

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 480, 272, 413 & 609

99TH GENERAL ASSEMBLY

1144H.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 324.001, RSMo, and to enact in lieu thereof two new sections relating to the division of professional registration.

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

Section A. Section 324.001, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 324.001 and 621.280, to read as follows:

324.001. 1. **(1) The purpose of sections 324.001 to 324.1109 is to promote the general welfare by establishing guidelines for the regulation of occupations and professions not regulated prior to January 1, 2018, and those occupations and professions regulated prior to January 1, 2018, that seek to substantially increase their scope of practice.**

(2) All individuals may engage in the occupation of their choice, free from unreasonable government regulation. The state shall not impose a substantial burden on an individual's pursuit of his or her occupation or profession unless there is an important governmental interest for the state to protect the general welfare. If such an interest exists, the regulation adopted by the state shall be the least restrictive type of regulation, consistent with the public interest to be protected.

(3) All bills introduced in the legislature to regulate an occupation or profession shall be reviewed according to the following criteria. An occupation or profession shall be regulated by the state only if:

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.

14 **(a) Unregulated practice could cause significant harm and endangered the general**
15 **welfare and the potential for further harm and endangerment is easily recognizable and**
16 **not remote or dependent upon tenuous argument;**

17 **(b) The public needs and can reasonably be expected to benefit from an assurance**
18 **of initial personal qualifications; and**

19 **(c) The general welfare cannot be effectively protected by other means.**

20 **(4) After evaluating the criteria in subdivision (3) of this subsection and considering**
21 **governmental, economic, and societal costs and benefits, if the legislature finds that the**
22 **state has an important interest in regulating an occupation or profession not previously**
23 **regulated by law, the least restrictive type of regulation shall be implemented, consistent**
24 **with the need to protect the general welfare and this section. If:**

25 **(a) Market competition, common law, statutory civil actions, and criminal**
26 **prohibitions are insufficient to eradicate actual harm, the regulation shall provide for**
27 **stricter civil actions and criminal prosecutions;**

28 **(b) A service is being performed for individuals that involves a hazard to the**
29 **general welfare, the regulation shall impose inspection requirements and enable an**
30 **appropriate state agency to enforce violations by injunctive relief in court including, but**
31 **not limited to, regulation of the business activity providing the service rather than**
32 **practitioners;**

33 **(c) The threat to the general welfare resulting from the practitioner's services is**
34 **relatively small, easily identifiable, or predictable, the regulation shall implement a system**
35 **of insurance, bonding, or registration;**

36 **(d) The consumer possesses significantly less information so that the practitioner**
37 **places the consumer in a disadvantageous position relative to the practitioner to judge the**
38 **quality of the practitioner's services, the regulation shall implement a voluntary system of**
39 **certification; or**

40 **(e) There is no other type of regulation that will protect the general welfare other**
41 **than licensing, the regulation shall implement a system of licensing.**

42 **2. For the purposes of this section, the following terms mean:**

43 **(1) "Applicant group", any occupational or professional group or organization, any**
44 **individual, or any other interested party that proposes that any occupation or profession**
45 **not presently regulated be regulated or proposes to substantially increase the scope of**
46 **practice of an occupation or profession currently regulated;**

47 **(2) "Certification", a voluntary program in which the government grants**
48 **nontransferable recognition to an individual who meets personal qualifications established**
49 **by a legislative body. Upon approval, the individual may use "certified" as a designated**

50 **title. Someone who has not been recognized as certified may perform the occupation for**
51 **compensation lawfully, but shall not use the title "certified". This term shall not be**
52 **synonymous with an occupational license or prohibit the use of private certification;**

53 (3) "Department", the department of insurance, financial institutions and professional
54 registration;

55 [~~(2)~~] (4) "Director", the director of the division of professional registration; [~~and~~]

56 [~~(3)~~] (5) "Division", the division of professional registration;

57 (6) "General welfare", the concern of the government for the health, peace,
58 morality, and safety of its citizens;

