general assembly, second regular session, sections 198.070 and 565.188 as enacted by senate bill nos. 556 & 311, ninety-second general assembly, first regular session, and section 208.912, RSMo, and to enact in lieu thereof six new sections relating to mandatory reporting of alleged abuse or neglect, with penalty provisions.

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

Section A. Section 192.2475 as enacted by house revision bill no. 1299 merged with
2 senate bill no. 491, ninety-seventh general assembly, second regular session, section 192.2475
3 as enacted by house revision bill no. 1299, ninety-seventh general assembly, second regular
4 session, sections 197.1002, 197.1030, and 198.070 as enacted by senate bill no. 491, ninety-
5 seventh general assembly, second regular session, sections 198.070 and 565.188 as enacted by
6 senate bills nos. 556 & 311, ninety-second general assembly, first regular session, and section
7 208.912, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as
8 sections 192.2475, 197.1002, 197.1030, 198.070, 208.912, and 565.188, to read as follows:

192.2475. 1. When any adult day care worker; chiropractor; Christian Science
2 practitioner; coroner; dentist; embalmer; **emergency medical technician**; employee of the
3 departments of social services, mental health, or health and senior services; employee of a local
4 area agency on aging or an organized area agency on aging program; **firefighter**; **first**
5 **responder**; funeral director; home health agency or home health agency employee; hospital and

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

6 clinic personnel engaged in examination, care, or treatment of persons; in-home services owner,
7 provider, operator, or employee; law enforcement officer; long-term care facility administrator
8 or employee; medical examiner; medical resident or intern; mental health professional; minister;
9 nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist;
10 physical therapist; physician; physician's assistant; podiatrist; probation or parole officer;
11 psychologist; or social worker has reasonable cause to believe that an in-home services client has
12 been abused or neglected, as a result of in-home services, he or she shall immediately report or
13 cause a report to be made to the department. If the report is made by a physician of the in-home
14 services client, the department shall maintain contact with the physician regarding the progress
15 of the investigation.

16 2. When a report of deteriorating physical condition resulting in possible abuse or
17 neglect of an in-home services client is received by the department, the client's case manager and
18 the department nurse shall be notified. The client's case manager shall investigate and
19 immediately report the results of the investigation to the department nurse. The department may
20 authorize the in-home services provider nurse to assist the case manager with the investigation.

21 3. If requested, local area agencies on aging shall provide volunteer training to those
22 persons listed in subsection 1 of this section regarding the detection and report of abuse and
23 neglect pursuant to this section.

24 4. Any person required in subsection 1 of this section to report or cause a report to be
25 made to the department who fails to do so within a reasonable time after the act of abuse or
26 neglect is guilty of a class A misdemeanor.

27 5. The report shall contain the names and addresses of the in-home services provider
28 agency, the in-home services employee, the in-home services client, the home health agency, the
29 home health agency employee, information regarding the nature of the abuse or neglect, the name
30 of the complainant, and any other information which might be helpful in an investigation.

31 6. In addition to those persons required to report under subsection 1 of this section, any
32 other person having reasonable cause to believe that an in-home services client or home health
33 patient has been abused or neglected by an in-home services employee or home health agency
34 employee may report such information to the department.

35 7. If the investigation indicates possible abuse or neglect of an in-home services client
36 or home health patient, the investigator shall refer the complaint together with his or her report
37 to the department director or his or her designee for appropriate action. If, during the
38 investigation or at its completion, the department has reasonable cause to believe that immediate
39 action is necessary to protect the in-home services client or home health patient from abuse or
40 neglect, the department or the local prosecuting attorney may, or the attorney general upon
41 request of the department shall, file a petition for temporary care and protection of the in-home

42 services client or home health patient in a circuit court of competent jurisdiction. The circuit
43 court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order
44 granting the department authority for the temporary care and protection of the in-home services
45 client or home health patient, for a period not to exceed thirty days.

46 8. Reports shall be confidential, as provided under section 192.2500.

47 9. Anyone, except any person who has abused or neglected an in-home services client
48 or home health patient, who makes a report pursuant to this section or who testifies in any
49 administrative or judicial proceeding arising from the report shall be immune from any civil or
50 criminal liability for making such a report or for testifying except for liability for perjury, unless
51 such person acted negligently, recklessly, in bad faith, or with malicious purpose.

52 10. Within five working days after a report required to be made under this section is
53 received, the person making the report shall be notified in writing of its receipt and of the
54 initiation of the investigation.

55 11. No person who directs or exercises any authority in an in-home services provider
56 agency or home health agency shall harass, dismiss or retaliate against an in-home services client
57 or home health patient, or an in-home services employee or a home health agency employee
58 because he or she or any member of his or her family has made a report of any violation or
59 suspected violation of laws, standards or regulations applying to the in-home services provider
60 agency or home health agency or any in-home services employee or home health agency
61 employee which he or she has reasonable cause to believe has been committed or has occurred.

