

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1842
97TH GENERAL ASSEMBLY

5997H.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 324.001 and 334.035, RSMo, and to enact in lieu thereof five new sections relating to the regulation of professional licenses.

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

Section A. Sections 324.001 and 334.035, RSMo, are repealed and five new sections
2 enacted in lieu thereof, to be known as sections 324.001, 334.035, 334.036, 334.037, and 1, to
3 read as follows:

324.001. 1. **(1) The purpose of sections 324.001 to 324.1109 is to promote the
2 general welfare by establishing guidelines for the regulation of occupations and professions
3 not regulated prior to January 1, 2015, and those regulated professions that seek to
4 substantially increase their scope of practice.**

5 **(2) All individuals may engage in the occupation of their choice, free from
6 unreasonable government regulation. The state may not impose a substantial burden on
7 an individual's pursuit of their occupation or profession unless there is a compelling
8 interest for the state to protect the general welfare. Where such an interest exists, the
9 regulation adopted by the state should be the least restrictive type of regulation consistent
10 with the public interest to be protected.**

11 **(3) It is the intent of this chapter that no regulation shall, after January 1, 2014, be
12 imposed upon any occupation or profession except for the exclusive purpose of protecting
13 the general welfare.**

14 **(4) All bills introduced in the legislature to regulate an occupation or profession for
15 the first time should be reviewed according to the following criteria. An occupation or
16 profession should be regulated by the state only when:**

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 (a) Unregulated practice has caused significant harm and endangered the general
18 welfare, and the potential for further harm and endangerment is easily recognizable and
19 not remote or dependent upon tenuous argument;

20 (b) The public needs and can reasonably be expected to benefit from an assurance
21 of initial personal qualifications; and

22 (c) The general welfare cannot be effectively protected by other means.

23 (5) After evaluating the criteria in subdivision (4) of this subsection and considering
24 governmental, economic, and societal costs and benefits, if the legislature finds that the
25 state has a compelling interest in regulating an occupation or profession not previously
26 regulated by law, the least restrictive type of regulation should be implemented, consistent
27 with the need to protect the general welfare and this section where:

28 (a) Market competition, common law, statutory civil actions, and criminal
29 prohibitions are insufficient to eradicate actual harm, the regulation should provide for
30 stricter civil actions and criminal prosecutions;

31 (b) A service being performed for individuals involves a hazard to the general
32 welfare, the regulation should impose inspection requirements and enable an appropriate
33 state agency to enforce violations by injunctive relief in court, including, but not limited
34 to, regulation of the business activity providing the service rather than practitioners;

35 (c) The threat to the general welfare resulting from the practitioner's services is
36 relatively small, easily identifiable or predictable, the regulation should implement a
37 system of insurance, bonding, or registration;

38 (d) The consumer possesses significantly less information so that the practitioner
39 puts the consumer in a disadvantageous position relative to the practitioner to judge the
40 quality of the practitioner's services, the regulation should implement a voluntary system
41 of certification; or

42 (e) There is no other type of regulation that will protect the general welfare other
43 than licensing, the regulation should implement a system of licensing.

44 2. For the purposes of this section, the following terms mean:

45 (1) "Applicant group", any occupational or professional group or organization, any
46 individual, or any other interested party that proposes that any occupation or profession
47 not presently regulated be regulated or proposes to substantially increase the scope of
48 practice of the occupation or profession;

49 (2) "Certification", a voluntary program in which the government grants
50 nontransferable recognition to an individual who meets personal qualifications established
51 by a legislative body. Upon approval, the individual may use "certified" as a designated
52 title. Someone who has not been recognized as certified may perform the occupation for

53 **compensation lawfully, but may not use the title certified. This term shall not be**
54 **synonymous with an occupational license or prohibit the use of private certification;**

55 **(3) "Department", the department of insurance, financial institutions and professional**
56 **registration;**

57 **[(2)] (4) "Director", the director of the division of professional registration; and**

58 **[(3)] (5) "Division", the division of professional registration;**

59 **(6) "General welfare", the concern of the government for the health, peace,**
60 **morality, and safety of its citizens;**

61 **(7) "Grandfather clause", a provision in a regulatory statute applicable to**
62 **practitioners actively engaged in the regulated occupation or profession prior to the**
63 **effective date of the regulatory statute that exempts the practitioners from meeting the**
64 **personal qualifications set forth in the regulatory statute to perform prescribed**
65 **occupational tasks;**

66 **(8) "Inspection", the periodic examination of practitioners by a state agency in**
67 **order to ascertain whether the practitioners' activities are being carried out in a fashion**
68 **consistent with the requisite level to protect the general welfare;**

69 **(9) "Lawful occupation", a course of conduct, pursuit, or profession that includes**
70 **the sale of goods or services that are not themselves illegal to sell irrespective of whether**
71 **the individual selling them is subject to an occupational regulation;**

72 **(10) "Least restrictive type of occupational regulations", in order from least to most**
73 **restrictive:**

74 **(a) Market competition;**

75 **(b) A provision for private civil action to remedy consumer harm;**

76 **(c) Criminal sanction;**

77 **(d) Regulation of the business activity providing the service rather than the**
78 **practitioner;**

