

FIRST REGULAR SESSION

HOUSE BILL NO. 187

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ELLEBRACHT.

0192H.021

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 324.001, RSMo, and to enact in lieu thereof two new sections relating to discipline procedures for certain health care professionals.

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Section A. Section 324.001, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 324.001 and 334.109, to read as follows:

324.001. 1. For the purposes of this section, the following terms mean:

- (1) "Department", the department of commerce and insurance;
- (2) "Director", the director of the division of professional registration; and
- (3) "Division", the division of professional registration.

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

3. The director of the division of professional registration shall promulgate rules and regulations which designate for each board or commission assigned to the division the renewal date for licenses or certificates. After the initial establishment of renewal dates, no director of the division shall promulgate a rule or regulation which would change the renewal date for licenses or certificates if such change in renewal date would occur prior to the date on which the renewal date in effect at the time such new renewal date is specified next occurs. Each board or commission shall by rule or regulation establish licensing periods of one, two, or three years. Registration fees set by a board or commission shall be effective for the entire licensing period

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.

18 involved, and shall not be increased during any current licensing period. Persons who are
19 required to pay their first registration fees shall be allowed to pay the pro rata share of such fees
20 for the remainder of the period remaining at the time the fees are paid. Each board or
21 commission shall provide the necessary forms for initial registration, and thereafter the director
22 may prescribe standard forms for renewal of licenses and certificates. Each board or commission
23 shall by rule and regulation require each applicant to provide the information which is required
24 to keep the board's records current. Each board or commission shall have the authority to collect
25 and analyze information required to support workforce planning and policy development. Such
26 information shall not be publicly disclosed so as to identify a specific health care provider, as
27 defined in section 376.1350. Each board or commission shall issue the original license or
28 certificate.

29 4. The division shall provide clerical and other staff services relating to the issuance and
30 renewal of licenses for all the professional licensing and regulating boards and commissions
31 assigned to the division. The division shall perform the financial management and clerical
32 functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and
33 renewal of licenses and certificates" means the ministerial function of preparing and delivering
34 licenses or certificates, and obtaining material and information for the board or commission in
35 connection with the renewal thereof to include verifying if the applicant has submitted all
36 required documentation and that the documentation is legible. It does not include any
37 discretionary authority with regard to the original review of an applicant's qualifications for
38 licensure or certification, or the subsequent review of licensee's or certificate holder's
39 qualifications, or any disciplinary action contemplated against the licensee or certificate holder.
40 The division may develop and implement microfilming systems and automated or manual
41 management information systems.

42 5. The director of the division shall maintain a system of accounting and budgeting, in
43 cooperation with the director of the department, the office of administration, and the state
44 auditor's office, to ensure proper charges are made to the various boards for services rendered
45 to them. The general assembly shall appropriate to the division and other state agencies from
46 each board's funds moneys sufficient to reimburse the division and other state agencies for all
47 services rendered and all facilities and supplies furnished to that board.

48 6. For accounting purposes, the appropriation to the division and to the office of
49 administration for the payment of rent for quarters provided for the division shall be made from
50 the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for
51 the purpose defined in subsection 5 of this section. The fund shall consist of moneys deposited
52 into it from each board's fund. Each board shall contribute a prorated amount necessary to fund
53 the division for services rendered and rent based upon the system of accounting and budgeting

54 established by the director of the division as provided in subsection 5 of this section. Transfers
55 of funds to the professional registration fees fund shall be made by each board on July first of
56 each year; provided, however, that the director of the division may establish an alternative date
57 or dates of transfers at the request of any board. Such transfers shall be made until they equal
58 the prorated amount for services rendered and rent by the division. The provisions of section
59 33.080 to the contrary notwithstanding, money in this fund shall not be transferred and placed
60 to the credit of general revenue.

61 7. The director of the division shall be responsible for collecting and accounting for all
62 moneys received by the division or its component agencies. Any money received by a board or
63 commission shall be promptly given, identified by type and source, to the director. The director
64 shall keep a record by board and state accounting system classification of the amount of revenue
65 the director receives. The director shall promptly transmit all receipts to the department of
66 revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall
67 provide each board with all relevant financial information in a timely fashion. Each board shall
68 cooperate with the director by providing necessary information.

69 8. All educational transcripts, test scores, complaints, investigatory reports, and
70 information pertaining to any person who is an applicant or licensee of any agency assigned to
71 the division of professional registration by statute or by the department are confidential and may
72 not be disclosed to the public or any member of the public, except with the written consent of
73 the person whose records are involved. The agency which possesses the records or information
74 shall disclose the records or information if the person whose records or information is involved
75 has consented to the disclosure. Each agency is entitled to the attorney-client privilege and
76 work-product privilege to the same extent as any other person. Provided, however, that any
77 board may disclose confidential information without the consent of the person involved in the
78 course of voluntary interstate exchange of information, or in the course of any litigation
79 concerning that person, or pursuant to a lawful request, or to other administrative or law
80 enforcement agencies acting within the scope of their statutory authority. Information regarding
81 identity, including names and addresses, registration, and currency of the license of the persons
82 possessing licenses to engage in a professional occupation and the names and addresses of
83 applicants for such licenses is not confidential information. **The provisions of this subsection**
84 **shall not apply to any confidential information disclosed to a complainant patient, his or**
85 **her representative, or the complainant patient's or representative's attorney when such**
86 **persons are attending a hearing as permitted under section 334.109.**

87 9. Any deliberations conducted and votes taken in rendering a final decision after a
88 hearing before an agency assigned to the division shall be closed to the parties and the public.

