

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NOS. 1656 & 2075

99TH GENERAL ASSEMBLY

5465H.02P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To amend chapter 285, RSMo, by adding thereto nine new sections relating to professional employer organizations.

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

Section A. Chapter 285, RSMo, is amended by adding thereto nine new sections, to be  
2 known as sections 285.700, 285.705, 285.710, 285.715, 285.720, 285.725, 285.730, 285.740,  
3 and 285.750, to read as follows:

**285.700. 1. Sections 285.700 to 285.750 shall be known and may be cited as the**  
2 **"Professional Employer Organization Act".**

3 **2. The secretary of state or any person designated by the secretary of state may**  
4 **enforce the provisions of sections 285.700 to 285.750.**

**285.705. As used in sections 285.700 to 285.750, the following terms mean:**

2 **(1) "Client", any person who enters into a professional employer agreement with**  
3 **a professional employer organization;**

4 **(2) "Coemployer", either a PEO or a client;**

5 **(3) "Coemployment relationship", a relationship that is intended to be an ongoing**  
6 **relationship rather than a temporary or project-specific relationship, wherein the rights,**  
7 **duties, and obligations of an employer that arise out of an employment relationship have**  
8 **been allocated between coemployers pursuant to a professional employer agreement and**  
9 **sections 285.700 to 285.750. In such a coemployment relationship:**

10 **(a) The PEO is entitled to enforce only such employer rights and is subject to only**  
11 **those obligations specifically allocated to the PEO by the professional employer agreement**  
12 **or sections 285.700 to 285.750;**

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.

13           **(b) The client is entitled to enforce those rights and obligated to provide and**  
14 **perform those employer obligations allocated to such client by the professional employer**  
15 **agreement and sections 285.700 to 285.750; and**

16           **(c) The client is entitled to enforce any right and obligated to perform any**  
17 **obligation of an employer not specifically allocated to the PEO by the professional**  
18 **employer agreement or sections 285.700 to 285.750;**

19           **(4) "Covered employee", an individual having a coemployment relationship with**  
20 **a PEO and a client who meets the following criteria:**

21           **(a) The individual has received written notice of coemployment with the PEO; and**

22           **(b) The individual's coemployment relationship is pursuant to a professional**  
23 **employer agreement subject to sections 285.700 to 285.750.**

24

25 **Individuals who are officers, directors, shareholders, partners, and managers of the client**  
26 **will be covered employees, except to the extent the PEO and the client have expressly**  
27 **agreed in the professional employer agreement that such individuals would not be covered**  
28 **employees, provided such individuals meet the criteria of this subdivision and act as**  
29 **operational managers or perform day-to-day operational services for the client;**

30           **(5) "PEO group", any two or more PEOs that are majority owned or commonly**  
31 **controlled by the same entity, parent, or controlling person;**

32           **(6) "Person", any individual, partnership, corporation, limited liability company,**  
33 **association, or any other form of legally recognized entity;**

34           **(7) "Professional employer agreement", a written contract by and between a client**  
35 **and a PEO that provides:**

36           **(a) For the coemployment of covered employees;**

37           **(b) For the allocation of employer rights and obligations between the client and the**  
38 **PEO with respect to the covered employees; and**

39           **(c) That the PEO and the client assume the responsibilities required under sections**  
40 **285.700 to 285.750;**

41           **(8) "Professional employer organization" or "PEO", any person engaged in the**  
42 **business of providing professional employer services. A person engaged in the business of**  
43 **providing professional employer services shall be subject to registration and regulation**  
44 **under sections 285.700 to 285.750 regardless of its use of the term or conducting business**  
45 **as a PEO, staff leasing company, registered staff leasing company, employee leasing**  
46 **company, administrative employer, or any other name. The following shall not be deemed**  
47 **to be professional employer organizations or the providing of professional employment**  
48 **services for the purposes of sections 285.700 to 285.750:**

49 (a) Arrangements wherein a person whose principal business activity is not  
50 entering into professional employer arrangements and does not hold itself out as a PEO  
51 shares employees with a commonly owned company within the meaning of Section 414(b)  
52 and (c) of the Internal Revenue Code of 1986, as amended;

53 (b) Independent contractor arrangements by which a person assumes responsibility  
54 for the product produced or service performed by such person or his or her agents and  
55 retains and exercises primary direction and control over the work performed by the  
56 individuals whose services are supplied under such arrangements; and

