

CCS SCS HB 2226, HB 1824, HB 1832 & HB 1990 -- REGULATION AND LICENSING OF CERTAIN PROFESSIONS

This bill changes the laws regarding the Oversight Division of the Joint Committee on Legislative Research; MO HealthNet reimbursements; certain professions regulated by the Department of Insurance, Financial Institutions and Professional Registration; and hospital premises licenses.

OVERSIGHT DIVISION OF THE JOINT COMMITTEE ON LEGISLATIVE RESEARCH
(Section 23.156, RSMo)

Each employee of the Oversight Division of the Joint Committee on Legislative Research before entering upon his or her duties is required to take and file with the Chief Clerk of the House of Representatives and the Secretary of the Senate an oath to support the Missouri Constitution, to faithfully demean himself or herself in office, not to disclose specified information to unauthorized persons, and not to accept any pay for the discharge of his or her duties other than that fixed and accorded to the employee by law. Anyone violating this provision will be guilty of a class A misdemeanor.

PAYMENTS FROM THIRD-PARTY PAYERS TO THE MO HEALTHNET DIVISION
(Section 208.215)

The bill changes the laws regarding the authority of the MO HealthNet Division within the Department of Social Services to collect payments from third-party payers. Health benefit plans, third-party administrators, administrative service organizations, and pharmacy benefits managers are required to process and pay properly submitted medical assistance or MO HealthNet subrogation claims using standard electronic transactions or paper claim forms for a period of three years from the date services were provided by an entity. The entity cannot be required to reimburse for items or services not covered under MO HealthNet; cannot deny a claim based solely on the date of submission, the type or format of the claim form, failure to present proper documentation of coverage at the point of sale, or failure to obtain prior authorization; cannot be required to reimburse for items or services previously submitted to the third-party payer by the provider or the participant and the claim was properly denied for procedural reasons; and cannot be required to reimburse for items or services which are not covered under the plan offered by the entity against which a claim for subrogation has been filed. An entity must reimburse for items or services to the same extent that the entity would have been liable if it had been properly billed at the point of sale and the amount due is limited to what the entity would have paid if it had been properly billed at the point of sale. Health benefit plans,

third-party administrators, administrative service organizations, and pharmacy benefits managers must also pay a subrogation claim if the state enforces its right to a claim within six years of the submission of the claim.

The computerized records of the division, if certified by the division director or his designee, will be prima facie evidence of proof of moneys expended and the amount of the debt due the state.

ENDOWED CARE CEMETERIES (Sections 214.160 - 214.550)

The bill:

- (1) Allows a county commission that serves as the trustee of a trust fund for a cemetery to invest moneys in the fund in certificates of deposit;
- (2) Repeals the requirement that any court action to grant an injunction, restraining order, or other order to bring suit against a cemetery operator upon application by the Division of Professional Registration within the Department of Insurance, Financial Institutions and Professional Registration must be commenced in the county in which the illegal action occurred or in the county in which the operator resides;
- (3) Requires all contracts sold by cemetery operators for cemetery services or for graves, cemetery markers, crypts, and other burial receptacles to meet certain requirements. If these requirements are not met, all payments will be recoverable by the purchaser plus 10% interest and any reasonable collection costs including attorney fees;
- (4) Requires any person, entity, association, or political subdivision that purchases, receives, or holds real estate used for the burial of human remains, excluding a family burial ground, to notify the Office of Endowed Care Cemeteries within the department of the name, location, and address of the real estate before October 1, 2010, or within 30 days of acquiring the land;
- (5) Exempts cemetery operators from the provisions of Chapter 436 regarding prearranged funeral contracts for the sale of cemetery services or for graves, cemetery markers, crypts, and other burial receptacles but prohibits them from adjusting or establishing the price of items with the intent of evading the trust or escrow provisions of the chapter. Provisions related to deposits into endowed care trust funds based on the sales price of certain products are revised;

(6) Removes the provisions requiring a financial institution serving as the trustee of an endowed care trust to be located in Missouri but requires all activities of the trust to be controlled by Missouri law and all funds held in trust to remain in Missouri;

(7) Requires a cemetery operator to notify the division in writing at least 30 days prior to selling a majority of the business assets of a cemetery or a majority of its stock. If the division does not disapprove, the operator may complete the transaction;

(8) Allows, for agreements entered into after August 28, 2010, a cemetery prearranged merchandise products contract to be canceled within 30 days of receipt of the executed contract and requires all payments to be fully refunded with certain exceptions;

(9) Allows the division to direct a trustee, financial institution, or escrow agent to suspend the distribution of money from an endowed care trust fund or escrow account if the cemetery operator is not licensed, has failed to file an annual report, or has failed to file a corrective action plan after an audit has revealed a deficiency. The cemetery operator may appeal the suspension; and

(10) Exempts, if a cemetery was owned by a city, any subsequent cemetery owner from liability for any deficiency existing prior to the city's ownership. Currently, this applies only to a cemetery in St. Louis City.