62 12. Any person who abuses or neglects an in-home services client or home health patient
63 is subject to criminal prosecution under section 565.184. If such person is an in-home services
64 employee and has been found guilty by a court, and if the supervising in-home services provider
65 willfully and knowingly failed to report known abuse by such employee to the department, the
66 supervising in-home services provider may be subject to administrative penalties of one thousand
67 dollars per violation to be collected by the department and the money received therefor shall be
68 paid to the director of revenue and deposited in the state treasury to the credit of the general
69 revenue fund. Any in-home services provider which has had administrative penalties imposed
70 by the department or which has had its contract terminated may seek an administrative review
71 of the department's action pursuant to chapter 621. Any decision of the administrative hearing
72 commission may be appealed to the circuit court in the county where the violation occurred for
73 a trial de novo. For purposes of this subsection, the term "violation" means a determination of
74 guilt by a court.

75 13. The department shall establish a quality assurance and supervision process for clients
76 that requires an in-home services provider agency to conduct random visits to verify compliance

77 with program standards and verify the accuracy of records kept by an in-home services
78 employee.

79 14. The department shall maintain the employee disqualification list and place on the
80 employee disqualification list the names of any persons who have been finally determined by the
81 department, pursuant to section 192.2490, to have recklessly, knowingly or purposely abused or
82 neglected an in-home services client or home health patient while employed by an in-home
83 services provider agency or home health agency. For purposes of this section only, "knowingly"
84 and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts
85 "knowingly" with respect to the person's conduct when a reasonable person should be aware of
86 the result caused by his or her conduct. A person acts "recklessly" when the person consciously
87 disregards a substantial and unjustifiable risk that the person's conduct will result in serious
88 physical injury and such disregard constitutes a gross deviation from the standard of care that a
89 reasonable person would exercise in the situation.

90 15. At the time a client has been assessed to determine the level of care as required by
91 rule and is eligible for in-home services, the department shall conduct a "Safe at Home
92 Evaluation" to determine the client's physical, mental, and environmental capacity. The
93 department shall develop the safe at home evaluation tool by rule in accordance with chapter
94 536. The purpose of the safe at home evaluation is to assure that each client has the appropriate
95 level of services and professionals involved in the client's care. The plan of service or care for
96 each in-home services client shall be authorized by a nurse. The department may authorize the
97 licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of
98 the client's condition and to establish a plan of services or care. The department may use the
99 expertise, services, or programs of other departments and agencies on a case-by-case basis to
100 establish the plan of service or care. The department may, as indicated by the safe at home
101 evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for
102 evaluation and treatment as necessary.

103 16. Authorized nurse visits shall occur at least twice annually to assess the client and the
104 client's plan of services. The provider nurse shall report the results of his or her visits to the
105 client's case manager. If the provider nurse believes that the plan of service requires alteration,
106 the department shall be notified and the department shall make a client evaluation. All
107 authorized nurse visits shall be reimbursed to the in-home services provider. All authorized
108 nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients
109 whose services have reached one hundred percent of the average statewide charge for care and
110 treatment in an intermediate care facility, provided that the services have been preauthorized by
111 the department.

112 17. All in-home services clients shall be advised of their rights by the department or the
113 department's designee at the initial evaluation. The rights shall include, but not be limited to,
114 the right to call the department for any reason, including dissatisfaction with the provider or
115 services. The department may contract for services relating to receiving such complaints. The
116 department shall establish a process to receive such nonabuse and neglect calls other than the
117 elder abuse and neglect hotline.

118 18. Subject to appropriations, all nurse visits authorized in sections 192.2400 to
119 192.2475 shall be reimbursed to the in-home services provider agency.

192.2475. 1. When any adult day care worker; chiropractor; Christian Science
2 practitioner; coroner; dentist; embalmer; **emergency medical technician**; employee of the
3 departments of social services, mental health, or health and senior services; employee of a local
4 area agency on aging or an organized area agency on aging program; **firefighter**; **first**
5 **responder**; funeral director; home health agency or home health agency employee; hospital and
6 clinic personnel engaged in examination, care, or treatment of persons; in-home services owner,
7 provider, operator, or employee; law enforcement officer; long-term care facility administrator
8 or employee; medical examiner; medical resident or intern; mental health professional; minister;
9 nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist;
10 physical therapist; physician; physician's assistant; podiatrist; probation or parole officer;
11 psychologist; or social worker has reasonable cause to believe that an in-home services client has
12 been abused or neglected, as a result of in-home services, he or she shall immediately report or
13 cause a report to be made to the department. If the report is made by a physician of the in-home
14 services client, the department shall maintain contact with the physician regarding the progress
15 of the investigation.

16 2. When a report of deteriorating physical condition resulting in possible abuse or
17 neglect of an in-home services client is received by the department, the client's case manager and
18 the department nurse shall be notified. The client's case manager shall investigate and
19 immediately report the results of the investigation to the department nurse. The department may
20 authorize the in-home services provider nurse to assist the case manager with the investigation.

21 3. If requested, local area agencies on aging shall provide volunteer training to those
22 persons listed in subsection 1 of this section regarding the detection and report of abuse and
23 neglect pursuant to this section.

24 4. Any person required in subsection 1 of this section to report or cause a report to be
25 made to the department who fails to do so within a reasonable time after the act of abuse or
26 neglect is guilty of a class A misdemeanor.

27 5. The report shall contain the names and addresses of the in-home services provider
28 agency, the in-home services employee, the in-home services client, the home health agency, the

29 home health agency employee, information regarding the nature of the abuse or neglect, the name
30 of the complainant, and any other information which might be helpful in an investigation.

31 6. In addition to those persons required to report under subsection 1 of this section, any
32 other person having reasonable cause to believe that an in-home services client or home health
33 patient has been abused or neglected by an in-home services employee or home health agency
34 employee may report such information to the department.

