

SENATE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 315

AN ACT

To repeal sections 334.040, 334.715, 334.735, 335.066, 338.150, 338.220, RSMo, and to enact in lieu thereof ten new sections relating to health care services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

1 Section A. Sections 334.040, 334.715, 334.735, 335.066,
2 338.150, and 338.220, RSMo, are repealed and ten new sections
3 enacted in lieu thereof, to be known as sections 334.040,
4 334.715, 334.735, 335.066, 335.175, 338.150, 338.200, 338.220,
5 376.1226, and 376.1237, to read as follows:

6 334.040. 1. Except as provided in section 334.260, all
7 persons desiring to practice as physicians and surgeons in this
8 state shall be examined as to their fitness to engage in such
9 practice by the board. All persons applying for examination
10 shall file a completed application with the board upon forms
11 furnished by the board.

12 2. The examination shall be sufficient to test the
13 applicant's fitness to practice as a physician and surgeon. The
14 examination shall be conducted in such a manner as to conceal the
15 identity of the applicant until all examinations have been
16 scored. In all such examinations an average score of not less
17 than seventy-five percent is required to pass; provided, however,

1 that the board may require applicants to take the Federation
2 Licensing Examination, also known as FLEX, or the United States
3 Medical Licensing Examination (USMLE). If the FLEX examination
4 is required, a weighted average score of no less than
5 seventy-five is required to pass. Scores from one test
6 administration of the FLEX shall not be combined or averaged with
7 scores from other test administrations to achieve a passing
8 score. The passing score of the United States Medical Licensing
9 Examination shall be determined by the board through rule and
10 regulation. Applicants graduating from a medical or osteopathic
11 college, as defined in section 334.031 prior to January 1, 1994,
12 shall provide proof of successful completion of the FLEX, USMLE,
13 an exam administered by the National Board of Osteopathic Medical
14 Examiners (NBOME), a state board examination approved by the
15 board, compliance with subsection 2 of section 334.031, or
16 compliance with 20 CSR 2150-2005. Applicants graduating from a
17 medical or osteopathic college, as defined in section 334.031 on
18 or after January 1, 1994, must provide proof of completion of the
19 USMLE or an exam administered by NBOME or provide proof of
20 compliance with subsection 2 of section 334.031. The board shall
21 not issue a permanent license as a physician and surgeon or allow
22 the Missouri state board examination to be administered to any
23 applicant who has failed to achieve a passing score within three
24 attempts on licensing examinations administered in one or more
25 states or territories of the United States, the District of
26 Columbia or Canada. The steps one, two and three of the United
27 States Medical Licensing Examination shall be taken within a
28 seven-year period with no more than three attempts on any step of

1 the examination; however, the board may grant an extension of the
2 seven-year period if the applicant has obtained a MD/PhD degree
3 in a program accredited by the Liaison Committee on Medical
4 Education (LCME) and a regional university accrediting body or a
5 DO/PhD degree accredited by the American Osteopathic Association
6 and a regional university accrediting body. The board may waive
7 the provisions of this section if the applicant is licensed to
8 practice as a physician and surgeon in another state of the
9 United States, the District of Columbia or Canada and the
10 applicant has achieved a passing score on a licensing examination
11 administered in a state or territory of the United States or the
12 District of Columbia and no license issued to the applicant has
13 been disciplined in any state or territory of the United States
14 or the District of Columbia and the applicant is certified in the
15 applicant's area of specialty by the American Board of Medical
16 Specialties, the American Osteopathic Association, or other
17 certifying agency approved by the board by rule.

18 3. If the board waives the provisions of this section, then
19 the license issued to the applicant may be limited or restricted
20 to the applicant's board specialty. The board shall not be
21 permitted to favor any particular school or system of healing.

22 4. If an applicant has not actively engaged in the practice
23 of clinical medicine or held a teaching or faculty position in a
24 medical or osteopathic school approved by the American Medical
25 Association, the Liaison Committee on Medical Education, or the
26 American Osteopathic Association for any two years in the
27 three-year period immediately preceding the filing of his or her
28 application for licensure, the board may require successful

1 completion of another examination, continuing medical education,
2 or further training before issuing a permanent license. The
3 board shall adopt rules to prescribe the form and manner of such
4 reexamination, continuing medical education, and training.

5 334.715. 1. The board may refuse to issue or renew any
6 license required under sections 334.700 to 334.725 for one or any
7 combination of causes listed in subsection 2 of this section or
8 any cause listed in section 334.100. The board shall notify the
9 applicant in writing of the reasons for the refusal and shall
10 advise the applicant of the applicant's right to file a complaint
11 with the administrative hearing commission as provided in chapter
12 621. As an alternative to a refusal to issue or renew any
13 certificate, registration, or authority, the board may, in its
14 discretion, issue a license which is subject to reprimand,
15 probation, restriction, or limitation to an applicant for
16 licensure for any one or any combination of causes listed in
17 subsection 2 of this section or section 334.100. The board's
18 order of reprimand, probation, limitation, or restriction shall
19 contain a statement of the discipline imposed, the basis
20 therefor, the date such action shall become effective, and a
21 statement that the applicant has thirty days to request in
22 writing a hearing before the administrative hearing commission.
23 If the board issues a probationary, limited, or restricted
24 license to an applicant for licensure, either party may file a
25 written petition with the administrative hearing commission
26 within thirty days of the effective date of the probationary,
27 limited, or restricted license seeking review of the board's
28 determination. If no written request for a hearing is received

1 by the administrative hearing commission within the thirty-day
2 period, the right to seek review of the board's decision shall be
3 considered waived.

4 2. The board may cause a complaint to be filed with the
5 administrative hearing commission as provided in chapter 621
6 against any holder of a certificate of registration or authority,
7 permit, or license required by sections 334.700 to 334.725 or any
8 person who has failed to renew or has surrendered the person's
9 certification of registration or license for any one or any
10 combination of the following causes:

11 (1) Violated or conspired to violate any provision of
12 sections 334.700 to 334.725 or any provision of any rule
13 promulgated pursuant to sections 334.700 to 334.725; or

14 (2) Has been found guilty of unethical conduct as defined
15 in the ethical standards of the National Athletic Trainers
16 Association or the National Athletic Trainers Association Board
17 of Certification, or its successor agency, as adopted and
18 published by the committee and the board and filed with the
19 secretary of state; or

20 (3) Any cause listed in section 334.100.

