

SENATE BILL NO. 671

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR WHITE.

3750S.02I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 191.900, 191.905, 208.909, 565.184, and 630.155, RSMo, and to enact in lieu thereof seven new sections relating to protection of vulnerable persons, with penalty provisions.

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

Section A. Sections 191.900, 191.905, 208.909, 565.184, and 630.155, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 191.900, 191.905, 191.2290, 208.909, 565.184, 630.155, and 630.202, to read as follows:

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

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

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

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

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

15 (4) "Health care", any service, assistance, care,
16 product, device or thing provided pursuant to a medical
17 assistance program, or for which payment is requested or
18 received, in whole or part, pursuant to a medical assistance
19 program;

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

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

27 (7) "Health care provider", any person delivering, or
28 purporting to deliver, any health care, and including any
29 employee, agent or other representative of such a person,
30 and further including any employee, representative, or
31 subcontractor of the state of Missouri delivering,
32 purporting to deliver, or arranging for the delivery of any
33 health care;

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

36 (a) Has actual knowledge of the information;

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

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

41 Use of the terms knowing or knowingly shall be construed to
42 include the term "intentionally", which means that a person,
43 with respect to information, intended to act in violation of
44 the law;

45 (9) "Medical assistance program", MO HealthNet, or any
46 program to provide or finance health care to participants
47 which is established pursuant to title 42 of the United
48 States Code, any successor federal health insurance program,
49 or a waiver granted thereunder. A medical assistance
50 program may be funded either solely by state funds or by
51 state and federal funds jointly. The term "medical
52 assistance program" shall include the medical assistance
53 program provided by section 208.151, et seq., and any state
54 agency or agencies administering all or any part of such a
55 program;

56 (10) **"Neglect", the failure to provide to a person**
57 **receiving health care the care, goods, or services that are**
58 **reasonable and necessary to maintain the physical and mental**
59 **health of such person when such failure presents either an**
60 **imminent danger to the health, safety, or welfare of the**
61 **person or a substantial probability that death or serious**
62 **physical harm would result;**

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

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

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

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

13 (3) Knowingly concealing or failing to disclose any
14 information with the intent to obtain a health care payment
15 to which the health care provider or any other health care
16 provider is not entitled, or to obtain a health care payment
17 in an amount greater than that which the health care
18 provider or any other health care provider is entitled;

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

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

28 (1) Referring another person to a health care provider
29 for the furnishing or arranging for the furnishing of any
30 health care; or

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

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

39 4. Subsections 2 and 3 of this section shall not apply
40 to a discount or other reduction in price obtained by a
41 health care provider if the reduction in price is properly
42 disclosed and appropriately reflected in the claim made by
43 the health care provider to the health care payer, or any

44 amount paid by an employer to an employee for employment in
45 the provision of health care.

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

50 6. No person shall knowingly abuse **or neglect** a person
51 receiving health care.

52 7. A person who violates subsections 1 to 3 of this
53 section is guilty of a class D felony upon his or her first
54 conviction, and shall be guilty of a class B felony upon his
55 or her second and subsequent convictions. Any person who
56 has been convicted of such violations shall be referred to
57 the Office of Inspector General within the United States
58 Department of Health and Human Services. The person so
59 referred shall be subject to the penalties provided for
60 under 42 U.S.C. Chapter 7, Subchapter XI, Section 1320a-7.
61 A prior conviction shall be pleaded and proven as provided
62 by section 558.021. A person who violates subsection 6 of
63 this section shall be guilty of a class D felony, unless the
64 act involves no physical, sexual or emotional harm or injury
65 and the value of the property involved is less than five
66 hundred dollars, in which event a violation of subsection 6
67 of this section is a class A misdemeanor.

68 8. Any natural person who willfully prevents,
69 obstructs, misleads, delays, or attempts to prevent,
70 obstruct, mislead, or delay the communication of information
71 or records relating to a violation of sections 191.900 to
72 191.910 is guilty of a class E felony.

73 9. Each separate false statement or false
74 representation of a material fact proscribed by subsection 1
75 of this section or act proscribed by subsection 2 or 3 of

76 this section shall constitute a separate offense and a
77 separate violation of this section, whether or not made at
78 the same or different times, as part of the same or separate
79 episodes, as part of the same scheme or course of conduct,
80 or as part of the same claim.

