

HCS SCS SB 107 -- PROFESSIONAL REGISTRATION

SPONSOR: Sater (Burlison)

COMMITTEE ACTIONS: Voted "Do Pass with Amendments" by the Standing Committee on Professional Registration and Licensing by a vote of 17 to 0. Voted "Do Pass with HCS" by the Select Committee on General Laws by a vote of 10 to 0.

This bill contains provisions regarding professions within the Division of Professional Registration, law enforcement officer removal, suicide prevention, yoga instruction, health information organizations, birthing centers, disposition of human remains, death certificates, speech pathology, controlled substances, gender pay, and the crime victims compensation fund.

LAW ENFORCEMENT OFFICERS (Section 71.1000, RSMo)

The bill establishes procedures for a governing body of a political subdivision to follow prior to the removal of a law enforcement officer from employment. The procedures include notice to the officer, a statements of facts supporting just cause for removal, opportunity for the officer to be heard, and a simple majority vote by the governing body that the burden of just cause has been met for removal. The just cause standard is met if the officer is unable to perform the duties with reasonable competence as a result of a mental condition, has committed any act that constitutes reckless disregard for safety, has misrepresented a material fact for any improper or unlawful purpose, acts in a manner for the sole purpose of furthering his or her self-interest in a manner inconsistent with the interest of the public, violates any law which constitutes a felony, or is found to be insubordinate or in violation of a policy.

SUICIDE AWARENESS (Sections 170.047 and 170.048)

The bill allows, beginning in the 2016-17 school year, any licensed educator to annually complete up to two hours of training or professional development in youth suicide awareness and prevention as part of the professional development hours required for State Board of Education certification.

The bill requires the Department of Elementary and Secondary Education to develop guidelines suitable for training or professional development in youth suicide awareness and prevention and to develop materials that may be used for the training or professional development.

By July 1, 2017, each district must adopt a policy for youth

suicide awareness and prevention, including the training and education of district employees.

Each district's policy must address, but are not limited to, strategies that can help identify students who are at possible risk of suicide, strategies and protocols for helping students at possible risk of suicide, and protocols for responding to a suicide death.

By July 1, 2016, the Department of Elementary and Secondary Education must develop a model policy that districts may adopt. When developing the model policy, the department must cooperate, consult with, and seek input from organizations that have expertise in youth suicide awareness and prevention. By July 1, 2020, and at least every three years thereafter, the department must request information and seek feedback from districts on their experience with the policy for youth suicide awareness and prevention. The department must review this information and may use it to change the department's model policy. The department must post any information on its website that it has received from districts that it deems relevant. The department must not post any confidential information or any information that personally identifies any student or school employee.

HEALTH INFORMATION ORGANIZATIONS (Sections 191.236 - 191.238)

The Missouri Health Information Exchange Commission is established that has authority to develop a process by which a health information organization may receive approval status from the commission. The process must include compliance with commonly and equally applied standards designed to ensure adherence to nationally recognized standards for interoperability between approved health information organizations, conduct operations in a transparent manner to promote consumer confidence, adoption and adherence to commission rules regarding access to and use and disclosure of protected health information, financial and operational sustainability in the absence of state and federal funding, and maintenance of policies and procedures to address data security. The commission must develop a re-approval process and a process for the investigation of reported complaints and concerns, as well as develop and impose the appropriate proactive and remedial measures to address any identified deficiencies. The state must end the practice of conveying state designated entity status to any health information organization and cease awarding and funding single source vendor contracts to health information organizations operating within the state. Approved organizations may respond to contracting opportunities. An organization must exchange standard-based clinical summaries for patients and all clinical and claims data from an agency with all other approved

organizations in the state. Failure to exchange the information must result in the suspension or revocation of approval status by the commission and the immediate termination of any contracts, grants, and other forms of state funding.