79 **(e) Inspection;**

80 **(f) Bonding or insurance;**

81 **(g) Registration;**

82 **(h) Certification;**

83 **(i) Occupational license;**

84 **(11) "Legislative committees of reference", the standing legislative committees**
85 **designated by the respective rules committees of the senate and house of representatives**
86 **to consider proposed legislation to regulate occupations, or professions not previously**
87 **regulated;**

88 (12) "Occupational license", a nontransferable authorization in law for an
89 individual to perform a lawful occupation for compensation based on meeting personal
90 qualifications established by a legislative body. It shall be prohibited for an individual who
91 does not possess an occupational license to perform the occupation for compensation;

92 (13) "Occupational regulation", a statute, ordinance, rule, practice, policy, or other
93 law requiring an individual to possess certain personal qualifications to work in a lawful
94 occupation;

95 (14) "Personal qualifications", criteria related to an individual's personal
96 background, including completion of an approved educational program, satisfactory
97 performance on an examination, work experience, criminal history, moral standing, and
98 completion of continuing education;

99 (15) "Practitioner", an individual who has achieved knowledge and skill by
100 practice and is actively engaged in a specified occupation or profession;

101 (16) "Public member", an individual who is not currently, and has never been in
102 the past, a member or spouse of a member of the occupation or profession being regulated,
103 or an individual who does not currently have and has never in the past had a material
104 financial interest in either the rendering of the occupation or professional service being
105 regulated or an activity directly related to the occupation or profession being regulated;

106 (17) "Registration", a requirement established by the legislature in which a person:

107 (a) Submits notification to a state agency; and

108 (b) May use "registered" as a designated title.

109

110 Notification may include the person's name and address, the person's agent for service of
111 process, the location of the activity to be performed, and a description of the service the
112 person provides. Registration may include a requirement to post a bond but does not
113 include education or experience requirements. Nonregistered persons shall not perform
114 the occupation for compensation or use registered as a designated title. The term
115 registration shall not be synonymous with an occupational license and does not refer to or
116 prohibit the use of private registration;

117 (18) "Regulatory entity", any board, commission, agency, division, or other unit
118 or subunit of state government that regulates one or more professions, occupations,
119 industries, businesses, or other endeavors in this state;

120 (19) "State agency", every state office, department, board, commission, regulatory
121 entity, and agency of the state, and, where provided by law, programs and activities
122 involving less than the full responsibility of a state agency;

123 **(20) "Substantial burden", a requirement in an occupational regulation that**
124 **imposes significant difficulty or cost on an individual seeking to enter into or continue in**
125 **a lawful occupation and is more than an incidental burden.**

126 **[2.] 3. After January 1, 2014, applicant groups shall explain each of the following**
127 **factors to the extent requested by the legislative committees of reference:**

128 **(1) A definition of the problem and why regulation is necessary, including but not**
129 **limited to:**

130 **(a) The description and quantification of the actual harm to the general public due**
131 **to the fact the occupation or profession is not regulated;**

132 **(b) The extent to which the actual harm could be avoided;**

133 **(c) A description of how consumers will benefit in the future from the proposed**
134 **type of regulation; and**

135 **(d) The extent of autonomy a practitioner has, as indicated by:**

136 **a. The extent to which the occupation or profession calls for independent judgment,**
137 **and the extent of skill or experience required in making the independent judgment; and**

138 **b. The extent to which practitioners are supervised;**

139 **(2) The efforts made to address the actual harm caused:**

140 **(a) Voluntary efforts, if any, by members of the occupation or profession to:**

141 **a. Establish a code of ethics; or**

142 **b. Help resolve disputes between practitioners and consumers; and**

143 **(b) Recourse to and the extent of use of applicable law and whether it could be**
144 **strengthened to control the problem;**

145 **(3) The alternatives considered, including but not limited to:**

146 **(a) Increased civil or criminal sanctions;**

147 **(b) Regulation of businesses rather than practitioners;**

148 **(c) Regulation of the service or training program rather than the individual**
149 **practitioners;**

150 **(d) Inspections;**

151 **(e) Bonding or insurance;**

152 **(f) Registration of all practitioners;**

153 **(g) Certification of all practitioners;**

154 **(h) Other alternatives;**

155 **(i) Why the use of the alternatives specified in this subsection would not be**
156 **adequate to protect the general welfare; and**

157 **(j) Why licensing would serve to protect the general welfare;**

158 **(4) The benefit to the public if regulation is granted;**

159 (5) The extent to which the incidences of specific problems present in the
160 unregulated occupation or profession can reasonably be expected to be reduced by
161 proposed regulation;

162 (6) Whether the public can identify qualified practitioners;

163 (7) The extent to which the public can be confident that qualified practitioners are
164 competent;