35 7. If the investigation indicates possible abuse or neglect of an in-home services client
36 or home health patient, the investigator shall refer the complaint together with his or her report
37 to the department director or his or her designee for appropriate action. If, during the
38 investigation or at its completion, the department has reasonable cause to believe that immediate
39 action is necessary to protect the in-home services client or home health patient from abuse or
40 neglect, the department or the local prosecuting attorney may, or the attorney general upon
41 request of the department shall, file a petition for temporary care and protection of the in-home
42 services client or home health patient in a circuit court of competent jurisdiction. The circuit
43 court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order
44 granting the department authority for the temporary care and protection of the in-home services
45 client or home health patient, for a period not to exceed thirty days.

46 8. Reports shall be confidential, as provided under section 192.2500.

47 9. Anyone, except any person who has abused or neglected an in-home services client
48 or home health patient, who makes a report pursuant to this section or who testifies in any
49 administrative or judicial proceeding arising from the report shall be immune from any civil or
50 criminal liability for making such a report or for testifying except for liability for perjury, unless
51 such person acted negligently, recklessly, in bad faith, or with malicious purpose.

52 10. Within five working days after a report required to be made under this section is
53 received, the person making the report shall be notified in writing of its receipt and of the
54 initiation of the investigation.

55 11. No person who directs or exercises any authority in an in-home services provider
56 agency or home health agency shall harass, dismiss or retaliate against an in-home services client
57 or home health patient, or an in-home services employee or a home health agency employee
58 because he or she or any member of his or her family has made a report of any violation or
59 suspected violation of laws, standards or regulations applying to the in-home services provider
60 agency or home health agency or any in-home services employee or home health agency
61 employee which he or she has reasonable cause to believe has been committed or has occurred.

62 12. Any person who abuses or neglects an in-home services client or home health patient
63 is subject to criminal prosecution under section 565.180, 565.182, or 565.184. If such person
64 is an in-home services employee and has been found guilty by a court, and if the supervising

65 in-home services provider willfully and knowingly failed to report known abuse by such
66 employee to the department, the supervising in-home services provider may be subject to
67 administrative penalties of one thousand dollars per violation to be collected by the department
68 and the money received therefor shall be paid to the director of revenue and deposited in the state
69 treasury to the credit of the general revenue fund. Any in-home services provider which has had
70 administrative penalties imposed by the department or which has had its contract terminated may
71 seek an administrative review of the department's action pursuant to chapter 621. Any decision
72 of the administrative hearing commission may be appealed to the circuit court in the county
73 where the violation occurred for a trial de novo. For purposes of this subsection, the term
74 "violation" means a determination of guilt by a court.

75 13. The department shall establish a quality assurance and supervision process for clients
76 that requires an in-home services provider agency to conduct random visits to verify compliance
77 with program standards and verify the accuracy of records kept by an in-home services
78 employee.

79 14. The department shall maintain the employee disqualification list and place on the
80 employee disqualification list the names of any persons who have been finally determined by the
81 department, pursuant to section 192.2490, to have recklessly, knowingly or purposely abused or
82 neglected an in-home services client or home health patient while employed by an in-home
83 services provider agency or home health agency. For purposes of this section only, "knowingly"
84 and "recklessly" shall have the meanings that are ascribed to them in this section. A person acts
85 "knowingly" with respect to the person's conduct when a reasonable person should be aware of
86 the result caused by his or her conduct. A person acts "recklessly" when the person consciously
87 disregards a substantial and unjustifiable risk that the person's conduct will result in serious
88 physical injury and such disregard constitutes a gross deviation from the standard of care that a
89 reasonable person would exercise in the situation.

90 15. At the time a client has been assessed to determine the level of care as required by
91 rule and is eligible for in-home services, the department shall conduct a "Safe at Home
92 Evaluation" to determine the client's physical, mental, and environmental capacity. The
93 department shall develop the safe at home evaluation tool by rule in accordance with chapter
94 536. The purpose of the safe at home evaluation is to assure that each client has the appropriate
95 level of services and professionals involved in the client's care. The plan of service or care for
96 each in-home services client shall be authorized by a nurse. The department may authorize the
97 licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of
98 the client's condition and to establish a plan of services or care. The department may use the
99 expertise, services, or programs of other departments and agencies on a case-by-case basis to
100 establish the plan of service or care. The department may, as indicated by the safe at home

101 evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for
102 evaluation and treatment as necessary.

103 16. Authorized nurse visits shall occur at least twice annually to assess the client and the
104 client's plan of services. The provider nurse shall report the results of his or her visits to the
105 client's case manager. If the provider nurse believes that the plan of service requires alteration,
106 the department shall be notified and the department shall make a client evaluation. All
107 authorized nurse visits shall be reimbursed to the in-home services provider. All authorized
108 nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients
109 whose services have reached one hundred percent of the average statewide charge for care and
110 treatment in an intermediate care facility, provided that the services have been preauthorized by
111 the department.

112 17. All in-home services clients shall be advised of their rights by the department or the
113 department's designee at the initial evaluation. The rights shall include, but not be limited to,
114 the right to call the department for any reason, including dissatisfaction with the provider or
115 services. The department may contract for services relating to receiving such complaints. The
116 department shall establish a process to receive such nonabuse and neglect calls other than the
117 elder abuse and neglect hotline.