BIRTHING CENTERS (Section 192.380)

The bill establishes the Perinatal Advisory Council and specifies what individuals must serve on the council and how the chair must be elected. The council must establish standards for all neonatal and maternal levels of birthing hospital care including regional perinatal centers. The standards must assure that:

- (1) Facilities are equipped and prepared to stabilize neonates prior to transport;
- (2) Coordination exists between general maternity care and perinatal regional centers;
- (3) Unexpected complications during delivery can be properly managed;
- (4) Procedures are implemented to confidentially identify and report to the department all high-risk birth outcomes, a high-risk pregnancy or baby identified as having a condition that threatens the child's or mother's life is promptly evaluated in consultation with designated regional perinatal centers and referred, if appropriate, to the centers and to other medical specialty services in accordance with the appropriate level of care for the proper management and treatment of the condition;
- (5) Birthing hospitals conduct postnatal reviews of all maternal and infant morbidity and mortality utilizing criteria of case selection developed by the birthing hospitals and the appropriate medical staff in order to determine the appropriateness of diagnosis and treatment and the adequacy of procedures to prevent the loss of life;
- (6) High-risk mothers are provided information, referral, and counseling services to ensure informed consent to their treatment or the treatment of the child;
- (7) Perinatal regional centers must provide consultation for the high-risk newborn or newborn whose life or physical well-being may be in jeopardy; and
- (8) The perinatal care system is monitored and performance evaluated and any reporting required to facilitate implementation must minimize duplication.

The standards developed under these provisions must be based upon evidence and best practices as outlined by the most current version of the Levels of Neonatal Care prepared by the American Academy of Pediatrics and the American Congress of Obstetricians and Gynecologists, the most current published version of the Levels of Maternal Care developed by the American Congress of Obstetricians and Gynecologists and the Society for Maternal-Fetal Medicine, and necessary variance when considering the geographic and varied needs of citizens of this state.

The bill prohibits any individual or organization providing information to the Department of Health and Senior Services, a perinatal regional center, or the Perinatal Advisory Council in accordance with these provisions from being held liable, either civilly or criminally, for divulging confidential information unless that individual or organization acted in bad faith or with malicious purpose. Nothing in these provisions must be construed to modify or expand any health care professional licensing practice law or to require a patient to be transferred to a different facility.

The standards must be established by rules and regulations of the department no later than January 1, 2017.

Beginning January 1, 2016, hospital license applications must include the appropriate level of maternal care designation and neonatal care designation as determined by the standards outlined in these provisions. The department may partner with appropriate nationally recognized nonprofit organizations with demonstrated expertise in maternal and neonatal standards of care to administer the provisions the bill.

DEATH CERTIFICATES (Sections 193.015 and 193.145)

The bill allows a physician assistant, assistant physician, advanced practice registered nurse or the individual who performed the autopsy to sign a death certificate provided he or she participated in the patient's care in consultation with the attending physician for the illness which resulted in the patient's death.

The State Board of Registration for the Healing Arts within the Departments of Insurance, Financial Institutions and Professional Registration must provide a notice of compliance with the vital records system as part of the annual review of a professional licensee.

DISPOSITION OF A HUMAN BODY (Sections 194.119 and 214.208)

The bill specifies that if a funeral director has knowledge that there is more than one person in a class who is equal in priority and who does not agree on the disposition of a dead human body, the decision of the majority of the members of that class must control the disposition. Proxy voting is permitted for conducting a majority vote.

DISPENSING CONTROLLED SUBSTANCES (Sections 195.070, 334.037, 334.104 and 334.747)

The bill allows certain advanced practice registered nurses, physician assistants, and assistant physicians to prescribe Schedule II - hydrocodone. Hydrocodone prescriptions are limited to a one five day supply without refill.

GENDER PAY (Section 286.350)

The bill requires the Department of Labor and Industrial Relations to create best-practice guidelines in gender pay equality for state and local government and private businesses. The guidelines may include, but are not limited to, explanations of the following:

- (1) The definition of gender pay equality;
- (2) The causes of gender pay inequality;
- (3) The benefits of gender pay equality; and
- (4) Ways in which to achieve gender pay equality.

The guidelines must be submitted to the General Assembly and will take effect immediately upon passage of a concurrent resolution by both houses of the General Assembly approving the guidelines. Nothing in this section must be interpreted to create a cause of action on behalf of any employee, and no employer will be required to adopt or implement the best-practice guidelines.

The bill adds physical therapists to the list of authorized health care practitioners who may sign statements necessary for a patient to receive a windshield placard or special plates for a temporary or permanent physical disability.

PROFESSIONAL REGISTRATION (Sections 324.001 and 621.280)

The bill establishes guidelines for the regulation of occupations and professions not regulated by the Division of Professional Registration within the Department of Insurance, Financial Institutions and Professional Registration prior to January 1,

2016.

The bill specifies that an individual may engage in the occupation of his or her choice, free from unreasonable government regulation. The state may not impose a substantial burden on an individual's pursuit of his or her occupation or profession unless there is an important governmental interest for the state to protect the general welfare. If an interest exists, the regulation adopted by the state must be substantially related to the public interest to be protected.