165 (a) Whether the proposed regulatory entity would be a board composed of
166 members of the profession and public members, or a state agency, or both, and, if
167 appropriate, their respective responsibilities in administering the system of inspections,
168 bonding, insurance, registration, certification, or licensure, including the composition of
169 the board and the number of public members, if any; the powers and duties of the board
170 or state agency regarding examinations and for cause revocation, suspension, and
171 nonrenewal of registrations, certificates, or licenses; the promulgation of rules and canons
172 of ethics; the conduct of inspections; the receipt of complaints and disciplinary action taken
173 against practitioners; and how fees would be levied and collected to cover the expenses of
174 administering and operating the regulatory system;

175 (b) If there is a grandfather clause, and, if so, how consumers will be protected
176 from the harm caused by current practitioners that is the basis for advocating for the
177 enactment of the proposed regulation;

178 (c) If there is a grandfather clause, if current practitioners will be required to meet
179 the prerequisite qualifications established by the regulatory entity at a later date, and, if
180 not, why not;

181 (d) Whether the regulatory entity would be authorized to enter into reciprocity
182 agreements with other jurisdictions;

183 (e) The nature and duration of any training including, but not limited to, whether
184 the training includes a substantial amount of supervised field experience; whether training
185 programs exist in this state; if there will be an experience requirement; whether the
186 experience must be acquired under a registered, certified, or licensed practitioner; whether
187 there are alternative routes of entry or methods of meeting the prerequisite qualifications;
188 whether all applicants will be required to pass an examination; and, if an examination is
189 required, by whom it will be developed and how the costs of development will be met; and

190 (f) What additional training programs are anticipated to be necessary to assure
191 training is accessible statewide; the anticipated time required to establish the additional
192 training programs; the types of institutions capable of providing the training; a description
193 of how training programs will meet the needs of the expected workforce, including reentry
194 workers, minorities, placebound students, and others;

- 195 **(8) Assurance of the public that practitioners have maintained their competence:**
196 **(a) Whether the registration, certification, or licensure will carry an expiration**
197 **date; and**
198 **(b) Whether renewal will be based only upon payment of a fee, or whether renewal**
199 **will involve reexamination, peer review, or other enforcement;**
200 **(9) The extent to which regulation might harm the public;**
201 **(10) The extent to which regulation will restrict entry into the occupation or**
202 **profession:**
203 **(a) Whether the proposed personal qualifications are more restrictive than**
204 **necessary to insure safe and effective performance;**
205 **(b) How the proposed personal qualifications compare to other regulations in the**
206 **state which may involve greater risks to the general welfare; and**
207 **(c) The number of other states that regulate the same occupation or profession and**
208 **how the proposed personal qualifications compared to required personal qualifications in**
209 **other states that regulate the same occupation or profession;**
210 **(11) Whether there are similar professions to that of the applicant group which**
211 **should be included in, or portions of the applicant group which should be excluded from,**
212 **the proposed legislation;**
213 **(12) The maintenance of personal qualifications;**
214 **(13) Whether effective quality assurance standards exist in the occupation or**
215 **profession, such as legal requirements associated with specific programs that define or**
216 **enforce professional standards, or a code of ethics;**
217 **(14) How the proposed legislation will assure:**
218 **(a) The extent to which a code of ethics, if any, will be adopted; and**
219 **(b) Grounds for suspension or revocation of registration, certification, or licensure;**
220 **(15) A description of the group proposed for regulation, including a list of**
221 **associations, organizations, and other groups representing the practitioners in this state,**
222 **an estimate of the number of practitioners in each group, and whether the groups**
223 **represent different levels of practice; and**
224 **(16) The expected costs of regulation, including but not limited to:**
225 **(a) The impact registration, certification, or licensure will have on the costs of the**
226 **services to the public;**
227 **(b) The cost to the state and to the general public of implementing the proposed**
228 **legislation; and**

229 **(c) The cost to the state and the members of the group proposed for regulation for**
230 **the required education, including projected tuition and expenses and expected increases**
231 **in training programs, staffing, and enrollments at state training institutions.**

232 **4. Applicant groups shall submit a written report explaining the factors**
233 **enumerated in subsection 3 of this section to the legislative committees of reference.**

234 **5. Any legislative proposal which contains a continuing education requirement shall**
235 **be accompanied by evidence that such a requirement has been proven effective for the**
236 **profession addressed in the legislation.**

237 **6. Nothing in this section shall be construed to create a right of action against a**
238 **private party or to require a private party to do business with an individual who is not**
239 **licensed, certified, or registered with the government, or to create a right of action against**
240 **the state, county, municipal, or other level of government in the state.**

241 **7. There is hereby established a "Division of Professional Registration" assigned to the**
242 **department of insurance, financial institutions and professional registration as a type III transfer,**
243 **headed by a director appointed by the governor with the advice and consent of the senate. All**
244 **of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State**
245 **Reorganization Act of 1974 and Executive Order 06-04 shall apply to this department and its**
246 **divisions, agencies, and personnel.**