118 18. Subject to appropriations, all nurse visits authorized in sections 192.2400 to
119 192.2475 shall be reimbursed to the in-home services provider agency.

197.1002. 1. The following persons shall be required to immediately report or cause a
2 report to be made to the department under sections 197.1000 to 197.1028:

3 (1) Any person having reasonable cause to suspect that an eligible adult presents a
4 likelihood of suffering serious physical harm and is in need of protective services; and

5 (2) Any adult day care worker[,] ; chiropractor[,] ; Christian Science practitioner[,] ;
6 coroner[,] ; dentist[,] ; embalmer[,] ; **emergency medical technician**; employee of the
7 departments of social services, mental health, or health and senior services[,] ; employee of a
8 local area agency on aging or an organized area agency on aging program[,] ; **firefighter**; **first**
9 **responder**; funeral director[,] ; home health agency[,] ; home health agency employee[,] ;
10 hospital and clinic personnel engaged in the care or treatment of others[,] ; in-home services
11 owner or provider[,] ; in-home services operator or employee[,] ; law enforcement officer[,] ;
12 long-term care facility administrator or employee[,] ; medical examiner[,] ; medical resident or
13 intern[,] ; mental health professional[,] ; minister[,] ; nurse[,] ; nurse practitioner[,] ;
14 optometrist[,] ; other health practitioner[,] ; peace officer[,] ; pharmacist[,] ; physical therapist[,]
15 ; physician[,] ; physician's assistant[,] ; podiatrist[,] ; probation or parole officer[,] ;
16 psychologist[,] ; social worker[,] ; or other person with the responsibility for the care of a person
17 sixty years of age or older who has reasonable cause to suspect that such a person has been

18 subjected to abuse or neglect or observes such a person being subjected to conditions or
19 circumstances which would reasonably result in abuse or neglect. Notwithstanding any other
20 provision of this section, a duly ordained minister, clergy, religious worker, or Christian Science
21 practitioner while functioning in his or her ministerial capacity shall not be required to report
22 concerning a privileged communication made to him or her in his or her professional capacity.

23 2. Any other person who becomes aware of circumstances that may reasonably be
24 expected to be the result of, or result in, abuse or neglect of a person sixty years of age or older
25 may report to the department.

26 3. The penalty for failing to report as required under subdivision (2) of subsection 1 of
27 this section is provided under section 565.188.

197.1030. 1. When any adult day care worker; chiropractor; Christian Science
2 practitioner; coroner; dentist; embalmer; **emergency medical technician**; employee of the
3 departments of social services, mental health, or health and senior services; employee of a local
4 area agency on aging or an organized area agency on aging program; **firefighter**; **first**
5 **responder**; funeral director; home health agency or home health agency employee; hospital and
6 clinic personnel engaged in examination, care, or treatment of persons; in-home services owner,
7 provider, operator, or employee; law enforcement officer; long-term care facility administrator
8 or employee; medical examiner; medical resident or intern; mental health professional; minister;
9 nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist;
10 physical therapist; physician; physician's assistant; podiatrist; probation or parole officer;
11 psychologist; or social worker has reasonable cause to believe that an in-home services client has
12 been abused or neglected, as a result of in-home services, he or she shall immediately report or
13 cause a report to be made to the department. If the report is made by a physician of the in-home
14 services client, the department shall maintain contact with the physician regarding the progress
15 of the investigation.

16 2. When a report of deteriorating physical condition resulting in possible abuse or
17 neglect of an in-home services client is received by the department, the client's case manager and
18 the department nurse shall be notified. The client's case manager shall investigate and
19 immediately report the results of the investigation to the department nurse. The department may
20 authorize the in-home services provider nurse to assist the case manager with the investigation.

21 3. If requested, local area agencies on aging shall provide volunteer training to those
22 persons listed in subsection 1 of this section regarding the detection and report of abuse and
23 neglect pursuant to this section.

24 4. Any person required in subsection 1 of this section to report or cause a report to be
25 made to the department who fails to do so within a reasonable time after the act of abuse or
26 neglect is guilty of a class A misdemeanor.

27 5. The report shall contain the names and addresses of the in-home services provider
28 agency, the in-home services employee, the in-home services client, the home health agency, the
29 home health agency employee, information regarding the nature of the abuse or neglect, the name
30 of the complainant, and any other information which might be helpful in an investigation.

31 6. In addition to those persons required to report under subsection 1 of this section, any
32 other person having reasonable cause to believe that an in-home services client or home health
33 patient has been abused or neglected by an in-home services employee or home health agency
34 employee may report such information to the department.

35 7. If the investigation indicates possible abuse or neglect of an in-home services client
36 or home health patient, the investigator shall refer the complaint together with his or her report
37 to the department director or his or her designee for appropriate action. If, during the
38 investigation or at its completion, the department has reasonable cause to believe that immediate
39 action is necessary to protect the in-home services client or home health patient from abuse or
40 neglect, the department or the local prosecuting attorney may, or the attorney general upon
41 request of the department shall, file a petition for temporary care and protection of the in-home
42 services client or home health patient in a circuit court of competent jurisdiction. The circuit
43 court in which the petition is filed shall have equitable jurisdiction to issue an ex parte order
44 granting the department authority for the temporary care and protection of the in-home services
45 client or home health patient, for a period not to exceed thirty days.

