

SECOND REGULAR SESSION

HOUSE BILL NO. 2133

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WELLS (Sponsor), DOUGHERTY, SCHOEMEHL, DAY,
YAEGER, WASSON, SPRENG AND NORR (Co-sponsors).

4871L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 331.090, 332.021, 334.120, 335.021, 336.130, and 338.110, RSMo, and to enact in lieu thereof six new sections relating to licensing boards for certain health care professionals.

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

Section A. Sections 331.090, 332.021, 334.120, 335.021, 336.130, and 338.110, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 331.090, 332.021, 334.120, 335.021, 336.130, and 338.110, to read as follows:

331.090. 1. The "Missouri State Board of Chiropractic Examiners" shall consist of five chiropractors, not more than two of whom shall be graduated from the same school or college of chiropractic[,] ; **one member with knowledge and expertise in dealing with impaired health care professionals by reason of personal illness, substance abuse, as a result of any mental condition;** and one voting public member, to be appointed by the governor, with the advice and consent of the senate, from nominees submitted by the director of the division of professional registration, for a term of five years[; except that, of the chiropractic members appointed for the terms which begin in 1989, one shall be appointed for a term of three years and one for a term of four years, of the chiropractic members appointed for the terms which begin in 1990, one shall be appointed for a term of four years and one shall be appointed for a term of five years, and the chiropractic member appointed for the term which begins in 1991 shall be appointed for a term of five years. Beginning in 2002,] . All successors to members shall be appointed to terms of four years from the date of their appointment and until their successors have been appointed and qualified. Each member shall be limited to two full consecutive terms.

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.

15 A member may be removed by the governor for incompetence or improper conduct. The
16 chiropractors shall be United States citizens and shall have been residents of this state for one
17 year and shall have practiced chiropractic continuously for a period of at least two years prior to
18 such appointment. No person shall be appointed to the state board of chiropractic examiners
19 who practices any other method of healing than chiropractic as defined in this chapter. The
20 president of the Missouri State Chiropractors Association in office at the time shall, at least
21 ninety days prior to the expiration of the term of a board member, other than the public member,
22 or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the
23 division of professional registration a list of five chiropractors qualified and willing to fill the
24 vacancy in question, with the request and recommendation that the governor appoint one of the
25 five persons so listed, and with the list so submitted, the president of the Missouri State
26 Chiropractors Association shall include in his or her letter of transmittal a description of the
27 method by which the names were chosen by that association.

28 2. **The member with knowledge and expertise in dealing with impaired health care**
29 **professionals by reason of personal illness, substance abuse, as a result of any mental**
30 **condition shall be at the time of his or her appointment a citizen of the United States, a**
31 **resident of this state for a period of one year, and maintained a stable physical and mental**
32 **condition, and free from any substance abuse for a minimum of three consecutive years**
33 **immediately preceding such appointment.**

34 3. The public member shall be at the time of his or her appointment a citizen of the
35 United States; a resident of this state for a period of one year and a registered voter; a person who
36 is not and never was a member of any profession licensed or regulated pursuant to this chapter
37 or the spouse of such person; and a person who does not have and never has had a material,
38 financial interest in either the providing of the professional services regulated by this chapter,
39 or an activity or organization directly related to any profession licensed or regulated pursuant to
40 this chapter. The duties of the public member shall not include the determination of the technical
41 requirements to be met for licensure or whether any person meets such technical requirements
42 or of the technical competence or technical judgment of a licensee or a candidate for licensure.

332.021. 1. "The Missouri Dental Board" shall consist of [seven] **eight** members
2 including five registered and currently licensed dentists, one registered and currently licensed
3 dental hygienist with voting authority as limited in subsection 4 of this section, **one member**
4 **with knowledge and expertise in dealing with impaired health care professionals by reason**
5 **of personal illness, substance abuse, as a result of any mental condition**, and one voting
6 public member. Any currently valid certificate of registration or currently valid specialist's
7 certificate issued by the Missouri dental board as constituted pursuant to prior law shall be a
8 valid certificate of registration or a valid specialist's certificate, as the case may be, upon October

9 13, 1969, and such certificates shall be valid so long as the holders thereof comply with the
10 provisions of this chapter.