LICENSURE OF PRIVATE INVESTIGATORS (Sections 324.1100 - 324.1147)

The bill:

(1) Requires each member of the Board of Private Investigators Examiners within the Division of Professional Registration in the Department of Insurance, Financial Institutions and Professional Registration to be a resident of the state for at least one year prior to his or her appointment and to be a registered voter;

(2) Increases, from two to five years, the term of a board member and allows him or her to serve consecutive terms;

(3) Repeals conflicting statutes created by the passage of House Bill 780 and Senate Bill 308 in 2007 regarding the licensing exemption for employees of a not-for-profit organization who make and request criminal background information on behalf of health care providers and facilities and clarifies that the exemption for licensure as a private investigator applies to employees of profit and non-profit organizations making employee background

checks;

(4) Requires the division to employ board personnel, exercise all administrative functions, and deposit all fees collected into the Board of Private Investigators Examiners Fund;

(5) Specifies that a licensed certified public accountant and his or her employees are not to be deemed to be engaged in the private investigator business when performing their duties;

(6) Removes the exemption for licensure as a private investigator if an employer-employee relationship exists;

(7) Clarifies that the exemption for licensure as a private investigator will apply to any person who does not hold himself or herself out to the public as a private investigator and is exclusively employed by or under an exclusive contract with a state agency or political subdivision;

(8) Clarifies the exemption for licensure as a private investigator when a legal process server is conducting process-serving activities;

(9) Requires the board, instead of the department, to be responsible for the background investigation and review of an applicant but the division, instead of the board, must determine the form of the license;

(10) Specifies that an applicant can be denied a license if he or she has received a suspended imposition of sentence following a guilty plea to a misdemeanor offense involving moral turpitude or has been refused a license or had a license revoked or denied in the state or any other state and prohibits a private investigator agency from hiring an individual who has received a suspended imposition of sentence following a plea of guilty to a misdemeanor offense involving moral turpitude;

(11) Removes a provision regarding the fee for an individual, an agency, or an employee of an agency that is issued a license for less than a year;

(12) Specifies the procedures for renewing a license;

(13) Allows the board to establish all fees;

(14) Requires a licensee to maintain records containing information relative to his or her employees and copies of contracts or court orders requiring the destruction, sealing, or return of certain records; and

(15) Requires the board to license a private investigator trainer. Currently, the board must certify these individuals.

ARCHITECTS, ENGINEERS, LAND SURVEYORS, AND LANDSCAPE ARCHITECTS
(Sections 327.031 - 327.411)

The bill:

(1) Increases the membership of the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors and Landscape Architects within the Department of Insurance, Financial Institutions and Professional Registration from 14 to 15 by adding one more professional engineer;

(2) Allows a landscape architect to serve as the chairperson of the board;

(3) Gives all rights, powers, and duties available to the members of the architectural and professional engineering divisions of the board to the members of the professional land surveying and landscape architectural divisions of the board;

(4) Allows certain faculty members of an accredited school of landscape architecture to serve on the board;

(5) Repeals the requirement that the board cannot summon or subpoena a witness or documents on a matter under a hearing or investigation without the advice of the Attorney General;

(6) Establishes a sequential rotation for the appointment of a chairperson to the board;

(7) Limits a chairperson to one, four-year term;

(8) Authorizes the President of the Missouri Association of Landscape Architects to fill a board vacancy for a landscape architect as other state associations are allowed to do for their professions;

(9) Allows a person holding an inactive license as a professional land surveyor to use that title or the initials "PLS" after his or her name; and

(10) Requires a licensee to prepare or personally supervise the preparation of all documents containing his or her personal seal and to perform services only when he or she is qualified by education, training, and experience in the specific technical areas involved.

EXPANDED-FUNCTIONS PERMITS FOR CERTAIN DENTAL ASSISTANTS AND

DENTAL HYGIENISTS (Sections 332.011 and 332.098)

All dental assistants and dental hygienists must obtain a permit from the Missouri Dental Board within the Department of Insurance, Financial Institutions and Professional Registration in order to perform expanded-functions duties. "Expanded-functions duties" are defined as reversible acts that would be considered the practice of dentistry under Section 332.071 that the board specifies, by rule, may be delegated to a dental assistant or dental hygienist who possesses an expanded-functions permit.

Nothing in the bill will be construed as making it unlawful for a licensed dentist to perform any dental services that would be considered expanded-functions duties or for dental assistants, certified dental assistants, or expanded-functions dental assistants to polish teeth. The board is prohibited from establishing any rule allowing the delegation of acts to a dental assistant which would conflict with the practice of dental hygiene in Section 332.091. An expanded-functions permit must be renewed every five years, and the board is authorized to establish rules regarding the issuance and renewal of a permit.

PHYSICAL THERAPISTS (Sections 334.100, 334.506, and 334.613)

A physical therapist is authorized to accept a prescription for treatment from a licensed advanced practice registered nurse.

SUPERVISION REQUIREMENTS FOR PHYSICIAN ASSISTANTS (Section 334.735)

The State Board of Registration for the Healing Arts within the Department of Insurance, Financial Institutions and Professional Registration is prohibited from requiring additional supervision requirements for a physician and physician assistant team prior to working in a rural health clinic as defined by the federal Rural Health Clinic Services Act if a waiver has been granted by the board and the minimum federal supervision standards are met.

