

HOUSE AMENDMENT NO. _____
TO
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Offered By

1 AMEND House Amendment No. _____ to House Bill No. 1637, Page 1, Line 4, by deleting all of
2 said line and inserting in lieu thereof the following:

3
4 ""191.900. As used in sections 191.900 to 191.910, the following terms mean:

5 (1) "Abuse", the infliction of physical, sexual or emotional harm or injury. "Abuse"
6 includes the taking, obtaining, using, transferring, concealing, appropriating or taking possession of
7 property of another person without such person's consent;

8 (2) "Claim", any attempt to cause a health care payer to make a health care payment;

9 (3) "False", wholly or partially untrue. A false statement or false representation of a
10 material fact means the failure to reveal material facts in a manner which is intended to deceive a
11 health care payer with respect to a claim;

12 (4) "Health care", any service, assistance, care, product, device or thing provided pursuant
13 to a medical assistance program, or for which payment is requested or received, in whole or part,
14 pursuant to a medical assistance program;

15 (5) "Health care payer", a medical assistance program, or any person reviewing, adjusting,
16 approving or otherwise handling claims for health care on behalf of or in connection with a medical
17 assistance program;

18 (6) "Health care payment", a payment made, or the right under a medical assistance program
19 to have a payment made, by a health care payer for a health care service;

20 (7) "Health care provider", any person delivering, or purporting to deliver, any health care,
21 and including any employee, agent or other representative of such a person, and further including
22 any employee, representative, or subcontractor of the state of Missouri delivering, purporting to
23 deliver, or arranging for the delivery of any health care;

24 (8) "Knowing" and "knowingly", that a person, with respect to information:

25 (a) Has actual knowledge of the information;

26 (b) Acts in deliberate ignorance of the truth or falsity of the information; or

27 (c) Acts in reckless disregard of the truth or falsity of the information.

28 Use of the terms knowing or knowingly shall be construed to include the term "intentionally", which

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1 means that a person, with respect to information, intended to act in violation of the law;

2 (9) "Medical assistance program", MO HealthNet, or any program to provide or finance
3 health care to participants which is established pursuant to title 42 of the United States Code, any
4 successor federal health insurance program, or a waiver granted thereunder. A medical assistance
5 program may be funded either solely by state funds or by state and federal funds jointly. The term
6 "medical assistance program" shall include the medical assistance program provided by section
7 208.151, et seq., and any state agency or agencies administering all or any part of such a program;

8 (10) "Neglect", the failure to provide to a person receiving health care the care, goods, or
9 services, including visitations as allowed by law, that are reasonable and necessary to maintain the
10 physical and mental health of such person, when such failure presents either an imminent danger to
11 the health, safety, or welfare of the person or a substantial probability that death or serious physical
12 harm would result;

13 (11) "Person", a natural person, corporation, partnership, association or any legal entity.

14 191.905. 1. No health care provider shall knowingly make or cause to be made a false
15 statement or false representation of a material fact in order to receive a health care payment,
16 including but not limited to:

17 (1) Knowingly presenting to a health care payer a claim for a health care payment that
18 falsely represents that the health care for which the health care payment is claimed was medically
19 necessary, if in fact it was not;

20 (2) Knowingly concealing the occurrence of any event affecting an initial or continued right
21 under a medical assistance program to have a health care payment made by a health care payer for
22 providing health care;

23 (3) Knowingly concealing or failing to disclose any information with the intent to obtain a
24 health care payment to which the health care provider or any other health care provider is not
25 entitled, or to obtain a health care payment in an amount greater than that which the health care
26 provider or any other health care provider is entitled;

27 (4) Knowingly presenting a claim to a health care payer that falsely indicates that any
28 particular health care was provided to a person or persons, if in fact health care of lesser value than
29 that described in the claim was provided.

30 2. No person shall knowingly solicit or receive any remuneration, including any kickback,
31 bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind in return for:

32 (1) Referring another person to a health care provider for the furnishing or arranging for the
33 furnishing of any health care; or

34 (2) Purchasing, leasing, ordering or arranging for or recommending purchasing, leasing or
35 ordering any health care.

36 3. No person shall knowingly offer or pay any remuneration, including any kickback, bribe,
37 or rebate, directly or indirectly, overtly or covertly, in cash or in kind, to any person to induce such
38 person to refer another person to a health care provider for the furnishing or arranging for the
39 furnishing of any health care.

1 4. Subsections 2 and 3 of this section shall not apply to a discount or other reduction in price
2 obtained by a health care provider if the reduction in price is properly disclosed and appropriately
3 reflected in the claim made by the health care provider to the health care payer, or any amount paid
4 by an employer to an employee for employment in the provision of health care.

5 5. Exceptions to the provisions of subsections 2 and 3 of this section shall be provided for as
6 authorized in 42 U.S.C. Section 1320a-7b(3)(E), as may be from time to time amended, and
7 regulations promulgated pursuant thereto.

