

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 167
97TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, April 4, 2013, with recommendation that the Senate Committee Substitute do pass.

1010S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 208.152, 335.016, 335.046, 335.056, 335.066, 335.076, and 335.086, RSMo, and to enact in lieu thereof seven new sections relating to nurses.

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

Section A. Sections 208.152, 335.016, 335.046, 335.056, 335.066, 335.076, 2 and 335.086, RSMo, are repealed and seven new sections enacted in lieu thereof, 3 to be known as sections 208.152, 335.016, 335.046, 335.056, 335.066, 335.076, and 4 335.086, to read as follows:

208.152. 1. MO HealthNet payments shall be made on behalf of those 2 eligible needy persons as defined in section 208.151 who are unable to provide for 3 it in whole or in part, with any payments to be made on the basis of the 4 reasonable cost of the care or reasonable charge for the services as defined and 5 determined by the MO HealthNet division, unless otherwise hereinafter provided, 6 for the following:

7 (1) Inpatient hospital services, except to persons in an institution for 8 mental diseases who are under the age of sixty-five years and over the age of 9 twenty-one years; provided that the MO HealthNet division shall provide through 10 rule and regulation an exception process for coverage of inpatient costs in those 11 cases requiring treatment beyond the seventy-fifth percentile professional 12 activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay 13 schedule; and provided further that the MO HealthNet division shall take into 14 account through its payment system for hospital services the situation of 15 hospitals which serve a disproportionate number of low-income patients;

16 (2) All outpatient hospital services, payments therefor to be in amounts

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

17 which represent no more than eighty percent of the lesser of reasonable costs or
18 customary charges for such services, determined in accordance with the principles
19 set forth in Title XVIII A and B, Public Law 89-97, 1965 amendments to the
20 federal Social Security Act (42 U.S.C. 301, et seq.), but the MO HealthNet
21 division may evaluate outpatient hospital services rendered under this section
22 and deny payment for services which are determined by the MO HealthNet
23 division not to be medically necessary, in accordance with federal law and
24 regulations;

25 (3) Laboratory and X-ray services;

26 (4) Nursing home services for participants, except to persons with more
27 than five hundred thousand dollars equity in their home or except for persons in
28 an institution for mental diseases who are under the age of sixty-five years, when
29 residing in a hospital licensed by the department of health and senior services or
30 a nursing home licensed by the department of health and senior services or
31 appropriate licensing authority of other states or government-owned and
32 -operated institutions which are determined to conform to standards equivalent
33 to licensing requirements in Title XIX of the federal Social Security Act (42
34 U.S.C. 301, et seq.), as amended, for nursing facilities. The MO HealthNet
35 division may recognize through its payment methodology for nursing facilities
36 those nursing facilities which serve a high volume of MO HealthNet
37 patients. The MO HealthNet division when determining the amount of the
38 benefit payments to be made on behalf of persons under the age of twenty-one in
39 a nursing facility may consider nursing facilities furnishing care to persons under
40 the age of twenty-one as a classification separate from other nursing facilities;

41 (5) Nursing home costs for participants receiving benefit payments under
42 subdivision (4) of this subsection for those days, which shall not exceed twelve per
43 any period of six consecutive months, during which the participant is on a
44 temporary leave of absence from the hospital or nursing home, provided that no
45 such participant shall be allowed a temporary leave of absence unless it is
46 specifically provided for in his plan of care. As used in this subdivision, the term
47 "temporary leave of absence" shall include all periods of time during which a
48 participant is away from the hospital or nursing home overnight because he is
49 visiting a friend or relative;

50 (6) Physicians' services, whether furnished in the office, home, hospital,
51 nursing home, or elsewhere;

