

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NOS. 46 & 47
91ST GENERAL ASSEMBLY

Reported from the Committee on Children, Families and Health, May 15, 2001, with recommendation that the House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 46 & 47 Do Pass.

TED WEDEL, Chief Clerk

0418L.10C

AN ACT

To repeal sections 167.181, 191.211, 191.411, 191.600, 191.603, 191.605, 191.607, 191.609, 191.611, 191.614, 191.615, 192.070, 332.072 and 332.311, RSMo 2000, relating to dental care, and to enact in lieu thereof eighteen new sections relating to the same subject, with an emergency clause for certain sections.

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

Section A. Sections 167.181, 191.211, 191.411, 191.600, 191.603, 191.605, 191.607, 191.609, 191.611, 191.614, 191.615, 192.070, 332.072 and 332.311, RSMo 2000, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 167.181, 191.211, 191.213, 191.411, 191.600, 191.603, 191.605, 191.607, 191.609, 191.611, 191.614, 191.615, 192.070, 332.072, 332.086, 332.311, 332.324 and 660.026, to read as follows:

167.181. 1. The department of health, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis, diphtheria, and hepatitis B, to be required of children attending public, private, parochial or parish schools. Such rules and regulations may modify the immunizations that are required of children in this subsection. The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

department of health shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend school unless he has been immunized as required under the rules and regulations of the department of health, and can provide satisfactory evidence of such immunization; except that if he produces satisfactory evidence of having begun the process of immunization, he may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent or guardian to refuse or neglect to have his child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in writing to his school administrator against the immunization of the child, because of religious beliefs, **philosophical beliefs** or medical contraindications. In cases where any such objection is **philosophical, a notarized statement acknowledging the parent's or guardian's informed consent regarding the objection to immunization of the child must also be provided annually to the school administrator. If the objection** is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator.

4. Each school superintendent, whether of a public, private, parochial or parish school, shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules and regulations promulgated pursuant to the provisions of this section shall be reported by the school superintendent to the department of health.

5. The immunization required may be done by any duly licensed physician or by someone under his direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state Medicaid program, private insurance or in a manner to be determined by the department of health subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 192.630, RSMo. **When a child receives his or her immunization, the treating physician may also administer the appropriate fluoride treatment to the child.**

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health from general revenue or from federal funds if available.

7. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of [section 536.024] **chapter 536**, RSMo.

191.211. State expenditures for new programs and initiatives enacted by sections [191.411,

RSMo, and sections] 103.178, RSMo, 143.999, RSMo, [167.600 to 167.621, RSMo,] 188.230, RSMo, [191.211,] 191.231, 191.825 to 191.839, RSMo, [192.013, RSMo,] 208.177, 208.178, 208.179 and 208.181, RSMo, 211.490, RSMo, 285.240, RSMo, 337.093, RSMo, 374.126, RSMo, 376.891 to 376.894, RSMo, 431.064, RSMo, 660.016, 660.017 and 660.018, RSMo, and the state expenditures for the new initiatives and expansion of programs enacted by revising sections 105.711 and 105.721, RSMo, 191.520, 191.600, 198.090, RSMo, 208.151, 208.152 and 208.215, RSMo, as provided by H.B. 564, 1993, shall be funded exclusively by federal funds and the funding sources established in sections 149.011, 149.015, 149.035, 149.061, 149.065, 149.160, 149.170, 149.180, 149.190 and 149.192, RSMo, and no future general revenue shall be appropriated to fund such new programs or expansions.

191.213. State expenditures for programs and initiatives enacted by section 191.411 and sections 167.600 to 167.621, RSMo, may be funded by federal funds, general revenue funds and any other funds appropriated to fund such programs.

191.411. 1. The director of the department of health shall develop and implement a plan to define a system of coordinated health care services available and accessible to all persons, in accordance with the provisions of this section. The plan shall encourage the location of appropriate practitioners of health care services, **including dentists**, in **rural and urban** areas of the state, **particularly those areas** designated by the director of the department of health as health resource shortage areas, in return for the consideration enumerated in subsection 2 of this section. The department of health shall have authority to contract with public and private health care providers for delivery of such services.

2. There is hereby created in the state treasury the "Health Access Incentive Fund". Moneys in the fund shall be used to implement and encourage a program to fund **loans**, loan repayments, start-up grants, provide locum tenens, professional liability insurance assistance, practice subsidy, annuities when appropriate, or technical assistance in exchange for location of appropriate health providers, **including dentists**, who agree to serve all persons in need of health services regardless of ability to pay. The department of health shall encourage the recruitment of minorities in implementing this program.