57 (c) Providing temporary help services;

58 (9) "Professional employer services", the service of entering into coemployment  
59 relationships under sections 285.700 to 285.750 in which all or a majority of the employees  
60 providing services to a client or to a division or work unit of a client are covered  
61 employees;

62 (10) "Registrant", a PEO registered under sections 285.700 to 285.750;

63 (11) "Temporary help services", services consisting of a person:

64 (a) Recruiting and hiring its own employees;

65 (b) Finding other organizations that need the services of those employees;

66 (c) Assigning those employees to perform work at or services for the other  
67 organizations to support or supplement the other organizations' workforces, or to provide  
68 assistance in special work situations including, but not limited to, employee absences, skill  
69 shortages, seasonal workloads, or to perform special assignments or projects; and

70 (d) Customarily attempting to reassign the employees to other organizations when  
71 they finish each assignment.

285.710. 1. Nothing contained in sections 285.700 to 285.750 or in any professional  
2 employer agreement shall affect, modify, or amend any collective bargaining agreement  
3 or the rights or obligations of any client, PEO, or covered employee under the federal  
4 National Labor Relations Act, the federal Railway Labor Act, or sections 105.500 to  
5 105.530.

6 2. Nothing in sections 285.700 to 285.750 or in any professional employer agreement  
7 shall:

8 (1) Diminish, abolish, or remove rights of covered employees to a client or  
9 obligations of such client to a covered employee existing prior to the effective date of a  
10 professional employer agreement;

11 (2) Affect, modify, or amend any contractual relationship or restrictive covenant  
12 between a covered employee and any client in effect at the time a professional employer  
13 agreement becomes effective. A professional employer agreement shall also not prohibit

14 or amend any contractual relationship or restrictive covenant that is entered into  
15 subsequently between a client or a covered employee. A PEO shall have no responsibility  
16 or liability in connection with, or arising out of, any such existing or new contractual  
17 relationship or restrictive covenant unless the PEO has specifically agreed otherwise in  
18 writing; or

19 (3) Create any new or additional enforceable right of a covered employee against  
20 a PEO that is not specifically provided by the professional employer agreement or sections  
21 285.700 to 285.750.

22 3. Nothing contained in sections 285.700 to 285.750 or any professional employer  
23 agreement shall affect, modify, or amend any state, local, or federal licensing, registration,  
24 or certification requirement applicable to any client or covered employee.

25 4. A covered employee who shall be licensed, registered, or certified according to  
26 law or regulation is deemed solely an employee of the client for purposes of any such  
27 license, registration, or certification requirement.

28 5. A PEO shall not be deemed to engage in any occupation, trade, profession, or  
29 other activity that is subject to licensing, registration, or certification requirements, or is  
30 otherwise regulated by a governmental entity solely by entering into and maintaining a  
31 coemployment relationship with a covered employee who is subject to such requirements  
32 or regulation.

33 6. A client shall have the sole right of direction and control of the professional or  
34 licensed activities of covered employees and of the client's business. Such covered  
35 employees and clients shall remain subject to regulation by the regulatory or governmental  
36 entity responsible for licensing, registration, or certification of such covered employees or  
37 clients.

38 7. For purposes of the determination of tax credits, economic incentives, or other  
39 benefits provided by this state or any other government entity and based on employment,  
40 covered employees shall be deemed employees solely of the client. A client shall be entitled  
41 to the benefit of any tax credit, economic incentive, or other benefit arising as the result of  
42 the employment of covered employees of such client. Notwithstanding that the PEO is the  
43 W-2 reporting employer, the client shall continue to qualify for such benefit, incentive, or  
44 credit. If the grant or amount of any such benefit, incentive, or credit is based on the  
45 number of employees, then each client shall be treated as employing only those covered  
46 employees coemployed by the client. Covered employees working for other clients of the  
47 PEO shall not be counted. Each PEO shall provide, upon request by a client or an agency  
48 or department of this state, employment information reasonably required by any agency  
49 or department of this state responsible for administration of any such tax credit, economic

50 incentive, or other benefit that is necessary to support any request, claim, application, or  
51 other action by a client seeking any such tax credit, economic incentive, or other benefit.