52 (7) Drugs and medicines when prescribed by a licensed physician, dentist,

53 [or] podiatrist, **or an advanced practice registered nurse**; except that no
54 payment for drugs and medicines prescribed on and after January 1, 2006, by a
55 licensed physician, dentist, [or] podiatrist, **or an advanced practice**
56 **registered nurse** may be made on behalf of any person who qualifies for
57 prescription drug coverage under the provisions of P.L. 108-173;

58 (8) Emergency ambulance services and, effective January 1, 1990,
59 medically necessary transportation to scheduled, physician-prescribed nonelective
60 treatments;

61 (9) Early and periodic screening and diagnosis of individuals who are
62 under the age of twenty-one to ascertain their physical or mental defects, and
63 health care, treatment, and other measures to correct or ameliorate defects and
64 chronic conditions discovered thereby. Such services shall be provided in
65 accordance with the provisions of Section 6403 of P.L. 101-239 and federal
66 regulations promulgated thereunder;

67 (10) Home health care services;

68 (11) Family planning as defined by federal rules and regulations;
69 provided, however, that such family planning services shall not include abortions
70 unless such abortions are certified in writing by a physician to the MO HealthNet
71 agency that, in his professional judgment, the life of the mother would be
72 endangered if the fetus were carried to term;

73 (12) Inpatient psychiatric hospital services for individuals under age
74 twenty-one as defined in Title XIX of the federal Social Security Act (42 U.S.C.
75 1396d, et seq.);

76 (13) Outpatient surgical procedures, including presurgical diagnostic
77 services performed in ambulatory surgical facilities which are licensed by the
78 department of health and senior services of the state of Missouri; except, that
79 such outpatient surgical services shall not include persons who are eligible for
80 coverage under Part B of Title XVIII, Public Law 89-97, 1965 amendments to the
81 federal Social Security Act, as amended, if exclusion of such persons is permitted
82 under Title XIX, Public Law 89-97, 1965 amendments to the federal Social
83 Security Act, as amended;

84 (14) Personal care services which are medically oriented tasks having to
85 do with a person's physical requirements, as opposed to housekeeping
86 requirements, which enable a person to be treated by his physician on an
87 outpatient rather than on an inpatient or residential basis in a hospital,
88 intermediate care facility, or skilled nursing facility. Personal care services shall

89 be rendered by an individual not a member of the participant's family who is
90 qualified to provide such services where the services are prescribed by a physician
91 in accordance with a plan of treatment and are supervised by a licensed
92 nurse. Persons eligible to receive personal care services shall be those persons
93 who would otherwise require placement in a hospital, intermediate care facility,
94 or skilled nursing facility. Benefits payable for personal care services shall not
95 exceed for any one participant one hundred percent of the average statewide
96 charge for care and treatment in an intermediate care facility for a comparable
97 period of time. Such services, when delivered in a residential care facility or
98 assisted living facility licensed under chapter 198 shall be authorized on a tier
99 level based on the services the resident requires and the frequency of the services.
100 A resident of such facility who qualifies for assistance under section 208.030
101 shall, at a minimum, if prescribed by a physician, qualify for the tier level with
102 the fewest services. The rate paid to providers for each tier of service shall be set
103 subject to appropriations. Subject to appropriations, each resident of such facility
104 who qualifies for assistance under section 208.030 and meets the level of care
105 required in this section shall, at a minimum, if prescribed by a physician, be
106 authorized up to one hour of personal care services per day. Authorized units of
107 personal care services shall not be reduced or tier level lowered unless an order
108 approving such reduction or lowering is obtained from the resident's personal
109 physician. Such authorized units of personal care services or tier level shall be
110 transferred with such resident if her or she transfers to another such
111 facility. Such provision shall terminate upon receipt of relevant waivers from the
112 federal Department of Health and Human Services. If the Centers for Medicare
113 and Medicaid Services determines that such provision does not comply with the
114 state plan, this provision shall be null and void. The MO HealthNet division
115 shall notify the revisor of statutes as to whether the relevant waivers are
116 approved or a determination of noncompliance is made;