21 3. After the filing of such complaint before the
22 administrative hearing commission, the proceedings shall be
23 conducted in accordance with the provisions of chapter 621. Upon
24 a finding by the administrative hearing commission that the
25 grounds provided in subsection 2 of this section for disciplinary
26 action are met, the board may, singly or in combination:

27 (1) Warn, censure, or place the person named in the
28 complaint on probation on such terms and conditions as the board

1 deems appropriate for a period not to exceed ten years; or

2 (2) Suspend the person's license, certificate, or permit
3 for a period not to exceed three years; or

4 (3) Administer a public or private reprimand; or

5 (4) Deny the person's application for a license; or

6 (5) Permanently withhold issuance of a license or require
7 the person to submit to the care, counseling, or treatment of
8 physicians designated by the board at the expense of the
9 individual to be examined; or

10 (6) Require the person to attend such continuing education
11 courses and pass such examinations as the board may direct; or

12 (7) Restrict or limit the person's license for an
13 indefinite period of time; or

14 (8) Revoke the person's license.

15 4. In any order of revocation, the board may provide that
16 the person shall not apply for reinstatement of the person's
17 license for a period of time ranging from two to seven years
18 following the date of the order of revocation. All stay orders
19 shall toll such time period.

20 5. Before restoring to good standing a license,
21 certificate, or permit issued under this chapter which has been
22 in a revoked, suspended, or inactive state for any cause for more
23 than two years, the board may require the applicant to attend
24 such continuing education courses and pass such examinations as
25 the board may direct.

26 334.735. 1. As used in sections 334.735 to 334.749, the
27 following terms mean:

28 (1) "Applicant", any individual who seeks to become

1 licensed as a physician assistant;

2 (2) "Certification" or "registration", a process by a
3 certifying entity that grants recognition to applicants meeting
4 predetermined qualifications specified by such certifying entity;

5 (3) "Certifying entity", the nongovernmental agency or
6 association which certifies or registers individuals who have
7 completed academic and training requirements;

8 (4) "Department", the department of insurance, financial
9 institutions and professional registration or a designated agency
10 thereof;

11 (5) "License", a document issued to an applicant by the
12 board acknowledging that the applicant is entitled to practice as
13 a physician assistant;

14 (6) "Physician assistant", a person who has graduated from
15 a physician assistant program accredited by the American Medical
16 Association's Committee on Allied Health Education and
17 Accreditation or by its successor agency, who has passed the
18 certifying examination administered by the National Commission on
19 Certification of Physician Assistants and has active
20 certification by the National Commission on Certification of
21 Physician Assistants who provides health care services delegated
22 by a licensed physician. A person who has been employed as a
23 physician assistant for three years prior to August 28, 1989, who
24 has passed the National Commission on Certification of Physician
25 Assistants examination, and has active certification of the
26 National Commission on Certification of Physician Assistants;

27 (7) "Recognition", the formal process of becoming a
28 certifying entity as required by the provisions of sections

1 334.735 to 334.749;

2 (8) "Supervision", control exercised over a physician
3 assistant working [within the same facility as the] with a
4 supervising physician [sixty-six percent of the time a physician
5 assistant provides patient care, except a physician assistant may
6 make follow-up patient examinations in hospitals, nursing homes,
7 patient homes, and correctional facilities, each such examination
8 being reviewed, approved and signed by the supervising physician,
9 except as provided by subsection 2 of this section. For the
10 purposes of this section, the percentage of time a physician
11 assistant provides patient care with the supervising physician
12 on-site shall be measured each calendar quarter] and oversight of
13 the activities of and accepting responsibility for the physician
14 assistant's delivery of care. The physician assistant shall only
15 practice at a location where the physician routinely provides
16 patient care, except existing patients of the supervising
17 physician in the patient's home and correctional facilities. The
18 supervising physician must be [readily] immediately available in
19 person or via telecommunication during the time the physician
20 assistant is providing patient care. Prior to commencing
21 practice, the supervising physician and physician assistant shall
22 attest on a form provided by the board that the physician shall
23 provide supervision appropriate to the physician assistant's
24 training and that the physician assistant shall not practice
25 beyond the physician assistant's training and experience.
26 Appropriate supervision shall require the supervising physician
27 to be working within the same facility as the physician assistant
28 for at least four hours within one calendar day for every

1 fourteen days on which the physician assistant provides patient
2 care as described in subsection 3 of this section. Only days in
3 which the physician assistant provides patient care as described
4 in subsection 3 of this section shall be counted toward the
5 fourteen-day period. The requirement of appropriate supervision
6 shall be applied so that no more than thirteen calendar days in
7 which a physician assistant provides patient care shall pass
8 between the physician's four hours working within the same
9 facility. The board shall promulgate rules pursuant to chapter
10 536 for documentation of joint review of the physician assistant
11 activity by the supervising physician and the physician
12 assistant. [The physician assistant shall be limited to practice
13 at locations where the supervising physician is no further than
14 thirty miles by road using the most direct route available, or in
15 any other fashion so distanced as to create an impediment to
16 effective intervention and supervision of patient care or
17 adequate review of services. Any other provisions of this
18 chapter notwithstanding, for up to ninety days following the
19 effective date of rules promulgated by the board to establish the
20 waiver process under subsection 2 of this section, any physician
21 assistant practicing in a health professional shortage area as of
22 April 1, 2007, shall be allowed to practice under the on-site
23 requirements stipulated by the supervising physician on the
24 supervising physician form that was in effect on April 1, 2007.]

