

FIRST REGULAR SESSION

HOUSE BILL NO. 665

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BEHNEN.

Read 1st time March 1, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1811L.011

AN ACT

To repeal sections 256.468, 334.735, 436.218, and 621.045, RSMo, and to enact in lieu thereof four new sections relating to regulation of professional licensees.

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

Section A. Sections 256.468, 334.735, 436.218, and 621.045, RSMo, are repealed and
2 four new sections enacted in lieu thereof, to be known as sections 256.468, 334.735, 436.218,
3 and 621.045, to read as follows:

256.468. 1. An applicant for certification as a registered geologist shall complete and
2 sign a personal data form, prescribed and furnished by the board, and shall provide the
3 appropriate application fee. The personal data of an individual shall be considered confidential
4 information.

5 2. The applicant shall have graduated from a course of study satisfactory to the board and
6 which includes at least thirty semester or forty-five quarter hours of credit in geology.

7 3. The applicant shall provide to the board a detailed summary of actual geologic work,
8 documenting that the applicant meets the minimum requirements for registration as a geologist,
9 including a demonstration that the applicant has at least three years of postbaccalaureate
10 experience in the practice of geology.

11 4. Except as provided in this section, no applicant shall be certified unless he **or she** shall
12 have passed an examination covering the fundamentals, principles and practices of geology
13 prescribed or accepted by the board.

14 5. [The examination requirement of subsection 4 of this section shall be waived for those
15 persons who were practicing geology on August 28, 1994, provided that application is made on

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 or before October 1, 1995, and all applicable fees have been paid. All other requirements of
17 sections 256.450 to 256.483 must be satisfied.

18 6. The examination requirement of subsection 4 of this section and the course of study
19 requirement of subsection 2 of this section shall be waived for persons who meet the following
20 conditions:

21 (1) Are licensed professional engineers in accordance with the provisions of sections
22 327.181 to 327.261, RSMo;

23 (2) Has provided the board a summary of the actual geologic work demonstrating that
24 the applicant has at least ten years of competent postbaccalaureate experience in the practice of
25 geology;

26 (3) Have made timely application and paid the applicable fees as provided in subsection
27 5 of this section; and

28 (4) Had their application denied by the board solely for failure to meet the course of
29 study requirements as provided in subsection 2 of this section.

30 7.] Any person, upon application to the board and demonstration that the person meets
31 the requirements of subsections 1 and 2 of this section and has passed that portion of the
32 professional examination covering the fundamentals of geology, shall be awarded the
33 geologist-registrant in-training certificate.

34 The geologist then may use the title "geologist-registrant in-training" subject to the limitations
35 of sections 256.450 to 256.483.

36 [8.] 6. The board shall deny registration to an applicant who fails to satisfy the
37 requirements of this section. The board shall not issue a certificate of registration pending the
38 disposition in this or another state of any complaint alleging a violation of this chapter or the
39 laws, rules, regulations and code of professional conduct applicable to registered geologists and
40 regulated geologic work of which violation the board has notice. An applicant who is denied
41 registration shall be notified in writing within thirty days of the board's decision and the notice
42 shall state the reason for denial of registration. Any person aggrieved by a final decision of the
43 board on an application for registration may appeal that decision to the administrative hearing
44 commission in the manner provided in section 621.120, RSMo.

45 [9.] 7. The board shall issue an appropriate certificate evidencing the issuance of the
46 certificate of registration upon payment of the applicable registration fee to any applicant who
47 has satisfactorily met all the requirements of this section for registration as a geologist. Such
48 certificate shall show the full name of the registrant, shall have a serial number, and shall be
49 dated and signed by an appropriate officer of the board under the seal of the board.

50 [10.] 8. The certificate seal shall be prima facie evidence that the person named therein
51 is entitled to all rights and privileges of a registered geologist under sections 256.450 to 256.483

52 and to practice geology as an individual, firm or corporation while such certificate remains
53 unrevoked or unexpired.

54 [11.] **9.** The board may issue a certificate of registration to any individual who has made
55 application and provided proof of certification of registration from another state
56 nongovernmental or governmental organization, or country, approved by the board, provided that
57 the registration or licensing requirements are substantially similar to the requirements of this
58 section and the necessary fees have been paid. The board may require, by examination or other
59 procedures, demonstration of competency pertaining to geologic conditions in Missouri.