3. In accordance with an agreement approved by both the director of the department of social services and the director of the department of health, the commissioner of the office of administration shall issue warrants to the state treasurer to transfer available funds from the health access incentive fund to the department of social services to be used to enhance medicaid payments to physicians or dentists in order to enhance the availability of physician or dental services in shortage areas. The amount that may be transferred shall be the amount agreed upon by the directors of the departments of social services and health and shall not exceed the maximum amount specifically authorized for any such transfer by appropriation of the general assembly.

4. The general assembly shall appropriate money to the health access incentive fund from the health initiatives fund created by section 191.831. The health access incentive fund shall also contain money as otherwise provided by law, gift, bequest or devise. Notwithstanding the provisions of section 33.080,

RSMo, the unexpended balance in the fund at the end of the biennium shall not be transferred to the general revenue fund of the state.

5. The director of the department of health shall have authority to promulgate reasonable rules to implement the provisions of this section pursuant to chapter 536, RSMo[, and section 192.013, RSMo].

191.600. 1. Sections 191.600 to 191.615 establish a loan repayment program for graduates of approved medical schools, schools of osteopathic medicine, **schools of dentistry** and accredited chiropractic colleges who practice in areas of defined need and shall be known as the "[Medical School] **Health Professional Student** Loan Repayment Program".

2. The "[Medical School] **Health Professional Student** Loan and Loan Repayment Program Fund" is hereby created in the state treasury. All funds recovered from an individual pursuant to section 191.614 and all funds generated by loan repayments and penalties received pursuant to section 191.540 shall be credited to the fund. The moneys in the fund shall be used by the department of health to provide loan repayments pursuant to section 191.611 in accordance with sections 191.600 to 191.614 and to provide loans pursuant to sections 191.500 to 191.550.

191.603. As used in sections 191.600 to 191.615, the following terms shall mean:

(1) "Areas of defined need", areas designated by the department pursuant to section 191.605, when services of a physician **or dentist** are needed to improve the patient-doctor/**dentist** ratio in the area, to contribute **health care** professional [physician] services to an area of economic impact, or to contribute **health care** professional [physician] services to an area suffering from the effects of a natural disaster;

(2) "Department", the department of health;

(3) "**General dentist**", **dentists licensed and registered pursuant to chapter 332, RSMo, engaged in general dentistry and who are providing such services to the general population;**

(4) "Primary care physician", physicians licensed and registered pursuant to chapter 334, RSMo, engaged in general or family practice, internal medicine, pediatrics or obstetrics and gynecology as their primary specialties, and who are providing such primary care services to the general population.

191.605. The department shall designate counties, communities, or sections of urban areas as areas of defined need when such county, community or section of an urban area has[, but is not limited to, the following:

(1) A population to primary care physician ratio of three thousand five hundred to one or more;

or

(2) A population to primary care physician ratio of less than three thousand five hundred to one, but greater than two thousand five hundred to one; and

(a) Has a twenty percent or greater population fifty-five years of age or over; or

(b) Twenty percent of the population or households are below the poverty level; or

(c) If the largest hospital in the area is approximately thirty miles or more from a comparable or

larger facility or if the central community in the area is approximately fifteen miles or more from a hospital having more than four thousand discharges a year or more than four hundred deliveries annually; and

(d) Has a community or city of six thousand or more population plus the surrounding area up to a radius of approximately fifteen miles that serves as the central community or an urban or metropolitan neighborhood located within the central city or cities of a standard metropolitan statistical area having limited interaction with contiguous areas and a minimum population of approximately twenty thousand;

(3) Any other community or section of an urban area with unusual circumstances can be evaluated on a case-by-case basis for designation by the department as an area of defined need] **been designated as a primary care health professional shortage area or a dental health care professional shortage area by the federal Department of Health and Human Services, or has been determined by the director of the department of health to have an extraordinary need for health care professional services, without a corresponding supply of such professionals.**

191.607. The department shall adopt and promulgate regulations establishing standards for determining eligible persons for loan repayment [under] **pursuant to** sections 191.600 to 191.615. These standards shall include, but are not limited to the following:

(1) Citizenship or permanent residency in the United States;

(2) Residence in the state of Missouri;

(3) Enrollment as a full-time medical student in the final year of a course of study offered by an approved educational institution or licensed to practice medicine or osteopathy pursuant to chapter 334, RSMo;

(4) **Enrollment as a full-time dental student in the final year of course study offered by an approved educational institution or licensed to practice general dentistry pursuant to chapter 332, RSMo;**

(5) Application for loan repayment.

191.609. 1. The department shall enter into a contract with each individual qualifying for repayment of educational loans. The written contract between the department and an individual shall contain, but not be limited to, the following:

(1) An agreement that the state agrees to pay on behalf of the individual loans in accordance with section 191.611 and the individual agrees to serve for a time period equal to two years, or such longer period as the individual may agree to, in an area of defined need, such service period to begin within one year of the signed contract;

(2) A provision that any financial obligations arising out of a contract entered into and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments;

(3) The area of defined need where the person will practice;

(4) A statement of the damages to which the state is entitled for the individual's breach of the

contract;

(5) Such other statements of the rights and liabilities of the department and of the individual not inconsistent with sections 191.600 to 191.615.