25 2. [The board shall promulgate rules under chapter 536 to
26 direct the advisory commission on physician assistants to
27 establish a formal waiver mechanism by which an individual
28 physician-physician assistant team may apply for alternate

1 minimum amounts of on-site supervision and maximum distance from
2 the supervising physician. After review of an application for a
3 waiver, the advisory commission on physician assistants shall
4 present its recommendation to the board for its advice and
5 consent on the approval or denial of the application. The rule
6 shall establish a process by which the public is invited to
7 comment on the application for a waiver, and shall specify that a
8 waiver may only be granted if a supervising physician and
9 physician assistant demonstrate to the board's satisfaction in
10 accordance with its uniformly applied criteria that:

11 (1) Adequate supervision will be provided by the physician
12 for the physician assistant, given the physician assistant's
13 training and experience and the acuity of patient conditions
14 normally treated in the clinical setting;

15 (2) (1) A supervision agreement shall limit the physician
16 assistant [shall be limited] to practice only at locations
17 described in subdivision (8) of subsection 1 of this section,
18 where the supervising physician is no further than fifty miles by
19 road using the most direct route available[, or in any other
20 fashion so distanced] and where the location is not so situated
21 as to create an impediment to effective intervention and
22 supervision of patient care or adequate review of services[;

23 (3) The community or communities served by the supervising
24 physician and physician assistant would experience reduced access
25 to health care services in the absence of a waiver;

26 (4) The applicant will practice in an area designated at
27 the time of application as a health professional shortage area;

28 (5) Nothing in this section shall be construed to require a

1 physician-physician assistant team to increase their on-site
2 requirement allowed in their initial waiver in order to qualify
3 for renewal of such waiver;

4 (6) If a waiver has been granted by the board of healing
5 arts on or after August 28, 2009, to].

6 (2) For a physician-physician assistant team working in a
7 rural health clinic under the federal Rural Health Clinic
8 Services Act, P.L. 95-210, as amended, no [additional waiver
9 shall be required for the physician-physician assistant team, so
10 long as the rural health clinic maintains its status as a rural
11 health clinic under such federal act, and such
12 physician-physician assistant team comply with federal
13 supervision requirements. No] supervision requirements in
14 addition to the minimum federal law shall be required [for the
15 physician-physician assistant team in a rural health clinic if a
16 waiver has been granted by the board. However, the board shall
17 be able to void a current waiver after conducting a hearing and
18 upon a finding of fact that the physician-physician assistant
19 team has failed to comply with such federal act or either member
20 of the team has violated a provision of this chapter;

21 (7) A physician assistant shall only be required to seek a
22 renewal of a waiver every five years or when his or her
23 supervising physician is a different physician than the physician
24 shown on the waiver application or they move their primary
25 practice location more than ten miles from the location shown on
26 the waiver application].

27 3. The scope of practice of a physician assistant shall
28 consist only of the following services and procedures:

- 1 (1) Taking patient histories;
- 2 (2) Performing physical examinations of a patient;
- 3 (3) Performing or assisting in the performance of routine
4 office laboratory and patient screening procedures;
- 5 (4) Performing routine therapeutic procedures;
- 6 (5) Recording diagnostic impressions and evaluating
7 situations calling for attention of a physician to institute
8 treatment procedures;
- 9 (6) Instructing and counseling patients regarding mental
10 and physical health using procedures reviewed and approved by a
11 licensed physician;
- 12 (7) Assisting the supervising physician in institutional
13 settings, including reviewing of treatment plans, ordering of
14 tests and diagnostic laboratory and radiological services, and
15 ordering of therapies, using procedures reviewed and approved by
16 a licensed physician;
- 17 (8) Assisting in surgery;
- 18 (9) Performing such other tasks not prohibited by law under
19 the supervision of a licensed physician as the physician's
20 assistant has been trained and is proficient to perform; and
- 21 (10) Physician assistants shall not perform or prescribe
22 abortions.

23 4. Physician assistants shall not prescribe nor dispense
24 any drug, medicine, device or therapy unless pursuant to a
25 physician supervision agreement in accordance with the law, nor
26 prescribe lenses, prisms or contact lenses for the aid, relief or
27 correction of vision or the measurement of visual power or visual
28 efficiency of the human eye, nor administer or monitor general or

1 regional block anesthesia during diagnostic tests, surgery or
2 obstetric procedures. Prescribing and dispensing of drugs,
3 medications, devices or therapies by a physician assistant shall
4 be pursuant to a physician assistant supervision agreement which
5 is specific to the clinical conditions treated by the supervising
6 physician and the physician assistant shall be subject to the
7 following:

8 (1) A physician assistant shall only prescribe controlled
9 substances in accordance with section 334.747;

10 (2) The types of drugs, medications, devices or therapies
11 prescribed or dispensed by a physician assistant shall be
12 consistent with the scopes of practice of the physician assistant
13 and the supervising physician;

14 (3) All prescriptions shall conform with state and federal
15 laws and regulations and shall include the name, address and
16 telephone number of the physician assistant and the supervising
17 physician;

18 (4) A physician assistant, or advanced practice registered
19 nurse as defined in section 335.016 may request, receive and sign
20 for noncontrolled professional samples and may distribute
21 professional samples to patients;

22 (5) A physician assistant shall not prescribe any drugs,
23 medicines, devices or therapies the supervising physician is not
24 qualified or authorized to prescribe; and

25 (6) A physician assistant may only dispense starter doses
26 of medication to cover a period of time for seventy-two hours or
27 less.

28 5. A physician assistant shall clearly identify himself or

1 herself as a physician assistant and shall not use or permit to
2 be used in the physician assistant's behalf the terms "doctor",
3 "Dr." or "doc" nor hold himself or herself out in any way to be a
4 physician or surgeon. No physician assistant shall practice or
5 attempt to practice without physician supervision or in any
6 location where the supervising physician is not immediately
7 available for consultation, assistance and intervention, except
8 as otherwise provided in this section, and in an emergency
9 situation, nor shall any physician assistant bill a patient
10 independently or directly for any services or procedure by the
11 physician assistant.

12 6. For purposes of this section, the licensing of physician
13 assistants shall take place within processes established by the
14 state board of registration for the healing arts through rule and
15 regulation. The board of healing arts is authorized to establish
16 rules pursuant to chapter 536 establishing licensing and renewal
17 procedures, supervision, supervision agreements, fees, and
18 addressing such other matters as are necessary to protect the
19 public and discipline the profession. An application for
20 licensing may be denied or the license of a physician assistant
21 may be suspended or revoked by the board in the same manner and
22 for violation of the standards as set forth by section 334.100,
23 or such other standards of conduct set by the board by rule or
24 regulation. Persons licensed pursuant to the provisions of
25 chapter 335 shall not be required to be licensed as physician
26 assistants. All applicants for physician assistant licensure who
27 complete a physician assistant training program after January 1,
28 2008, shall have a master's degree from a physician assistant

1 program.