60 [12.] **10.** The board shall reissue the certificate of registration of any registrant who,
61 before the expiration date of the certificate and within a period of time and procedures
62 established by the board, submits the required renewal application and fee.

63 [13.] **11.** The board, by rule, may establish conditions and fees for the reissuing of
64 certificates of registration which have lapsed, expired, or have been suspended or revoked.

65 [14.] **12.** Registered geologists may purchase from the board, or other approved sources,
66 a seal bearing the registered geologist's name, registration number, and the legend "Registered
67 Geologist".

334.735. 1. As used in sections 334.735 to 334.749, the following terms mean:

2 (1) "Applicant", any individual who seeks to become licensed as a physician assistant;

3 (2) "Certification" or "registration", a process by a certifying entity that grants
4 recognition to applicants meeting predetermined qualifications specified by such certifying
5 entity;

6 (3) "Certifying entity", the nongovernmental agency or association which certifies or
7 registers individuals who have completed academic and training requirements;

8 (4) "Department", the department of economic development or a designated agency
9 thereof;

10 (5) "License", a document issued to an applicant by the department acknowledging that
11 the applicant is entitled to practice as a physician assistant;

12 (6) "Physician assistant", a person who has graduated from a physician assistant program
13 accredited by the American Medical Association's Committee on Allied Health Education and
14 Accreditation or by its successor agency, who has passed the certifying examination administered
15 by the National Commission on Certification of Physician Assistants and has active certification
16 by the National Commission on Certification of Physician Assistants who provides health care
17 services delegated by a licensed physician. A person who has been employed as a physician
18 assistant for three years prior to August 28, 1989, who has passed the National Commission on
19 Certification of Physician Assistants examination, and has active certification of the National
20 Commission on Certification of Physician Assistants;

21 (7) "Recognition", the formal process of becoming a certifying entity as required by the
22 provisions of sections 334.735 to 334.749;

23 (8) "Supervision", control exercised over a physician assistant working within the same
24 office facility of the supervising physician except a physician assistant may make follow-up
25 patient examinations in hospitals, nursing homes and correctional facilities, each such
26 examination being reviewed, approved and signed by the supervising physician. The board shall
27 promulgate rules pursuant to chapter 536, RSMo, for the proximity of practice between the
28 physician assistant and the supervising physician and documentation of joint review of the
29 physician assistant activity by the supervising physician and the physician assistant.

30 2. The scope of practice of a physician assistant shall consist only of the following
31 services and procedures:

32 (1) Taking patient histories;

33 (2) Performing physical examinations of a patient;

34 (3) Performing or assisting in the performance of routine office laboratory and patient
35 screening procedures;

36 (4) Performing routine therapeutic procedures;

37 (5) Recording diagnostic impressions and evaluating situations calling for attention of
38 a physician to institute treatment procedures;

39 (6) Instructing and counseling patients regarding mental and physical health using
40 procedures reviewed and approved by a licensed physician;

41 (7) Assisting the supervising physician in institutional settings, including reviewing of
42 treatment plans, ordering of tests and diagnostic laboratory and radiological services, and
43 ordering of therapies, using procedures reviewed and approved by a licensed physician;

44 (8) Assisting in surgery;

45 (9) Performing such other tasks not prohibited by law under the supervision of a licensed
46 physician as the physician's assistant has been trained and is proficient to perform;

47 (10) Physician assistants shall not perform abortions.

48 3. Physician assistants shall not prescribe nor dispense any drug, medicine, device or
49 therapy independent of consultation with the supervising physician, nor prescribe lenses, prisms
50 or contact lenses for the aid, relief or correction of vision or the measurement of visual power
51 or visual efficiency of the human eye, nor administer or monitor general or regional block
52 anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing
53 of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a
54 physician assistant supervision agreement which is specific to the clinical conditions treated by
55 the supervising physician and the physician assistant shall be subject to the following:

56 (1) A physician assistant shall not prescribe controlled substances;

57 (2) The types of drugs, medications, devices or therapies prescribed or dispensed by a
58 physician assistant shall be consistent with the scopes of practice of the physician assistant and
59 the supervising physician;

60 (3) All prescriptions shall conform with state and federal laws and regulations and shall
61 include the name, address and telephone number of the physician assistant and the supervising
62 physician;

63 (4) A physician assistant or advanced practice nurse as defined in section 335.016,
64 RSMo, may request, receive and sign for noncontrolled professional samples and may distribute
65 professional samples to patients;

66 (5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies
67 the supervising physician is not qualified or authorized to prescribe; and

68 (6) A physician assistant may only dispense starter doses of medication to cover a period
69 of time for seventy-two hours or less.