247 **[3.] 8. The director of the division of professional registration shall promulgate rules and**
248 **regulations which designate for each board or commission assigned to the division the renewal**
249 **date for licenses or certificates. After the initial establishment of renewal dates, no director of**
250 **the division shall promulgate a rule or regulation which would change the renewal date for**
251 **licenses or certificates if such change in renewal date would occur prior to the date on which the**
252 **renewal date in effect at the time such new renewal date is specified next occurs. Each board or**
253 **commission shall by rule or regulation establish licensing periods of one, two, or three years.**
254 **Registration fees set by a board or commission shall be effective for the entire licensing period**
255 **involved, and shall not be increased during any current licensing period. Persons who are**
256 **required to pay their first registration fees shall be allowed to pay the pro rata share of such fees**
257 **for the remainder of the period remaining at the time the fees are paid. Each board or**
258 **commission shall provide the necessary forms for initial registration, and thereafter the director**
259 **may prescribe standard forms for renewal of licenses and certificates. Each board or commission**
260 **shall by rule and regulation require each applicant to provide the information which is required**
261 **to keep the board's records current. Each board or commission shall have the authority to collect**
262 **and analyze information required to support workforce planning and policy development. Such**
263 **information shall not be publicly disclosed so as to identify a specific health care provider, as**

264 defined in section 376.1350. Each board or commission shall issue the original license or
265 certificate.

266 [4.] 9. The division shall provide clerical and other staff services relating to the issuance
267 and renewal of licenses for all the professional licensing and regulating boards and commissions
268 assigned to the division. The division shall perform the financial management and clerical
269 functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and
270 renewal of licenses and certificates" means the ministerial function of preparing and delivering
271 licenses or certificates, and obtaining material and information for the board or commission in
272 connection with the renewal thereof. It does not include any discretionary authority with regard
273 to the original review of an applicant's qualifications for licensure or certification, or the
274 subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action
275 contemplated against the licensee or certificate holder. The division may develop and implement
276 microfilming systems and automated or manual management information systems.

277 [5.] 10. The director of the division shall maintain a system of accounting and budgeting,
278 in cooperation with the director of the department, the office of administration, and the state
279 auditor's office, to ensure proper charges are made to the various boards for services rendered
280 to them. The general assembly shall appropriate to the division and other state agencies from
281 each board's funds moneys sufficient to reimburse the division and other state agencies for all
282 services rendered and all facilities and supplies furnished to that board.

283 [6.] 11. For accounting purposes, the appropriation to the division and to the office of
284 administration for the payment of rent for quarters provided for the division shall be made from
285 the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for
286 the purpose defined in subsection [5] 10 of this section. The fund shall consist of moneys
287 deposited into it from each board's fund. Each board shall contribute a prorated amount
288 necessary to fund the division for services rendered and rent based upon the system of accounting
289 and budgeting established by the director of the division as provided in subsection [5] 10 of this
290 section. Transfers of funds to the professional registration fees fund shall be made by each board
291 on July first of each year; provided, however, that the director of the division may establish an
292 alternative date or dates of transfers at the request of any board. Such transfers shall be made
293 until they equal the prorated amount for services rendered and rent by the division. The
294 provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be
295 transferred and placed to the credit of general revenue.

296 [7.] 12. The director of the division shall be responsible for collecting and accounting
297 for all moneys received by the division or its component agencies. Any money received by a
298 board or commission shall be promptly given, identified by type and source, to the director. The
299 director shall keep a record by board and state accounting system classification of the amount

300 of revenue the director receives. The director shall promptly transmit all receipts to the
301 department of revenue for deposit in the state treasury to the credit of the appropriate fund. The
302 director shall provide each board with all relevant financial information in a timely fashion.
303 Each board shall cooperate with the director by providing necessary information.

304 [8.] 13. All educational transcripts, test scores, complaints, investigatory reports, and
305 information pertaining to any person who is an applicant or licensee of any agency assigned to
306 the division of professional registration by statute or by the department are confidential and may
307 not be disclosed to the public or any member of the public, except with the written consent of
308 the person whose records are involved. The agency which possesses the records or information
309 shall disclose the records or information if the person whose records or information is involved
310 has consented to the disclosure. Each agency is entitled to the attorney-client privilege and work-
311 product privilege to the same extent as any other person. Provided, however, that any board may
312 disclose confidential information without the consent of the person involved in the course of
313 voluntary interstate exchange of information, or in the course of any litigation concerning that
314 person, or pursuant to a lawful request, or to other administrative or law enforcement agencies
315 acting within the scope of their statutory authority. Information regarding identity, including
316 names and addresses, registration, and currency of the license of the persons possessing licenses
317 to engage in a professional occupation and the names and addresses of applicants for such
318 licenses is not confidential information.

319 [9.] 14. Any deliberations conducted and votes taken in rendering a final decision after
320 a hearing before an agency assigned to the division shall be closed to the parties and the public.
321 Once a final decision is rendered, that decision shall be made available to the parties and the
322 public.

323 [10.] 15. A compelling governmental interest shall be deemed to exist for the purposes
324 of section 536.025 for licensure fees to be reduced by emergency rule, if the projected fund
325 balance of any agency assigned to the division of professional registration is reasonably expected
326 to exceed an amount that would require transfer from that fund to general revenue.