52 **8. With respect to a bid, contract, purchase order, or agreement entered into with**  
53 **the state or a political subdivision of the state, a client company's status or certification as**  
54 **a minority business enterprise or a women's business enterprise, as those terms are defined**  
55 **in section 37.020, shall not be affected because the client company has entered into an**  
56 **agreement with a PEO or uses the services of a PEO.**

**285.715. 1. Except as otherwise provided in sections 285.700 to 285.750, no person**  
2 **shall provide, advertise, or otherwise hold itself out as providing professional employer**  
3 **services in this state, unless such person is registered under sections 285.700 to 285.750.**

4 **2. Each applicant for registration under sections 285.700 to 285.750 shall provide**  
5 **the secretary of state with the following information:**

6 **(1) The name or names under which the PEO conducts business;**

7 **(2) The address of the principal place of business of the PEO and the address of**  
8 **each office it maintains in this state;**

9 **(3) The PEO's taxpayer or employer identification number;**

10 **(4) A list by jurisdiction of each name under which the PEO has operated in the**  
11 **preceding five years, including any alternative names, names of predecessors, and, if**  
12 **known, successor business entities;**

13 **(5) A statement of ownership, which shall include the name and evidence of the**  
14 **business experience of any person that, individually or acting in concert with one or more**  
15 **other persons, owns or controls, directly or indirectly, twenty-five percent or more of the**  
16 **equity interests of the PEO;**

17 **(6) A statement of management, which shall include the name and evidence of the**  
18 **business experience of any person who serves as president, chief executive officer, or**  
19 **otherwise has the authority to act as senior executive officer of the PEO; and**

20 **(7) A financial statement setting forth the financial condition of the PEO or PEO**  
21 **group. At the time of application for a new license, the applicant shall submit the most**  
22 **recent audit of the applicant, which shall not be older than thirteen months. Thereafter,**  
23 **a PEO or PEO group shall file on an annual basis, within one hundred eighty days after**  
24 **the end of the PEO's or PEO group's fiscal year, a succeeding audit. An applicant may**  
25 **apply for an extension with the secretary of state, but any such request shall be**  
26 **accompanied by a letter from the auditors stating the reasons for the delay and the**  
27 **anticipated audit completion date. The financial statement shall be prepared in accordance**  
28 **with generally accepted accounting principles and audited by an independent certified**  
29 **public accountant licensed to practice in the jurisdiction in which such accountant is**

30 located and shall be without qualification as to the going concern status of the PEO. A  
31 PEO or PEO group may submit combined or consolidated audited financial statements to  
32 meet the requirements of this section. A PEO that has not had sufficient operating history  
33 to have audited financials based upon at least twelve months of operating history shall meet  
34 the financial capacity requirements of sections 285.700 to 285.750 and present financial  
35 statements reviewed by a certified public accountant.

36 3. (1) Each PEO operating within this state as of the effective date of sections  
37 285.700 to 285.750 shall complete its initial registration not later than one hundred eighty  
38 days after the effective date of sections 285.700 to 285.750. Such initial registration shall  
39 be valid until one hundred eighty days from the end of the PEO's first fiscal year that is  
40 more than one year after the effective date of sections 285.700 to 285.750.

41 (2) Each PEO not operating within this state as of the effective date of sections  
42 285.700 to 285.750 shall complete its initial registration prior to initiating operations within  
43 this state. In the event a PEO not registered in this state becomes aware that an existing  
44 client not based in this state has employees and operations in this state, the PEO shall  
45 either decline to provide PEO services for those employees or notify the secretary of state  
46 within five business days of its knowledge of this fact and file a limited registration  
47 application under subsection 6 of this section or a full business registration if there are  
48 more than fifty covered employees. The secretary of state may issue an interim operating  
49 permit for the period the registration applications are pending if the PEO is currently  
50 registered or licensed by another state and the secretary of state determines it to be in the  
51 best interest of the potential covered employees.

52 4. Within one hundred eighty days after the end of a registrant's fiscal year, such  
53 registrant shall renew its registration by notifying the secretary of state of any changes in  
54 the information provided in such registrant's most recent registration or renewal. A  
55 registrant's existing registration shall remain in effect during the pendency of a renewal  
56 application.

57 5. PEOs in a PEO group may satisfy the reporting and financial requirements of  
58 sections 285.700 to 285.750 on a combined or consolidated basis, provided that each  
59 member of the PEO group guarantees the financial capacity obligations under sections  
60 285.700 to 285.750 of each other member of the PEO group. In the case of a PEO or PEO  
61 group that submits a combined or consolidated audited financial statement including  
62 entities that are not PEOs or that are not in the PEO group, the controlling entity of the  
63 PEO group under the consolidated or combined statement shall guarantee the obligations  
64 of the PEOs in the PEO group.

