

FIRST REGULAR SESSION

HOUSE BILL NO. 975

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ELLINGTON.

1816L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 334.035, 334.036, 334.037, and 334.038, RSMo, and to enact in lieu thereof one new section relating to the repeal of licensure of assistant physicians.

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

Section A. Sections 334.035, 334.036, 334.037, and 334.038, RSMo, are repealed and one new section enacted in lieu thereof, to be known as section 334.035, to read as follows:

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

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

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

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

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

(c) Has not completed an approved postgraduate residency and has successfully completed Step 2 of the United States Medical Licensing Examination or the equivalent of such step of any other board-approved medical licensing examination within the immediately preceding two-year period unless

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.

16 when such two-year anniversary occurred he or she was serving as a resident
17 physician in an accredited residency in the United States and continued to do so
18 within thirty days prior to application for licensure as an assistant physician; and

19 (d) Has proficiency in the English language;

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

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

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

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

32 (a) An assistant physician shall be considered a physician assistant for
33 purposes of regulations of the Centers for Medicare and Medicaid Services
34 (CMS); and

35 (b) No supervision requirements in addition to the minimum federal law
36 shall be required.

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

47 (2) Any rule or portion of a rule, as that term is defined in section
48 536.010, that is created under the authority delegated in this section shall become
49 effective only if it complies with and is subject to all of the provisions of chapter
50 536 and, if applicable, section 536.028. This section and chapter 536 are
51 nonseverable and if any of the powers vested with the general assembly under
52 chapter 536 to review, to delay the effective date, or to disapprove and annul a
53 rule are subsequently held unconstitutional, then the grant of rulemaking
54 authority and any rule proposed or adopted after August 28, 2014, shall be invalid
55 and void.

56 4. An assistant physician shall clearly identify himself or herself as an
57 assistant physician and shall be permitted to use the terms "doctor", "Dr.", or
58 "doc". No assistant physician shall practice or attempt to practice without an

59 assistant physician collaborative practice arrangement, except as otherwise
60 provided in this section and in an emergency situation.

61 5. The collaborating physician is responsible at all times for the oversight
62 of the activities of and accepts responsibility for primary care services rendered
63 by the assistant physician.

64 6. The provisions of section 334.037 shall apply to all assistant physician
65 collaborative practice arrangements. To be eligible to practice as an assistant
66 physician, a licensed assistant physician shall enter into an assistant physician
67 collaborative practice arrangement within six months of his or her initial
68 licensure and shall not have more than a six-month time period between
69 collaborative practice arrangements during his or her licensure period. Any
70 renewal of licensure under this section shall include verification of actual practice
71 under a collaborative practice arrangement in accordance with this subsection
72 during the immediately preceding licensure period.]

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

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

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

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

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

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

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

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

29 (b) Maintain geographic proximity; except, the collaborative practice
30 arrangement may allow for geographic proximity to be waived for a maximum
31 of twenty-eight days per calendar year for rural health clinics as defined by P.L.
32 95-210, as long as the collaborative practice arrangement includes alternative
33 plans as required in paragraph (c) of this subdivision. Such exception to
34 geographic proximity shall apply only to independent rural health clinics,
35 provider-based rural health clinics if the provider is a critical access hospital as
36 provided in 42 U.S.C. Section 1395i-4, and provider-based rural health clinics if
37 the main location of the hospital sponsor is greater than fifty miles from the
38 clinic. The collaborating physician shall maintain documentation related to such
39 requirement and present it to the state board of registration for the healing arts
40 when requested; and

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

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

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

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

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

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

65 3. The state board of registration for the healing arts under section
66 334.125 shall promulgate rules regulating the use of collaborative practice
67 arrangements for assistant physicians. Such rules shall specify:

68 (1) Geographic areas to be covered;

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

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

78 (4) The requirements for review of services provided under collaborative
79 practice arrangements, including delegating authority to prescribe controlled
80 substances.

81
82 Any rules relating to dispensing or distribution of medications or devices by
83 prescription or prescription drug orders under this section shall be subject to the
84 approval of the state board of pharmacy. Any rules relating to dispensing or
85 distribution of controlled substances by prescription or prescription drug orders
86 under this section shall be subject to the approval of the department of health and
87 senior services and the state board of pharmacy. The state board of registration
88 for the healing arts shall promulgate rules applicable to assistant physicians that
89 shall be consistent with guidelines for federally funded clinics. The rulemaking
90 authority granted in this subsection shall not extend to collaborative practice
91 arrangements of hospital employees providing inpatient care within hospitals as
92 defined in chapter 197 or population-based public health services as defined by
93 20 CSR 2150-5.100 as of April 30, 2008.

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

98 5. Within thirty days of any change and on each renewal, the state board
99 of registration for the healing arts shall require every physician to identify
100 whether the physician is engaged in any collaborative practice arrangement,
101 including collaborative practice arrangements delegating the authority to
102 prescribe controlled substances, and also report to the board the name of each
103 assistant physician with whom the physician has entered into such arrangement.
104 The board may make such information available to the public. The board shall
105 track the reported information and may routinely conduct random reviews of such
106 arrangements to ensure that arrangements are carried out for compliance under
107 this chapter.