327 [11.] 16. (1) The following boards and commissions are assigned by specific type
328 transfers to the division of professional registration: Missouri state board of accountancy,
329 chapter 326; board of cosmetology and barber examiners, chapters 328 and 329; Missouri board
330 for architects, professional engineers, professional land surveyors and landscape architects,
331 chapter 327; Missouri state board of chiropractic examiners, chapter 331; state board of
332 registration for the healing arts, chapter 334; Missouri dental board, chapter 332; state board of
333 embalmers and funeral directors, chapter 333; state board of optometry, chapter 336; Missouri
334 state board of nursing, chapter 335; board of pharmacy, chapter 338; state board of podiatric
335 medicine, chapter 330; Missouri real estate appraisers commission, chapter 339; and Missouri

336 veterinary medical board, chapter 340. The governor shall appoint members of these boards by
337 and with the advice and consent of the senate.

338 (2) The boards and commissions assigned to the division shall exercise all their
339 respective statutory duties and powers, except those clerical and other staff services involving
340 collecting and accounting for moneys and financial management relating to the issuance and
341 renewal of licenses, which services shall be provided by the division, within the appropriation
342 therefor. Nothing herein shall prohibit employment of professional examining or testing services
343 from professional associations or others as required by the boards or commissions on contract.
344 Nothing herein shall be construed to affect the power of a board or commission to expend its
345 funds as appropriated. However, the division shall review the expense vouchers of each board.
346 The results of such review shall be submitted to the board reviewed and to the house and senate
347 appropriations committees annually.

348 (3) Notwithstanding any other provisions of law, the director of the division shall
349 exercise only those management functions of the boards and commissions specifically provided
350 in the Reorganization Act of 1974, and those relating to the allocation and assignment of space,
351 personnel other than board personnel, and equipment.

352 (4) "Board personnel", as used in this section or chapters 317, 326, 327, 328, 329, 330,
353 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, shall mean personnel whose functions
354 and responsibilities are in areas not related to the clerical duties involving the issuance and
355 renewal of licenses, to the collecting and accounting for moneys, or to financial management
356 relating to issuance and renewal of licenses; specifically included are executive secretaries (or
357 comparable positions), consultants, inspectors, investigators, counsel, and secretarial support
358 staff for these positions; and such other positions as are established and authorized by statute for
359 a particular board or commission. Boards and commissions may employ legal counsel, if
360 authorized by law, and temporary personnel if the board is unable to meet its responsibilities with
361 the employees authorized above. Any board or commission which hires temporary employees
362 shall annually provide the division director and the appropriation committees of the general
363 assembly with a complete list of all persons employed in the previous year, the length of their
364 employment, the amount of their remuneration, and a description of their responsibilities.

365 (5) Board personnel for each board or commission shall be employed by and serve at the
366 pleasure of the board or commission, shall be supervised as the board or commission designates,
367 and shall have their duties and compensation prescribed by the board or commission, within
368 appropriations for that purpose, except that compensation for board personnel shall not exceed
369 that established for comparable positions as determined by the board or commission pursuant
370 to the job and pay plan of the department of insurance, financial institutions and professional

371 registration. Nothing herein shall be construed to permit salaries for any board personnel to be
372 lowered except by board action.

373 [12.] 17. All the powers, duties, and functions of the division of athletics, chapter 317,
374 and others, are assigned by type I transfer to the division of professional registration.

375 [13.] 18. Wherever the laws, rules, or regulations of this state make reference to the
376 "division of professional registration of the department of economic development", such
377 references shall be deemed to refer to the division of professional registration.

334.035. **Except as otherwise provided in section 334.036**, every applicant for a
2 permanent license as a physician and surgeon shall provide the board with satisfactory evidence
3 of having successfully completed such postgraduate training in hospitals or medical or
4 osteopathic colleges as the board may prescribe by rule.

334.036. 1. For purposes of this section, the following terms shall mean:

2 (1) "Assistant physician", any medical school graduate who:

3 (a) Is a resident and citizen of the United States or is a legal resident alien;

4 (b) Has successfully completed Step 1 and Step 2 of the United States Medical
5 Licensing Examination or the equivalent of such steps of any other board-approved
6 medical licensing examination within the two-year period immediately preceding
7 application for licensure as an assistant physician, but in no event more than three years
8 after graduation from a medical college or osteopathic medical college;

9 (c) Has not completed an approved postgraduate residency and has successfully
10 completed Step 2 of the United States Medical Licensing Examination or the equivalent of
11 such step of any other board-approved medical licensing examination within the
12 immediately preceding two-year period unless when such two-year anniversary occurs he
13 or she was serving as a resident physician in an accredited residency in the United States
14 and continued to do so within thirty days prior to application for licensure as an assistant
15 physician; and

16 (d) Has proficiency in the English language;

17 (2) "Assistant physician collaborative practice arrangement", an agreement
18 between a physician and an assistant physician that meets the requirements of this section
19 and section 334.037;

20 (3) "Medical school graduate", any person who has graduated from a medical
21 college or osteopathic medical college described in section 334.031.