8 6. No person shall knowingly abuse or neglect a person receiving health care.

9 7. A person who violates subsections 1 to 3 of this section is guilty of a class D felony upon
10 his or her first conviction, and shall be guilty of a class B felony upon his or her second and
11 subsequent convictions. Any person who has been convicted of such violations shall be referred to
12 the Office of Inspector General within the United States Department of Health and Human Services.
13 The person so referred shall be subject to the penalties provided for under 42 U.S.C. Chapter 7,
14 Subchapter XI, Section 1320a-7. A prior conviction shall be pleaded and proven as provided by
15 section 558.021. A person who violates subsection 6 of this section shall be guilty of a class D
16 felony, unless the act involves no physical, sexual or emotional harm or injury and the value of the
17 property involved is less than five hundred dollars, in which event a violation of subsection 6 of this
18 section is a class A misdemeanor.

19 8. Any natural person who willfully prevents, obstructs, misleads, delays, or attempts to
20 prevent, obstruct, mislead, or delay the communication of information or records relating to a
21 violation of sections 191.900 to 191.910 is guilty of a class E felony.

22 9. Each separate false statement or false representation of a material fact proscribed by
23 subsection 1 of this section or act proscribed by subsection 2 or 3 of this section shall constitute a
24 separate offense and a separate violation of this section, whether or not made at the same or different
25 times, as part of the same or separate episodes, as part of the same scheme or course of conduct, or
26 as part of the same claim.

27 10. In a prosecution pursuant to subsection 1 of this section, circumstantial evidence may be
28 presented to demonstrate that a false statement or claim was knowingly made. Such evidence of
29 knowledge may include but shall not be limited to the following:

30 (1) A claim for a health care payment submitted with the health care provider's actual,
31 facsimile, stamped, typewritten or similar signature on the claim for health care payment;

32 (2) A claim for a health care payment submitted by means of computer billing tapes or other
33 electronic means;

34 (3) A course of conduct involving other false claims submitted to this or any other health
35 care payer.

36 11. Any person convicted of a violation of this section, in addition to any fines, penalties or
37 sentences imposed by law, shall be required to make restitution to the federal and state governments,
38 in an amount at least equal to that unlawfully paid to or by the person, and shall be required to
39 reimburse the reasonable costs attributable to the investigation and prosecution pursuant to sections

1 191.900 to 191.910. All of such restitution shall be paid and deposited to the credit of the "MO
2 HealthNet Fraud Reimbursement Fund", which is hereby established in the state treasury. Moneys
3 in the MO HealthNet fraud reimbursement fund shall be divided and appropriated to the federal
4 government and affected state agencies in order to refund moneys falsely obtained from the federal
5 and state governments. All of such cost reimbursements attributable to the investigation and
6 prosecution shall be paid and deposited to the credit of the "MO HealthNet Fraud Prosecution
7 Revolving Fund", which is hereby established in the state treasury. Moneys in the MO HealthNet
8 fraud prosecution revolving fund may be appropriated to the attorney general, or to any prosecuting
9 or circuit attorney who has successfully prosecuted an action for a violation of sections 191.900 to
10 191.910 and been awarded such costs of prosecution, in order to defray the costs of the attorney
11 general and any such prosecuting or circuit attorney in connection with their duties provided by
12 sections 191.900 to 191.910. No moneys shall be paid into the MO HealthNet fraud protection
13 revolving fund pursuant to this subsection unless the attorney general or appropriate prosecuting or
14 circuit attorney shall have commenced a prosecution pursuant to this section, and the court finds in
15 its discretion that payment of attorneys' fees and investigative costs is appropriate under all the
16 circumstances, and the attorney general and prosecuting or circuit attorney shall prove to the court
17 those expenses which were reasonable and necessary to the investigation and prosecution of such
18 case, and the court approves such expenses as being reasonable and necessary. Any moneys
19 remaining in the MO HealthNet fraud reimbursement fund after division and appropriation to the
20 federal government and affected state agencies shall be used to increase MO HealthNet provider
21 reimbursement until it is at least one hundred percent of the Medicare provider reimbursement rate
22 for comparable services. The provisions of section 33.080 notwithstanding, moneys in the MO
23 HealthNet fraud prosecution revolving fund shall not lapse at the end of the biennium.

24 12. A person who violates subsections 1 to 3 of this section shall be liable for a civil penalty
25 of not less than five thousand dollars and not more than ten thousand dollars for each separate act in
26 violation of such subsections, plus three times the amount of damages which the state and federal
27 government sustained because of the act of that person, except that the court may assess not more
28 than two times the amount of damages which the state and federal government sustained because of
29 the act of the person, if the court finds:

30 (1) The person committing the violation of this section furnished personnel employed by the
31 attorney general and responsible for investigating violations of sections 191.900 to 191.910 with all
32 information known to such person about the violation within thirty days after the date on which the
33 defendant first obtained the information;

34 (2) Such person fully cooperated with any government investigation of such violation; and

35 (3) At the time such person furnished the personnel [øf] employed by the attorney general
36 with the information about the violation, no criminal prosecution, civil action, or administrative
37 action had commenced with respect to such violation, and the person did not have actual knowledge
38 of the existence of an investigation into such violation.