46 8. Reports shall be confidential, as provided under section 197.1040.

47 9. Anyone, except any person who has abused or neglected an in-home services client
48 or home health patient, who makes a report pursuant to this section or who testifies in any
49 administrative or judicial proceeding arising from the report shall be immune from any civil or
50 criminal liability for making such a report or for testifying except for liability for perjury, unless
51 such person acted negligently, recklessly, in bad faith, or with malicious purpose.

52 10. Within five working days after a report required to be made under this section is
53 received, the person making the report shall be notified in writing of its receipt and of the
54 initiation of the investigation.

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56 agency or home health agency shall harass, dismiss or retaliate against an in-home services client
57 or home health patient, or an in-home services employee or a home health agency employee
58 because he or any member of his or her family has made a report of any violation or suspected
59 violation of laws, standards or regulations applying to the in-home services provider agency or
60 home health agency or any in-home services employee or home health agency employee which
61 he has reasonable cause to believe has been committed or has occurred.

62 12. Any person who abuses or neglects an in-home services client or home health patient
63 is subject to criminal prosecution under section 565.184. If such person is an in-home services
64 employee and has been found guilty by a court, and if the supervising in-home services provider
65 willfully and knowingly failed to report known abuse by such employee to the department, the
66 supervising in-home services provider may be subject to administrative penalties of one thousand
67 dollars per violation to be collected by the department and the money received therefor shall be
68 paid to the director of revenue and deposited in the state treasury to the credit of the general
69 revenue fund. Any in-home services provider which has had administrative penalties imposed
70 by the department or which has had its contract terminated may seek an administrative review
71 of the department's action pursuant to chapter 621. Any decision of the administrative hearing
72 commission may be appealed to the circuit court in the county where the violation occurred for
73 a trial de novo. For purposes of this subsection, the term "violation" means a determination of
74 guilt by a court.

75 13. The department shall establish a quality assurance and supervision process for clients
76 that requires an in-home services provider agency to conduct random visits to verify compliance
77 with program standards and verify the accuracy of records kept by an in-home services
78 employee.

79 14. The department shall maintain the employee disqualification list and place on the
80 employee disqualification list the names of any persons who have been finally determined by the
81 department, pursuant to section [660.315] **197.1036**, to have recklessly, knowingly or purposely
82 abused or neglected an in-home services client or home health patient while employed by an
83 in-home services provider agency or home health agency. For purposes of this section only,
84 "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section.
85 A person acts "knowingly" with respect to the person's conduct when a reasonable person should
86 be aware of the result caused by his or her conduct. A person acts "recklessly" when the person
87 consciously disregards a substantial and unjustifiable risk that the person's conduct will result
88 in serious physical injury and such disregard constitutes a gross deviation from the standard of
89 care that a reasonable person would exercise in the situation.

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91 rule and is eligible for in-home services, the department shall conduct a "Safe at Home
92 Evaluation" to determine the client's physical, mental, and environmental capacity. The
93 department shall develop the safe at home evaluation tool by rule in accordance with chapter
94 536. The purpose of the safe at home evaluation is to assure that each client has the appropriate
95 level of services and professionals involved in the client's care. The plan of service or care for
96 each in-home services client shall be authorized by a nurse. The department may authorize the
97 licensed in-home services nurse, in lieu of the department nurse, to conduct the assessment of

98 the client's condition and to establish a plan of services or care. The department may use the
99 expertise, services, or programs of other departments and agencies on a case-by-case basis to
100 establish the plan of service or care. The department may, as indicated by the safe at home
101 evaluation, refer any client to a mental health professional, as defined in 9 CSR 30-4.030, for
102 evaluation and treatment as necessary.

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104 client's plan of services. The provider nurse shall report the results of his or her visits to the
105 client's case manager. If the provider nurse believes that the plan of service requires alteration,
106 the department shall be notified and the department shall make a client evaluation. All
107 authorized nurse visits shall be reimbursed to the in-home services provider. All authorized
108 nurse visits shall be reimbursed outside of the nursing home cap for in-home services clients
109 whose services have reached one hundred percent of the average statewide charge for care and
110 treatment in an intermediate care facility, provided that the services have been preauthorized by
111 the department.

112 17. All in-home services clients shall be advised of their rights by the department or the
113 department's designee at the initial evaluation. The rights shall include, but not be limited to,
114 the right to call the department for any reason, including dissatisfaction with the provider or
115 services. The department may contract for services relating to receiving such complaints. The
116 department shall establish a process to receive such nonabuse and neglect calls other than the
117 elder abuse and neglect hotline.

118 18. Subject to appropriations, all nurse visits authorized in sections 197.1000 to
119 197.1030 shall be reimbursed to the in-home services provider agency.

198.070. 1. When any adult day care worker; chiropractor; Christian Science
2 practitioner; coroner; dentist; embalmer; **emergency medical technician**; employee of the
3 departments of social services, mental health, or health and senior services; employee of a local
4 area agency on aging or an organized area agency on aging program; **firefighter**; **first**
5 **responder**; funeral director; home health agency or home health agency employee; hospital and
6 clinic personnel engaged in examination, care, or treatment of persons; in-home services owner,
7 provider, operator, or employee; law enforcement officer; long-term care facility administrator
8 or employee; medical examiner; medical resident or intern; mental health professional; minister;
9 nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist;
10 physical therapist; physician; physician's assistant; podiatrist; probation or parole officer;
11 psychologist; social worker; or other person with the care of a person sixty years of age or older
12 or an eligible adult has reasonable cause to believe that a resident of a facility has been abused
13 or neglected, he or she shall immediately report or cause a report to be made to the department.

