

Statutes of the Department of Health and Senior Services

DIVISION 30-DIVISION OF HEALTH STANDARDS AND LICENSURE

CHAPTER 26-HOME HEALTH AGENCIES

Bureau of Home Care and Rehabilitative Standards

Section 197.400-197.478

197.400 Definitions.-

As used in sections 197.400 to 197.475, unless the context otherwise requires, the following terms mean:

1. "Council", the home health services advisory council created by sections 197.400 to 197.475;
2. "Department", the department of health;
3. "Home health agency", a public agency of private organization or a subdivision or subunit of an agency or organization that provides two or more home health services at the residence of a patient according to a physician's written and signed plan of treatment;
4. "Home health services", any of the following items and services provided at the residence of the patient on a part-time or intermittent basis; nursing, physical therapy, speech therapy, occupational therapy, home health aide, or medical social service;
5. "Part-time or intermittent basis", the providing of home health services in an interrupted interval sequence on the average of not to exceed three hours in any twenty-four-hour period;
6. "Patient's residence", the actual place of residence of the person receiving home health services, including institutional residences as well as individual dwelling units;
7. "Physician", a person licensed by the state board of registration for the healing arts pursuant to the provisions of chapter 334, RSMo, to practice in this state as a physician and surgeon;
8. "Plan of treatment", a plan reviewed and signed as often as medically necessary by a physician or podiatrist, not to exceed sixty days in duration, prescribing items and services for an individual patient's condition;
9. "Podiatrist", a person licensed by the state board of podiatry pursuant to the provisions of chapter 330, RSMo, to practice in this state as a podiatrist;
10. "Subunit" or "subdivision", any organizational unit of a larger organization which can be clearly defined as a separate entity within the larger structure, which can meet all the requirements of sections 197.400 to 197.475 independent of the larger organization, which can be held

accountable for the care of patients it is serving, and which provides to all patients care and services meeting the standards and requirements of sections 197.400 to 197.475.

(L. 1983 H.B. 51, Revised 1997 H.B. 642) Effective 8/28/97

197.405 Home health agencies, license required.

No home health agency including Medicare and Medicaid providers, shall provide two or more of the home health services covered by subdivision (4) of section 197.400 or shall hold itself out as providing such home health services or as a home health agency unless it is licensed and registered in accordance with the provisions of sections 197.400 to 197.475.

(L 1983 H.B. 51)

197.410 Application for license, fee.

1. Persons desiring to receive a license to operate a home health agency in the state of Missouri shall file a written application with the department of health on a form prescribed by the director of the department.
2. The application shall be accompanied by a six-hundred-dollar license fee.

197.415 License issued or renewed, requirements.

1. The department shall review the applications and shall issue a license to applicants who have complied with the requirements of sections 197.400 to 197.475 and have received approval of the department.
2. A license shall be renewed annually upon approval of the department when the following conditions have been met:
 - (1) The application for renewal is accompanied by a six-hundred-dollar license fee;
 - (2) The home health agency is in compliance with the requirements established pursuant to the provisions of sections 197.400 to 197.475 as evidenced by a survey inspection by the department which shall occur at least every thirty-six months for agencies that have been in operation thirty-six consecutive months from initial inspection. The frequency of inspections for agencies in operation at

least thirty-six consecutive months from the initial inspection shall be determined by such factors as number of complaints received and changes in management, supervision or ownership. The frequency of each survey inspection for any agency in operation less than thirty-six consecutive months from initial inspection shall occur at least every twelve months;

(3) The application is accompanied by a statement of any changes in the information previously filed with the department pursuant to section 197.410.

3. Each license shall be issued only for the home health agency listed in the application. Licenses shall be posted in a conspicuous place in the main offices of the licensed home health agency.

4. In lieu of any survey required by sections 197.400 to 197.475, the department may accept in whole or in part written reports of the survey of any state or federal agency, or of any professional accrediting agency, if such survey;

(1) Is comparable in scope and method to the department's surveys; and

(2) Is conducted within one year of initial application or within thirty-six months for the renewal of the home health license as required by subdivision (2) of subsection 2 of this section.

(L. 1983 H.B. 51 § 4, subsecs. 1, 2, 3, A.L. 1997 H.B. 643 merged with S.B.373)

197.416 Out-of-state applicants for licensure, compliance history may be requested.

Whenever the department is inspecting a home health agency in response to an application from an applicant located outside of Missouri not previously licensed by the department, the department may request from the applicant the past five years compliance history of all home health agencies owned by the applicant located outside of this state. (L. 2003 S.B. 556 & 311)

197.420 License not transferable or assignable on sale or transfer of ownership-new application, requirement-temporary license, when.