2 7. "Physician assistant supervision agreement" means a
3 written agreement, jointly agreed-upon protocols or standing
4 order between a supervising physician and a physician assistant,
5 which provides for the delegation of health care services from a
6 supervising physician to a physician assistant and the review of
7 such services. The agreement shall contain at least the
8 following provisions:

9 (1) Complete names, home and business addresses, zip codes,
10 telephone numbers, and state license numbers of the supervising
11 physician and the physician assistant;

12 (2) A list of all offices or locations where the physician
13 routinely provides patient care, and in which of such offices or
14 locations the supervising physician has authorized the physician
15 assistant to practice;

16 (3) All specialty or board certifications of the
17 supervising physician;

18 (4) The manner of supervision between the supervising
19 physician and the physician assistant, including how the
20 supervising physician and the physician assistant shall:

21 (a) Attest on a form provided by the board that the
22 physician shall provide supervision appropriate to the physician
23 assistant's training and experience and that the physician
24 assistant shall not practice beyond the scope of the physician
25 assistant's training and experience nor the supervising
26 physician's capabilities and training; and

27 (b) Provide coverage during absence, incapacity, infirmity,
28 or emergency by the supervising physician;

1 (5) The duration of the supervision agreement between the
2 supervising physician and physician assistant; and

3 (6) A description of the time and manner of the supervising
4 physician's review of the physician assistant's delivery of
5 health care services. Such description shall include provisions
6 that the supervising physician, or a designated supervising
7 physician listed in the supervision agreement review a minimum of
8 ten percent of the charts of the physician assistant's delivery
9 of health care services every fourteen days.

10 8. When a physician assistant supervision agreement is
11 utilized to provide health care services for conditions other
12 than acute self-limited or well-defined problems, the supervising
13 physician or other physician designated in the supervision
14 agreement shall see the patient for evaluation and approve or
15 formulate the plan of treatment for new or significantly changed
16 conditions as soon as practical, but in no case more than two
17 weeks after the patient has been seen by the physician assistant.

18 9. At all times the physician is responsible for the
19 oversight of the activities of, and accepts responsibility for,
20 health care services rendered by the physician assistant.

21 10. It is the responsibility of the supervising physician
22 to determine and document the completion of at least a one-month
23 period of time during which the licensed physician assistant
24 shall practice with a supervising physician continuously present
25 before practicing in a setting where a supervising physician is
26 not continuously present.

27 11. No contract or other agreement shall require a
28 physician to act as a supervising physician for a physician

1 assistant against the physician's will. A physician shall have
2 the right to refuse to act as a supervising physician, without
3 penalty, for a particular physician assistant. No contract or
4 other agreement shall limit the supervising physician's ultimate
5 authority over any protocols or standing orders or in the
6 delegation of the physician's authority to any physician
7 assistant, but this requirement shall not authorize a physician
8 in implementing such protocols, standing orders, or delegation to
9 violate applicable standards for safe medical practice
10 established by the hospital's medical staff.

11 12. Physician assistants shall file with the board a copy
12 of their supervising physician form.

13 13. No physician shall be designated to serve as
14 supervising physician for more than three full-time equivalent
15 licensed physician assistants. This limitation shall not apply
16 to physician assistant agreements of hospital employees providing
17 inpatient care service in hospitals as defined in chapter 197.

18 335.066. 1. The board may refuse to issue or reinstate any
19 certificate of registration or authority, permit or license
20 required pursuant to chapter 335 for one or any combination of
21 causes stated in subsection 2 of this section or the board may,
22 as a condition to issuing or reinstating any such permit or
23 license, require a person to submit himself or herself for
24 identification, intervention, treatment, or rehabilitation by the
25 impaired nurse program as provided in section 335.067. The board
26 shall notify the applicant in writing of the reasons for the
27 refusal and shall advise the applicant of his or her right to
28 file a complaint with the administrative hearing commission as

1 provided by chapter 621.

2 2. The board may cause a complaint to be filed with the
3 administrative hearing commission as provided by chapter 621
4 against any holder of any certificate of registration or
5 authority, permit or license required by sections 335.011 to
6 335.096 or any person who has failed to renew or has surrendered
7 his or her certificate of registration or authority, permit or
8 license for any one or any combination of the following causes:

9 (1) Use or unlawful possession of any controlled substance,
10 as defined in chapter 195, or alcoholic beverage to an extent
11 that such use impairs a person's ability to perform the work of
12 any profession licensed or regulated by sections 335.011 to
13 335.096;

14 (2) The person has been finally adjudicated and found
15 guilty, or entered a plea of guilty or nolo contendere, in a
16 criminal prosecution pursuant to the laws of any state or of the
17 United States, for any offense reasonably related to the
18 qualifications, functions or duties of any profession licensed or
19 regulated pursuant to sections 335.011 to 335.096, for any
20 offense an essential element of which is fraud, dishonesty or an
21 act of violence, or for any offense involving moral turpitude,
22 whether or not sentence is imposed;

23 (3) Use of fraud, deception, misrepresentation or bribery
24 in securing any certificate of registration or authority, permit
25 or license issued pursuant to sections 335.011 to 335.096 or in
26 obtaining permission to take any examination given or required
27 pursuant to sections 335.011 to 335.096;

28 (4) Obtaining or attempting to obtain any fee, charge,

1 tuition or other compensation by fraud, deception or
2 misrepresentation;

3 (5) Incompetency, [~~misconduct,~~] gross negligence, [~~fraud,~~
4 ~~misrepresentation or dishonesty~~] or repeated negligence in the
5 performance of the functions or duties of any profession licensed
6 or regulated by [~~sections 335.011 to 335.096~~] chapter 335. For
7 the purposes of this subdivision, "repeated negligence" means the
8 failure, on more than one occasion, to use that degree of skill
9 and learning ordinarily used under the same or similar
10 circumstances by the member of the applicant's or licensee's
11 profession;