65           **6. (1) A PEO is eligible for a limited registration under sections 285.700 to 285.750**  
66 **if such PEO:**

67           **(a) Submits a properly executed request for limited registration on a form provided**  
68 **by the secretary of state;**

69           **(b) Is domiciled outside this state and is licensed or registered as a professional**  
70 **employer organization in another state;**

71           **(c) Does not maintain an office in this state or directly solicit clients located or**  
72 **domiciled within this state; and**

73           **(d) Does not have more than fifty covered employees employed or domiciled in this**  
74 **state on any given day.**

75           **(2) A limited registration is valid for one year, and may be renewed.**

76           **(3) A PEO seeking limited registration under this section shall provide the secretary**  
77 **of state with information and documentation necessary to show that the PEO qualifies for**  
78 **a limited registration.**

79           **(4) The provisions of section 285.725 shall not apply to applicants for limited**  
80 **registration.**

81           **7. The secretary of state shall maintain a list of professional employer organizations**  
82 **registered under sections 285.700 to 285.750 that is readily available to the public by**  
83 **electronic or other means.**

84           **8. The secretary of state may produce forms necessary to promote the efficient**  
85 **administration of this section.**

86           **9. The secretary of state shall, to the extent practical, permit the acceptance of**  
87 **electronic filings in conformance with sections 432.200 to 432.295, including applications,**  
88 **documents, reports, and other filings required by sections 285.700 to 285.750. The**  
89 **secretary of state may provide for the acceptance of electronic filings and other assurance**  
90 **by an independent and qualified assurance organization approved by the secretary of state**  
91 **that provides satisfactory assurance of compliance acceptable to the secretary of state**  
92 **consistent with or in lieu of the requirements of sections 285.715 and 285.725 and other**  
93 **requirements of sections 285.700 to 285.750. The secretary of state shall permit a PEO to**  
94 **authorize such an approved assurance organization to act on the PEO's behalf in**  
95 **complying with the registration requirements of sections 285.700 to 285.750, including**  
96 **electronic filings of information and payment of registration fees. Use of such an approved**  
97 **assurance organization shall be optional and not mandatory for a registrant. Nothing in**  
98 **this subsection shall limit or change the secretary of state's authority to register or**  
99 **terminate registration of a professional employer organization or to investigate or enforce**  
100 **any provision of sections 285.700 to 285.750.**

101           **10. All records, reports, and other information obtained from a PEO under sections**  
102 **285.700 to 285.750, except to the extent necessary for the proper administration of sections**  
103 **285.700 to 285.750 by the secretary of state, shall be confidential and shall not be**  
104 **considered a "public record" as that term is defined in section 610.010.**

**285.720. 1. Upon filing an initial registration statement under sections 285.700 to**  
2 **285.750, a PEO shall pay an initial registration fee not to exceed five hundred dollars.**

3           **2. Upon each annual renewal of a registration statement filed under sections**  
4 **285.700 to 285.750, a PEO shall pay a renewal fee not to exceed two hundred fifty dollars.**

5           **3. The secretary of state shall determine any fee to be charged for a group**  
6 **registration.**

7           **4. Each PEO seeking limited registration shall pay a fee in an amount not to exceed**  
8 **two hundred fifty dollars upon initial application for limited registration and upon each**  
9 **renewal of such limited registration.**

10           **5. No fee charged under sections 285.700 to 285.750 shall exceed the amount**  
11 **reasonably necessary for the administration of sections 285.700 to 285.750.**

**285.725. Except as provided by 285.715, each PEO or collectively each PEO group**  
2 **shall maintain either:**

3           **(1) Positive working capital as defined by generally accepted accounting principles**  
4 **at registration as reflected in the financial statements submitted to the secretary of state**  
5 **with the initial registration and each annual renewal; or**

6           **(2) A PEO or PEO group that does not have positive working capital may provide**  
7 **a bond, irrevocable letter of credit, or securities with a minimum market value equaling**  
8 **the deficiency plus one hundred thousand dollars to the secretary of state. Such bond is**  
9 **to be held by a depository designated by the secretary of state securing payment by the**  
10 **PEO of all taxes, wages, benefits, or other entitlement due to or with respect to covered**  
11 **employees if the PEO does not make such payments when due.**

