

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1683
97TH GENERAL ASSEMBLY

5304H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 324.001 and 338.010, RSMo, and to enact in lieu thereof two 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Section A. Sections 324.001 and 338.010, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 324.001 and 338.010, to 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.

338.010. 1. The "practice of pharmacy" means the interpretation, implementation, and
2 evaluation of medical prescription orders, including any legend drugs under 21 U.S.C. Section
3 353; receipt, transmission, or handling of such orders or facilitating the dispensing of such
4 orders; the designing, initiating, implementing, and monitoring of a medication therapeutic plan
5 as defined by the prescription order so long as the prescription order is specific to each patient
6 for care by a pharmacist; the compounding, dispensing, labeling, and administration of drugs and
7 devices pursuant to medical prescription orders and administration of [viral influenza,
8 pneumonia, shingles and meningitis vaccines] **any vaccine on the Centers for Disease Control
9 and Prevention's adolescent or adult immunization schedule** by written protocol authorized
10 by a physician for persons [twelve] **seven** years of age or older [as authorized by rule or the
11 administration of pneumonia, shingles, and meningitis vaccines by written protocol authorized
12 by a physician for a specific patient] as authorized by rule; the participation in drug selection
13 according to state law and participation in drug utilization reviews; the proper and safe storage
14 of drugs and devices and the maintenance of proper records thereof; consultation with patients
15 and other health care practitioners, and veterinarians and their clients about legend drugs, about
16 the safe and effective use of drugs and devices; and the offering or performing of those acts,
17 services, operations, or transactions necessary in the conduct, operation, management and control
18 of a pharmacy. No person shall engage in the practice of pharmacy unless he is licensed under
19 the provisions of this chapter. This chapter shall not be construed to prohibit the use of auxiliary
20 personnel under the direct supervision of a pharmacist from assisting the pharmacist in any of
21 his or her duties. This assistance in no way is intended to relieve the pharmacist from his or her
22 responsibilities for compliance with this chapter and he or she will be responsible for the actions
23 of the auxiliary personnel acting in his or her assistance. This chapter shall also not be construed
24 to prohibit or interfere with any legally registered practitioner of medicine, dentistry, or podiatry,
25 or veterinary medicine only for use in animals, or the practice of optometry in accordance with
26 and as provided in sections 195.070 and 336.220 in the compounding, administering,
27 prescribing, or dispensing of his or her own prescriptions.

28 2. Any pharmacist who accepts a prescription order for a medication therapeutic plan
29 shall have a written protocol from the physician who refers the patient for medication therapy

30 services. The written protocol and the prescription order for a medication therapeutic plan shall
31 come from the physician only, and shall not come from a nurse engaged in a collaborative
32 practice arrangement under section 334.104, or from a physician assistant engaged in a
33 supervision agreement under section 334.735.

34 3. Nothing in this section shall be construed as to prevent any person, firm or corporation
35 from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed
36 pharmacist is in charge of such pharmacy.

37 4. Nothing in this section shall be construed to apply to or interfere with the sale of
38 nonprescription drugs and the ordinary household remedies and such drugs or medicines as are
39 normally sold by those engaged in the sale of general merchandise.

40 5. No health carrier as defined in chapter 376 shall require any physician with which they
41 contract to enter into a written protocol with a pharmacist for medication therapeutic services.

42 6. This section shall not be construed to allow a pharmacist to diagnose or independently
43 prescribe pharmaceuticals.

44 7. The state board of registration for the healing arts, under section 334.125, and the state
45 board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the use of
46 protocols for prescription orders for medication therapy services and administration of viral
47 influenza vaccines. Such rules shall require protocols to include provisions allowing for timely
48 communication between the pharmacist and the referring physician, and any other patient
49 protection provisions deemed appropriate by both boards. In order to take effect, such rules shall
50 be approved by a majority vote of a quorum of each board. Neither board shall separately
51 promulgate rules regulating the use of protocols for prescription orders for medication therapy
52 services and administration of viral influenza vaccines. Any rule or portion of a rule, as that term
53 is defined in section 536.010, that is created under the authority delegated in this section shall
54 become effective only if it complies with and is subject to all of the provisions of chapter 536
55 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
56 the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
57 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
58 grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be
59 invalid and void.

60 8. The state board of pharmacy may grant a certificate of medication therapeutic plan
61 authority to a licensed pharmacist who submits proof of successful completion of a
62 board-approved course of academic clinical study beyond a bachelor of science in pharmacy,
63 including but not limited to clinical assessment skills, from a nationally accredited college or
64 university, or a certification of equivalence issued by a nationally recognized professional
65 organization and approved by the board of pharmacy.

66 9. Any pharmacist who has received a certificate of medication therapeutic plan authority
67 may engage in the designing, initiating, implementing, and monitoring of a medication
68 therapeutic plan as defined by a prescription order from a physician that is specific to each
69 patient for care by a pharmacist.

70 10. Nothing in this section shall be construed to allow a pharmacist to make a therapeutic
71 substitution of a pharmaceutical prescribed by a physician unless authorized by the written
72 protocol or the physician's prescription order.

73 11. "Veterinarian", "doctor of veterinary medicine", "practitioner of veterinary
74 medicine", "DVM", "VMD", "BVSe", "BVMS", "BSe (Vet Science)", "VMB", "MRCVS", or
75 an equivalent title means a person who has received a doctor's degree in veterinary medicine
76 from an accredited school of veterinary medicine or holds an Educational Commission for
77 Foreign Veterinary Graduates (EDFVG) certificate issued by the American Veterinary Medical
78 Association (AVMA).

✓