59 (7) "Grandfather clause", a provision in a regulatory statute applicable to
60 practitioners actively engaged in the regulated occupation or profession prior to the
61 effective date of the regulatory statute which exempts the practitioners from meeting the
62 personal qualifications set forth in the regulatory statute to perform prescribed
63 occupational tasks;

64 (8) "Inspection" the periodic examination of practitioners by a state agency in
65 order to ascertain whether the practitioners' activities are being carried out in a fashion
66 consistent with the requisite level of cleanliness necessary to protect the general welfare;

67 (9) "Lawful occupation", a course of conduct, pursuit, or profession that includes
68 the sale of goods or services that are not themselves illegal to sell irrespective of whether
69 the individual selling them is subject to an occupational regulation;

70 (10) "Least restrictive type of occupational regulations", in order from least to most
71 restrictive:

72 (a) Market competition;

73 (b) A provision for private civil action to remedy consumer harm;

74 (c) Criminal sanction;

75 (d) Regulation of the business activity providing the service rather than the
76 practitioner;

77 (e) Inspection;

78 (f) Bonding or insurance;

79 (g) Registration;

80 (h) Certification;

81 (i) Occupational license;

82 (11) "Legislative committees of reference", the standing legislative committees
83 designated by the respective rules committees of the senate and house of representatives
84 to consider proposed legislation to regulate occupations or professions not previously
85 regulated;

86 (12) "Occupational license", a nontransferable authorization in law for an
87 individual to perform a lawful occupation for compensation based on meeting personal
88 qualifications established by a legislative body. It shall be prohibited for an individual who
89 does not possess an occupational license to perform the occupation for compensation;

90 (13) "Occupational regulation", a statute, ordinance, rule, practice, policy, or other
91 law requiring an individual to possess certain personal qualifications to work in a lawful
92 occupation;

93 (14) "Personal qualifications", criteria related to an individual's personal
94 background, including completion of an approved educational program, satisfactory
95 performance on an examination, work experience, criminal history, and completion of
96 continuing education;

97 (15) "Practitioner", an individual who has achieved knowledge and skill by
98 practice and is actively engaged in a specified occupation or profession;

99 (16) "Public member" an individual who is not currently, and has never been in
100 the past, a member or spouse of a member of the occupation or profession being regulated
101 or an individual who does not currently have and has never in the past had a material
102 financial interest in either the rendering of the occupation or professional service being
103 regulated or an activity directly related to the occupation or profession being regulated;

104 (17) "Registration", a requirement established by the legislature in which a person:

105 (a) Submits notification to a state agency; and

106 (b) May use "registered" as a designated title.

107

108 Notification may include the person's name and address, the person's agent for service of
109 process, the location of the activity to be performed, and a description of the service the
110 person provides. Registration may include a requirement to post a bond but does not
111 include education or experience requirements. Nonregistered persons shall not use
112 "registered" as a designated title. The term registration shall not be synonymous with an
113 occupational license and does not refer to or prohibit the use of private registration;

114 (18) "Regulatory entity", any board, commission, agency, division, or other unit
115 or subunit of state government which regulates one or more professions, occupations,
116 industries, businesses, or other endeavors in this state;

117 (19) "State agency", every state office, department, board, commission, regulatory
118 entity, and agency of the state, and if provided by law, programs and activities involving
119 less than the full responsibility of a state agency;

120 **(20) "Substantial burden", a requirement in an occupational regulation that**
121 **imposes significant difficulty or cost on an individual seeking to enter into or continue in**
122 **a lawful occupation and is more than an incidental burden.**

123 ~~[2-]~~ **3. After January 1, 2018, applicant groups shall explain each of the following**
124 **factors to the extent requested by the legislative committees of reference:**

125 **(1) A definition of the problem and why regulation is necessary including, but not**
126 **limited to:**

127 **(a) The description and quantification of the actual harm to the general public due**
128 **to the fact that the occupation or profession is not regulated;**

129 **(b) The extent to which the actual harm could be avoided;**

130 **(c) A description of how consumers will benefit in the future from the proposed**
131 **type of regulation; and**

