

FIRST REGULAR SESSION

HOUSE BILL NO. 691

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHAAF.

1869L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 334, RSMo, by adding thereto one new section relating to an impaired physician program.

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

Section A. Chapter 334, RSMo, is amended by adding thereto one new section, to be known as section 334.115, to read as follows:

334.115. 1. The state board of healing arts may establish an impaired physician program to promote the early identification, intervention, treatment, or rehabilitation of physicians who may be impaired by reason of illness, substance abuse, or as the result of any mental condition. Such program shall be available to any physician holding a current license and may be entered voluntarily, as part of an agreement with the board of healing arts, or as a condition of a disciplinary order entered by the board of healing arts.

2. The board may enter into an agreement with a nonprofit corporation or a medical association for the purpose of creating, supporting, and maintaining a program to be designated as the impaired physician program. The board may promulgate rules to effectuate and implement any program formed under this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of

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.

17 rulemaking authority and any rule proposed or adopted after August 28, 2009, shall be
18 invalid and void.

19 **3. The board may expend appropriated moneys necessary to provide for**
20 **operational expenses of the program formed under this section.**

21 **4. Any administrator, staff member, consultant, agent, or employee of the program,**
22 **acting within the scope of his or her duties and without actual malice, and all other persons**
23 **who furnish information to the program in good faith and without actual malice shall not**
24 **be liable for any claim of damages as a result of any statement, decision, opinion,**
25 **investigation, or action taken by the program, or by any individual member of the**
26 **program.**

27 **5. All information, interviews, reports, statements, memoranda, or other documents**
28 **furnished to or produced by the program, as well as communications to or from the**
29 **program, any findings, conclusions, interventions, treatment, rehabilitation, or other**
30 **proceedings of the program which in any way pertain to a licensee who may be or who**
31 **actually is impaired shall be privileged and confidential.**

32 **6. All records and proceedings of the program which pertain or refer to a licensee**
33 **who may be or who actually is impaired:**

34 **(1) Shall be privileged and confidential;**

35 **(2) Shall be used by the program only in the exercise of the proper function of the**
36 **program;**

37 **(3) Shall not be considered public records under chapter 610, RSMo; and**

38 **(4) Shall not be subject to court subpoena or subject to discovery or introduction**
39 **as evidence in any civil, criminal, or administrative proceeding.**

40 **7. The program may disclose information relative to an impaired licensee only**
41 **when:**

42 **(1) It is essential to disclose the information to further the intervention, treatment,**
43 **or rehabilitation needs of the impaired licensee and only to those persons or organizations**
44 **with a need to know;**

45 **(2) Its release is authorized in writing by the impaired licensee; or**

46 **(3) A licensee has breached his or her contract with the program. In such instance,**
47 **the breach may be reported only to the board of healing arts.**

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