All bills introduced in the General Assembly to regulate an occupation or profession for the first time must be reviewed according to specified criteria.

After January 1, 2016, an applicant group must submit a written report explaining specified factors to the legislative committee of reference. Any legislative proposal that contains a continuing education requirement must be accompanied by an explanation of how the requirement could be effective for the profession addressed in the legislation.

These provisions cannot be construed to create a right of action against a private party or to require a private party to do business with an individual who is not licensed, certified, or registered with the government or to create a right of action against the state, county, municipal, or other level of government in the state.

For any new board or commission created after July 1, 2015, and charged with regulating or licensing an occupation or profession, the bill specifies that those practitioners actively engaged in a newly regulated occupation or profession for at least one year prior to the effective date of the regulatory statute must have a property right in his or her continued legal ability to engage in his or her occupation or profession and specified due process rights.

HEALTH CARE PROFESSIONALS WORKFORCE DATA (Section 324.001)

The bill authorizes the State Board of Nursing, Board of Pharmacy, Missouri Dental Board, State Committee of Psychologists, or State Board of Registration for the Healing Arts within the Department of Insurance, Financial Institutions and Professional Registration to individually or collectively enter into a contractual agreement with the Department of Health and Senior Services, a public institution of higher education, or a nonprofit entity for the purpose of collecting and analyzing workforce data. Information may be obtained from each board's licensees, registrants, or permit

holders for future workforce planning and to assess the accessibility and availability of qualified health care services and practitioners in Missouri. The boards must work collaboratively with other state governmental entities to ensure coordination and avoid duplication of efforts.

The boards may expend appropriated funds necessary for operational expenses of the program and each board is authorized to accept grants to fund the collection or analysis authorized in these provisions. Any funds received under these provisions must be deposited in the respective board's fund.

Data collection must be controlled and approved by the applicable state board conducting or requesting the collection. The boards may release identifying data to the contractor to facilitate data analysis of the health care workforce including, but not limited to, geographic, demographic, and practice or professional characteristics of licensees. The state board must not request or be authorized to collect income or other financial earnings data. Data collected under these provisions must be deemed the property of the state board requesting the data and must be maintained by the state board in accordance with Chapter 610, the Open Meetings and Records Law, provided any information deemed closed or confidential must not be disclosed without consent of the applicable licensee or entity or as otherwise authorized by law. The data must only be released in an aggregate form in a manner that cannot be used to identify a specific individual or entity.

A contractor must maintain the confidentiality of data received or collected and must not use, disclose, or release any data without approval of the applicable state board.

OPINIONS ISSUED BY BOARDS (Section 324.023)

The bill allows any board or commission within the Division of Professional Registration in the Department of Insurance, Financial Institutions and Professional Registration to issue, at its discretion, oral or written opinions addressing topics relating to the qualifications, functions, or duties of any profession licensed by any board or commission within the division. Any opinion is for educational purposes, is in no way binding on the licensee, and cannot be used as the basis for any discipline against a licensee. The bill specifies that a board or commission may not address topics relating to qualifications, functions, or duties of any profession licensed by a different board or commission.

PHYSICIAN LICENSURE (Sections 334.040 and 334.280)

Currently, the State Board of Registration for the Healing Arts

within the Department of Insurance, Financial Institutions and Professional Registration cannot issue a permanent license as a physician and surgeon or allow the Missouri state board examination to be administered to any applicant who has failed to achieve a passing score within three attempts on any step on licensing examinations administered in one or more states or territories of the United States, the District of Columbia, or Canada within a seven-year period. The bill repeals those provisions.

The bill removes the provision requiring the board to issue a license to an applicant only if they are certified in areas of specialty by the American Board of Medical Specialties, the American Osteopathic Association, or other certifying agency approved by the board by rule.

The bill prohibits the state from requiring any form of maintenance of licensure as a condition of physician licensure. Current requirements including continuous medical education must suffice to demonstrate professional competency. The state must not require any form of specialty medical board certification or any maintenance of certification to practice medicine in this state. The state board or any other state agency must not discriminate against physicians who do not maintain specialty medical board certification including recertification.

The bill prohibits the State Board of Registration for the Healing Arts within the Department of Insurance, Financial Institutions and Professional Registration from requiring any form of specialty medical board certification or any maintenance of certification to practice medicine in this state. The state board or any other state agency must not discriminate against physicians who do not maintain specialty medical board certification including recertification.