132 **(d) The extent of autonomy a practitioner has, as indicated by:**

133 **a. The extent to which the occupation or profession calls for independent judgment**
134 **and the extent of skill or experience required in making the independent judgment; and**

135 **b. The extent to which practitioners are supervised;**

136 **(2) The efforts made to address the actual harm caused:**

137 **(a) Voluntary efforts, if any, by members of the occupation or profession to:**

138 **a. Establish a code of ethics; or**

139 **b. Help resolve disputes between practitioners and consumers; and**

140 **(b) Recourse to and the extent of use of applicable law and whether it could be**
141 **strengthened to control the problem;**

142 **(3) The alternatives considered including, but not limited to:**

143 **(a) Increased civil or criminal sanctions;**

144 **(b) Regulation of businesses rather than practitioners;**

145 **(c) Regulation of the service or training program rather than the individual**
146 **practitioners;**

147 **(d) Inspections;**

148 **(e) Bonding or insurance;**

149 **(f) Registration of all practitioners;**

150 **(g) Certification of all practitioners;**

151 **(h) Other alternatives;**

152 **(i) Why the use of the alternatives specified in this subdivision would not be**
153 **adequate to protect the general welfare; and**

154 **(j) Why licensing would serve to protect the general welfare;**

155 **(4) The benefit to the public if regulation is granted;**

156 **(5) The extent to which the incidences of specific problems present in the**
157 **unregulated occupation or profession can reasonably be expected to be reduced by**
158 **proposed regulation;**

159 **(6) Whether the public can identify qualified practitioners;**

160 **(7) The extent to which the public can be confident that qualified practitioners are**
161 **competent;**

162 **(a) Whether the proposed regulatory entity would be a board composed of**
163 **members of the profession and public members, a state agency, or both, and, if**
164 **appropriate, their respective responsibilities in administering the system of inspections,**
165 **bonding, insurance, registration, certification, or licensure, including the composition of**
166 **the board and the number of public members, if any; the powers and duties of the board**
167 **or state agency regarding examinations and for cause revocation, suspension, and**
168 **nonrenewal of registrations, certificates, or licenses; the promulgation of rules and canons**
169 **of ethics; the conduct of inspections; the receipt of complaints and disciplinary action taken**
170 **against practitioners; and how fees would be levied and collected to cover the expenses of**
171 **administering and operating the regulatory system;**

172 **(b) If there is a grandfather clause, how consumers will be protected from the harm**
173 **caused by current practitioners that is the basis for advocating for the enactment of the**
174 **proposed regulation;**

175 **(c) If there is a grandfather clause, if current practitioners will be required to meet**
176 **the prerequisite qualifications established by the regulatory entity at a later date and if not,**
177 **why not;**

178 **(d) Whether the regulatory entity would be authorized to enter into reciprocity**
179 **agreements with other jurisdictions;**

180 **(e) The nature and duration of any training including, but not limited to, whether**
181 **the training includes a substantial amount of supervised field experience; whether training**
182 **programs exist in this state; if there will be an experience requirement; whether the**
183 **experience shall be acquired under a registered, certified, or licensed practitioner; whether**
184 **there are alternative routes of entry or methods of meeting the prerequisite qualifications;**
185 **whether all applicants will be required to pass an examination; and if an examination is**
186 **required, by whom it will be developed and how the costs of development will be met; and**

187 **(f) What additional training programs are anticipated to be necessary to ensure**
188 **training is accessible statewide; the anticipated time required to establish the additional**
189 **training programs; the types of institutions capable of providing the training; and a**
190 **description of how training programs will meet the needs of the expected workforce,**
191 **including reentry workers, minorities, placebound students, and others;**