117 (15) Mental health services. The state plan for providing medical
118 assistance under Title XIX of the Social Security Act, 42 U.S.C. 301, as amended,
119 shall include the following mental health services when such services are
120 provided by community mental health facilities operated by the department of
121 mental health or designated by the department of mental health as a community
122 mental health facility or as an alcohol and drug abuse facility or as a
123 child-serving agency within the comprehensive children's mental health service
124 system established in section 630.097. The department of mental health shall

125 establish by administrative rule the definition and criteria for designation as a
126 community mental health facility and for designation as an alcohol and drug
127 abuse facility. Such mental health services shall include:

128 (a) Outpatient mental health services including preventive, diagnostic,
129 therapeutic, rehabilitative, and palliative interventions rendered to individuals
130 in an individual or group setting by a mental health professional in accordance
131 with a plan of treatment appropriately established, implemented, monitored, and
132 revised under the auspices of a therapeutic team as a part of client services
133 management;

134 (b) Clinic mental health services including preventive, diagnostic,
135 therapeutic, rehabilitative, and palliative interventions rendered to individuals
136 in an individual or group setting by a mental health professional in accordance
137 with a plan of treatment appropriately established, implemented, monitored, and
138 revised under the auspices of a therapeutic team as a part of client services
139 management;

140 (c) Rehabilitative mental health and alcohol and drug abuse services
141 including home and community-based preventive, diagnostic, therapeutic,
142 rehabilitative, and palliative interventions rendered to individuals in an
143 individual or group setting by a mental health or alcohol and drug abuse
144 professional in accordance with a plan of treatment appropriately established,
145 implemented, monitored, and revised under the auspices of a therapeutic team
146 as a part of client services management. As used in this section, mental health
147 professional and alcohol and drug abuse professional shall be defined by the
148 department of mental health pursuant to duly promulgated rules. With respect
149 to services established by this subdivision, the department of social services, MO
150 HealthNet division, shall enter into an agreement with the department of mental
151 health. Matching funds for outpatient mental health services, clinic mental
152 health services, and rehabilitation services for mental health and alcohol and
153 drug abuse shall be certified by the department of mental health to the MO
154 HealthNet division. The agreement shall establish a mechanism for the joint
155 implementation of the provisions of this subdivision. In addition, the agreement
156 shall establish a mechanism by which rates for services may be jointly developed;

157 (16) Such additional services as defined by the MO HealthNet division to
158 be furnished under waivers of federal statutory requirements as provided for and
159 authorized by the federal Social Security Act (42 U.S.C. 301, et seq.) subject to
160 appropriation by the general assembly;

161 (17) [Beginning July 1, 1990,] The services of [a certified pediatric or
162 family nursing practitioner] **an advanced practice registered nurse** with a
163 collaborative practice agreement to the extent that such services are provided in
164 accordance with chapters 334 and 335, and regulations promulgated thereunder;

165 (18) Nursing home costs for participants receiving benefit payments under
166 subdivision (4) of this subsection to reserve a bed for the participant in the
167 nursing home during the time that the participant is absent due to admission to
168 a hospital for services which cannot be performed on an outpatient basis, subject
169 to the provisions of this subdivision:

170 (a) The provisions of this subdivision shall apply only if:

171 a. The occupancy rate of the nursing home is at or above ninety-seven
172 percent of MO HealthNet certified licensed beds, according to the most recent
173 quarterly census provided to the department of health and senior services which
174 was taken prior to when the participant is admitted to the hospital; and

175 b. The patient is admitted to a hospital for a medical condition with an
176 anticipated stay of three days or less;

177 (b) The payment to be made under this subdivision shall be provided for
178 a maximum of three days per hospital stay;

179 (c) For each day that nursing home costs are paid on behalf of a
180 participant under this subdivision during any period of six consecutive months
181 such participant shall, during the same period of six consecutive months, be
182 ineligible for payment of nursing home costs of two otherwise available temporary
183 leave of absence days provided under subdivision (5) of this subsection; and