12 (6) Misconduct, fraud, misrepresentation, dishonesty,
13 unethical conduct, or unprofessional conduct in the performance
14 of the functions or duties of any profession licensed or
15 regulated by this chapter, including, but not limited to, the
16 following:

17 (a) Willfully and continually overcharging or overtreating
18 patients; or charging for visits which did not occur unless the
19 services were contracted for in advance, or for services which
20 were not rendered or documented in the patient's records;

21 (b) Attempting, directly or indirectly, by way of
22 intimidation, coercion or deception, to obtain or retain a
23 patient or discourage the use of a second opinion or
24 consultation;

25 (c) Willfully and continually performing inappropriate or
26 unnecessary treatment, diagnostic tests, or nursing services;

27 (d) Delegating professional responsibilities to a person
28 who is not qualified by training, skill, competency, age,

1 experience, or licensure to perform such responsibilities;

2 (e) Performing nursing services beyond the authorized scope
3 of practice for which the individual is licensed in this state;

4 (f) Exercising influence within a nurse-patient
5 relationship for purposes of engaging a patient in sexual
6 activity;

7 (g) Being listed on any state or federal sexual offender
8 registry;

9 (h) Failure of any applicant or licensee to cooperate with
10 the board during any investigation;

11 (i) Failure to comply with any subpoena or subpoena duces
12 tecum from the board or an order of the board;

13 (j) Failure to timely pay license renewal fees specified in
14 this chapter;

15 (k) Violating a probation agreement, order, or other
16 settlement agreement with this board or any other licensing
17 agency;

18 (l) Failing to inform the board of the nurse's current
19 residence;

20 (m) Any other conduct that is unethical or unprofessional
21 involving a minor;

22 **[(6)]** (7) Violation of, or assisting or enabling any person
23 to violate, any provision of sections 335.011 to 335.096, or of
24 any lawful rule or regulation adopted pursuant to sections
25 335.011 to 335.096;

26 **[(7)]** (8) Impersonation of any person holding a certificate
27 of registration or authority, permit or license or allowing any
28 person to use his or her certificate of registration or

1 authority, permit, license or diploma from any school;

2 [(8)] (9) Disciplinary action against the holder of a
3 license or other right to practice any profession regulated by
4 sections 335.011 to 335.096 granted by another state, territory,
5 federal agency or country upon grounds for which revocation or
6 suspension is authorized in this state;

7 [(9)] (10) A person is finally adjudged insane or
8 incompetent by a court of competent jurisdiction;

9 [(10)] (11) Assisting or enabling any person to practice or
10 offer to practice any profession licensed or regulated by
11 sections 335.011 to 335.096 who is not registered and currently
12 eligible to practice pursuant to sections 335.011 to 335.096;

13 [(11)] (12) Issuance of a certificate of registration or
14 authority, permit or license based upon a material mistake of
15 fact;

16 [(12)] (13) Violation of any professional trust or
17 confidence;

18 [(13)] (14) Use of any advertisement or solicitation which
19 is false, misleading or deceptive to the general public or
20 persons to whom the advertisement or solicitation is primarily
21 directed;

22 [(14)] (15) Violation of the drug laws or rules and
23 regulations of this state, any other state or the federal
24 government;

25 [(15)] (16) Placement on an employee disqualification list
26 or other related restriction or finding pertaining to employment
27 within a health-related profession issued by any state or federal
28 government or agency following final disposition by such state or

1 federal government or agency;

2 [(16)] (17) Failure to successfully complete the impaired
3 nurse program;

4 (18) Knowingly making or causing to be made a false
5 statement or misrepresentation of a material fact, with intent to
6 defraud, for payment pursuant to the provisions of chapter 208 or
7 chapter 630, or for payment from Title XVIII or Title XIX of the
8 federal Medicare program;

9 (19) Failure or refusal to properly guard against
10 contagious, infectious, or communicable diseases or the spread
11 thereof; maintaining an unsanitary office or performing
12 professional services under unsanitary conditions; or failure to
13 report the existence of an unsanitary condition in the office of
14 a physician or in any health care facility to the board, in
15 writing, within thirty days after the discovery thereof;

16 (20) A pattern of personal use or consumption of any
17 controlled substance unless it is prescribed, dispensed, or
18 administered by a provider who is authorized by law to do so;

19 (21) Habitual intoxication or dependence on alcohol,
20 evidence of which may include more than one alcohol-related
21 enforcement contact as defined by section 302.525;

22 (22) Failure to comply with a treatment program or an
23 aftercare program entered into as part of a board order,
24 settlement agreement, or licensee's professional health program.

25 3. After the filing of such complaint, the proceedings
26 shall be conducted in accordance with the provisions of chapter
27 621. Upon a finding by the administrative hearing commission
28 that the grounds, provided in subsection 2 of this section, for

1 disciplinary action are met, the board may, singly or in
2 combination, censure or place the person named in the complaint
3 on probation on such terms and conditions as the board deems
4 appropriate for a period not to exceed five years, or may
5 suspend, for a period not to exceed three years, or revoke the
6 license, certificate, or permit.

7 4. For any hearing before the full board, the board shall
8 cause the notice of the hearing to be served upon such licensee
9 in person or by certified mail to the licensee at the licensee's
10 last known address. If service cannot be accomplished in person
11 or by certified mail, notice by publication as described in
12 subsection 3 of section 506.160 shall be allowed; any
13 representative of the board is authorized to act as a court or
14 judge would in that section; any employee of the board is
15 authorized to act as a clerk would in that section.

16 5. An individual whose license has been revoked shall wait
17 one year from the date of revocation to apply for relicensure.
18 Relicensure shall be at the discretion of the board after
19 compliance with all the requirements of sections 335.011 to
20 335.096 relative to the licensing of an applicant for the first
21 time.

22 6. The board may notify the proper licensing authority of
23 any other state concerning the final disciplinary action
24 determined by the board on a license in which the person whose
25 license was suspended or revoked was also licensed of the
26 suspension or revocation.