39 13. Upon conviction pursuant to this section, the prosecution authority shall provide written

1 notification of the conviction to all regulatory or disciplinary agencies with authority over the
2 conduct of the defendant health care provider.

3 14. The attorney general may bring a civil action against any person who shall receive a
4 health care payment as a result of a false statement or false representation of a material fact made or
5 caused to be made by that person. The person shall be liable for up to double the amount of all
6 payments received by that person based upon the false statement or false representation of a material
7 fact, and the reasonable costs attributable to the prosecution of the civil action. All such restitution
8 shall be paid and deposited to the credit of the MO HealthNet fraud reimbursement fund, and all
9 such cost reimbursements shall be paid and deposited to the credit of the MO HealthNet fraud
10 prosecution revolving fund. No reimbursement of such costs attributable to the prosecution of the
11 civil action shall be made or allowed except with the approval of the court having jurisdiction of the
12 civil action. No civil action provided by this subsection shall be brought if restitution and civil
13 penalties provided by subsections 11 and 12 of this section have been previously ordered against the
14 person for the same cause of action.

15 15. Any person who discovers a violation by himself or herself or such person's organization
16 and who reports such information voluntarily before such information is public or known to the
17 attorney general shall not be prosecuted for a criminal violation.

18 210.493. 1. Officers, managers, contractors, volunteers with access to children, and"; and
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20 Further amend said amendment, Page 3, Line 30, by deleting all of said line and inserting in lieu
21 thereof the following:

22
23 "authority and any rule proposed or adopted after July 14, 2021, shall be invalid and void.

24 565.184. 1. A person commits the offense of abuse of an elderly person, a person with a
25 disability, or a vulnerable person if he or she:

26 (1) Purposely engages in conduct involving more than one incident that causes emotional
27 distress to an elderly person, a person with a disability, or a vulnerable person. The course of
28 conduct shall be such as would cause a reasonable elderly person, person with a disability, or
29 vulnerable person to suffer substantial emotional distress; or

30 (2) Intentionally fails to provide care, goods ~~[ø]~~, services, or visitations allowable by law to
31 an elderly person, a person with a disability, or a vulnerable person. The result of the conduct shall
32 be such as would cause a reasonable elderly person, person with a disability, or vulnerable person to
33 suffer physical or emotional distress; or

34 (3) Knowingly acts or knowingly fails to act in a manner which results in a substantial risk
35 to the life, body or health of an elderly person, a person with a disability, or a vulnerable person.

36 2. Any person who commits the offense of abuse of an elderly person, a person with a
37 disability, or a vulnerable person under subdivision (1) or (2) of subsection 1 of this section is guilty
38 of a class D felony. Any person who commits the offense of abuse of an elderly person, a person
39 with a disability, or a vulnerable person under subdivision (3) of subsection 1 of this section is guilty

1 of a class A misdemeanor. Nothing in this section shall be construed to mean that an elderly person,
2 a person with a disability, or a vulnerable person is abused solely because such person chooses to
3 rely on spiritual means through prayer, in lieu of medical care, for his or her health care, as evidence
4 by such person's explicit consent, advance directive for health care, or practice."; and

5
6 Further amend said bill and page, Section 570.212, Line 11, by inserting after said section and line
7 the following:

8
9 "630.155. 1. A person commits the offense of patient, resident or client abuse or neglect
10 against any person admitted on a voluntary or involuntary basis to any mental health facility or
11 mental health program in which people may be civilly detained pursuant to chapter 632, or any
12 patient, resident or client of any residential facility, day program or specialized service operated,
13 funded or licensed by the department if he knowingly does any of the following:

14 (1) Beats, strikes or injures any person, patient, resident or client;

15 (2) Mistreats or maltreats, handles or treats any such person, patient, resident or client in a
16 brutal or inhuman manner;

17 (3) Uses any more force than is reasonably necessary for the proper control, treatment or
18 management of such person, patient, resident or client;

19 (4) Fails to provide services which are reasonable and necessary to maintain the physical
20 and mental health of any person, patient, resident or client when such failure presents either an
21 imminent danger to the health, safety or welfare of the person, patient, resident or client, or a
22 substantial probability that death or serious physical harm will result.

23 2. Patient, resident or client abuse or neglect is a class A misdemeanor unless committed
24 under subdivision (2) or (4) of subsection 1 of this section in which case such abuse or neglect shall
25 be a class ~~E~~ D felony."; and"; and

26
27 Further amend said bill by amending the title, enacting clause, and intersectional references
28 accordingly.

29
30 THIS AMENDMENT AMENDS 3817H01.19H