14 2. The report shall contain the name and address of the facility, the name of the resident,
15 information regarding the nature of the abuse or neglect, the name of the complainant, and any
16 other information which might be helpful in an investigation.

17 3. Any person required in subsection 1 of this section to report or cause a report to be
18 made to the department who knowingly fails to make a report within a reasonable time after the
19 act of abuse or neglect as required in this subsection is guilty of a class A misdemeanor.

20 4. In addition to the penalties imposed by this section, any administrator who knowingly
21 conceals any act of abuse or neglect resulting in death or serious physical injury, as defined in
22 section 556.061, is guilty of a class E felony.

23 5. In addition to those persons required to report pursuant to subsection 1 of this section,
24 any other person having reasonable cause to believe that a resident has been abused or neglected
25 may report such information to the department.

26 6. Upon receipt of a report, the department shall initiate an investigation within
27 twenty-four hours and, as soon as possible during the course of the investigation, shall notify the
28 resident's next of kin or responsible party of the report and the investigation and further notify
29 them whether the report was substantiated or unsubstantiated unless such person is the alleged
30 perpetrator of the abuse or neglect. As provided in section 192.2425, substantiated reports of
31 elder abuse shall be promptly reported by the department to the appropriate law enforcement
32 agency and prosecutor.

33 7. If the investigation indicates possible abuse or neglect of a resident, the investigator
34 shall refer the complaint together with the investigator's report to the department director or the
35 director's designee for appropriate action. If, during the investigation or at its completion, the
36 department has reasonable cause to believe that immediate removal is necessary to protect the
37 resident from abuse or neglect, the department or the local prosecuting attorney may, or the
38 attorney general upon request of the department shall, file a petition for temporary care and
39 protection of the resident in a circuit court of competent jurisdiction. The circuit court in which
40 the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the
41 department authority for the temporary care and protection of the resident, for a period not to
42 exceed thirty days.

43 8. Reports shall be confidential, as provided pursuant to section 192.2500.

44 9. Anyone, except any person who has abused or neglected a resident in a facility, who
45 makes a report pursuant to this section or who testifies in any administrative or judicial
46 proceeding arising from the report shall be immune from any civil or criminal liability for
47 making such a report or for testifying except for liability for perjury, unless such person acted
48 negligently, recklessly, in bad faith or with malicious purpose. It is a crime under section
49 565.189 for any person to knowingly file a false report of elder abuse or neglect.

50 10. Within five working days after a report required to be made pursuant to this section
51 is received, the person making the report shall be notified in writing of its receipt and of the
52 initiation of the investigation.

53 11. No person who directs or exercises any authority in a facility shall evict, harass,
54 dismiss or retaliate against a resident or employee because such resident or employee or any
55 member of such resident's or employee's family has made a report of any violation or suspected
56 violation of laws, ordinances or regulations applying to the facility which the resident, the
57 resident's family or an employee has reasonable cause to believe has been committed or has
58 occurred. Through the existing department information and referral telephone contact line,
59 residents, their families and employees of a facility shall be able to obtain information about their
60 rights, protections and options in cases of eviction, harassment, dismissal or retaliation due to
61 a report being made pursuant to this section.

62 12. Any person who abuses or neglects a resident of a facility is subject to criminal
63 prosecution under section 565.184.

64 13. The department shall maintain the employee disqualification list and place on the
65 employee disqualification list the names of any persons who are or have been employed in any
66 facility and who have been finally determined by the department pursuant to section 192.2490
67 to have knowingly or recklessly abused or neglected a resident. For purposes of this section
68 only, "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this
69 section. A person acts "knowingly" with respect to the person's conduct when a reasonable
70 person should be aware of the result caused by his or her conduct. A person acts "recklessly"
71 when the person consciously disregards a substantial and unjustifiable risk that the person's
72 conduct will result in serious physical injury and such disregard constitutes a gross deviation
73 from the standard of care that a reasonable person would exercise in the situation.

74 14. The timely self-reporting of incidents to the central registry by a facility shall
75 continue to be investigated in accordance with department policy, and shall not be counted or
76 reported by the department as a hot-line call but rather a self-reported incident. If the
77 self-reported incident results in a regulatory violation, such incident shall be reported as a
78 substantiated report.

198.070. 1. When any adult day care worker; chiropractor; Christian Science
2 practitioner; coroner; dentist; embalmer; **emergency medical technician**; employee of the
3 departments of social services, mental health, or health and senior services; employee of a local
4 area agency on aging or an organized area agency on aging program; **firefighter**; **first**
5 **responder**; funeral director; home health agency or home health agency employee; hospital and
6 clinic personnel engaged in examination, care, or treatment of persons; in-home services owner,
7 provider, operator, or employee; law enforcement officer; long-term care facility administrator

8 or employee; medical examiner; medical resident or intern; mental health professional; minister;
9 nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist;
10 physical therapist; physician; physician's assistant; podiatrist; probation or parole officer;
11 psychologist; social worker; or other person with the care of a person sixty years of age or older
12 or an eligible adult has reasonable cause to believe that a resident of a facility has been abused
13 or neglected, he or she shall immediately report or cause a report to be made to the department.