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

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

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

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

94 11. Any person convicted of a violation of this
95 section, in addition to any fines, penalties or sentences
96 imposed by law, shall be required to make restitution to the
97 federal and state governments, in an amount at least equal
98 to that unlawfully paid to or by the person, and shall be
99 required to reimburse the reasonable costs attributable to
100 the investigation and prosecution pursuant to sections
101 191.900 to 191.910. All of such restitution shall be paid
102 and deposited to the credit of the "MO HealthNet Fraud
103 Reimbursement Fund", which is hereby established in the
104 state treasury. Moneys in the MO HealthNet fraud
105 reimbursement fund shall be divided and appropriated to the
106 federal government and affected state agencies in order to
107 refund moneys falsely obtained from the federal and state

108 governments. All of such cost reimbursements attributable
109 to the investigation and prosecution shall be paid and
110 deposited to the credit of the "MO HealthNet Fraud
111 Prosecution Revolving Fund", which is hereby established in
112 the state treasury. Moneys in the MO HealthNet fraud
113 prosecution revolving fund may be appropriated to the
114 attorney general, or to any prosecuting or circuit attorney
115 who has successfully prosecuted an action for a violation of
116 sections 191.900 to 191.910 and been awarded such costs of
117 prosecution, in order to defray the costs of the attorney
118 general and any such prosecuting or circuit attorney in
119 connection with their duties provided by sections 191.900 to
120 191.910. No moneys shall be paid into the MO HealthNet
121 fraud protection revolving fund pursuant to this subsection
122 unless the attorney general or appropriate prosecuting or
123 circuit attorney shall have commenced a prosecution pursuant
124 to this section, and the court finds in its discretion that
125 payment of attorneys' fees and investigative costs is
126 appropriate under all the circumstances, and the attorney
127 general and prosecuting or circuit attorney shall prove to
128 the court those expenses which were reasonable and necessary
129 to the investigation and prosecution of such case, and the
130 court approves such expenses as being reasonable and
131 necessary. Any moneys remaining in the MO HealthNet fraud
132 reimbursement fund after division and appropriation to the
133 federal government and affected state agencies shall be used
134 to increase MO HealthNet provider reimbursement until it is
135 at least one hundred percent of the Medicare provider
136 reimbursement rate for comparable services. The provisions
137 of section 33.080 notwithstanding, moneys in the MO
138 HealthNet fraud prosecution revolving fund shall not lapse
139 at the end of the biennium.

140 12. A person who violates subsections 1 to 3 of this
141 section shall be liable for a civil penalty of not less than
142 five thousand dollars and not more than ten thousand dollars
143 for each separate act in violation of such subsections, plus
144 three times the amount of damages which the state and
145 federal government sustained because of the act of that
146 person, except that the court may assess not more than two
147 times the amount of damages which the state and federal
148 government sustained because of the act of the person, if
149 the court finds:

150 (1) The person committing the violation of this
151 section furnished personnel employed by the attorney general
152 and responsible for investigating violations of sections
153 191.900 to 191.910 with all information known to such person
154 about the violation within thirty days after the date on
155 which the defendant first obtained the information;

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

158 (3) At the time such person furnished the personnel of
159 the attorney general with the information about the
160 violation, no criminal prosecution, civil action, or
161 administrative action had commenced with respect to such
162 violation, and the person did not have actual knowledge of
163 the existence of an investigation into such violation.

164 13. Upon conviction pursuant to this section, the
165 prosecution authority shall provide written notification of
166 the conviction to all regulatory or disciplinary agencies
167 with authority over the conduct of the defendant health care
168 provider.

169 14. The attorney general may bring a civil action
170 against any person who shall receive a health care payment
171 as a result of a false statement or false representation of

172 a material fact made or caused to be made by that person.
173 The person shall be liable for up to double the amount of
174 all payments received by that person based upon the false
175 statement or false representation of a material fact, and
176 the reasonable costs attributable to the prosecution of the
177 civil action. All such restitution shall be paid and
178 deposited to the credit of the MO HealthNet fraud
179 reimbursement fund, and all such cost reimbursements shall
180 be paid and deposited to the credit of the MO HealthNet
181 fraud prosecution revolving fund. No reimbursement of such
182 costs attributable to the prosecution of the civil action
183 shall be made or allowed except with the approval of the
184 court having jurisdiction of the civil action. No civil
185 action provided by this subsection shall be brought if
186 restitution and civil penalties provided by subsections 11
187 and 12 of this section have been previously ordered against
188 the person for the same cause of action.