A license shall not be transferable or assignable. When a home health

agency is sold or ownership or management is transferred, or the corporate legal organization status is substantially changed, the license of the agency shall be voided and new license obtained. Application for a new license shall be made to the department in writing, at least ninety days prior to the effective date of the sale, transfer, or change in corporate status. The application for a new license shall be on the same form, containing the same information required for an original license, and shall be accompanied by a license fee of six hundred dollars. The department may issue a temporary operating permit for the continuation of the operation of the home health agency for a period of not more than ninety days pending a survey inspection and the final disposition of the application. The department shall require all licensed home health agencies to submit statistical reports. The content, format, and frequency of such reports shall be determined by the department with council approval.

197.425 Survey inspections by department, when.

In addition to the survey inspection required for licensing or license renewal, the department may make other survey inspections during normal business hours. Each home health agency shall allow the department or authorized representative to enter upon the premises during normal business hours for the purpose of conducting the survey inspection.

197.430 Report on survey, list of deficiencies, content--plan of correction filed with department--resurvey and administrative review procedure.

After completion of each department survey, a written report of the findings with respect to compliance or noncompliance with the provision of sections 197.400 to 197.475 and the standards established hereunder as well as a list of deficiencies found shall be prepared. A copy of the report and the list of deficiencies found shall be served upon the home health agency within fifteen business days following the survey inspection. The list of deficiencies shall specifically state the statute or rule which the home health agency is alleged to have violated. If the home health agency acknowledges the deficiencies found by the survey inspection, the home health agency shall inform the department of the time necessary for compliance and shall file a plan of correction with the department. If the home health agency does not

acknowledge the deficiencies, it may request a resurvey by the department. If, after the resurvey, the home health agency still does not agree with the findings of the department, it may seek a review of the findings of the department by the administrative hearing commission.
(L. 1983 H.B. 51)

197.435 Complaint procedure.-- Any person wishing to make a complaint against a home health agency licensed under the provisions of sections 197.400 to 197.475 may file the complaint in writing with the department setting forth the details and facts supporting the complaint. If the department determines the charges are sufficient to warrant a hearing to determine whether the license of the home health agency should be suspended or revoked, the department shall fix a time and place for a hearing and require the home health agency to appear and defend against the complaint. A copy of the complaint shall be given to the home health agency at the time it is notified of the hearing. The notice of the hearing shall be given at least twenty days prior to the date of the hearing. The hearing shall be conducted by the administrative hearing commission in accordance with the provisions of chapter 621, RSMo.
(L. 1983 H.B. 51)

197.440 Refusal to issue, suspension or revocation of license, grounds--right to administrative review.

1. The department shall refuse to issue or shall suspend or shall revoke the license of any home health agency for failure to comply with any provision of sections 197.400 to 197.475 or with any rule or standards of the department adopted under the provisions of sections 197.400 to 197.475 or for obtaining the license by means of fraud, misrepresentation, or concealment of material facts.
2. Any home health agency which has been refused a license or which has had its license revoked or suspended by the department may seek a review of the department's action by the administrative hearing commission.
(L. 1983 H.B. 51)

197.445 Rules and regulations, procedure.

1. The department may adopt reasonable rules and standards necessary to carry out the provisions of sections 197.400 to 197.475. The rules and standards adopted shall not be less than the standards established by the federal government for home health

agencies under Title XVIII of the Federal Social Security Act. The reasonable rules and standards shall be initially promulgated within one year of September 28, 1993.

2. The rules and standards adopted by the department pursuant to the provisions of sections 197.400 to 197.475 shall apply to all health services covered by sections 197.400 to 197.475 rendered to any patient being served by a home health agency regardless of source of payment for the service, patient's condition, or place of residence, at which the home health services are ordered by the physician or podiatrist. No rule or regulation, promulgated pursuant to the authority of sections 197.400 to 197.477 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.
(L. 1983 H.B. 51, Revised 1997 H.B. 642) Effective 8/28/97

197.450 Home health services advisory council--members--terms, qualifications--appointment--vacancies--expenses.

1. There is hereby created the "Home Health Services Advisory Council", which shall guide, advise and make recommendations to the department related to the rules and standards adopted and the implementation and administration of sections 197.400 to 197.475.
2. Members of the council shall be residents of this state. The council shall consist of members who shall serve for a term of three years. No members may serve more than two successive full terms. One member of the council shall be a representative of the department, and such member shall serve as chairman of the council. Three members shall be citizens selected from the state at large and shall have no connection with any home health agency. Five members shall be representatives of home health agencies and one of these five members shall be selected from each of the following types of home health agencies;
 - (1) Public sponsored home health agencies;
 - (2) Institutional sponsored home health agencies;
 - (3) Voluntary nonprofit home health agencies;
 - (4) Private nonprofit home health agencies; and
 - (5) For profit home health agencies.
3. All members of the council shall be appointed by the director of the department. The term of office of each member shall be for three years or until

his* successor is appointed; except that, of the members first appointed, three shall be selected for one year, three shall be selected for two years, and three shall be selected for three years. Before a member's term expires, the director of the department shall appoint a successor to assume his duties on the expiration of his predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

4. The council shall meet not less than quarterly each year at a place, day and hour determined by the council. The council may also meet at such other times and places as may be designated by the chairman, or upon the request of the majority of the other members of the council.