- 192 **(8) Assurance of the public that practitioners have maintained their competence:**
193 **(a) Whether the registration, certification, or licensure will carry an expiration**
194 **date; and**
195 **(b) Whether renewal will be based only upon payment of a fee, or whether renewal**
196 **will involve reexamination, peer review, or other enforcement;**
197 **(9) The extent to which regulation might harm the public;**
198 **(10) The extent to which regulation will restrict entry into the occupation or**
199 **profession:**
200 **(a) Whether the proposed personal qualifications are more restrictive than**
201 **necessary to ensure safe and effective performance;**
202 **(b) How the proposed personal qualifications compare to other regulations in the**
203 **state which may involve greater risks to the general welfare; and**
204 **(c) A list of other states that regulate the profession or occupation, the type of**
205 **regulation, copies of other states' laws, and available evidence from those states of the**
206 **effect of regulation on the profession or occupation in terms of a before-and-after analysis;**
207 **(11) Whether there are similar professions to that of the applicant group which**
208 **shall be included in, or portions of the applicant group which shall be excluded from, the**
209 **proposed legislation;**
210 **(12) The maintenance of personal qualifications;**
211 **(13) Whether effective quality assurance standards exist in the occupation or**
212 **profession, such as legal requirements associated with specific programs that define or**
213 **enforce professional standards, or a code of ethics;**
214 **(14) How the proposed legislation will ensure:**
215 **(a) The extent to which a code of ethics, if any, will be adopted; and**
216 **(b) Grounds for suspension or revocation of registration, certification, or licensure;**
217 **(15) A description of the group proposed for regulation, including a list of**
218 **associations, organizations, and other groups representing the practitioners in this state;**
219 **an estimate of the number of practitioners in each group; and whether the groups**
220 **represent different levels of practice;**
221 **(16) The expected costs of regulation including, but not limited to:**
222 **(a) The impact registration, certification, or licensure will have on the costs of the**
223 **services to the public;**
224 **(b) The cost to the state and to the general public of implementing the proposed**
225 **legislation; and**

226 **(c) The cost to the state and the members of the group proposed for regulation for**
227 **the required education, including projected tuition and expenses and expected increases**
228 **in training programs, staffing, and enrollments at state training institutions; and**

229 **(17) Whether the regulatory entity would be authorized and proactive in entering**
230 **into reciprocity agreements with other jurisdictions.**

231 **4. Applicant groups shall submit a written report explaining the factors**
232 **enumerated in subsection 3 of this section to the legislative committees of reference.**

233 **5. A legislative proposal that contains a continuing education requirement shall be**
234 **accompanied by a detailed explanation of how such requirement could be effective for the**
235 **profession addressed in the legislation.**

236 **6. Nothing in this section shall be construed to create a right of action against a**
237 **private party or to require a private party to do business with an individual who is not**
238 **licensed, certified, or registered with the government or to create a right of action against**
239 **the state, county, municipal, or other level of government in the state.**

240 **7. There is hereby established a "Division of Professional Registration" assigned to the**
241 **department of insurance, financial institutions and professional registration as a type III transfer,**
242 **headed by a director appointed by the governor with the advice and consent of the senate. All**
243 **of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State**
244 **Reorganization Act of 1974 and Executive Order 06-04 shall apply to this department and its**
245 **divisions, agencies, and personnel.**

246 ~~[3-]~~ **8. The director of the division of professional registration shall promulgate rules and**
247 **regulations which designate for each board or commission assigned to the division the renewal**
248 **date for licenses or certificates. After the initial establishment of renewal dates, no director of**
249 **the division shall promulgate a rule or regulation which would change the renewal date for**
250 **licenses or certificates if such change in renewal date would occur prior to the date on which the**
251 **renewal date in effect at the time such new renewal date is specified next occurs. Each board or**
252 **commission shall by rule or regulation establish licensing periods of one, two, or three years.**
253 **Registration fees set by a board or commission shall be effective for the entire licensing period**
254 **involved, and shall not be increased during any current licensing period. Persons who are**
255 **required to pay their first registration fees shall be allowed to pay the pro rata share of such fees**
256 **for the remainder of the period remaining at the time the fees are paid. Each board or**
257 **commission shall provide the necessary forms for initial registration, and thereafter the director**
258 **may prescribe standard forms for renewal of licenses and certificates. Each board or commission**
259 **shall by rule and regulation require each applicant to provide the information which is required**
260 **to keep the board's records current. Each board or commission shall have the authority to collect**
261 **and analyze information required to support workforce planning and policy development. Such**

262 information shall not be publicly disclosed so as to identify a specific health care provider, as
263 defined in section 376.1350. Each board or commission shall issue the original license or
264 certificate.