2. The department may stipulate specific practice sites contingent upon department generated [physician] **health care professional** need priorities where applicants shall agree to practice for the duration of their participation in the program.

191.611. 1. A loan payment provided for an individual under a written contract under the [medical school] **health professional student** loan payment program shall consist of payment on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual for tuition, fees, books, laboratory, and living expenses incurred by the individual.

2. For each year of obligated services that an individual contracts to serve in an area of defined need, the director may pay [up to twenty thousand dollars] **an amount not to exceed the maximum amounts allowed under the National Health Service Corps Loan Repayment Program, 42 U.S.C. Section 2541-1, P.L. 106-213**, on behalf of the individual for loans described in subsection 1 of this section.

3. The department may enter into an agreement with the holder of the loans for which repayments are made [under] **pursuant to** the [medical school] **health professional student** loan payment program to establish a schedule for the making of such payments if the establishment of such a schedule would result in reducing the costs to the state.

4. Any qualifying communities providing a portion of a loan repayment shall be considered first for placement.

191.614. 1. An individual who has entered into a written contract with the department; and in the case of an individual who is enrolled in the final year of a course of study and fails to maintain an acceptable level of academic standing in the educational institution in which such individual is enrolled or voluntarily terminates such enrollment or is dismissed from such educational institution before completion of such course of study or fails to become licensed pursuant to chapter **332 or 334**, RSMo, within one year shall be liable to the state for the amount which has been paid on his **or her** behalf under the contract.

2. If an individual breaches the written contract of the individual by failing either to begin such individual's service obligation or to complete such service obligation, the state shall be entitled to recover from the individual an amount equal to the sum of:

(1) The total of the amounts prepaid by the state on behalf of the individual;

(2) The interest on the amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum prevailing rate as determined by the Treasurer of the United States;

(3) An amount equal to [the unserved obligation penalty, the amount equal to the product number of months of obligated service which were not completed by an individual, multiplied by five hundred

dollars] **any damages incurred by the department as a result of the breach;**

(4) Any legal fees or associated costs incurred by the department or the state of Missouri in the collection of damages.

3. The department may act on behalf of a qualified community to recover from an individual described in subsections 1 and 2 of this section the portion of a loan repayment paid by such community for such individual.

191.615. 1. The department shall submit a grant application to the Secretary of the United States Department of Health and Human Services as prescribed by the secretary to obtain federal funds to finance the [medical school] **health professional student** loan repayment program.

2. Sections 191.600 to 191.615 shall not be construed to require the department to enter into contracts with individuals who qualify for the [medical school] **health professional student** loan repayment program when federal and state funds are not available for such purpose.

192.070. The [bureau of child hygiene in the] department of health shall issue educational literature on the care of the baby and the hygiene of the child **including, but not limited to, the importance of routine dental care for children;** study the causes of infant mortality and the application of measures for the prevention and suppression of the diseases of infancy and childhood; and inspect the sanitary and hygienic conditions in public school buildings and grounds.

332.072. Notwithstanding any other provision of law to the contrary, any qualified dentist who is legally authorized to practice pursuant to the laws of another state may practice as a dentist in this state without examination by the board or payment of any fee and any qualified dental hygienist who is a graduate of an accredited dental hygiene school and legally authorized to practice pursuant to the laws of another state may practice as a dental hygienist in this state without examination by the board or payment of any fee, if such dental or dental hygiene practice consists solely of the provision of gratuitous dental or dental hygiene services provided for [a summer camp for] a period of not more than fourteen days in any one calendar year. Dentists and dental hygienists who are currently licensed in other states and have been refused licensure by the state of Missouri or previously been licensed by the state, but are no longer licensed due to suspension or revocation shall not be allowed to provide gratuitous dental services within the state of Missouri. Any dental hygiene services provided pursuant to this section shall be performed under the supervision of a dentist providing dental services pursuant to this section or a dentist licensed to practice dentistry in Missouri.

332.086. 1. There is hereby established a five-member "Advisory Commission for Dental Hygienists", composed of dental hygienists appointed by the governor as provided in subsection 2 of this section and the dental hygienist member of the Missouri dental board, which shall guide, advise and make recommendations to the Missouri dental board. The commission shall:

- (1) Recommend the educational requirements to be registered as a dental hygienist;**
- (2) Annually review the practice act of dental hygiene;**

(3) Make recommendations to the Missouri dental board regarding the practice, licensure, examination and discipline of dental hygienists; and

(4) Assist the board in any other way necessary to carry out the provisions of this chapter as they relate to dental hygienists.