5. Members of the council shall receive no compensation for their services, but shall be reimbursed, subject to appropriations, for their actual and necessary expenses incurred in the performance of their duties.
(L. 1983 H.B. 51 § 10, A.L. 2002 H.B. 1953)

* Word "their" appears in original rolls.

197.455 Injunctions, venue.

The department may file an action in the circuit court for the county in which any home health agency alleged to be violating the provisions of sections 197.400 to 197.475 resides or may be found for an injunction to restrain the home health agency from continuing the violation. (L. 1983 H.B. 51)

197.460 Exempt person and religious organizations.

1. The provisions of sections 197.400 to 197.475 shall not apply to individuals who personally provide one or more home health services if such persons are not under the direct control and doing work for and employed by a home health agency.

2. The provisions of sections 197.400 to 197.475 shall not apply to any person or organization conducting a home health agency by and for the adherents of any recognized church or religious denomination or sect for the purpose of providing services for the care or treatment of the sick or infirm who depend upon prayer or spiritual means for healing in the practice of the religion of such church or religious denomination or sect.

(L. 1983 H.B. 51)

3. The provisions of sections 197.400 to 197.475 shall not apply to any person or other entity which provides services pursuant to subdivision (18) of

subsection 1 of section 208.152, RSMo, or provides in-home services pursuant to subdivision (21) of subsection 2 of section 660.050, RSMo.
(L. 1983 H.B. 51, A.L. 1990 S.B. 524)
Effective 1/1/91

197.465 Funds to be deposited in general revenue.

All funds received by the department under the provisions of sections 197.400 to 197.475 shall be deposited in the state treasury to the credit of general revenue.
(L. 1983 H.B. 51)

197.470 Reports or investigations open to public, exception--requests for material, procedure, fee.

All reports or documents collected by the department, or findings and decision made by the department, under the provisions of sections 197.400 to 197.475, unless declared to be a confidential record under any other provision of law, shall be available to public inspection upon written request. The material requested shall be made available within thirty days after receipt of the request. The department may charge a reasonable fee for the copying of any material. (L. 1983 H.B. 51)

197.475 Violations, penalty.

Any person who violates any of the provisions of sections 197.400 to 197.475 is guilty of a class A misdemeanor and, upon conviction, shall be punished as provided by law.
(L. 1983 H.B. 51)

197.477 Reports of inspections by department of health and senior services may be available to public, when--certain information to remain confidential.

Upon the completion of the final report of an inspection or evaluation of a health facility agency or any part thereof pursuant to sections 190.235 to 190.249, RSMo, sections 197.010 to 197.120, sections 197.200 to 197.240, or sections 197.400 to 197.475, including any amendments thereto which may hereinafter be enacted by the general assembly or rule or regulation promulgated pursuant thereto, the department of health may disclose to the public reports of the inspections or evaluations showing the standards by which the inspections or evaluations were conducted whether such standards were met, and, if such standards were not met, in what manner that were not met and how the facility proposed to

correct or did correct the deficiencies. All other information and reports submitted to the department of health by governmental agencies as recognized accrediting organizations for who or in part for licensure purposes pursuant to section 190.235 to 190.249, RSMo, sections 197.010 to 197.120, sections 197.200 to 197.240, or sections 197.400 to 197.475, collected during such inspections or evaluations or information which is derived as a result of such inspections or evaluations shall be confidential and shall be disclosed only to the person or organization which is the subject of the inspection or evaluation or a representative thereof.
(L. 1988 H.B. 1134) Effective 5/4/88.

197.478 Home health agency information to be provided on department Internet web site.

1. The department of health and senior services shall provide through their Internet web site:

(1) The most recent survey of all home health agencies and any such findings of deficiencies and the effect the deficiency would have on such agencies. If such survey is in dispute, the survey shall not be posted on the web site until the agency's dispute has been resolved and the department shall, upon request of the home health agency, post the agency's response;

(2) The home health agency's proposed plan of correction;

(3) A link to the federal web site that provides a summary of home health agency surveys conducted over the last three years; and

(4) Information on how to obtain a copy of a complete home health agency survey conducted over the last three years.

2. Nothing in this section shall be construed as requiring the department to post any information on its Internet website that is prohibited from disclosure pursuant to the federal Health Insurance Portability and Accountability Act, as amended.
(L. 2003 S.B. 556 & 311)