184 (d) The provisions of this subdivision shall not apply unless the nursing
185 home receives notice from the participant or the participant's responsible party
186 that the participant intends to return to the nursing home following the hospital
187 stay. If the nursing home receives such notification and all other provisions of
188 this subsection have been satisfied, the nursing home shall provide notice to the
189 participant or the participant's responsible party prior to release of the reserved
190 bed;

191 (19) Prescribed medically necessary durable medical equipment. An
192 electronic web-based prior authorization system using best medical evidence and
193 care and treatment guidelines consistent with national standards shall be used
194 to verify medical need;

195 (20) Hospice care. As used in this subdivision, the term "hospice care"
196 means a coordinated program of active professional medical attention within a

197 home, outpatient and inpatient care which treats the terminally ill patient and
198 family as a unit, employing a medically directed interdisciplinary team. The
199 program provides relief of severe pain or other physical symptoms and supportive
200 care to meet the special needs arising out of physical, psychological, spiritual,
201 social, and economic stresses which are experienced during the final stages of
202 illness, and during dying and bereavement and meets the Medicare requirements
203 for participation as a hospice as are provided in 42 CFR Part 418. The rate of
204 reimbursement paid by the MO HealthNet division to the hospice provider for
205 room and board furnished by a nursing home to an eligible hospice patient shall
206 not be less than ninety-five percent of the rate of reimbursement which would
207 have been paid for facility services in that nursing home facility for that patient,
208 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus
209 Budget Reconciliation Act of 1989);

210 (21) Prescribed medically necessary dental services. Such services shall
211 be subject to appropriations. An electronic web-based prior authorization system
212 using best medical evidence and care and treatment guidelines consistent with
213 national standards shall be used to verify medical need;

214 (22) Prescribed medically necessary optometric services. Such services
215 shall be subject to appropriations. An electronic web-based prior authorization
216 system using best medical evidence and care and treatment guidelines consistent
217 with national standards shall be used to verify medical need;

218 (23) Blood clotting products-related services. For persons diagnosed with
219 a bleeding disorder, as defined in section 338.400, reliant on blood clotting
220 products, as defined in section 338.400, such services include:

221 (a) Home delivery of blood clotting products and ancillary infusion
222 equipment and supplies, including the emergency deliveries of the product when
223 medically necessary;

224 (b) Medically necessary ancillary infusion equipment and supplies
225 required to administer the blood clotting products; and

226 (c) Assessments conducted in the participant's home by a pharmacist,
227 nurse, or local home health care agency trained in bleeding disorders when
228 deemed necessary by the participant's treating physician;

229 (24) The MO HealthNet division shall, by January 1, 2008, and annually
230 thereafter, report the status of MO HealthNet provider reimbursement rates as
231 compared to one hundred percent of the Medicare reimbursement rates and
232 compared to the average dental reimbursement rates paid by third-party payors

233 licensed by the state. The MO HealthNet division shall, by July 1, 2008, provide
234 to the general assembly a four-year plan to achieve parity with Medicare
235 reimbursement rates and for third-party payor average dental reimbursement
236 rates. Such plan shall be subject to appropriation and the division shall include
237 in its annual budget request to the governor the necessary funding needed to
238 complete the four-year plan developed under this subdivision.