14 2. The report shall contain the name and address of the facility, the name of the resident,
15 information regarding the nature of the abuse or neglect, the name of the complainant, and any
16 other information which might be helpful in an investigation.

17 3. Any person required in subsection 1 of this section to report or cause a report to be
18 made to the department who knowingly fails to make a report within a reasonable time after the
19 act of abuse or neglect as required in this subsection is guilty of a class A misdemeanor.

20 4. In addition to the penalties imposed by this section, any administrator who knowingly
21 conceals any act of abuse or neglect resulting in death or serious physical injury, as defined in
22 section 565.002, is guilty of a class D felony.

23 5. In addition to those persons required to report pursuant to subsection 1 of this section,
24 any other person having reasonable cause to believe that a resident has been abused or neglected
25 may report such information to the department.

26 6. Upon receipt of a report, the department shall initiate an investigation within
27 twenty-four hours and, as soon as possible during the course of the investigation, shall notify the
28 resident's next of kin or responsible party of the report and the investigation and further notify
29 them whether the report was substantiated or unsubstantiated unless such person is the alleged
30 perpetrator of the abuse or neglect. As provided in section 565.186, substantiated reports of
31 elder abuse shall be promptly reported by the department to the appropriate law enforcement
32 agency and prosecutor.

33 7. If the investigation indicates possible abuse or neglect of a resident, the investigator
34 shall refer the complaint together with the investigator's report to the department director or the
35 director's designee for appropriate action. If, during the investigation or at its completion, the
36 department has reasonable cause to believe that immediate removal is necessary to protect the
37 resident from abuse or neglect, the department or the local prosecuting attorney may, or the
38 attorney general upon request of the department shall, file a petition for temporary care and
39 protection of the resident in a circuit court of competent jurisdiction. The circuit court in which
40 the petition is filed shall have equitable jurisdiction to issue an ex parte order granting the
41 department authority for the temporary care and protection of the resident, for a period not to
42 exceed thirty days.

43 8. Reports shall be confidential, as provided pursuant to section 660.320.

44 9. Anyone, except any person who has abused or neglected a resident in a facility, who
45 makes a report pursuant to this section or who testifies in any administrative or judicial
46 proceeding arising from the report shall be immune from any civil or criminal liability for
47 making such a report or for testifying except for liability for perjury, unless such person acted
48 negligently, recklessly, in bad faith or with malicious purpose. It is a crime pursuant to section
49 565.186 and 565.188 for any person to purposely file a false report of elder abuse or neglect.

50 10. Within five working days after a report required to be made pursuant to this section
51 is received, the person making the report shall be notified in writing of its receipt and of the
52 initiation of the investigation.

53 11. No person who directs or exercises any authority in a facility shall evict, harass,
54 dismiss or retaliate against a resident or employee because such resident or employee or any
55 member of such resident's or employee's family has made a report of any violation or suspected
56 violation of laws, ordinances or regulations applying to the facility which the resident, the
57 resident's family or an employee has reasonable cause to believe has been committed or has
58 occurred. Through the existing department information and referral telephone contact line,
59 residents, their families and employees of a facility shall be able to obtain information about their
60 rights, protections and options in cases of eviction, harassment, dismissal or retaliation due to
61 a report being made pursuant to this section.

62 12. Any person who abuses or neglects a resident of a facility is subject to criminal
63 prosecution under section 565.180, 565.182, or 565.184.

64 13. The department shall maintain the employee disqualification list and place on the
65 employee disqualification list the names of any persons who are or have been employed in any
66 facility and who have been finally determined by the department pursuant to section 660.315 to
67 have knowingly or recklessly abused or neglected a resident. For purposes of this section only,
68 "knowingly" and "recklessly" shall have the meanings that are ascribed to them in this section.
69 A person acts "knowingly" with respect to the person's conduct when a reasonable person should
70 be aware of the result caused by his or her conduct. A person acts "recklessly" when the person
71 consciously disregards a substantial and unjustifiable risk that the person's conduct will result
72 in serious physical injury and such disregard constitutes a gross deviation from the standard of
73 care that a reasonable person would exercise in the situation.

74 14. The timely self-reporting of incidents to the central registry by a facility shall
75 continue to be investigated in accordance with department policy, and shall not be counted or
76 reported by the department as a hot-line call but rather a self-reported incident. If the
77 self-reported incident results in a regulatory violation, such incident shall be reported as a
78 substantiated report.

208.912. 1. When any adult day care worker; chiropractor[,] ; Christian Science practitioner[,] ; coroner[,] ; dentist[,] ; embalmer[,] ; **emergency medical technician**; employee of the departments of social services, mental health, or health and senior services; employee of a local area agency on aging or an organized area agency on aging program; **firefighter; first responder**; funeral director; home health agency or home health agency employee; hospital and clinic personnel engaged in examination, care, or treatment of persons; in-home services owner, provider, operator, or employee; law enforcement officer; long-term care facility administrator or employee; medical examiner; medical resident or intern; mental health professional; minister; nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist; physical therapist; physician; physician's assistant; podiatrist; probation or parole officer; psychologist; vendor as defined in section 208.900; personal care attendant; or social worker has reasonable cause to believe that a consumer has been abused or neglected as defined in section 192.2400 as a result of the delivery of or failure to deliver personal care assistance services, he or she shall immediately report or cause a report to be made to the department. If the report is made by a physician of the consumer, the department shall maintain contact with the physician regarding the progress of the investigation.

