

HCS SCS SB 538 -- LONG-TERM CARE FACILITIES

SPONSOR: Champion (Wasson)

COMMITTEE ACTION: Voted "do pass" by the Committee on Senior Citizen Advocacy by a vote of 11 to 0.

This substitute changes the laws regarding long-term care facilities and residents, blaster licenses, and home and community-based care assessments.

FIRE SAFETY STANDARDS IN NURSING HOMES (Sections 198.074 and 198.075, RSMo)

Any section of a licensed nursing home facility in which a major renovation has been completed on or after August 28, 2007, must install and maintain an approved sprinkler system in accordance with National Fire Protection Association (NFPA) 13. The fire sprinkler exemption for certain skilled nursing and intermediate care facilities of existing residential board and care occupancies of NFPA life safety code is removed.

If a facility submits a plan of compliance for the installation of a sprinkler system required under state law, the facility must install a complete fire alarm system that complies with NFPA 72 upon installation of the sprinkler system. Until the sprinkler system is installed in the facility which has submitted a plan, each resident room or any room designated for sleeping in the facility must be equipped with at least one battery-powered smoke alarm and be installed, tested, and maintained in accordance with the federal standard. The facility must also be equipped with heat detectors interconnected to the fire alarm system to be installed, tested, and maintained in accordance with the federal standard in certain areas of the facility. The current requirement that interconnected smoke detectors be in place throughout the facility is removed. All department inspectors who inspect facilities for compliance of these provisions must complete a fire inspector course, as developed by the Division of Fire Safety within the Department of Public Safety, by December 31, 2012.

The substitute specifies that the Fire Safety Standards Loan Fund can be used to implement the sprinkler requirements for certain qualifying residential care and assisted living facilities and all types of qualifying skilled nursing and intermediate care facilities. The administration of the fund is transferred from the Department of Health and Senior Services to the State Treasurer's Office.

The State Fire Marshal must annually conduct a fire safety

inspection of all licensed residential and assisted living facilities instead of the local fire protection district or fire department which is currently allowed to conduct inspections.

SUPPORT FOR RESIDENTS OF LONG-TERM CARE FACILITIES (Section 198.089)

The Department of Health and Senior Services must strongly encourage all licensed long-term care facilities to institute policies that will encourage familial involvement in the well-being and support of residents in the facilities including family conferences and meetings.

BONDS FOR LONG-TERM CARE RESIDENTS' PROPERTY IN TRUST (Section 198.096)

Currently, a bond must be obtained and filed with the Department of Health and Senior Services for a long-term care facility that holds a resident's property in trust in an amount equal to one and one-half times the amount of the average monthly balance or average total of the monthly balances, rounded to the nearest \$1,000, for the preceding calendar year. The substitute changes the amount to the average balance for the preceding 12 months.

CRIMINAL BACKGROUND CHECKS (Section 198.187)

Any licensed long-term care facility may request a criminal background check of any resident housed in its facility.

INSPECTORS AND SURVEYORS (Sections 195.525 and 198.527)

The Department of Health and Senior Services is prohibited from assigning an individual to inspect or survey a licensed long-term care facility in which the inspector or surveyor was an employee of the facility within the preceding two years.

The department must require disclosure statements from newly hired and currently employed inspectors and surveyors of long-term care facilities regarding their past employment in long-term care facilities and the current or past employment of immediate family members in long-term care facilities.

Any person may notify the department if facts exist that would lead a reasonable person to conclude that any inspector or surveyor has any personal or business affiliation that would result in a conflict of interest in conducting an inspection or survey of a facility. Upon receiving the notice, the department must take steps to verify the information. If the department has probable cause to believe that it is correct, it must not assign the inspector or surveyor to the facility in order to avoid an

appearance of prejudice or favor to the facility or bias on the part of the inspector or surveyor.

The responsibility of ensuring the uniform application of regulation standards in long-term care facilities is transferred from the Department of Social Services to the Department of Health and Senior Services.