239 2. Additional benefit payments for medical assistance shall be made on
240 behalf of those eligible needy children, pregnant women and blind persons with
241 any payments to be made on the basis of the reasonable cost of the care or
242 reasonable charge for the services as defined and determined by the division of
243 medical services, unless otherwise hereinafter provided, for the following:

244 (1) Dental services;

245 (2) Services of podiatrists as defined in section 330.010;

246 (3) Optometric services as defined in section 336.010;

247 (4) Orthopedic devices or other prosthetics, including eye glasses,
248 dentures, hearing aids, and wheelchairs;

249 (5) Hospice care. As used in this subsection, the term "hospice care"
250 means a coordinated program of active professional medical attention within a
251 home, outpatient and inpatient care which treats the terminally ill patient and
252 family as a unit, employing a medically directed interdisciplinary team. The
253 program provides relief of severe pain or other physical symptoms and supportive
254 care to meet the special needs arising out of physical, psychological, spiritual,
255 social, and economic stresses which are experienced during the final stages of
256 illness, and during dying and bereavement and meets the Medicare requirements
257 for participation as a hospice as are provided in 42 CFR Part 418. The rate of
258 reimbursement paid by the MO HealthNet division to the hospice provider for
259 room and board furnished by a nursing home to an eligible hospice patient shall
260 not be less than ninety-five percent of the rate of reimbursement which would
261 have been paid for facility services in that nursing home facility for that patient,
262 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus
263 Budget Reconciliation Act of 1989);

264 (6) Comprehensive day rehabilitation services beginning early posttrauma
265 as part of a coordinated system of care for individuals with disabling
266 impairments. Rehabilitation services must be based on an individualized,
267 goal-oriented, comprehensive and coordinated treatment plan developed,
268 implemented, and monitored through an interdisciplinary assessment designed

269 to restore an individual to optimal level of physical, cognitive, and behavioral
270 function. The MO HealthNet division shall establish by administrative rule the
271 definition and criteria for designation of a comprehensive day rehabilitation
272 service facility, benefit limitations and payment mechanism. Any rule or portion
273 of a rule, as that term is defined in section 536.010, that is created under the
274 authority delegated in this subdivision shall become effective only if it complies
275 with and is subject to all of the provisions of chapter 536 and, if applicable,
276 section 536.028. This section and chapter 536 are nonseverable and if any of the
277 powers vested with the general assembly pursuant to chapter 536 to review, to
278 delay the effective date, or to disapprove and annul a rule are subsequently held
279 unconstitutional, then the grant of rulemaking authority and any rule proposed
280 or adopted after August 28, 2005, shall be invalid and void.

281 3. The MO HealthNet division may require any participant receiving MO
282 HealthNet benefits to pay part of the charge or cost until July 1, 2008, and an
283 additional payment after July 1, 2008, as defined by rule duly promulgated by the
284 MO HealthNet division, for all covered services except for those services covered
285 under subdivisions (14) and (15) of subsection 1 of this section and sections
286 208.631 to 208.657 to the extent and in the manner authorized by Title XIX of the
287 federal Social Security Act (42 U.S.C. 1396, et seq.) and regulations
288 thereunder. When substitution of a generic drug is permitted by the prescriber
289 according to section 338.056, and a generic drug is substituted for a name-brand
290 drug, the MO HealthNet division may not lower or delete the requirement to
291 make a co-payment pursuant to regulations of Title XIX of the federal Social
292 Security Act. A provider of goods or services described under this section must
293 collect from all participants the additional payment that may be required by the
294 MO HealthNet division under authority granted herein, if the division exercises
295 that authority, to remain eligible as a provider. Any payments made by
296 participants under this section shall be in addition to and not in lieu of payments
297 made by the state for goods or services described herein except the participant
298 portion of the pharmacy professional dispensing fee shall be in addition to and
299 not in lieu of payments to pharmacists. A provider may collect the co-payment
300 at the time a service is provided or at a later date. A provider shall not refuse
301 to provide a service if a participant is unable to pay a required payment. If it is
302 the routine business practice of a provider to terminate future services to an
303 individual with an unclaimed debt, the provider may include uncollected
304 co-payments under this practice. Providers who elect not to undertake the

305 provision of services based on a history of bad debt shall give participants
306 advance notice and a reasonable opportunity for payment. A provider,
307 representative, employee, independent contractor, or agent of a pharmaceutical
308 manufacturer shall not make co-payment for a participant. This subsection shall
309 not apply to other qualified children, pregnant women, or blind persons. If the
310 Centers for Medicare and Medicaid Services does not approve the Missouri MO
311 HealthNet state plan amendment submitted by the department of social services
312 that would allow a provider to deny future services to an individual with
313 uncollected co-payments, the denial of services shall not be allowed. The
314 department of social services shall inform providers regarding the acceptability
315 of denying services as the result of unpaid co-payments.