**285.730. 1. Except as specifically provided in sections 285.700 to 285.750 or in the**  
2 **professional employer agreement, in each coemployment relationship:**

3           **(1) The client shall be entitled to exercise all rights, and shall be obligated to**  
4 **perform all duties and responsibilities otherwise applicable to an employer in an**  
5 **employment relationship;**

6           **(2) The PEO shall be entitled to exercise only those rights and obligated to perform**  
7 **only those duties and responsibilities specifically required under sections 285.700 to**  
8 **285.750 or set forth in the professional employer agreement. The rights, duties, and**  
9 **obligations of the PEO as coemployer with respect to any covered employee shall be limited**



10 to those arising pursuant to the professional employer agreement and sections 285.700 to  
11 285.750 during the term of coemployment by the PEO of such covered employee; and

12 (3) Unless otherwise expressly agreed by the PEO and the client in a professional  
13 employer agreement, the client retains the exclusive right to direct and control the covered  
14 employees as is necessary to conduct the client's business, to discharge any of the client's  
15 fiduciary responsibilities, or to comply with any licensure requirements applicable to the  
16 client or to the covered employees.

17 2. Except as specifically provided under sections 285.700 to 285.750, the  
18 coemployment relationship between the client and the PEO and between each coemployer  
19 and each covered employee shall be governed by the professional employer agreement.  
20 Each professional employer agreement shall include the following:

21 (1) The allocation of rights, duties, and obligations as described in subsection 1 of  
22 this section;

23 (2) A requirement that the PEO shall have responsibility to:

24 (a) Pay wages to covered employees;

25 (b) Withhold, collect, report, and remit payroll-related and unemployment taxes;

26 and

27 (c) To the extent the PEO has assumed responsibility in the professional employer  
28 agreement, make payments for employee benefits for covered employees.

29

30 As used in this section, the term "wages" does not include any obligation between a client  
31 and a covered employee for payments beyond or in addition to the covered employee's  
32 salary, draw, or regular rate of pay, such as bonuses, commissions, severance pay, deferred  
33 compensation, profit sharing, vacation, sick, or other paid-time off pay, unless the PEO has  
34 expressly agreed to assume liability for such payments in the professional employer  
35 agreement; and

36 (3) A requirement that the PEO shall have a right to hire, discipline, and terminate  
37 a covered employee as may be necessary to fulfill the PEO's responsibilities under sections  
38 285.700 to 285.750 and the professional employer agreement. The client shall have a right  
39 to hire, discipline, and terminate a covered employee.

40 3. With respect to each professional employer agreement entered into by a PEO,  
41 such PEO shall provide written notice to each covered employee affected by such  
42 agreement of the general nature of the coemployment relationship between and among the  
43 PEO, the client, and such covered employee.

44 4. Except to the extent otherwise expressly provided by the applicable professional  
45 employer agreement:

46           **(1) A client shall be solely responsible for the quality, adequacy, or safety of the**  
47 **goods or services produced or sold in the client's business;**

48           **(2) A client shall be solely responsible for directing, supervising, training, and**  
49 **controlling the work of the covered employees with respect to the business activities of the**  
50 **client and solely responsible for the acts, errors, or omissions of the covered employees with**  
51 **regard to such activities;**

52           **(3) A client shall not be liable for the acts, errors, or omissions of a PEO or of any**  
53 **covered employee of the client and a PEO if such covered employee is acting under the**  
54 **express direction and control of the PEO;**

55           **(4) A PEO shall not be liable for the acts, errors, or omissions of a client or of any**  
56 **covered employee of the client if such covered employee is acting under the express**  
57 **direction and control of the client;**

58           **(5) Nothing in this subsection shall serve to limit any contractual liability or**  
59 **obligation specifically provided in the written professional employer agreement; and**

60           **(6) A covered employee is not, solely as the result of being a covered employee of**  
61 **a PEO, an employee of the PEO for purposes of general liability insurance, fidelity bonds,**  
62 **surety bonds, employer's liability that is not covered by workers' compensation, or liquor**  
63 **liability insurance carried by the PEO unless the covered employee is included by specific**  
64 **reference in the professional employer agreement and applicable prearranged employment**  
65 **contract, insurance contract, or bond.**