70 4. A physician assistant shall clearly identify himself or herself as a physician assistant
71 and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr."
72 or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician
73 assistant shall practice or attempt to practice without physician supervision or in any location
74 where the supervising physician is not immediately available for consultation, assistance and
75 intervention, except in an emergency situation, nor shall any physician assistant bill a patient
76 independently or directly for any services or procedure by the physician assistant.

77 5. [The physician assistant shall be a person who is a graduate of a physician assistant
78 program accredited by the American Medical Association's Committee on Allied Health
79 Education and Accreditation or its successor or is certified by a national nongovernmental
80 agency or association, who has passed the National Commission on Certification of Physician
81 Assistants examination and has active certification by the National Commission on Certification
82 of Physician Assistants or its successor. A person who has been employed as a physician
83 assistant for three years prior to August 28, 1989, and has passed the National Commission on
84 Certification of Physician Assistants examination shall be deemed to have met the academic
85 requirements necessary for licensing.

86 6.] For purposes of this section, the licensing of physician assistants shall take place
87 within processes established by the state board of registration for the healing arts through rule
88 and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536,
89 RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees,
90 and addressing such other matters as are necessary to protect the public and discipline the
91 profession. An application for licensing may be denied or the license of a physician assistant
92 may be suspended or revoked by the board in the same manner and for violation of the standards

93 as set forth by section 334.100, or such other standards of conduct set by the board by rule or
94 regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be
95 required to be licensed as physician assistants.

96 [7.] 6. "Physician assistant supervision agreement" means a written agreement, jointly
97 agreed upon protocols or standing order between a supervising physician and a physician
98 assistant, which provides for the delegation of health care services from a supervising physician
99 to a physician assistant and the review of such services.

100 [8.] 7. When a physician assistant supervision agreement is utilized to provide health
101 care services for conditions other than acute self-limited or well-defined problems, the
102 supervising physician or other physician designated in the supervision agreement, shall see the
103 patient for evaluation and approve or formulate the plan of treatment for new or significantly
104 changed conditions as soon as practical, but in no case more than two weeks after the patient has
105 been seen by the physician assistant.

106 [9.] 8. At all times the physician is responsible for the oversight of the activities of, and
107 accepts responsibility for, health care services rendered by the physician assistant.

436.218. As used in sections 436.215 to 436.272, the following terms mean:

2 (1) "Agency contract", an agreement in which a student athlete authorizes a person to
3 negotiate or solicit on behalf of the student athlete a professional sports services contract or an
4 endorsement contract;

5 (2) "Athlete agent", an individual who enters into an agency contract with a student
6 athlete or directly or indirectly recruits or solicits a student athlete to enter into an agency
7 contract. The term does not include a spouse, parent, sibling, grandparent, or guardian of the
8 student athlete or an individual acting solely on behalf of a professional sports team or
9 professional sports organization. The term includes an individual who represents to the public
10 that the individual is an athlete agent;

11 (3) "Athletic director", an individual responsible for administering the overall athletic
12 program of an educational institution or if an educational institution has separately administered
13 athletic programs for male students and female students, the athletic program for males or the
14 athletic program for females, as appropriate;

15 (4) "Contact", a direct or indirect communication between an athlete agent and a student
16 athlete to recruit or solicit the student athlete to enter into an agency contract;

17 (5) "Director", the director of the division of professional registration;

18 (6) "Division", the division of professional registration;

19 (7) "Endorsement contract", an agreement under which a student athlete is employed or
20 receives consideration to use on behalf of the other party any value that the student athlete may
21 have because of publicity, reputation, following, or fame obtained because of athletic ability or

22 performance;

23 (8) "Intercollegiate sport", a sport played at the collegiate level for which eligibility
24 requirements for participation by a student athlete are established by a national association for
25 the promotion or regulation of collegiate athletics;

26 (9) "Person", an individual, corporation, business trust, estate, trust, partnership, limited
27 liability company, association, joint venture, government, governmental subdivision, agency, or
28 instrumentality, public corporation, or any other legal or commercial entity;

29 (10) "Professional sports services contract", an agreement under which an individual is
30 employed or agrees to render services as a player on a professional sports team, with a
31 professional sports organization, or as a professional athlete;

32 (11) "Record", information that is inscribed on a tangible medium or that is stored in an
33 electronic or other medium and is retrievable in perceivable form;

34 (12) "Registration", registration as an athlete agent under sections 436.215 to 436.272;

35 (13) "State", a state of the United States, the District of Columbia, Puerto Rico, the
36 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of
37 the United States;

38 (14) "Student athlete", [an individual] **a current student** who engages in, **has engaged**
39 **in**, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport.
40 [If an individual is permanently ineligible to participate in a particular intercollegiate sport the
41 individual is not a student athlete for purposes of that sport.]