22 2. (1) An assistant physician collaborative practice arrangement shall limit the
23 assistant physician to providing only primary care services and only in medically
24 underserved rural or urban areas of this state or in any pilot project areas established in
25 which assistant physicians may practice.

26 **(2) For a physician-assistant physician team working in a rural health clinic under**
27 **the federal Rural Health Clinic Services Act, P.L. 95-210, as amended:**

28 **(a) An assistant physician shall be considered a physician assistant for purposes of**
29 **regulations of the Centers for Medicare and Medicaid Services (CMS); and**

30 **(b) No supervision requirements in addition to the minimum federal law shall be**
31 **required.**

32 **3. (1) For purposes of this section, the licensure of assistant physicians shall take**
33 **place within processes established by rules of the state board of registration for the healing**
34 **arts. The board of healing arts is authorized to establish rules under chapter 536**
35 **establishing licensure and renewal procedures, supervision, collaborative practice**
36 **arrangements, fees, and addressing such other matters as are necessary to protect the**
37 **public and discipline the profession. An application for licensure may be denied or the**
38 **licensure of an assistant physician may be suspended or revoked by the board in the same**
39 **manner and for violation of the standards as set forth by section 334.100, or such other**
40 **standards of conduct set by the board by rule.**

41 **(2) Any rule or portion of a rule, as that term is defined in section 536.010, that is**
42 **created under the authority delegated in this section shall become effective only if it**
43 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
44 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**
45 **vested with the general assembly under chapter 536 to review, to delay the effective date,**
46 **or to disapprove and annul a rule are subsequently held unconstitutional, then the grant**
47 **of rulemaking authority and any rule proposed or adopted after August 28, 2014, shall be**
48 **invalid and void.**

49 **4. An assistant physician shall clearly identify himself or herself as an assistant**
50 **physician and shall be permitted to use the terms "doctor", "Dr.", or "doc". No assistant**
51 **physician shall practice or attempt to practice without an assistant physician collaborative**
52 **practice arrangement, except as otherwise provided in this section and in an emergency**
53 **situation.**

54 **5. The collaborating physician is responsible at all times for the oversight of the**
55 **activities of and accepts responsibility for primary care services rendered by the assistant**
56 **physician.**

57 **6. The provisions of section 334.037 shall apply to all assistant physician**
58 **collaborative practice arrangements. To be eligible to practice as an assistant physician,**
59 **a licensed assistant physician shall enter into an assistant physician collaborative practice**
60 **arrangement within six months of his or her initial licensure and shall not have more than**
61 **a six-month time period between collaborative practice arrangements during his or her**

62 licensure period. Any renewal of licensure under this section shall include verification of
63 actual practice under a collaborative practice arrangement in accordance with this
64 subsection during the immediately preceding licensure period.

334.037. 1. A physician may enter into collaborative practice arrangements with
2 assistant physicians. Collaborative practice arrangements shall be in the form of written
3 agreements, jointly agreed-upon protocols, or standing orders for the delivery of health
4 care services. Collaborative practice arrangements, which shall be in writing, may delegate
5 to an assistant physician the authority to administer or dispense drugs and provide
6 treatment as long as the delivery of such health care services is within the scope of practice
7 of the assistant physician and is consistent with that assistant physician's skill, training,
8 and competence and the skill and training of the collaborating physician.

9 2. The written collaborative practice arrangement shall contain at least the
10 following provisions:

11 (1) Complete names, home and business addresses, zip codes, and telephone
12 numbers of the collaborating physician and the assistant physician;

13 (2) A list of all other offices or locations besides those listed in subdivision (1) of this
14 subsection where the collaborating physician authorized the assistant physician to
15 prescribe;

16 (3) A requirement that there shall be posted at every office where the assistant
17 physician is authorized to prescribe, in collaboration with a physician, a prominently
18 displayed disclosure statement informing patients that they may be seen by an assistant
19 physician and have the right to see the collaborating physician;

20 (4) All specialty or board certifications of the collaborating physician and all
21 certifications of the assistant physician;

22 (5) The manner of collaboration between the collaborating physician and the
23 assistant physician, including how the collaborating physician and the assistant physician
24 shall:

25 (a) Engage in collaborative practice consistent with each professional's skill,
26 training, education, and competence;

27 (b) Maintain geographic proximity; except, the collaborative practice arrangement
28 may allow for geographic proximity to be waived for a maximum of twenty-eight days per
29 calendar year for rural health clinics as defined by P.L. 95-210, as long as the collaborative
30 practice arrangement includes alternative plans as required in paragraph (c) of this
31 subdivision. Such exception to geographic proximity shall apply only to independent rural
32 health clinics, provider-based rural health clinics if the provider is a critical access hospital
33 as provided in 42 U.S.C. Section 1395i-4, and provider-based rural health clinics if the

34 main location of the hospital sponsor is greater than fifty miles from the clinic. The
35 collaborating physician shall maintain documentation related to such requirement and
36 present it to the state board of registration for the healing arts when requested; and

37 (c) Provide coverage during absence, incapacity, infirmity, or emergency by the
38 collaborating physician;