66           **5. A PEO under sections 285.700 to 285.750 is not engaged in the sale of insurance**  
67 **or in acting as a third party administrator by offering, marketing, selling, administering,**  
68 **or providing professional employer services that include services and employee benefit**  
69 **plans for covered employees. The provisions of this section shall not supercede or preempt**  
70 **any requirements under section 375.014.**

71           **6. For purposes of this state or any county, municipality, or other political**  
72 **subdivision thereof:**

73           **(1) Any tax or assessment imposed upon professional employer services or any**  
74 **business license or other fee that is based upon "gross receipts" shall allow a deduction**  
75 **from the gross income or receipts of the business derived from performing professional**  
76 **employer services that is equal to that portion of the fee charged to a client that represents**  
77 **the actual cost of wages and salaries, benefits, payroll taxes, withholding, or other**  
78 **assessments paid to or on behalf of a covered employee by the professional employer**  
79 **organization under a professional employer agreement;**

80           **(2) Any tax assessed or assessment or mandated expenditure on a per capita or per**  
81 **employee basis shall be assessed against the client for covered employees and against the**

82 professional employer organization for its employees who are not covered employees  
83 coemployed with a client. Benefits or monetary consideration that meet the requirements  
84 of mandates imposed on a client and that are received by covered employees through the  
85 PEO either through payroll or through benefit plans sponsored by the PEO shall be  
86 credited against the client's obligation to fulfill such mandates; and

87 (3) In the case of a tax or an assessment imposed or calculated upon the basis of  
88 total payroll, the professional employer organization shall be eligible to apply any small  
89 business allowance or exemption available to the client for the covered employees for  
90 purposes of computing the tax.

285.740. 1. The responsibility to obtain workers' compensation coverage for  
2 covered employees in compliance with all applicable laws shall be specifically allocated in  
3 the professional employer agreement to either the client or the PEO.

4 2. (1) Coverage for both the directly employed workers of a client and the covered  
5 employees of that client shall be all in the residual or all in the voluntary market with the  
6 same carrier.

7 (2) Workers' compensation coverage for covered employees in the voluntary  
8 market may be obtained by either:

9 (a) The client through a standard workers' compensation policy or through duly  
10 authorized self-insurance under section 287.280; or

11 (b) The PEO through duly authorized self-insurance under section 287.280,  
12 through the type of policy referenced under the provisions of 20 CSR 500-6.800(5)(c)2  
13 issued to the PEO by a carrier authorized to do business in this state, or through a multiple  
14 coordinated workers' compensation policy issued by a carrier authorized to do business  
15 in this state in the name of the PEO or the client.

16  
17 A PEO authorized to self-insure under section 287.280 shall report to the insurer or the  
18 appropriate state and rating authorities such client-based information as is necessary to  
19 maintain the client's experience rating.

20 (3) Workers' compensation for covered employees in the residual market may be  
21 obtained by the client through a residual market policy or by the PEO through a multiple  
22 coordinated policy in either the name of the PEO or the client that provides to the  
23 appropriate state and rating authorities the client-based information satisfactory to  
24 maintain the client's experience rating.

25 3. A PEO that applies for coverage or is covered through the voluntary market  
26 shall also maintain and furnish to the insurer sufficient information to permit the  
27 calculation of an experience modification factor for each client upon termination of the

28 **coemployment relationship. Information reported during the term of the coemployment**  
29 **relationship which is used to calculate an experience modification factor for a client prior**  
30 **to and upon termination of the professional employer agreement shall continue to be used**  
31 **in the future experience ratings of the PEO. Such information shall include:**

32 **(1) The client's corporate name;**

33 **(2) The client's taxpayer or employer identification number;**

34 **(3) Payroll summaries and class codes applicable to each client, and, if requested**  
35 **by the insurer, a listing of all covered employees associated with a given client; and**

36 **(4) Claims information grouped by client, and any other information maintained**  
37 **by or readily available to the PEO that is necessary for the calculation of an experience**  
38 **modification factor for each client.**

39 **4. In addition to any other provision of chapter 287, any material violations of this**  
40 **section by a PEO is grounds for cancellation or nonrenewal of the PEO's insurance policy**  
41 **by the insurer. If a PEO has received notice that its workers' compensation insurance**  
42 **policy will be canceled or nonrenewed, the PEO shall notify by certified mail, within ten**  
43 **days after the receipt of the notice, all of the clients for which there is a coemployment**  
44 **relationship covered under the policy to be canceled, provided that notice shall not be**  
45 **required if the PEO has obtained another insurance policy from a carrier authorized to do**  
46 **business in this state, with an effective date that is the same as the date of cancellation or**  
47 **nonrenewal.**