27 7. Any person, organization, association or corporation who
28 reports or provides information to the board of nursing pursuant

1 to the provisions of sections 335.011 to 335.259 and who does so
2 in good faith shall not be subject to an action for civil damages
3 as a result thereof.

4 8. [If the board concludes that a nurse has committed an
5 act or is engaging in a course of conduct which would be grounds
6 for disciplinary action which constitutes a clear and present
7 danger to the public health and safety, the board may file a
8 complaint before the administrative hearing commission requesting
9 an expedited hearing and specifying the activities which give
10 rise to the danger and the nature of the proposed restriction or
11 suspension of the nurse's license. Within fifteen days after
12 service of the complaint on the nurse, the administrative hearing
13 commission shall conduct a preliminary hearing to determine
14 whether the alleged activities of the nurse appear to constitute
15 a clear and present danger to the public health and safety which
16 justify that the nurse's license be immediately restricted or
17 suspended. The burden of proving that a nurse is a clear and
18 present danger to the public health and safety shall be upon the
19 state board of nursing. The administrative hearing commission
20 shall issue its decision immediately after the hearing and shall
21 either grant to the board the authority to suspend or restrict
22 the license or dismiss the action.] The board may apply to the
23 administrative hearing commission for an emergency suspension or
24 restriction of a license for the following causes:

25 (1) Engaging in sexual conduct in as defined in section
26 566.010, with a patient who is not the licensee's spouse,
27 regardless of whether the patient consented;

28 (2) Engaging in sexual misconduct with a minor or person

1 the licensee believes to be a minor. "Sexual misconduct" means
2 any conduct of a sexual nature which would be illegal under state
3 or federal law;

4 (3) Possession of a controlled substance in violation of
5 chapter 195 or any state or federal law, rule, or regulation,
6 excluding record-keeping violations;

7 (4) Use of a controlled substance without a valid
8 prescription;

9 (5) The licensee is adjudicated incapacitated or disabled
10 by a court of competent jurisdiction;

11 (6) Habitual intoxication or dependence upon alcohol or
12 controlled substances or failure to comply with a treatment or
13 aftercare program entered into pursuant to a board order,
14 settlement agreement, or as part of the licensee's professional
15 health program;

16 (7) A report from a board-approved facility or a
17 professional health program stating the licensee is not fit to
18 practice. For purposes of this section, a licensee is deemed to
19 have waived all objections to the admissibility of testimony from
20 the provider of the examination and admissibility of the
21 examination reports. The licensee shall sign all necessary
22 releases for the board to obtain and use the examination during a
23 hearing; or

24 (8) Any conduct for which the board may discipline that
25 constitutes a serious danger to the health, safety, or welfare of
26 a patient or the public.

27 9. The board shall submit existing affidavits and existing
28 certified court records together with a complaint alleging the

1 facts in support of the board's request for an emergency
2 suspension or restriction to the administrative hearing
3 commission and shall supply the administrative hearing commission
4 with the last home or business addresses on file with the board
5 for the licensee. Within one business day of the filing of the
6 complaint, the administrative hearing commission shall return a
7 service packet to the board. The service packet shall include
8 the board's complaint and any affidavits or records the board
9 intends to rely on that have been filed with the administrative
10 hearing commission. The service packet may contain other
11 information in the discretion of the administrative hearing
12 commission. Within twenty-four hours of receiving the packet,
13 the board shall either personally serve the licensee or leave a
14 copy of the service packet at all of the licensee's current
15 addresses on file with the board. Prior to the hearing, the
16 licensee may file affidavits and certified court records for
17 consideration by the administrative hearing commission.

18 10. Within five days of the board's filing of the
19 complaint, the administrative hearing commission shall review the
20 information submitted by the board and the licensee and shall
21 determine based on that information if probable cause exists
22 pursuant to subsection 8 of this section and shall issue its
23 findings of fact and conclusions of law. If the administrative
24 hearing commission finds that there is probable cause, the
25 administrative hearing commission shall enter the order requested
26 by the board. The order shall be effective upon personal service
27 or by leaving a copy at all of the licensee's current addresses
28 on file with the board.

1 11. (1) The administrative hearing commission shall hold a
2 hearing within forty-five days of the board's filing of the
3 complaint to determine if cause for discipline exists. The
4 administrative hearing commission may grant a request for a
5 continuance, but shall in any event hold the hearing within one
6 hundred twenty days of the board's initial filing. The board
7 shall be granted leave to amend its complaint if it is more than
8 thirty days prior to the hearing. If less than thirty days, the
9 board may be granted leave to amend if public safety requires.

10 (2) If no cause for discipline exists, the administrative
11 hearing commission shall issue findings of fact, conclusions of
12 law, and an order terminating the emergency suspension or
13 restriction.

14 (3) If cause for discipline exists, the administrative
15 hearing commission shall issue findings of fact and conclusions
16 of law and order the emergency suspension or restriction to
17 remain in full force and effect pending a disciplinary hearing
18 before the board. The board shall hold a hearing following the
19 certification of the record by the administrative hearing
20 commission and may impose any discipline otherwise authorized by
21 state law.

22 12. Any action under this section shall be in addition to
23 and not in lieu of any discipline otherwise in the board's power
24 to impose and may be brought concurrently with other actions.

25 13. If the administrative hearing commission does not find
26 probable cause and does not grant the emergency suspension or
27 restriction, the board shall remove all reference to such
28 emergency suspension or restriction from its public records.

1 Records relating to the suspension or restriction shall be
2 maintained in the board's files. The board or licensee may use
3 such records in the course of any litigation to which they are
4 both parties. Additionally, such records may be released upon a
5 specific, written request of the licensee.

6 [9.] 14. If the administrative hearing commission grants
7 temporary authority to the board to restrict or suspend the
8 nurse's license, such temporary authority of the board shall
9 become final authority if there is no request by the nurse for a
10 full hearing within thirty days of the preliminary hearing. The
11 administrative hearing commission shall, if requested by the
12 nurse named in the complaint, set a date to hold a full hearing
13 under the provisions of chapter 621 regarding the activities
14 alleged in the initial complaint filed by the board.