39 (6) A description of the assistant physician's controlled substance prescriptive
40 authority in collaboration with the physician, including a list of the controlled substances
41 the physician authorizes the assistant physician to prescribe and documentation that it is
42 consistent with each professional's education, knowledge, skill, and competence;

43 (7) A list of all other written practice agreements of the collaborating physician and
44 the assistant physician;

45 (8) The duration of the written practice agreement between the collaborating
46 physician and the assistant physician;

47 (9) A description of the time and manner of the collaborating physician's review
48 of the assistant physician's delivery of health care services. The description shall include
49 provisions that the assistant physician shall submit a minimum of ten percent of the charts
50 documenting the assistant physician's delivery of health care services to the collaborating
51 physician for review by the collaborating physician, or any other physician designated in
52 the collaborative practice arrangement, every fourteen days; and

53 (10) The collaborating physician, or any other physician designated in the
54 collaborative practice arrangement, shall review every fourteen days a minimum of twenty
55 percent of the charts in which the assistant physician prescribes controlled substances. The
56 charts reviewed under this subdivision may be counted in the number of charts required
57 to be reviewed under subdivision (9) of this subsection.

58 3. The state board of registration for the healing arts under section 334.125 shall
59 promulgate rules regulating the use of collaborative practice arrangements for assistant
60 physicians. Such rules shall specify:

61 (1) Geographic areas to be covered;

62 (2) The methods of treatment that may be covered by collaborative practice
63 arrangements;

64 (3) In conjunction with deans of medical schools and primary care residency
65 program directors in the state, the development and implementation of educational
66 methods and programs undertaken during the collaborative practice service which shall
67 facilitate the advancement of the assistant physician's medical knowledge and capabilities,
68 and which may lead to credit toward a future residency program for programs that deem
69 such documented educational achievements acceptable; and

70 **(4) The requirements for review of services provided under collaborative practice**
71 **arrangements, including delegating authority to prescribe controlled substances.**

72

73 **Any rules relating to dispensing or distribution of medications or devices by prescription**
74 **or prescription drug orders under this section shall be subject to the approval of the state**
75 **board of pharmacy. Any rules relating to dispensing or distribution of controlled**
76 **substances by prescription or prescription drug orders under this section shall be subject**
77 **to the approval of the department of health and senior services and the state board of**
78 **pharmacy. The state board of registration for the healing arts shall promulgate rules**
79 **applicable to assistant physicians that shall be consistent with guidelines for federally**
80 **funded clinics. The rulemaking authority granted in this subsection shall not extend to**
81 **collaborative practice arrangements of hospital employees providing inpatient care within**
82 **hospitals as defined in chapter 197 or population-based public health services as defined**
83 **by 20 CSR 2150-5.100 as of April 30, 2008.**

84 **4. The state board of registration for the healing arts shall not deny, revoke,**
85 **suspend, or otherwise take disciplinary action against a collaborating physician for health**
86 **care services delegated to an assistant physician provided the provisions of this section and**
87 **the rules promulgated thereunder are satisfied.**

88 **5. Within thirty days of any change and on each renewal, the state board of**
89 **registration for the healing arts shall require every physician to identify whether the**
90 **physician is engaged in any collaborative practice arrangement, including collaborative**
91 **practice arrangements delegating the authority to prescribe controlled substances, and also**
92 **report to the board the name of each assistant physician with whom the physician has**
93 **entered into such arrangement. The board may make such information available to the**
94 **public. The board shall track the reported information and may routinely conduct random**
95 **reviews of such arrangements to ensure that arrangements are carried out for compliance**
96 **under this chapter.**

97 **6. A collaborating physician shall not enter into a collaborative practice**
98 **arrangement with more than three full-time equivalent assistant physicians. Such**
99 **limitation shall not apply to collaborative arrangements of hospital employees providing**
100 **inpatient care service in hospitals as defined in chapter 197 or population-based public**
101 **health services as defined by 20 CSR 2150-5.100 as of April 30, 2008.**

102 **7. The collaborating physician shall determine and document the completion of at**
103 **least a one-month period of time during which the assistant physician shall practice with**
104 **the collaborating physician continuously present before practicing in a setting where the**
105 **collaborating physician is not continuously present. Such limitation shall not apply to**

106 collaborative arrangements of providers of population-based public health services as
107 defined by 20 CSR 2150-5.100 as of April 30, 2008.

108 **8. No agreement made under this section shall supersede current hospital licensing**
109 **regulations governing hospital medication orders under protocols or standing orders for**
110 **the purpose of delivering inpatient or emergency care within a hospital as defined in**
111 **section 197.020 if such protocols or standing orders have been approved by the hospital's**
112 **medical staff and pharmaceutical therapeutics committee.**

113 **9. No contract or other agreement shall require a physician to act as a collaborating**
114 **physician for an assistant physician against the physician's will. A physician shall have the**
115 **right to refuse to act as a collaborating physician, without penalty, for a particular**
116 **assistant physician. No contract or other agreement shall limit the collaborating**
117 **physician's ultimate authority over any protocols or standing orders or in the delegation**
118 **of the physician's authority to any assistant physician, but such requirement shall not**
119 **authorize a physician in implementing such protocols, standing orders, or delegation to**
120 **violate applicable standards for safe medical practice established by a hospital's medical**
121 **staff.**