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

114 7. The collaborating physician shall determine and document the
115 completion of at least a one-month period of time during which the assistant
116 physician shall practice with the collaborating physician continuously present
117 before practicing in a setting where the collaborating physician is not
118 continuously present. Such limitation shall not apply to collaborative
119 arrangements of providers of population-based public health services as defined
120 by 20 CSR 2150-5.100 as of April 30, 2008.

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

127 9. No contract or other agreement shall require a physician to act as a
128 collaborating physician for an assistant physician against the physician's will. A
129 physician shall have the right to refuse to act as a collaborating physician, without
130 penalty, for a particular assistant physician. No contract or other agreement shall
131 limit the collaborating physician's ultimate authority over any protocols or
132 standing orders or in the delegation of the physician's authority to any assistant
133 physician, but such requirement shall not authorize a physician in implementing
134 such protocols, standing orders, or delegation to violate applicable standards for
135 safe medical practice established by a hospital's medical staff.

136 10. No contract or other agreement shall require any assistant physician
137 to serve as a collaborating assistant physician for any collaborating physician
138 against the assistant physician's will. An assistant physician shall have the right
139 to refuse to collaborate, without penalty, with a particular physician.

140 11. All collaborating physicians and assistant physicians in collaborative
141 practice arrangements shall wear identification badges while acting within the
142 scope of their collaborative practice arrangement. The identification badges shall
143 prominently display the licensure status of such collaborating physicians and
144 assistant physicians.

145 12. (1) An assistant physician with a certificate of controlled substance
146 prescriptive authority as provided in this section may prescribe any controlled
147 substance listed in Schedule III, IV, or V of section 195.017 when delegated the
148 authority to prescribe controlled substances in a collaborative practice
149 arrangement. Such authority shall be filed with the state board of registration for
150 the healing arts. The collaborating physician shall maintain the right to limit a
151 specific scheduled drug or scheduled drug category that the assistant physician
152 is permitted to prescribe. Any limitations shall be listed in the collaborative
153 practice arrangement. Assistant physicians shall not prescribe controlled
154 substances for themselves or members of their families. Schedule III controlled
155 substances shall be limited to a five-day supply without refill. Assistant
156 physicians who are authorized to prescribe controlled substances under this

157 section shall register with the federal Drug Enforcement Administration and the
158 state bureau of narcotics and dangerous drugs, and shall include the Drug
159 Enforcement Administration registration number on prescriptions for controlled
160 substances.

161 (2) The collaborating physician shall be responsible to determine and
162 document the completion of at least one hundred twenty hours in a four-month
163 period by the assistant physician during which the assistant physician shall
164 practice with the collaborating physician on-site prior to prescribing controlled
165 substances when the collaborating physician is not on-site. Such limitation shall
166 not apply to assistant physicians of population-based public health services as
167 defined in 20 CSR 2150-5.100 as of April 30, 2009.

168 (3) An assistant physician shall receive a certificate of controlled
169 substance prescriptive authority from the state board of registration for the
170 healing arts upon verification of licensure under section 334.036.]

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

2 (1) "Assistant physician", a person licensed to practice under section
3 334.036 in a 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
8 health and human services as an area with a shortage of personal health services;

9 (c) A population group designated by the United States secretary of
10 health and human services as having a shortage of personal health services;

11 (d) An area designated under state or federal law as a medically
12 underserved community; or

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

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

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

22 2. (1) The department shall establish and administer a program under
23 this section to increase the number of medical clinics in medically underserved
24 areas. A county or municipality in this state that includes a medically
25 underserved area may establish a medical clinic in the medically underserved area
26 by contributing start-up money for the medical clinic and having such
27 contribution matched wholly or partly by grant moneys from the medical clinics
28 in medically underserved areas fund established in subsection 3 of this section.

29 The department shall seek all available moneys from any source whatsoever,
30 including but not limited to healthcare foundations to assist in funding the
31 program.

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

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

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

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

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

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

55 (1) Apply for the matching grant; and

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

62 5. The department shall promulgate rules necessary for the
63 implementation of this section, including rules addressing:

64 (1) Eligibility criteria for a medically underserved area;

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

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

- 70 (4) Conditions under which grant moneys shall be repaid by a county or
- 71 municipality for failure to comply with the requirements for receipt of such grant
- 72 moneys;
- 73 (5) Procedures for disbursement of grant moneys by the department;
- 74 (6) The form and manner in which a county or municipality shall make
- 75 its contribution to the start-up money; and
- 76 (7) Requirements for the county or municipality to retain interest in any
- 77 property, equipment, or durable goods for seven years including, but not limited
- 78 to, the criteria for a county or municipality to be excused from such retention
- 79 requirement.]

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