COLLABORATIVE PRACTICE ARRANGEMENTS (Section 334.104)

The bill specifies that when a physician reviews pursuant to a collaborative practice arrangement an advanced practice registered nurse's delivery of health care services, which includes chart review, the collaborating physician need not be present at the health care practitioner's site.

Currently, an advanced practice registered nurse must practice with the collaborating physician continuously present for one-month before practicing in a setting where the collaborating physician is not continuously present. The bill specifies that this requirement does not apply to collaborative arrangements between a physician and an advanced practice registered nurse if the collaborative physician is new to a patient population to which the collaborating advanced practice registered nurse, assistant physician, or

assistant physician is already familiar.

SPEECH PATHOLOGY (Sections 345.015, 345.020, 345.025, 345.040, 345.050, 345.051, 345.065, 345.077, and 345.080)

The bill allows any board or commission within the Division of Professional Registration in the Department of Insurance, Financial Institutions and Professional Registration to issue, at its discretion, oral or written opinions addressing topics relating to the qualifications, functions, or duties of any profession licensed by any board or commission within the division. Any opinion is for educational purposes, is in no way binding on the licensee, and cannot be used as the basis for any discipline against a licensee. The bill specifies that a board or commission may not address topics relating to qualifications, functions, or duties of any profession licensed by a different board or commission. This bill changes the laws regarding speech-language pathologists, speech-language pathology assistants, and audiologists. In its main provisions, the bill:

(1) Allows a speech-language pathology assistant to work under the direction of a licensed speech-language pathologist practicing for at least one year or a speech-language pathologist who is either employed by a federal agency or licensed by the Missouri Department of Elementary and Secondary Education;

(2) Requires an applicant for registration with the Board of Registration for the Healing Arts within the Department of Insurance, Financial Institutions and Professional Registration as a speech-language pathology assistant to furnish evidence of his or her completion of bachelor's level course work and clinical requirements in the field of speech-language pathology as established by the board. Currently, an applicant must furnish evidence that he or she holds a bachelor's degree in speech-language pathology and has completed clinical practicum requirements equivalent to that required by a regional accrediting body recognized by the United States Department of Education or its equivalent;

(3) Repeals the requirement that a corporation engaged in the business of speech-language pathology or audiology who employs a licensed speech-language pathologist or audiologist must file a statement with the board specifying that the corporation submits itself to the rules and regulations of the board;

(4) Specifies that the licensing requirements do not apply to a person who holds a current valid certificate as a speech-language pathologist issued by the Department of Elementary and Secondary Education prior to January 1, 2016, who is an employee of a public

school; or to any person completing the required clinical hours as long as he or she is under the direct supervision of a licensed speech-language pathologist and has not completed more than the number of clinical hours required by rule;

(5) Repeals the provisions requiring an applicant for licensure as a speech-language pathologist or audiologist to present written evidence of completion of a clinical fellowship;

(6) Specifies that following an administrative hearing proceeding and a finding that grounds for disciplinary action have been met, the board may also restrict or limit the person's ability to practice for an indefinite period of time;

(7) Requires every speech-language pathology assistant to provide and maintain at all times the employment information as the board deems necessary;

(8) Allows a person who has served as a member of the Advisory Commission for Speech-Language Pathologists and Audiologists for two consecutive terms to be reappointed until a lapse of at least two years has occurred following the completion of the person's two consecutive terms; and

(9) Repeals the provisions allowing a person to hold a provisional license to practice speech-language pathology or audiology.

CRIME VICTIMS COMPENSATION FUND (Sections 595.010, 595.015, and 595.030)

The bill authorizes a board certified psychiatric-mental health clinical nurse specialist and board certified psychiatric-mental health clinical nurse practitioner to be eligible for reimbursement by crime victim compensation when providing crisis counseling.

PROPOSERS: Supporters say that the bill allows boards and commissions to issue non-binding opinions regarding that profession. Currently, the boards can only direct licensees to a statute or rule pertaining to their question. The bill provides the licensee with more guidance. Supporters also say that currently there are shortages of speech language pathologists throughout the state, especially in rural areas. The bill makes the statute less restrictive which allows speech language pathologist assistants to fill the shortage. The bill makes needed changes to update the provisions regarding credentialing.

Testifying for the bill were Senator Sater; Missouri State Medical Association; Missouri Association of Osteopathic Physicians; Missouri Nurses Association; and Diane Golden, Missouri Council of

Administration of Special Ed.

OPPONENTS: There was no opposition voiced to the committee.