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

2 **191.2290. 1. The provisions of this section and**
3 **section 630.202 shall be known and may be cited as the**
4 **"Essential Caregiver Program Act".**

5 **2. As used in this section, the following terms mean:**

6 **(1) "Department", the department of health and senior**
7 **services;**

8 **(2) "Essential caregiver", a family member, friend,**
9 **guardian, or other individual selected by a facility**
10 **resident, or the guardian or legal representative of the**
11 **resident;**

11 (3) "Facility", a hospital licensed under chapter 197
12 or a facility licensed under chapter 198.

13 3. During a state of emergency declared pursuant to
14 chapter 44, a facility shall allow a resident, a resident's
15 guardian, or a resident's legally authorized representative
16 to designate an essential caregiver for in-person visitation
17 with the resident in accordance with the standards and
18 guidelines developed by the department under this section.

19 4. The facility shall inform, in writing, residents,
20 or guardians or legal representatives of residents, of the
21 "Essential Caregiver Program" and the process for
22 designating an essential caregiver.

23 5. The department shall develop standards and
24 guidelines concerning the essential caregiver program,
25 including, but not limited to, the following:

26 (1) The facility shall allow at least two individuals
27 per resident to be designated as essential caregivers,
28 although the facility may limit the visitation to one
29 caregiver at a time. The caregiver shall not be required to
30 have previously served in a caregiver capacity prior to the
31 declared state of emergency;

32 (2) The facility shall establish a visitation schedule
33 to allow the essential caregiver to visit the resident for
34 at least four hours each day; and

35 (3) The facility shall establish procedures to enable
36 physical contact between the resident and the essential
37 caregiver. The facility may not require the essential
38 caregiver to undergo more stringent screening, testing,
39 hygiene, personal protective equipment, and other infection
40 control and prevention protocols than required of facility
41 employees. The facility may restrict or revoke visitation

42 by an essential caregiver who fails to follow required
43 protocols established under this subdivision.

44 6. A facility may request from the department a
45 suspension of in-person visitation by essential caregivers
46 for a period not to exceed seven days. The department may
47 deny the facility's request to suspend visitation if the
48 department determines that in-person visitation does not
49 pose a serious community health risk. A facility may
50 request from the department an extension of a suspension for
51 more than seven days; provided, that the department shall
52 not approve an extension period for longer than seven days
53 at a time. A facility shall not suspend in-person caregiver
54 visitation for more than fourteen consecutive days in a
55 twelve-month period or for more than forty-five total days
56 in a twelve-month period.

57 7. The provisions of this section shall not be
58 construed to require an essential caregiver to provide
59 necessary care to a resident and a facility shall not
60 require an essential caregiver to provide necessary care.

61 8. A facility, its employees, and its contractors
62 shall be immune from civil liability for an injury or harm
63 caused by or resulting from:

64 (1) Exposure to a contagious disease or other harmful
65 agent that is specified during the state of emergency
66 declared pursuant to chapter 44; or

67 (2) Acts or omissions by essential caregivers who are
68 present in the facility;

69 as a result of the implementation of the essential caregiver
70 program under this section. The immunity described in this
71 subsection shall not apply to any act or omission that
72 constitutes recklessness or willful misconduct.

208.909. 1. Consumers receiving personal care
2 assistance services shall be responsible for:

3 (1) Supervising their personal care attendant;

4 (2) Verifying wages to be paid to the personal care
5 attendant;

6 (3) Preparing and submitting time sheets, signed by
7 both the consumer and personal care attendant, to the vendor
8 on a biweekly basis;

9 (4) Promptly notifying the department within ten days
10 of any changes in circumstances affecting the personal care
11 assistance services plan or in the consumer's place of
12 residence;

13 (5) Reporting any problems resulting from the quality
14 of services rendered by the personal care attendant to the
15 vendor. If the consumer is unable to resolve any problems
16 resulting from the quality of service rendered by the
17 personal care attendant with the vendor, the consumer shall
18 report the situation to the department;

19 (6) Providing the vendor with all necessary
20 information to complete required paperwork for establishing
21 the employer identification number;

22 (7) Allowing the vendor to comply with its quality
23 assurance and supervision process, which shall include, but
24 not be limited to, annual face-to-face home visits and
25 monthly case management activities; and

26 (8) Reporting to the department significant changes in
27 their health and ability to self-direct care.