265 ~~[4.]~~ **9.** The division shall provide clerical and other staff services relating to the issuance
266 and renewal of licenses for all the professional licensing and regulating boards and commissions
267 assigned to the division. The division shall perform the financial management and clerical
268 functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and
269 renewal of licenses and certificates" means the ministerial function of preparing and delivering
270 licenses or certificates, and obtaining material and information for the board or commission in
271 connection with the renewal thereof. It does not include any discretionary authority with regard
272 to the original review of an applicant's qualifications for licensure or certification, or the
273 subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action
274 contemplated against the licensee or certificate holder. The division may develop and implement
275 microfilming systems and automated or manual management information systems.

276 ~~[5.]~~ **10.** The director of the division shall maintain a system of accounting and budgeting,
277 in cooperation with the director of the department, the office of administration, and the state
278 auditor's office, to ensure proper charges are made to the various boards for services rendered
279 to them. The general assembly shall appropriate to the division and other state agencies from
280 each board's funds moneys sufficient to reimburse the division and other state agencies for all
281 services rendered and all facilities and supplies furnished to that board.

282 ~~[6.]~~ **11.** For accounting purposes, the appropriation to the division and to the office of
283 administration for the payment of rent for quarters provided for the division shall be made from
284 the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for
285 the purpose defined in subsection ~~[5]~~ **10** of this section. The fund shall consist of moneys
286 deposited into it from each board's fund. Each board shall contribute a prorated amount
287 necessary to fund the division for services rendered and rent based upon the system of accounting
288 and budgeting established by the director of the division as provided in subsection ~~[5]~~ **10** of this
289 section. Transfers of funds to the professional registration fees fund shall be made by each board
290 on July first of each year; provided, however, that the director of the division may establish an
291 alternative date or dates of transfers at the request of any board. Such transfers shall be made
292 until they equal the prorated amount for services rendered and rent by the division. The
293 provisions of section 33.080 to the contrary notwithstanding, money in this fund shall not be
294 transferred and placed to the credit of general revenue.

295 ~~[7.]~~ **12.** The director of the division shall be responsible for collecting and accounting
296 for all moneys received by the division or its component agencies. Any money received by a
297 board or commission shall be promptly given, identified by type and source, to the director. The

298 director shall keep a record by board and state accounting system classification of the amount
299 of revenue the director receives. The director shall promptly transmit all receipts to the
300 department of revenue for deposit in the state treasury to the credit of the appropriate fund. The
301 director shall provide each board with all relevant financial information in a timely fashion.
302 Each board shall cooperate with the director by providing necessary information.

303 ~~[8-]~~ **13.** All educational transcripts, test scores, complaints, investigatory reports, and
304 information pertaining to any person who is an applicant or licensee of any agency assigned to
305 the division of professional registration by statute or by the department are confidential and may
306 not be disclosed to the public or any member of the public, except with the written consent of
307 the person whose records are involved. The agency which possesses the records or information
308 shall disclose the records or information if the person whose records or information is involved
309 has consented to the disclosure. Each agency is entitled to the attorney-client privilege and
310 work-product privilege to the same extent as any other person. Provided, however, that any
311 board may disclose confidential information without the consent of the person involved in the
312 course of voluntary interstate exchange of information, or in the course of any litigation
313 concerning that person, or pursuant to a lawful request, or to other administrative or law
314 enforcement agencies acting within the scope of their statutory authority. Information regarding
315 identity, including names and addresses, registration, and currency of the license of the persons
316 possessing licenses to engage in a professional occupation and the names and addresses of
317 applicants for such licenses is not confidential information.

318 ~~[9-]~~ **14.** Any deliberations conducted and votes taken in rendering a final decision after
319 a hearing before an agency assigned to the division shall be closed to the parties and the public.
320 Once a final decision is rendered, that decision shall be made available to the parties and the
321 public.