15 [10.] 15. If the administrative hearing commission refuses
16 to grant temporary authority to the board or restrict or suspend
17 the nurse's license under subsection 8 of this section, such
18 dismissal shall not bar the board from initiating a subsequent
19 disciplinary action on the same grounds.

20 16. (1) The board may initiate a hearing before the board
21 for discipline of any licensee's license or certificate upon
22 receipt of one of the following:

23 (a) Certified court records of a finding of guilt or plea
24 of guilty or nolo contendere in a criminal prosecution under the
25 laws of any state or of the United States for any offense
26 involving the qualifications, functions, or duties of any
27 profession licensed or regulated under this chapter, for any
28 offense involving fraud, dishonesty, or an act of violence, or

1 for any offense involving moral turpitude, whether or not
2 sentence is imposed;

3 (b) Evidence of final disciplinary action against the
4 licensee's license, certification, or registration issued by any
5 other state, by any other agency or entity of this state or any
6 other state, or the United States or its territories, or any
7 other country;

8 (c) Evidence of certified court records finding the
9 licensee has been judged incapacitated or disabled under Missouri
10 law or under the laws of any other state or of the United States
11 or its territories.

12 (2) The board shall provide the licensee not less than ten
13 days notice of any hearing held pursuant to chapter 536.

14 (3) Upon a finding that cause exists to discipline a
15 licensee's license the board may impose any discipline otherwise
16 available.

17 335.175. 1. No later than January 1, 2014, there is hereby
18 established within the state board of registration for the
19 healing arts and the state board of nursing the "Utilization of
20 Telehealth by Nurses". An advanced practice registered nurse
21 (APRN) providing nursing services under a collaborative practice
22 arrangement under section 334.104 may provide such services
23 outside the geographic proximity requirements of section 334.104
24 if the collaborating physician and advanced practice registered
25 nurse utilize telehealth in the care of the patient and if the
26 services are provided in a rural area of need. Telehealth
27 providers shall be required to obtain patient consent before
28 telehealth services are initiated and ensure confidentiality of

1 medical information.

2 2. As used in this section, "telehealth" means the use of
3 medical information exchanged from one site to another via
4 electronic communications to improve the health status of a
5 patient, as defined in section 208.670.

6 3. (1) The boards shall jointly promulgate rules governing
7 the practice of telehealth under this section. Such rules shall
8 address, but not be limited to, appropriate standards for the use
9 of telehealth.

10 (2) Any rule or portion of a rule, as that term is defined
11 in section 536.010, that is created under the authority delegated
12 in this section shall become effective only if it complies with
13 and is subject to all of the provisions of chapter 536 and, if
14 applicable, section 536.028. This section and chapter 536 are
15 nonseverable and if any of the powers vested with the general
16 assembly pursuant to chapter 536 to review, to delay the
17 effective date, or to disapprove and annul a rule are
18 subsequently held unconstitutional, then the grant of rulemaking
19 authority and any rule proposed or adopted after August 28, 2013,
20 shall be invalid and void.

21 4. For purposes of this section, "rural area of need" means
22 any rural area of this state which is located in a health
23 professional shortage area as defined in section 354.650.

24 5. Under section 23.253 of the Missouri sunset act:

25 (1) The provisions of the new program authorized under this
26 section shall automatically sunset six years after the effective
27 date of this section unless reauthorized by an act of the general
28 assembly; and

1 (2) If such program is reauthorized, the program authorized
2 under this section shall automatically sunset twelve years after
3 the effective date of the reauthorization of this section; and

4 (3) This section shall terminate on September first of the
5 calendar year immediately following the calendar year in which
6 the program authorized under this section is sunset.

7 338.150. 1. Any person authorized by the board of pharmacy
8 is hereby given the right of entry and inspection upon all open
9 premises purporting or appearing to be drug or chemical stores,
10 apothecary shops, pharmacies or places of business for exposing
11 for sale, or the dispensing or selling of drugs, pharmaceuticals,
12 medicines, chemicals or poisons or for the compounding of
13 physicians' or veterinarians' prescriptions.

14 2. The board may establish and implement a program for
15 testing drugs or drug products maintained, compounded, filled, or
16 dispensed by licensees, registrants, or permit holders of the
17 board. The board shall pay all testing costs and shall reimburse
18 the licensee, registrant, or permit holder for the reasonable,
19 usual, and customary cost of the drug or drug product requested
20 for testing.

21 3. The board shall promulgate rules to implement the
22 provisions of this section. Any rule or portion of a rule, as
23 that term is defined in section 536.010, that is created under
24 the authority delegated in this section shall become effective
25 only if it complies with and is subject to all of the provisions
26 of chapter 536 and, if applicable, section 536.028. This section
27 and chapter 536 are nonseverable and if any of the powers vested
28 with the general assembly pursuant to chapter 536 to review, to

1 delay the effective date, or to disapprove and annul a rule are
2 subsequently held unconstitutional, then the grant of rulemaking
3 authority and any rule proposed or adopted after August 28, 2013,
4 shall be invalid and void.

5 338.200. 1. In the event a pharmacist is unable to obtain
6 refill authorization from the prescriber due to death,
7 incapacity, or when the pharmacist is unable to obtain refill
8 authorization from the prescriber, a pharmacist may dispense an
9 emergency supply of medication if:

10 (1) In the pharmacist's professional judgement,
11 interruption of therapy might reasonably produce undesirable
12 health consequences;

13 (2) The pharmacy previously dispensed or refilled a
14 prescription from the applicable prescriber for the same patient
15 and medication;

16 (3) The medication dispensed is not a controlled substance;

17 (4) The pharmacist informs the patient or the patient's
18 agent either verbally, electronically, or in writing at the time
19 of dispensing that authorization of a prescriber is required for
20 future refills; and

21 (5) The pharmacist documents the emergency dispensing in
22 the patient's prescription record, as provided by the board by
23 rule.

24 2. (1) If the pharmacist is unable to obtain refill
25 authorization from the prescriber, the amount dispensed shall be
26 limited to the amount determined by the pharmacist within his or
27 her professional judgment as needed for the emergency period,
28 provided the amount dispensed shall not exceed a seven-day

1 supply;

2 (2) In the event of prescriber death or incapacity or
3 inability of the prescriber to provide medical services, the
4 amount dispensed shall not exceed a thirty-day supply.