11 2. Any person other than the public member **and the member with knowledge and**
12 **expertise in dealing with impaired health care professionals** appointed to the board as
13 hereinafter provided shall be a dentist or a dental hygienist who is registered and currently
14 licensed in Missouri, is a United States citizen, has been a resident of this state for one year
15 immediately preceding his or her appointment, has practiced dentistry or dental hygiene for at
16 least five consecutive years immediately preceding his or her appointment, shall have graduated
17 from an accredited dental school or dental hygiene school, and at the time of his or her
18 appointment or during his or her tenure on the board has or shall have no connection with or
19 interest in, directly or indirectly, any dental college, dental hygiene school, university, school,
20 department, or other institution of learning wherein dentistry or dental hygiene is taught, or with
21 any dental laboratory or other business enterprise directly related to the practice of dentistry or
22 dental hygiene.

23 3. The governor shall appoint members to the board by and with the advice and consent
24 of the senate when a vacancy thereon occurs either by the expiration of a term or otherwise;
25 provided, however, that any board member shall serve until his or her successor is appointed and
26 has qualified. Each appointee, except where appointed to fill an unexpired term, shall be
27 appointed for a term of five years. The president of the Missouri Dental Association in office
28 at the time shall, at least ninety days prior to the expiration of the term of a board member other
29 than the dental hygienist or public member, or as soon as feasible after a vacancy on the board
30 otherwise occurs, submit to the director of the division of professional registration a list of five
31 dentists qualified and willing to fill the vacancy in question, with the request and
32 recommendation that the governor appoint one of the five persons so listed, and with the list so
33 submitted, the president of the Missouri Dental Association shall include in his or her letter of
34 transmittal a description of the method by which the names were chosen by that association.

35 4. **The member with knowledge and expertise in dealing with impaired health care**
36 **professionals by reason of personal illness, substance abuse, as a result of any mental**
37 **condition shall be at the time of his or her appointment a citizen of the United States, a**
38 **resident of this state for a period of one year, and maintained a stable physical and mental**
39 **condition, and free from any substance abuse for a minimum of three consecutive years**
40 **immediately preceding such appointment.**

41 5. The public member shall be at the time of his or her appointment a citizen of the
42 United States; a resident of this state for a period of one year and a registered voter; a person who
43 is not and never was a member of any profession licensed or regulated pursuant to this chapter
44 or the spouse of such person; and a person who does not have and never has had a material,

45 financial interest in either the providing of the professional services regulated by this chapter,
46 or an activity or organization directly related to any profession licensed or regulated pursuant to
47 this chapter. All members, including public members, shall be chosen from lists submitted by
48 the director of the division of professional registration. Lists of dental hygienists submitted to
49 the governor may include names submitted to the director of the division of professional
50 registration by the president of the Missouri Dental Hygienists' Association. The duties of the
51 dental hygienist member shall not include participation in the determination for or the issuance
52 of a certificate of registration or a license to practice as a dentist. The duties of the public
53 member shall not include the determination of the technical requirements to be met for licensure
54 or whether any person meets such technical requirements or of the technical competence or
55 technical judgment of a licensee or a candidate for licensure.

56 [5.] 6. The board shall have a seal which shall be in circular form and which shall
57 impress the word "SEAL" in the center and around said word the words "Missouri Dental
58 Board". The seal shall be affixed to such instruments as hereinafter provided and to any other
59 instruments as the board shall direct.

60 [6.] 7. The board may sue and be sued as the Missouri dental board, and its members
61 need not be named as parties. Members of the board shall not be personally liable, either jointly
62 or severally, for any act or acts committed in the performance of their official duties as board
63 members; nor shall any board member be personally liable for any court costs which accrue in
64 any action by or against the board.