322 ~~[10-]~~ **15.** A compelling governmental interest shall be deemed to exist for the purposes
323 of section 536.025 for licensure fees to be reduced by emergency rule, if the projected fund
324 balance of any agency assigned to the division of professional registration is reasonably expected
325 to exceed an amount that would require transfer from that fund to general revenue.

326 ~~[11-]~~ **16.** (1) The following boards and commissions are assigned by specific type
327 transfers to the division of professional registration: Missouri state board of accountancy, chapter
328 326; board of cosmetology and barber examiners, chapters 328 and 329; Missouri board for
329 architects, professional engineers, professional land surveyors and landscape architects, chapter
330 327; Missouri state board of chiropractic examiners, chapter 331; state board of registration for
331 the healing arts, chapter 334; Missouri dental board, chapter 332; state board of embalmers and
332 funeral directors, chapter 333; state board of optometry, chapter 336; Missouri state board of
333 nursing, chapter 335; board of pharmacy, chapter 338; state board of podiatric medicine, chapter

334 330; Missouri real estate appraisers commission, chapter 339; and Missouri veterinary medical
335 board, chapter 340. The governor shall appoint members of these boards by and with the advice
336 and consent of the senate.

337 (2) The boards and commissions assigned to the division shall exercise all their
338 respective statutory duties and powers, except those clerical and other staff services involving
339 collecting and accounting for moneys and financial management relating to the issuance and
340 renewal of licenses, which services shall be provided by the division, within the appropriation
341 therefor. Nothing herein shall prohibit employment of professional examining or testing services
342 from professional associations or others as required by the boards or commissions on contract.
343 Nothing herein shall be construed to affect the power of a board or commission to expend its
344 funds as appropriated. However, the division shall review the expense vouchers of each board.
345 The results of such review shall be submitted to the board reviewed and to the house and senate
346 appropriations committees annually.

347 (3) Notwithstanding any other provisions of law, the director of the division shall
348 exercise only those management functions of the boards and commissions specifically provided
349 in the Reorganization Act of 1974, and those relating to the allocation and assignment of space,
350 personnel other than board personnel, and equipment.

351 (4) "Board personnel", as used in this section or chapters 317, 326, 327, 328, 329, 330,
352 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, shall mean personnel whose functions
353 and responsibilities are in areas not related to the clerical duties involving the issuance and
354 renewal of licenses, to the collecting and accounting for moneys, or to financial management
355 relating to issuance and renewal of licenses; specifically included are executive secretaries (or
356 comparable positions), consultants, inspectors, investigators, counsel, and secretarial support
357 staff for these positions; and such other positions as are established and authorized by statute for
358 a particular board or commission. Boards and commissions may employ legal counsel, if
359 authorized by law, and temporary personnel if the board is unable to meet its responsibilities with
360 the employees authorized above. Any board or commission which hires temporary employees
361 shall annually provide the division director and the appropriation committees of the general
362 assembly with a complete list of all persons employed in the previous year, the length of their
363 employment, the amount of their remuneration, and a description of their responsibilities.

364 (5) Board personnel for each board or commission shall be employed by and serve at the
365 pleasure of the board or commission, shall be supervised as the board or commission designates,
366 and shall have their duties and compensation prescribed by the board or commission, within
367 appropriations for that purpose, except that compensation for board personnel shall not exceed
368 that established for comparable positions as determined by the board or commission pursuant
369 to the job and pay plan of the department of insurance, financial institutions and professional

370 registration. Nothing herein shall be construed to permit salaries for any board personnel to be
371 lowered except by board action.

372 ~~[12.]~~ **17.** All the powers, duties, and functions of the division of athletics, chapter 317,
373 and others, are assigned by type I transfer to the division of professional registration.

374 ~~[13.]~~ **18.** Wherever the laws, rules, or regulations of this state make reference to the
375 division of professional registration of the department of economic development, such references
376 shall be deemed to refer to the division of professional registration.