621.045. 1. The administrative hearing commission shall conduct hearings and make
2 findings of fact and conclusions of law in those cases when, under the law, a license issued by
3 any of the following agencies may be revoked or suspended or when the licensee may be placed
4 on probation or when an agency refuses to permit an applicant to be examined upon his
5 qualifications or refuses to issue or renew a license of an applicant who has passed an
6 examination for licensure or who possesses the qualifications for licensure without examination:

7 Missouri State Board of Accountancy

8 Missouri Board of Registration for Architects, Professional Engineers and Land
9 Surveyors

10 Board of Barber Examiners

11 Board of Cosmetology

12 Board of Chiropody and Podiatry

13 Board of Chiropractic Examiners

14 Missouri Dental Board

15 Board of Embalmers and Funeral Directors

16 Board of Registration for the Healing Arts

17 Board of Nursing
18 Board of Optometry
19 Board of Pharmacy
20 Missouri Real Estate Commission
21 Missouri Veterinary Medical Board
22 Supervisor of Liquor Control
23 Department of Health and Senior Services
24 Department of Insurance
25 Department of Mental Health

26 2. If in the future there are created by law any new or additional administrative agencies
27 which have the power to issue, revoke, suspend, or place on probation any license, then those
28 agencies are under the provisions of this law.

29 3. Notwithstanding any other provision of this section to the contrary, after August 28,
30 1995, in order to encourage settlement of disputes between any agency described in subsection
31 1 of this section and its licensees, any such agency shall:

32 (1) Provide the licensee with a written description of the specific conduct for which
33 discipline is sought and a citation to the law and rules allegedly violated, together with copies
34 of any documents which are the basis thereof **and the agency's initial settlement offer**, or file
35 a contested case against the licensee[, at least thirty days prior to offering the licensee a
36 settlement proposal, and provide the licensee with an opportunity to respond to the allegations];

37 (2) If no contested case has been filed against the licensee, allow the licensee at least
38 sixty days, from the date of mailing, [during which] to consider the agency's initial settlement
39 offer and **to contact the agency to** discuss the terms of such settlement offer [with the agency];

40 (3) If no contested case has been filed against the licensee, advise the licensee that the
41 licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen
42 days thereafter, submit the agreement to the administrative hearing commission for determination
43 that the facts agreed to by the parties to the settlement constitute grounds for denying or
44 disciplining the license of the licensee; and

45 (4) In any contact pursuant to this subsection by the agency or its counsel with a licensee
46 who is not represented by counsel, advise the licensee that the licensee has the right to consult
47 an attorney at the licensee's own expense.

48 4. If the licensee desires review by the administrative hearing commission pursuant to
49 subdivision (3) of subsection 3 of this section at any time prior to the settlement becoming final,
50 the licensee may rescind and withdraw from the settlement and any admissions of fact or law in
51 the agreement shall be deemed withdrawn and not admissible for any purposes under the law
52 against the licensee. Any settlement submitted to the administrative hearing commission shall

53 not be effective and final unless and until findings of fact and conclusions of law are entered by
54 the administrative hearing commission that the facts agreed to by the parties to the settlement
55 constitute grounds for denying or disciplining the license of the licensee.

56 [5. As to a matter settled prior to August 28, 1995, by consent agreement or agreed
57 settlement, any party to a consent agreement or agreed settlement, other than a state agency, after
58 having received written notice at their last known address known to the agency from the
59 respective licensing agency of a person's rights under this section, shall have six months to file
60 an action in the circuit court of Cole County contesting the authority of any agency described in
61 subsection 1 of this section to enter into such consent agreement or agreed settlement. Any
62 consent agreement or agreed settlement which is not invalidated by the court pursuant to this
63 subsection shall be given full force and effect by all courts and agencies.]