334.120. 1. There is hereby created and established a board to be known as "The State
2 Board of Registration for the Healing Arts" for the purpose of registering, licensing and
3 supervising all physicians and surgeons, and midwives in this state. The board shall consist of
4 nine members, including one voting public member, to be appointed by the governor by and with
5 the advice and consent of the senate, at least five of whom shall be graduates of professional
6 schools accredited by the Liaison Committee on Medical Education or recognized by the
7 Educational Commission for Foreign Medical Graduates, [and] at least two of whom shall be
8 graduates of professional schools approved and accredited as reputable by the American
9 Osteopathic Association, **and at least one of whom shall have knowledge and expertise in**
10 **dealing with impaired health care professionals by reason of personal illness, substance**
11 **abuse, as a result of any mental condition,** and all of whom, except the public member **and**
12 **member with knowledge and expertise in dealing with impaired health care professionals,**
13 shall be duly licensed and registered as physicians and surgeons pursuant to the laws of this state.
14 Each member must be a citizen of the United States and must have been a resident of this state
15 for a period of at least one year next preceding his or her appointment and shall have been
16 actively engaged in the lawful and ethical practice of the profession of physician and surgeon for

17 at least five years next preceding his or her appointment. Not more than four members shall be
18 affiliated with the same political party. All members shall be appointed for a term of four years.
19 Each member of the board shall receive as compensation an amount set by the board not to
20 exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to
21 reimbursement of his or her expenses necessarily incurred in the discharge of his or her official
22 duties. The president of the Missouri State Medical Association, for all medical physician
23 appointments, or the president of the Missouri Association of Osteopathic Physicians and
24 Surgeons, for all osteopathic physician appointments, in office at the time shall, at least ninety
25 days prior to the expiration of the term of the respective board member, other than the public
26 member, or as soon as feasible after the appropriate vacancy on the board otherwise occurs,
27 submit to the director of the division of professional registration a list of five physicians and
28 surgeons qualified and willing to fill the vacancy in question, with the request and
29 recommendation that the governor appoint one of the five persons so listed, and with the list so
30 submitted, the president of the Missouri State Medical Association or the Missouri Association
31 of Osteopathic Physicians and Surgeons, as appropriate, shall include in his or her letter of
32 transmittal a description of the method by which the names were chosen by that association.

33 **2. The member with knowledge and expertise in dealing with impaired health care**
34 **professionals by reason of personal illness, substance abuse, as a result of any mental**
35 **condition shall be at the time of his or her appointment a citizen of the United States, a**
36 **resident of this state for a period of one year, and maintained a stable physical and mental**
37 **condition, and free from any substance abuse for a minimum of three consecutive years**
38 **immediately preceding such appointment.**

39 **3.** The public member shall be at the time of his or her appointment a citizen of the
40 United States; a resident of this state for a period of one year and a registered voter; a person who
41 is not and never was a member of any profession licensed or regulated pursuant to this chapter
42 or the spouse of such person; and a person who does not have and never has had a material,
43 financial interest in either the providing of the professional services regulated by this chapter,
44 or an activity or organization directly related to any profession licensed or regulated pursuant to
45 this chapter. All members, including public members, shall be chosen from lists submitted by
46 the director of the division of professional registration. The duties of the public member shall
47 not include the determination of the technical requirements to be met for licensure or whether
48 any person meets such technical requirements or of the technical competence or technical
49 judgment of a licensee or a candidate for licensure.

335.021. 1. "The Missouri State Board of Nursing" shall consist of nine members, five
2 of whom must be registered professional nurses. Two members of the board must be licensed
3 practical nurses, **one member shall have knowledge and expertise in dealing with impaired**

4 **health care professionals by reason of personal illness, substance abuse, as a result of any**
5 **mental condition**, and one member **shall be** a voting public member. Two of the five registered
6 professional nurses shall hold a graduate degree in nursing, and at least one of the professional
7 nurse members shall represent nursing practice. Any person, other than the public member **and**
8 **member with knowledge and expertise in dealing with impaired health care professionals**,
9 appointed to the board as hereinafter provided shall be a citizen of the United States and a
10 resident of this state for a period of at least one year, a licensed nurse in this state, and shall have
11 been actively engaged in nursing for at least three years immediately preceding the appointment
12 or reappointment. Membership on the board shall include representatives with expertise in each
13 level of educational programs the graduates of which are eligible to apply for licensure such as
14 practical, diploma, associate degree, and baccalaureate.