A physician assistant cannot prescribe or dispense any drug, medicine, therapy, or device unless he or she is in a collaborative agreement with a supervising physician. Currently, a physician assistant must consult with his or her supervising physician.

LICENSURE OF NURSES (Sections 335.075 and 335.081)

An employer of nurses is required to have a system in place for verifying that the applicant for a position as a registered, licensed practical, or advanced practice registered nurse has a

current, valid license and for verifying the licensure status at the time of the nurse's license renewal.

The bill also exempts a person from licensure as a nurse in Missouri if he or she holds an out-of-state license and is transporting a patient into, out of, or through the state and the transport does not exceed 48 hours in the state.

COMPLAINTS AGAINST CERTAIN LICENSED PROFESSIONAL COUNSELORS (Section 337.528)

The State Committee for Professional Counselors within the Department of Insurance, Financial Institutions and Professional Registration is allowed to remove unsubstantiated complaints made against licensed professional counselors by offenders who have been ordered into custody, detained, or held by the Department of Mental Health as sexually violent predators. Upon the written request of a licensed professional counselor subject to a complaint by these offenders prior to August 28, 2010, that did not result in disciplinary action, the committee and the Division of Professional Registration within the Department of Insurance, Financial Institutions and Professional Registration must destroy all documentation regarding the complaint, notify any other licensing board that was previously notified of the complaint of its actions, and send a letter to the licensee clearly stating that the complaint was unsubstantiated.

LICENSURE OF SOCIAL WORKERS (Sections 337.600, 337.603, 337.615, 337.618, and 337.643)

The bill:

(1) Limits the time period that a practitioner of master social work, if supervised, may engage in practices reserved to a clinical social worker or an advanced macro social worker to no more than 48 consecutive months for the purpose of obtaining a license as a clinical social worker or an advanced macro social worker;

(2) Repeals the provisional license for clinical social workers; and

(3) Revises the definition of "qualified advanced macro supervisor," "qualified baccalaureate supervisor," and "qualified clinical supervisor" to be a licensed social worker who has supervised in the field of social work for at least five years. Currently, supervision is required for at least five uninterrupted years.

MARITAL AND FAMILY THERAPISTS (Sections 337.700, 337.703,

337.705, 337.706, 337.715, 337.718, 337.727, and 337.739)

The State Committee for Marital and Family Therapists within the Department of Insurance, Financial Institutions and Professional Registration is authorized to issue a provisional license to a person who is a graduate of a specified acceptable higher education institution with at least a master's degree in marital and family therapy, or its equivalent, and meets all requirements of a licensed marital and family therapist other than the specified required supervised clinical experience if he or she is supervised by a qualified person as defined by rule of the committee.

Any official, employee, board, commission, or agency of the state and any county, municipality, school district, or other political subdivision of the state is prohibited from discriminating between persons licensed as marital and family therapists when establishing rules or when requiring or recommending services that legally may be performed by these therapists.

LICENSURE OF WHOLESALE DRUG DISTRIBUTORS (Sections 338.333, 338.355, and 338.337)

A wholesale drug distributor who distributes drug-related devices in this state is not required to obtain a license from the State Board of Pharmacy within the Department of Insurance, Financial Institutions and Professional Registration for out-of-state distribution sites owned by the distributor if:

- (1) The distributor has one or more distribution sites in Missouri and these sites are licensed as a distributor;
- (2) The distributor's out-of-state distribution sites are in compliance with their respective state's licensing laws; and
- (3) The distributor's out-of-state distribution sites deliver the devices only to the licensed distributor's in-state distribution site.

A Missouri wholesale drug distributor receiving shipments of devices from a licensure-exempt, out-of-state facility will be responsible for all shipments received.

RESIDENTIAL CARE FACILITIES (Sections 344.010 and 344.020)

The Missouri Board of Nursing Home Administrators within the Department of Insurance, Financial Institutions and Professional Registration is authorized to issue a separate license to the administrator of a residential care facility which was licensed as a residential care facility II on or before August 27, 2006,

if it continues to meet all licensure standards for a residential care facility II in effect as of that date.

Anyone licensed to operate a residential care facility is not authorized to operate an intermediate care or skilled nursing facility.

DISCIPLINARY ACTIONS AGAINST CERTAIN HEALTH CARE PROFESSIONALS (Sections 383.130 and 383.133)

Home health agencies, nursing homes or facilities, or certain entities employing or contracting with licensed health care professionals are added to the list of health care providers that must report to the appropriate health care professional licensing authority any disciplinary action against a health care professional or the voluntary resignation of a professional against whom any complaints or reports have been made which might have led to disciplinary action.

HOSPITAL PREMISES LICENSES (Section 1)

The bill allows an applicant for or a holder of a hospital license to define or revise the premises of a hospital campus to include tracts of property which are adjacent except for a common street or highway and its accompanying public right-of-way.