MISSOURI INFORMAL DISPUTE RESOLUTION ACT (Section 198.545)

The Missouri Informal Dispute Resolution Act is established which requires the Department of Health and Senior Services to contract with the federally designated Medicare Quality Improvement Organization in the state to conduct informal dispute resolutions (IDRs) for licensed long-term care facilities. The IDR process will constitute an informal administrative process but cannot be construed to be a formal evidentiary hearing and must be used to determine if a cited deficiency of a facility should be upheld. The process must include:

- (1) The incorporation by reference the provisions of federal rules regarding the IDR process;
- (2) Notification by the department to the facility by certified mail and the availability of an IDR and the IDR process within 10 working days of any deficiency found during an inspection survey. The facility has 10 days after the receipt of the statement of deficiencies to return a plan of correction to the department or request in writing an IDR conference to refute the cited deficiencies; and
- (3) Conducting an IDR conference by the quality improvement organization (QIO) within 10 days of a requested IDR by a facility. The QIO must make a determination regarding the resolution of the IDR within 10 days of the conference and transmit the decision and rationale for the outcome in writing to the facility and the department. If the department disagrees with the determination, it must transmit the department's decision and reversal of the decision to the facility within 10 days. If the deficiency is upheld, the facility must submit a plan of correction to the department within 10 days after the QIO determination is delivered.

PERSONAL NEEDS ALLOWANCE (Section 208.016)

The substitute codifies into Missouri law the current practice of granting a monthly personal needs allowance for residents in long-term care facilities as permitted under federal law. Currently, the allowance is set annually by appropriation at \$30 a year. The substitute specifies that, beginning January 1,

2010, the yearly allowance will increase by no more than \$5 a year. The allowance must be increased by an amount equal to the product of the Social Security benefit cost-of-living adjustment and the average amount that MO HealthNet participants are required to contribute to the cost of institutionalized care.

HEALTH CARE PROVIDER TAX (Sections 208.437, 208.480, 338.535, 338.550, and 633.401)

The substitute extends from June 30, 2009, to September 30, 2011, the expiration date for the Missouri Medicaid Program's managed care organization reimbursement allowance in Sections 208.431 - 208.437 and the pharmacy tax in Sections 338.500 - 338.550.

The expiration date of the federal reimbursement allowance assessment in Sections 208.453 - 208.480 is extended from September 30, 2009, to September 30, 2011, and the intermediate care facility for the mentally retarded provider assessment is extended from June 30, 2009, to September 30, 2011.

NURSING HOME TRANSITION GRANTS (Section 208.819)

Currently, MO HealthNet participants with disabilities transitioning from nursing homes back into the community are eligible for a one-time grant of up to \$1,500 to offset costs associated with housing a person with disabilities. Subject to appropriations, the substitute increases the grant amount to \$2,400, allows senior citizens to be eligible for the grant, and moves grant administration from the Division of Vocational Rehabilitation within the Department of Elementary and Secondary Education to the Division of Senior and Disability Services within the Department of Health and Senior Services in consultation with the Department of Social Services.

The substitute also changes the responsibility for developing information and training on community-based service options for residents transitioning into the community to the departments of Health and Senior Services and Mental Health.

BLASTER LICENSES (Sections 319.306 and 319.321)

Individuals using explosive materials along with a well screen cleaning device for the purpose of unblocking clogged agriculture irrigation well screens are added to the list of individuals who are exempt from obtaining a blaster's license and from complying with state and federal laws regarding persons using explosives.

HOME AND COMMUNITY-BASED CARE ASSESSMENTS (Section 1)

Procedures for home and community-based service's reimbursement

for in-home providers by the Department of Health and Senior Services to providers who complete assessments for prospective recipients of MO HealthNet-funded home and community-based care are established.

The substitute contains an emergency clause for the provisions regarding the healthcare provider tax.

FISCAL NOTE: Estimated Cost on General Revenue Fund of Unknown but Greater than \$549,334 in FY 2010, Unknown but Greater than \$1,585,708 in FY 2011, and Unknown but Greater than \$2,391,295 in FY 2012. No impact on Other State Funds in FY 2010, FY 2011, and FY 2012.

PROPOSERS: Supporters say that the personal care allowance for long-term care facility residents needs to be increased so residents can purchase much-needed personal items.

Testifying for the bill were Senator Champion; Bill Trimm, Silver-haired Legislature; Missouri Association of Homes for the Aging; Missouri Health Care Association; Missouri Coalition for Quality Care; Department of Health and Senior Services; and Department of Social Services.

OPPOSERS: There was no opposition voiced to the committee.