2. The members of the commission shall be appointed by the governor with the advice and consent of the senate. Each member of the commission shall be a citizen of the United States and a resident of Missouri for one year and shall be a dental hygienist registered and currently licensed pursuant to this chapter. Members of the commission who are not also members of the Missouri dental board shall be appointed for terms of five years, except for the members first appointed, one of which shall be appointed for a term of two years, one shall be appointed for a term of three years, one shall be appointed for a term of four years and one shall be appointed for a term of five years. The dental hygienist member of the Missouri dental board shall become a member of the commission and shall serve a term concurrent with the member's term on the dental board. All members of the initial commission shall be appointed by April 1, 2002. Members shall be chosen from lists submitted by the director of the division of professional registration. Lists of dental hygienists submitted to the governor may include names submitted to the director of the division of professional registration by the president of the Missouri Dental Hygienists Association.

3. The commission shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The commission shall meet in conjunction with the dental board meetings or no more than fourteen days prior to regularly scheduled dental board meetings. Additional meetings shall require a majority vote of the commission. A quorum of the commission shall consist of a majority of its members.

4. Members of the commission shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties on the commission and in attending meetings of the Missouri dental board. The Missouri dental board shall provide all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts, and to conduct all other business of the commission.

332.311. 1. Except as provided in subsection 2 of this section, a duly registered and currently licensed dental hygienist may only practice as a dental hygienist so long as the dental hygienist is employed by a dentist who is duly registered and currently licensed in Missouri, or as an employee of such other person or entity approved by the board in accordance with rules promulgated by the board. In accordance with this chapter and the rules promulgated by the board pursuant thereto, a dental hygienist shall only practice under the supervision of a dentist who is duly registered and currently licensed in Missouri, **except as provided in subsection 2 of this section.**

2. A duly registered and currently licensed dental hygienist who has been in practice at least three years and who is practicing in a public health setting may provide fluoride treatments, teeth cleaning and sealants, if appropriate, to children who are eligible for medical assistance, pursuant to chapter 208, RSMo, without the supervision of a dentist. At no less than seventy-five percent of the usual and customary charge, by fiscal year 2004, as established by the division of medical services by rule, Medicaid shall reimburse any eligible provider who provides fluoride treatments, teeth cleaning, and sealants to eligible children. Those public health settings in which a dental hygienist may practice without the supervision of a dentist shall be established jointly by the department of health and by the Missouri dental board by rule. This provision shall expire on August 28, 2006.

332.324. 1. The department of health may contract to establish a donated dental services program, in conjunction with the provisions of section 332.323, through which volunteer dentists, licensed by the state pursuant to this chapter, will provide comprehensive dental care for needy, disabled, elderly and medically-compromised individuals. Eligible individuals may be treated by the volunteer dentists in their private offices. Eligible individuals may not be required to pay any fees or costs, except for dental laboratory costs.

2. The department of health shall contract with the Missouri dental board, its designee or other qualified organizations experienced in providing similar services or programs, to administer the program.

3. The contract shall specify the responsibilities of the administering organization which may include:

(1) The establishment of a network of volunteer dentists including dental specialists, volunteer dental laboratories and other appropriate volunteer professionals to donate dental services to eligible individuals;

(2) The establishment of a system to refer eligible individuals to appropriate volunteers;

(3) The development and implementation of a public awareness campaign to educate eligible individuals about the availability of the program;

(4) Providing appropriate administrative and technical support to the program;

(5) Submitting an annual report to the department that:

(a) Accounts for all program funds;

(b) Reports the number of individuals served by the program and the number of dentists and dental laboratories participating as providers in the program; and

(c) Reports any other information required by the department;

(6) Performing, as required by the department, any other duty relating to the program.

4. The department shall promulgate rules, pursuant to chapter 536, RSMo, for the implementation of this program and for the determination of eligible individuals. Any rule or

portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

660.026. Subject to appropriation, the director of the department of social services, or the director's designee, may contract with and provide funding support to federally qualified health centers, as defined in 42 U.S.C. Section 1396d(l)(2)(B), in this state. Funds appropriated pursuant to this section shall be used to assist such centers in ensuring that health care, including dental care, is available to needy persons in this state. Such funds may also be used by centers for capital expansion, infrastructure redesign or other similar uses if federal funding is not available for such purposes.

Section B. Because of the importance of children receiving adequate access to dental care, the repeal and reenactment of sections 167.181, 192.070, 332.072 and 332.311, and the enactment of sections 332.086, 332.324 and 660.026 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and sections 167.181, 192.070, 332.072 and 332.311, and the enactment of sections 332.086, 332.324 and 660.026 of section A of this act shall be in full force and effect upon its passage and approval.

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