15 2. The governor shall appoint members to the board by and with the advice and consent
16 of the senate when a vacancy thereon occurs either by the expiration of a term or otherwise;
17 provided, however, that any board member shall serve until his or her successor is appointed and
18 qualified. Every appointment except to fulfill an unexpired term shall be for a term of four years,
19 but no person shall be appointed to more than two consecutive terms.

20 3. At least ninety days before the expiration of a term of a board member, and as soon
21 as feasible after the occurrence of a vacancy on the board for reasons other than the expiration
22 of a term, a list of three licensed and qualified nurses shall be submitted to the director of the
23 division of professional registration. The list shall be submitted by the Missouri Nurses
24 Association if the vacancy is for a registered professional nurse, and by the Missouri State
25 Association of Licensed Practical Nurses if the vacancy is for a licensed practical nurse. The
26 governor may appoint a board member to fill the vacancy from the list submitted, or may appoint
27 some other qualified licensed nurse. This subsection shall not apply to public member vacancies.

28 4. **The member with knowledge and expertise in dealing with impaired health care**
29 **professionals by reason of personal illness, substance abuse, as a result of any mental**
30 **condition shall be at the time of his or her appointment a citizen of the United States, a**
31 **resident of this state for a period of one year, and maintained a stable physical and mental**
32 **condition, and free from any substance abuse for a minimum of three consecutive years**
33 **immediately preceding such appointment.**

34 5. The public member shall be at the time of his or her appointment a citizen of the
35 United States; a resident of this state for a period of one year and a registered voter; a person who
36 is not and never was a member of any profession licensed or regulated pursuant to this chapter
37 or the spouse of such person; and a person who does not have and never has had a material,
38 financial interest in either the providing of the professional services regulated by this chapter,
39 or an activity or organization directly related to any profession licensed or regulated pursuant to

40 this chapter. All members, including public members, shall be chosen from lists submitted by
41 the director of the division of professional registration. The duties of the public member shall
42 not include the determination of the technical requirements to be met for licensure or whether
43 any person meets such technical requirements or of the technical competence or technical
44 judgment of a licensee or a candidate for licensure.

336.130. 1. The governor, with the advice and consent of the senate, shall appoint [six]
2 **seven** members, five persons from among such practicing optometrists of the state as have had
3 not less than five years' practical experience in optometry as defined in section 336.010, **one**
4 **member with knowledge and expertise in dealing with impaired health care professionals**
5 **by reason of personal illness, substance abuse, as a result of any mental condition**, and one
6 voting public member, who shall constitute "The State Board of Optometry". Each member shall
7 be a United States citizen and a resident of Missouri for one year. No member of any optical
8 school or college, or instructor in optometry, or person connected in any way therewith, nor any
9 person who as owner, stockholder or employee is connected with any manufacturing, wholesale,
10 dispensing or jobbing house dealing in spectacles or optical supplies or instruments used by
11 optometrists shall be eligible to appointment upon the state board of optometry. The term of all
12 members shall be for a period of five years and until their successors shall be appointed and
13 qualified. If any person, other than the public member **or member with knowledge and**
14 **expertise in dealing with impaired health care professionals**, so appointed shall discontinue
15 the active practice of optometry during the period of his or her appointment, such person's term
16 shall thereupon cease and the person shall be at once removed by the governor. All vacancies,
17 however occurring, shall be filled by appointment by the governor, with the advice and consent
18 of the senate, and appointments made when the senate is not in session shall be confirmed at its
19 next ensuing session. The members of the state board of optometry, before entering upon the
20 discharge of their duties, shall make and file with the secretary of state, the constitutional oath
21 of office.