28 2. Participating vendors shall be responsible for:

29 (1) Collecting time sheets or reviewing reports of
30 delivered services and certifying the accuracy thereof;

31 (2) The Medicaid reimbursement process, including the
32 filing of claims and reporting data to the department as
33 required by rule;

34 (3) Transmitting the individual payment directly to
35 the personal care attendant on behalf of the consumer;

36 (4) **Ensuring all payroll, employment, and other taxes**
37 **are paid timely;**

38 (5) Monitoring the performance of the personal care
39 assistance services plan. Such monitoring shall occur
40 during the annual face-to-face home visit under section
41 208.918. The vendor shall document whether services are
42 being provided to the consumer as set forth in the plan of
43 care. If the attendant was not providing services as set
44 forth in the plan of care, the vendor shall notify the
45 department and the department may suspend services to the
46 consumer; and

47 [(5)] (6) Reporting to the department significant
48 changes in the consumer's health or ability to self-direct
49 care.

50 3. No state or federal financial assistance shall be
51 authorized or expended to pay for services provided to a
52 consumer under sections 208.900 to 208.927, if the primary
53 benefit of the services is to the household unit, or is a
54 household task that the members of the consumer's household
55 may reasonably be expected to share or do for one another
56 when they live in the same household, unless such service is
57 above and beyond typical activities household members may
58 reasonably provide for another household member without a
59 disability.

60 4. No state or federal financial assistance shall be
61 authorized or expended to pay for personal care assistance
62 services provided by a personal care attendant who has not

63 undergone the background screening process under section
64 192.2495. If the personal care attendant has a
65 disqualifying finding under section 192.2495, no state or
66 federal assistance shall be made, unless a good cause waiver
67 is first obtained from the department in accordance with
68 section 192.2495.

69 5. (1) All vendors shall, by July 1, 2015, have,
70 maintain, and use a telephone tracking system for the
71 purpose of reporting and verifying the delivery of consumer-
72 directed services as authorized by the department of health
73 and senior services or its designee. The telephone tracking
74 system shall be used to process payroll for employees and
75 for submitting claims for reimbursement to the MO HealthNet
76 division. At a minimum, the telephone tracking system shall:

77 (a) Record the exact date services are delivered;
78 (b) Record the exact time the services begin and exact
79 time the services end;

80 (c) Verify the telephone number from which the
81 services are registered;

82 (d) Verify that the number from which the call is
83 placed is a telephone number unique to the client;

84 (e) Require a personal identification number unique to
85 each personal care attendant;

86 (f) Be capable of producing reports of services
87 delivered, tasks performed, client identity, beginning and
88 ending times of service and date of service in summary
89 fashion that constitute adequate documentation of service;
90 and

91 (g) Be capable of producing reimbursement requests for
92 consumer approval that assures accuracy and compliance with
93 program expectations for both the consumer and vendor.

94 (2) As new technology becomes available, the
95 department may allow use of a more advanced tracking system,
96 provided that such system is at least as capable of meeting
97 the requirements of this subsection.

98 (3) The department of health and senior services shall
99 promulgate by rule the minimum necessary criteria of the
100 telephone tracking system. Any rule or portion of a rule,
101 as that term is defined in section 536.010, that is created
102 under the authority delegated in this section shall become
103 effective only if it complies with and is subject to all of
104 the provisions of chapter 536 and, if applicable, section
105 536.028. This section and chapter 536 are nonseverable and
106 if any of the powers vested with the general assembly
107 pursuant to chapter 536 to review, to delay the effective
108 date, or to disapprove and annul a rule are subsequently
109 held unconstitutional, then the grant of rulemaking
110 authority and any rule proposed or adopted after August 28,
111 2010, shall be invalid and void.