5 3. Pharmacists or permit holders dispensing an emergency
6 supply pursuant to this section shall promptly notify the
7 prescriber or the prescriber's office of the emergency
8 dispensing, as required by the board by rule.

9 4. An emergency supply may not be dispensed pursuant to
10 this section if the pharmacist has knowledge that the prescriber
11 has otherwise prohibited or restricted emergency dispensing for
12 the applicable patient.

13 5. The board shall promulgate rules to implement the
14 provisions of this section. Any rule or portion of a rule, as
15 that term is defined in section 536.010, that is created under
16 the authority delegated in this section shall become effective
17 only if it complies with and is subject to all of the provisions
18 of chapter 536 and, if applicable, section 536.028. This section
19 and chapter 536 are nonseverable and if any of the powers vested
20 with the general assembly pursuant to chapter 536 to review, to
21 delay the effective date, or to disapprove and annul a rule are
22 subsequently held unconstitutional, then the grant of rulemaking
23 authority and any rule proposed or adopted after August 28, 2013,
24 shall be invalid and void.

25 338.220. 1. It shall be unlawful for any person,
26 copartnership, association, corporation or any other business
27 entity to open, establish, operate, or maintain any pharmacy as
28 defined by statute without first obtaining a permit or license to

1 do so from the Missouri board of pharmacy. A permit shall not be
2 required for an individual licensed pharmacist to perform
3 nondispensing activities outside of a pharmacy, as provided by
4 the rules of the board. A permit shall not be required for an
5 individual licensed pharmacist to administer drugs, vaccines, and
6 biologicals by protocol, as permitted by law, outside of a
7 pharmacy. The following classes of pharmacy permits or licenses
8 are hereby established:

- 9 (1) Class A: Community/ambulatory;
- 10 (2) Class B: Hospital outpatient pharmacy;
- 11 (3) Class C: Long-term care;
- 12 (4) Class D: Nonsterile compounding;
- 13 (5) Class E: Radio pharmaceutical;
- 14 (6) Class F: Renal dialysis;
- 15 (7) Class G: Medical gas;
- 16 (8) Class H: Sterile product compounding;
- 17 (9) Class I: Consultant services;
- 18 (10) Class J: Shared service;
- 19 (11) Class K: Internet;
- 20 (12) Class L: Veterinary;
- 21 (13) Class M: Specialty (bleeding disorder);
- 22 (14) Class N: Automated dispensing system (health care
23 facility);
- 24 (15) Class O: Automated dispensing system (ambulatory
25 care);
- 26 (16) Class P: Practitioner office/clinic.

27 2. Application for such permit or license shall be made
28 upon a form furnished to the applicant; shall contain a statement

1 that it is made under oath or affirmation and that its
2 representations are true and correct to the best knowledge and
3 belief of the person signing same, subject to the penalties of
4 making a false affidavit or declaration; and shall be accompanied
5 by a permit or license fee. The permit or license issued shall
6 be renewable upon payment of a renewal fee. Separate
7 applications shall be made and separate permits or licenses
8 required for each pharmacy opened, established, operated, or
9 maintained by the same owner.

10 3. All permits, licenses or renewal fees collected pursuant
11 to the provisions of sections 338.210 to 338.370 shall be
12 deposited in the state treasury to the credit of the Missouri
13 board of pharmacy fund, to be used by the Missouri board of
14 pharmacy in the enforcement of the provisions of sections 338.210
15 to 338.370, when appropriated for that purpose by the general
16 assembly.

17 4. Class L: veterinary permit shall not be construed to
18 prohibit or interfere with any legally registered practitioner of
19 veterinary medicine in the compounding, administering,
20 prescribing, or dispensing of their own prescriptions, or
21 medicine, drug, or pharmaceutical product to be used for animals.

22 5. Except for any legend drugs under 21 U.S.C. Section 353,
23 the provisions of this section shall not apply to the sale,
24 dispensing, or filling of a pharmaceutical product or drug used
25 for treating animals.

26 376.1226. 1. No contract between a health carrier or
27 health benefit plan and a dentist for the provision of dental
28 services under a dental plan shall require that the dentist

1 provide dental services to insureds in the dental plan at a fee
2 established by the health carrier or health benefit plan if such
3 dental services are not covered services under the dental plan.

4 2. For purposes of this section, the following terms shall
5 mean:

6 (1) "Covered services", services reimbursable by a health
7 carrier or health benefit plan under an applicable dental plan,
8 subject to such contractual limitations on benefits as may apply,
9 including but not limited to deductibles, waiting periods, or
10 frequency limitations;

11 (2) "Dental plan", any policy or contract of insurance
12 which provides for coverage of dental services;

13 (3) "Health benefit plan", the same meaning as such term is
14 defined in section 376.1350;

15 (4) "Health carrier", the same meaning as such term is
16 defined in section 376.1350.

17 376.1237. 1. Each health carrier or health benefit plan
18 that offers or issues health benefit plans which are delivered,
19 issued for delivery, continued, or renewed in this state on or
20 after January 1, 2014, and that provides coverage for
21 prescription eye drops shall provide coverage for the refilling
22 of an eye drop prescription prior to the last day of the
23 prescribed dosage period without regard to a coverage restriction
24 for early refill of prescription renewals as long as the
25 prescribing health care provider authorizes such early refill,
26 and the health carrier or the health benefit plan is notified.

27 2. For the purposes of this section, "health carrier" and
28 "health benefit plan" shall have the same meaning as defined in

1 section 376.1350.

2 3. The coverage required by this section shall not be
3 subject to any greater deductible or co-payment than other
4 similar health care services provided by the health benefit plan.

5 4. The provisions of this section shall not apply to a
6 supplemental insurance policy, including a life care contract,
7 accident-only policy, specified disease policy, hospital policy
8 providing a fixed daily benefit only, Medicare supplement policy,
9 long-term care policy, short-term major medical policies of six
10 months' or less duration, or any other supplemental policy as
11 determined by the director of the department of insurance,
12 financial institutions and professional registration.

13 5. The provisions of this section shall terminate on
14 January 1, 2017.