122 **10. No contract or other agreement shall require any assistant physician to serve**
123 **as a collaborating assistant physician for any collaborating physician against the assistant**
124 **physician's will. An assistant physician shall have the right to refuse to collaborate,**
125 **without penalty, with a particular physician.**

126 **11. All collaborating physicians and assistant physicians in collaborative practice**
127 **arrangements shall wear identification badges while acting within the scope of their**
128 **collaborative practice arrangement. The identification badges shall prominently display**
129 **the licensure status of such collaborating physicians and assistant physicians.**

Section 1. 1. As used in this section, the following terms shall mean:

- 2 **(1) "Assistant physician", a person licensed to practice under section 334.036 in a**
3 **collaborative practice arrangement under section 334.037;**
4 **(2) "Department", the department of health and senior services;**
5 **(3) "Medically underserved area":**
6 **(a) An area in this state with a medically underserved population;**
7 **(b) An area in this state designated by the United States secretary of health and**
8 **human services as an area with a shortage of personal health services;**
9 **(c) A population group designated by the United States secretary of health and**
10 **human services as having a shortage of personal health services;**
11 **(d) An area designated under state or federal law as a medically underserved**
12 **community; or**

13 (e) An area that the department considers to be medically underserved based on
14 relevant demographic, geographic, and environmental factors;

15 (4) "Primary care", physician services in family practice, general practice, internal
16 medicine, pediatrics, obstetrics, or gynecology;

17 (5) "Start-up money", a payment made by a county or municipality in this state
18 which includes a medically underserved area for reasonable costs incurred for the
19 establishment of a medical clinic, ancillary facilities for diagnosing and treating patients,
20 and payment of physicians, assistant physicians, and any support staff.

21 2. (1) The department shall establish and administer a program under this section
22 to increase the number of medical clinics in medically underserved areas. A county or
23 municipality in this state that includes a medically underserved area may establish a
24 medical clinic in the medically underserved area by contributing start-up money for the
25 medical clinic and having such contribution matched wholly or partly by grant moneys
26 from the medical clinics in medically underserved areas fund established in subsection 3
27 of this section. The department shall seek all available moneys from any source
28 whatsoever, including, but not limited to, moneys from the Missouri Foundation for Health
29 to assist in funding the program.

30 (2) A participating county or municipality that includes a medically underserved
31 area may provide start-up money for a medical clinic over a two-year period. The
32 department shall not provide more than one hundred thousand dollars to such county or
33 municipality in a fiscal year unless the department makes a specific finding of need in the
34 medically underserved area.

35 (3) The department shall establish priorities so that the counties or municipalities
36 which include the neediest medically underserved areas eligible for assistance under this
37 section are assured the receipt of a grant.

38 3. (1) There is hereby created in the state treasury the "Medical Clinics in
39 Medically Underserved Areas Fund", which shall consist of any state moneys
40 appropriated, gifts, grants, donations, or any other contribution from any source for such
41 purpose. The state treasurer shall be custodian of the fund. In accordance with sections
42 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a
43 dedicated fund and, upon appropriation, money in the fund shall be used solely for the
44 administration of this section.

45 (2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys
46 remaining in the fund at the end of the biennium shall not revert to the credit of the
47 general revenue fund.

48 **(3) The state treasurer shall invest moneys in the fund in the same manner as other**
49 **funds are invested. Any interest and moneys earned on such investments shall be credited**
50 **to the fund.**

51 **4. To be eligible to receive a matching grant from the department, a county or**
52 **municipality that includes a medically underserved area shall:**

53 **(1) Apply for the matching grant; and**

54 **(2) Provide evidence satisfactory to the department that it has entered into an**
55 **agreement or combination of agreements with a collaborating physician or physicians for**
56 **the collaborating physician or physicians and assistant physician or assistant physicians**
57 **in accordance with a collaborative practice arrangement under section 334.037 to provide**
58 **primary care in the medically underserved area for at least two years.**

59 **5. The department shall promulgate rules necessary for the implementation of this**
60 **section, including rules addressing:**

61 **(1) Eligibility criteria for a medically underserved area;**

62 **(2) A requirement that a medical clinic utilize an assistant physician in a**
63 **collaborative practice arrangement under section 334.037;**

64 **(3) Minimum and maximum county or municipality contributions to the start-up**
65 **money for a medical clinic to be matched with grant moneys from the state;**

66 **(4) Conditions under which grant moneys shall be repaid by a county or**
67 **municipality for failure to comply with the requirements for receipt of such grant moneys;**

68 **(5) Procedures for disbursement of grant moneys by the department;**

69 **(6) The form and manner in which a county or municipality shall make its**
70 **contribution to the start-up money; and**

71 **(7) Requirements for the county or municipality to retain interest in any property,**
72 **equipment, or durable goods for seven years including, but not limited to, the criteria for**
73 **a county or municipality to be excused from such retention requirement.**

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