112 **6. The vendor shall be liable to the consumer for any**
113 **garnishment action occurring or that has occurred as a**
114 **result of the vendor's failure to timely pay payroll,**
115 **employment, or other taxes on behalf of the consumer under**
116 **subsection 2 of this section. The vendor shall notify the**
117 **consumer of any communication or correspondence from any**
118 **federal, state, or local tax authority of any overdue or**
119 **unpaid tax obligation, as well as any notice of an impending**
120 **garnishment.**

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

4 (1) Purposely engages in conduct involving more than
5 one incident that causes emotional distress to an elderly

6 person, a person with a disability, or a vulnerable person.
7 The course of conduct shall be such as would cause a
8 reasonable elderly person, person with a disability, or
9 vulnerable person to suffer substantial emotional distress;
10 or

11 (2) Intentionally fails to provide care, goods or
12 services to an elderly person, a person with a disability,
13 or a vulnerable person. The result of the conduct shall be
14 such as would cause a reasonable elderly person, person with
15 a disability, or vulnerable person to suffer physical or
16 emotional distress; or

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

21 2. The offense of abuse of an elderly person, a person
22 with a disability, or a vulnerable person is a class [A
23 misdemeanor] **D felony**. Nothing in this section shall be
24 construed to mean that an elderly person, a person with a
25 disability, or a vulnerable person is abused solely because
26 such person chooses to rely on spiritual means through
27 prayer, in lieu of medical care, for his or her health care,
28 as evidence by such person's explicit consent, advance
29 directive for health care, or practice.

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

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

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

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

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

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

**630.202. 1. As used in this section, the following
2 terms mean:**

3 (1) "Department", the department of mental health;

4 (2) "Essential caregiver", a family member, friend,
5 guardian, or other individual selected by a facility
6 resident, or the guardian or legal representative of the
7 resident;

8 (3) "Facility", a residential facility licensed by the
9 department under this chapter.

10 2. During a state of emergency declared pursuant to
11 chapter 44, a facility shall allow a resident, a resident's
12 guardian, or a resident's legally authorized representative
13 to designate an essential caregiver for in-person visitation

14 with the resident in accordance with the standards and
15 guidelines developed by the department under this section.

16 3. The facility shall inform, in writing, residents,
17 or guardians or legal representatives of residents, of the
18 "Essential Caregiver Program" and the process for
19 designating an essential caregiver.

20 4. The department shall develop standards and
21 guidelines concerning the essential caregiver program,
22 including, but not limited to, the following:

23 (1) The facility shall allow at least two individuals
24 per resident to be designated as essential caregivers,
25 although the facility may limit the visitation to one
26 caregiver at a time. The caregiver shall not be required to
27 have previously served in a caregiver capacity prior to the
28 declared state of emergency;

29 (2) The facility shall establish a visitation schedule
30 to allow the essential caregiver to visit the resident for
31 at least four hours each day; and

32 (3) The facility shall establish procedures to enable
33 physical contact between the resident and the essential
34 caregiver. The facility may not require the essential
35 caregiver to undergo more stringent screening, testing,
36 hygiene, personal protective equipment, and other infection
37 control and prevention protocols than required of facility
38 employees. The facility may restrict or revoke visitation
39 by an essential caregiver who fails to follow required
40 protocols established under this subdivision.

41 5. A facility may request from the department a
42 suspension of in-person visitation by essential caregivers
43 for a period not to exceed seven days. The department may
44 deny the facility's request to suspend visitation if the
45 department determines that in-person visitation does not

46 pose a serious community health risk. A facility may
47 request from the department an extension of a suspension for
48 more than seven days; provided, that the department shall
49 not approve an extension period for longer than seven days
50 at a time. A facility shall not suspend in-person caregiver
51 visitation for more than fourteen consecutive days in a
52 twelve-month period or for more than forty-five total days
53 in a twelve-month period.

54 6. The provisions of this section shall not be
55 construed to require an essential caregiver to provide
56 necessary care to a resident and a facility shall not
57 require an essential caregiver to provide necessary care.

58 7. A facility, its employees, and its contractors
59 shall be immune from civil liability for an injury or harm
60 caused by or resulting from:

61 (1) Exposure to a contagious disease or other harmful
62 agent that is specified during the state of emergency
63 declared pursuant to chapter 44; or

64 (2) Acts or omissions by essential caregivers who are
65 present in the facility;

66 as a result of the implementation of the essential caregiver
67 program under this section. The immunity described in this
68 subsection shall not apply to any act or omission that
69 constitutes recklessness or willful misconduct.

✓