89 Once a final decision is rendered, that decision shall be made available to the parties and the
90 public.

91 10. A compelling governmental interest shall be deemed to exist for the purposes of
92 section 536.025 for licensure fees to be reduced by emergency rule, if the projected fund balance
93 of any agency assigned to the division of professional registration is reasonably expected to
94 exceed an amount that would require transfer from that fund to general revenue.

95 11. (1) The following boards and commissions are assigned by specific type transfers
96 to the division of professional registration: Missouri state board of accountancy, chapter 326;
97 board of cosmetology and barber examiners, chapters 328 and 329; Missouri board for architects,
98 professional engineers, professional land surveyors and landscape architects, chapter 327;
99 Missouri state board of chiropractic examiners, chapter 331; state board of registration for the
100 healing arts, chapter 334; Missouri dental board, chapter 332; state board of embalmers and
101 funeral directors, chapter 333; state board of optometry, chapter 336; Missouri state board of
102 nursing, chapter 335; board of pharmacy, chapter 338; state board of podiatric medicine, chapter
103 330; Missouri real estate appraisers commission, chapter 339; and Missouri veterinary medical
104 board, chapter 340. The governor shall appoint members of these boards by and with the advice
105 and consent of the senate.

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

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

120 (4) "Board personnel", as used in this section or chapters 317, 326, 327, 328, 329, 330,
121 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, shall mean personnel whose functions
122 and responsibilities are in areas not related to the clerical duties involving the issuance and
123 renewal of licenses, to the collecting and accounting for moneys, or to financial management
124 relating to issuance and renewal of licenses; specifically included are executive secretaries (or

125 comparable positions), consultants, inspectors, investigators, counsel, and secretarial support
126 staff for these positions; and such other positions as are established and authorized by statute for
127 a particular board or commission. Boards and commissions may employ legal counsel, if
128 authorized by law, and temporary personnel if the board is unable to meet its responsibilities with
129 the employees authorized above. Any board or commission which hires temporary employees
130 shall annually provide the division director and the appropriation committees of the general
131 assembly with a complete list of all persons employed in the previous year, the length of their
132 employment, the amount of their remuneration, and a description of their responsibilities.

133 (5) Board personnel for each board or commission shall be employed by and serve at the
134 pleasure of the board or commission, shall be supervised as the board or commission designates,
135 and shall have their duties and compensation prescribed by the board or commission, within
136 appropriations for that purpose, except that compensation for board personnel shall not exceed
137 that established for comparable positions as determined by the board or commission pursuant
138 to the job and pay plan of the department of commerce and insurance. Nothing herein shall be
139 construed to permit salaries for any board personnel to be lowered except by board action.

140 12. All the powers, duties, and functions of the division of athletics, chapter 317, and
141 others, are assigned by type I transfer to the division of professional registration.

142 13. Wherever the laws, rules, or regulations of this state make reference to the division
143 of professional registration of the department of economic development, such references shall
144 be deemed to refer to the division of professional registration.

145 14. (1) The state board of nursing, board of pharmacy, Missouri dental board, state
146 committee of psychologists, state board of chiropractic examiners, state board of optometry,
147 Missouri board of occupational therapy, or state board of registration for the healing arts may
148 individually or collectively enter into a contractual agreement with the department of health and
149 senior services, a public institution of higher education, or a nonprofit entity for the purpose of
150 collecting and analyzing workforce data from its licensees, registrants, or permit holders for
151 future workforce planning and to assess the accessibility and availability of qualified health care
152 services and practitioners in Missouri. The boards shall work collaboratively with other state
153 governmental entities to ensure coordination and avoid duplication of efforts.

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

158 (3) Data collection shall be controlled and approved by the applicable state board
159 conducting or requesting the collection. Notwithstanding the provisions of sections 324.010 and
160 334.001, the boards may release identifying data to the contractor to facilitate data analysis of

161 the health care workforce including, but not limited to, geographic, demographic, and practice
162 or professional characteristics of licensees. The state board shall not request or be authorized
163 to collect income or other financial earnings data.

164 (4) Data collected under this subsection shall be deemed the property of the state board
165 requesting the data. Data shall be maintained by the state board in accordance with chapter 610,
166 provided that any information deemed closed or confidential under subsection 8 of this section
167 or any other provision of state law shall not be disclosed without consent of the applicable
168 licensee or entity or as otherwise authorized by law. Data shall only be released in an aggregate
169 form by geography, profession or professional specialization, or population characteristic in a
170 manner that cannot be used to identify a specific individual or entity. Data suppression standards
171 shall be addressed and established in the contractual agreement.

172 (5) Contractors shall maintain the security and confidentiality of data received or
173 collected under this subsection and shall not use, disclose, or release any data without approval
174 of the applicable state board. The contractual agreement between the applicable state board and
175 contractor shall establish a data release and research review policy to include legal and
176 institutional review board, or agency-equivalent, approval.

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

**334.109. 1. A complainant patient or his or her representative and the complainant
2 patient's or representative's attorney shall be entitled to attend all hearings of the state
3 board of registration for the healing arts and any subsequent appeal from the state board
4 of registration for the healing arts to the administrative hearing commission convened for
5 the purpose of licensee investigation and discipline for the specific licensee under
6 complaint. The complainant patient's or representative's attorney shall not be permitted
7 to actively participate in such hearing or appeal.**

8 **2. The complainant patient or his or her representative shall be given an
9 opportunity to give an oral or written victim impact statement in the presence of the
10 licensee. If the licensee is not present at such hearing, the complainant patient's or
11 representative's victim impact statement shall be communicated to the licensee in writing,**

12 **and the licensee shall certify to the state board of registration for the healing arts and the**
13 **administrative hearing commission that the licensee has received and read the victim**
14 **impact statement.**

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