48 **5. If the coemployment relationship with a client is terminated, the client shall**  
49 **utilize an experience modification factor which reflects its individual experience, including,**  
50 **if applicable, experience incurred for covered employees under the professional employer**  
51 **agreement. The PEO shall provide to the client the client's information that is maintained**  
52 **under subsection 3 of this section within five business days of receiving notice from the**  
53 **client or within five business days of providing notice to the client that the coemployment**  
54 **relationship will terminate. The PEO shall also provide such information to any future**  
55 **client insurer, if requested by such client. The PEO shall notify the insurer of its intent to**  
56 **terminate any client relationship prior to termination when feasible. When prior notice**  
57 **is not feasible, the PEO shall notify its insurer within five business days following actual**  
58 **termination.**

59 **6. Both the client and the PEO shall be considered the employer for purposes of**  
60 **coverage under chapter 287. The protection of the exclusive remedy provision under**  
61 **section 287.120 shall apply to the PEO, the client, and to all covered employees and other**  
62 **employees of the client irrespective of which coemployer obtains such workers'**

63 compensation coverage. Nothing in this section shall be construed to exempt either the  
64 client or the PEO from compliance with the provisions of chapter 287.

65 7. A client may request the information maintained under subsection 3 of this  
66 section at any time and every PEO shall provide that information to such client within five  
67 business days of receiving such a request.

68 8. In the case of a request for information by a third party requesting verification  
69 of a client's experience modification factor for a client in the type of policy referenced  
70 under the provisions of 20 CSR 500-6.800(5)(c)(2), the PEO shall, within five business days  
71 of receipt of receiving the client's consent, provide such third party with only the  
72 information maintained by the PEO under subsection 3 of this section. If a client refuses  
73 to grant consent to a request for information under this subsection, the PEO shall notify  
74 the requesting third party that the client has refused to consent to the disclosure of the  
75 information maintained by the PEO under subsection 3 of this section.

76 9. A client shall provide any prospective insurer with the information maintained  
77 by the PEO under subsection 3 of this section upon receiving such information from the  
78 PEO. Failure to provide a future insurer with such information shall be considered a  
79 violation of subsection 6 of section 287.128.

80 10. (1) A client shall notify any prospective insurer of the client's previous or  
81 current relationship with a PEO. Failure to provide a future insurer with such  
82 information shall be considered a violation of subsection 6 of section 287.128.

83 (2) This subsection shall not apply if the PEO did not provide workers'  
84 compensation coverage to a client during the coemployment relationship.

85 11. For purposes of chapter 288, a PEO registered under sections 285.700 to  
86 285.750 shall be treated as a "lesser employing unit" under section 288.032.

285.750. 1. A person shall not knowingly:

2 (1) Offer or provide professional employer services or use the names PEO,  
3 professional employer organization, staff leasing, employee leasing, administrative  
4 employer, or other title representing professional employer services without first becoming  
5 registered under sections 285.700 to 285.750; or

6 (2) Provide false or fraudulent information to the secretary of state in conjunction  
7 with any registration, renewal, or in any report required under sections 285.700 to 285.750.

8 2. Disciplinary action shall be taken by the secretary of state for violation of this  
9 section for:

10 (1) The conviction of a professional employer organization or a controlling person  
11 of a PEO of a crime that relates to the operation of a PEO or the ability of the licensee or  
12 a controlling person of a licensee to operate a PEO;

13           **(2) Knowingly making a material misrepresentation to the secretary of state or**  
14 **other governmental agency; or**

15           **(3) A willful violation of sections 285.700 to 285.750 or any order issued by the**  
16 **secretary of state under sections 285.700 to 285.750.**

17           **3. Upon finding, after notice and opportunity for hearing, that a PEO, a controlling**  
18 **person of a PEO, or a person offering PEO services has violated one or more provisions**  
19 **of this section and subject to appeal, the secretary of state may:**

20           **(1) Deny an application for a license;**

21           **(2) Revoke, restrict, or refuse to renew a license;**

22           **(3) Impose an administrative penalty in an amount not to exceed one thousand**  
23 **dollars for each material violation;**

24           **(4) Place the licensee on probation for the period and subject to conditions that the**  
25 **secretary of state specifies; or**

26           **(5) Issue a cease and desist order.**

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