2. When a report of deteriorating physical condition resulting in possible abuse or neglect of a consumer is received by the department, the department's case manager and the department nurse shall be notified. The case manager shall investigate and immediately report the results of the investigation to the department nurse.

3. If requested, local area agencies on aging shall provide volunteer training to those persons listed in subsection 1 of this section regarding the detection and reporting of abuse and neglect under this section.

4. Any person required in subsection 1 of this section to report or cause a report to be made to the department who fails to do so within a reasonable time after the act of abuse or neglect is guilty of a class A misdemeanor.

5. The report shall contain the names and addresses of the vendor, the personal care attendant, and the consumer, and information regarding the nature of the abuse or neglect, the name of the complainant, and any other information which might be helpful in an investigation.

6. In addition to those persons required to report under subsection 1 of this section, any other person having reasonable cause to believe that a consumer has been abused or neglected by a personal care attendant may report such information to the department.

7. If the investigation indicates possible abuse or neglect of a consumer, the investigator shall refer the complaint together with his or her report to the department director or his or her designee for appropriate action. If, during the investigation or at its completion, the department has reasonable cause to believe that immediate action is necessary to protect the consumer from

37 abuse or neglect, the department or the local prosecuting attorney may, or the attorney general
38 upon request of the department shall, file a petition for temporary care and protection of the
39 consumer in a circuit court of competent jurisdiction. The circuit court in which the petition is
40 filed shall have equitable jurisdiction to issue an ex parte order granting the department authority
41 for the temporary care and protection of **the** consumer, for a period not to exceed thirty days.

42 8. Reports shall be confidential, as provided under section 192.2500.

43 9. Anyone, except any person who has abused or neglected a consumer, who makes a
44 report pursuant to this section or who testifies in any administrative or judicial proceeding arising
45 from the report shall be immune from any civil or criminal liability for making such a report or
46 for testifying, except for liability for perjury, unless such person acted negligently, recklessly,
47 in bad faith, or with malicious purpose.

48 10. Within five working days after a report required to be made under this section is
49 received, the person making the report shall be notified of its receipt and of the initiation of the
50 investigation.

51 11. No person who directs or exercises any authority as a vendor, and no personal care
52 attendant, shall harass, dismiss or retaliate against a consumer because he or she or any member
53 of his or her family has made a report of any violation or suspected violation of laws, standards
54 or regulations applying to the vendor or personal care attendant which he or she has reasonable
55 cause to believe has been committed or has occurred.

56 12. The department shall place on the employee disqualification list established in
57 section 192.2490 the names of any persons who have been finally determined by the department
58 to have recklessly, knowingly or purposely abused or neglected a consumer while employed by
59 a vendor, or employed by a consumer as a personal care attendant.

60 13. The department shall provide the list maintained pursuant to section 192.2490 to
61 vendors as defined in section 208.900.

62 14. Any person, corporation or association who received the employee disqualification
63 list under subsection 13 of this section, or any person responsible for providing health care
64 service, who declines to employ or terminates a person whose name is listed in this section shall
65 be immune from suit by that person or anyone else acting for or in behalf of that person for the
66 failure to employ or for the termination of the person whose name is listed on the employee
67 disqualification list.

565.188. 1. When any adult day care worker; chiropractor; Christian Science
2 practitioner; coroner; dentist; embalmer; **emergency medical technician**; employee of the
3 departments of social services, mental health, or health and senior services; employee of a local
4 area agency on aging or an organized area agency on aging program; **firefighter**; **first**
5 **responder**; funeral director; home health agency or home health agency employee; hospital and

6 clinic personnel engaged in examination, care, or treatment of persons; in-home services owner,
7 provider, operator, or employee; law enforcement officer; long-term care facility administrator
8 or employee; medical examiner; medical resident or intern; mental health professional; minister;
9 nurse; nurse practitioner; optometrist; other health practitioner; peace officer; pharmacist;
10 physical therapist; physician; physician's assistant; podiatrist; probation or parole officer;
11 psychologist; social worker; or other person with responsibility for the care of a person sixty
12 years of age or older has reasonable cause to suspect that such a person has been subjected to
13 abuse or neglect or observes such a person being subjected to conditions or circumstances which
14 would reasonably result in abuse or neglect, he or she shall immediately report or cause a report
15 to be made to the department in accordance with the provisions of sections 192.2400 to
16 192.2470. Any other person who becomes aware of circumstances which may reasonably be
17 expected to be the result of or result in abuse or neglect may report to the department.

18 2. Any person who knowingly fails to make a report as required in subsection 1 of this
19 section is guilty of a class A misdemeanor.

20 3. Any person who purposely files a false report of elder abuse or neglect is guilty of a
21 class A misdemeanor.

22 4. Every person who has been previously convicted of or pled guilty to making a false
23 report to the department and who is subsequently convicted of making a false report under
24 subsection 3 of this section is guilty of a class D felony.

25 5. Evidence of prior convictions of false reporting shall be heard by the court, out of the
26 hearing of the jury, prior to the submission of the case to the jury, and the court shall determine
27 the existence of the prior convictions.

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