377 ~~[14.]~~ **19.** (1) The state board of nursing, board of pharmacy, Missouri dental board, state
378 committee of psychologists, state board of chiropractic examiners, state board of optometry,
379 Missouri board of occupational therapy, or state board of registration for the healing arts may
380 individually or collectively enter into a contractual agreement with the department of health and
381 senior services, a public institution of higher education, or a nonprofit entity for the purpose of
382 collecting and analyzing workforce data from its licensees, registrants, or permit holders for
383 future workforce planning and to assess the accessibility and availability of qualified health care
384 services and practitioners in Missouri. The boards shall work collaboratively with other state
385 governmental entities to ensure coordination and avoid duplication of efforts.

386 (2) The boards may expend appropriated funds necessary for operational expenses of the
387 program formed under this subsection. Each board is authorized to accept grants to fund the
388 collection or analysis authorized in this subsection. Any such funds shall be deposited in the
389 respective board's fund.

390 (3) Data collection shall be controlled and approved by the applicable state board
391 conducting or requesting the collection. Notwithstanding the provisions of sections 324.010 and
392 334.001, the boards may release identifying data to the contractor to facilitate data analysis of
393 the health care workforce including, but not limited to, geographic, demographic, and practice
394 or professional characteristics of licensees. The state board shall not request or be authorized
395 to collect income or other financial earnings data.

396 (4) Data collected under this subsection shall be deemed the property of the state board
397 requesting the data. Data shall be maintained by the state board in accordance with chapter 610,
398 provided that any information deemed closed or confidential under subsection ~~[8]~~ **13** of this
399 section or any other provision of state law shall not be disclosed without consent of the
400 applicable licensee or entity or as otherwise authorized by law. Data shall only be released in
401 an aggregate form by geography, profession or professional specialization, or population
402 characteristic in a manner that cannot be used to identify a specific individual or entity. Data
403 suppression standards shall be addressed and established in the contractual agreement.

404 (5) Contractors shall maintain the security and confidentiality of data received or
405 collected under this subsection and shall not use, disclose, or release any data without approval

406 of the applicable state board. The contractual agreement between the applicable state board and
407 contractor shall establish a data release and research review policy to include legal and
408 institutional review board, or agency-equivalent, approval.

409 (6) Each board may promulgate rules subject to the provisions of this subsection and
410 chapter 536 to effectuate and implement the workforce data collection and analysis authorized
411 by this subsection. Any rule or portion of a rule, as that term is defined in section 536.010, that
412 is created under the authority delegated in this section shall become effective only if it complies
413 with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
414 This section and chapter 536 are nonseverable and if any of the powers vested with the general
415 assembly under chapter 536 to review, to delay the effective date, or to disapprove and annul a
416 rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule
417 proposed or adopted after August 28, 2016, shall be invalid and void.

**621.280 1. For any new board or commission created after July 1, 2017, and
2 charged with regulating or licensing an occupation or profession, those practitioners
3 actively engaged in the newly regulated occupation or profession for at least one year prior
4 to the effective date of the regulatory statute shall have a property right in their continued
5 legal ability to engage in their occupation or profession.**

6 **2. Any decision of a newly created board or commission to refuse licensure to a
7 preexisting practitioner shall be in writing, shall inform the preexisting practitioner of the
8 specific reasons for the denial, and shall inform the preexisting practitioner of his or her
9 right to appeal before a neutral decision-maker at the administrative hearing commission.
10 Any preexisting practitioner denied licensure shall have the right to file an appeal to the
11 administrative hearing commission on his or her license denial within thirty days after the
12 decision of the newly created board or commission. If the preexisting practitioner does not
13 timely appeal, his or her right to continue practicing the occupation or profession shall
14 extinguish immediately. In the event of a timely appeal, the preexisting practitioner's right
15 to practice his or her occupation or profession shall continue until a final decision of the
16 administrative hearing commission. The burden of proof in any hearing under this section
17 shall be on the new board or commission to show that the preexisting practitioner does not
18 meet the requirements of the new regulatory regime.**

✓