22 2. **The member with knowledge and expertise in dealing with impaired health care**
23 **professionals by reason of personal illness, substance abuse, as a result of any mental**
24 **condition shall be at the time of his or her appointment a citizen of the United States, a**
25 **resident of this state for a period of one year, and maintained a stable physical and mental**
26 **condition, and free from any substance abuse for a minimum of three consecutive years**
27 **immediately preceding such appointment.**

28 3. The public member shall be at the time of his or her appointment a citizen of the
29 United States; a resident of this state for a period of one year and a registered voter; a person who
30 is not and never was a member of any profession licensed or regulated pursuant to this chapter
31 or the spouse of such person; and a person who does not have and never has had a material,

32 financial interest in either the providing of the professional services regulated by this chapter,
33 or an activity or organization directly related to any profession licensed or regulated pursuant to
34 this chapter. All members, including public members, shall be chosen from lists submitted by
35 the director of the division of professional registration. The duties of the public member shall
36 not include the determination of the technical requirements to be met for licensure or whether
37 any person meets such technical requirements or of the technical competence or technical
38 judgment of a licensee or a candidate for licensure.

39 [3.] 4. The members of said board shall meet and organize by electing a president, a vice
40 president, and a secretary.

41 [4.] 5. The board shall prescribe the duties of its officers and adopt rules and regulations,
42 not inconsistent with this chapter, to govern its proceedings; and also shall adopt a seal.

43 [5.] 6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
44 that is created under the authority delegated in this chapter shall become effective only if it
45 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable,
46 section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no
47 force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the
48 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all
49 applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any
50 of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to
51 delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional,
52 then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999,
53 shall be invalid and void.

338.110. 1. The board of pharmacy shall consist of [seven] **eight** persons not connected
2 with any school of pharmacy. Six members shall be licensed as pharmacists and actively
3 engaged in the practice of pharmacy within this state, and at least one of these shall be a person
4 who provides, on a full-time basis, pharmaceutical services to a hospital, skilled nursing facility
5 or an intermediate care facility. **One member shall have knowledge and expertise in dealing**
6 **with impaired health care professionals by reason of personal illness, substance abuse, as**
7 **a result of any mental condition.** The other member shall be a voting public member. All
8 members shall be appointed by the governor, with the approval of the senate, and shall hold their
9 office for five years from the date of their appointment and until their successors shall have been
10 appointed and qualified.

11 2. Annually the Missouri Pharmaceutical Association may submit to the director of the
12 division of professional registration the names of five persons licensed as pharmacists within this
13 state, and from this number, or from others, the governor, with the approval of the senate, shall
14 appoint one member to fill the vacancy annually occurring in the board of pharmacy, and

15 vacancies occurring from any other cause shall be filled in like manner. This subsection shall
16 not apply to public member vacancies.

17 **3. The member with knowledge and expertise in dealing with impaired health care**
18 **professionals by reason of personal illness, substance abuse, or as a result of any mental**
19 **condition shall be at the time of his or her appointment a citizen of the United States, a**
20 **resident of this state for a period of one year, and maintained a stable physical and mental**
21 **condition, and free from any substance abuse for a minimum of three consecutive years**
22 **immediately preceding such appointment.**

23 **4.** The public member shall be at the time of his or her appointment a citizen of the
24 United States; a resident of this state for a period of one year and a registered voter; a person who
25 is not and never was a member of any profession licensed or regulated pursuant to this chapter
26 or the spouse of such person; and a person who does not have and never has had a material,
27 financial interest in either the providing of the professional services regulated by this chapter,
28 or an activity or organization directly related to any profession licensed or regulated pursuant to
29 this chapter. All members, including public members, shall be chosen from lists submitted by
30 the director of the division of professional registration. The duties of the public member shall
31 not include the determination of the technical requirements to be met for licensure or whether
32 any person meets such technical requirements or of the technical competence or technical
33 judgment of a licensee or a candidate for licensure.

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