316 4. The MO HealthNet division shall have the right to collect medication
317 samples from participants in order to maintain program integrity.

318 5. Reimbursement for obstetrical and pediatric services under subdivision
319 (6) of subsection 1 of this section shall be timely and sufficient to enlist enough
320 health care providers so that care and services are available under the state plan
321 for MO HealthNet benefits at least to the extent that such care and services are
322 available to the general population in the geographic area, as required under
323 subparagraph (a)(30)(A) of 42 U.S.C. 1396a and federal regulations promulgated
324 thereunder.

325 6. Beginning July 1, 1990, reimbursement for services rendered in
326 federally funded health centers shall be in accordance with the provisions of
327 subsection 6402(c) and Section 6404 of P.L. 101-239 (Omnibus Budget
328 Reconciliation Act of 1989) and federal regulations promulgated thereunder.

329 7. Beginning July 1, 1990, the department of social services shall provide
330 notification and referral of children below age five, and pregnant, breast-feeding,
331 or postpartum women who are determined to be eligible for MO HealthNet
332 benefits under section 208.151 to the special supplemental food programs for
333 women, infants and children administered by the department of health and senior
334 services. Such notification and referral shall conform to the requirements of
335 Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

336 8. Providers of long-term care services shall be reimbursed for their costs
337 in accordance with the provisions of Section 1902 (a)(13)(A) of the Social Security
338 Act, 42 U.S.C. 1396a, as amended, and regulations promulgated thereunder.

339 9. Reimbursement rates to long-term care providers with respect to a total
340 change in ownership, at arm's length, for any facility previously licensed and

341 certified for participation in the MO HealthNet program shall not increase
342 payments in excess of the increase that would result from the application of
343 Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C. 1396a (a)(13)(C).

344 10. The MO HealthNet division, may enroll qualified residential care
345 facilities and assisted living facilities, as defined in chapter 198, as MO
346 HealthNet personal care providers.

347 11. Any income earned by individuals eligible for certified extended
348 employment at a sheltered workshop under chapter 178 shall not be considered
349 as income for purposes of determining eligibility under this section.

335.016. As used in this chapter, unless the context clearly requires
2 otherwise, the following words and terms mean:

3 (1) "Accredited", the official authorization or status granted by an agency
4 for a program through a voluntary process;

5 (2) "Advanced practice registered nurse" or "APRN", a nurse who has
6 education beyond the basic nursing education and is certified by a nationally
7 recognized professional organization as a certified nurse practitioner, certified
8 nurse midwife, certified registered nurse anesthetist, or a certified clinical nurse
9 specialist. The board shall promulgate rules specifying which nationally
10 recognized professional organization certifications are to be recognized for the
11 purposes of this section. Advanced practice nurses and only such individuals may
12 use the title "Advanced Practice Registered Nurse" and the abbreviation "APRN";

13 (3) "Approval", official recognition of nursing education programs which
14 meet standards established by the board of nursing;

15 (4) "Board" or "state board", the state board of nursing;

16 (5) "Certified clinical nurse specialist", a registered nurse who **has**
17 **completed an accredited graduate-level education program and** is
18 currently certified as a clinical nurse specialist by a nationally recognized
19 certifying board approved by the board of nursing;

20 (6) "Certified nurse midwife", a registered nurse who **has completed an**
21 **accredited graduate-level education program and** is currently certified as
22 a nurse midwife by the American College of Nurse Midwives, or other nationally
23 recognized certifying body approved by the board of nursing;

24 (7) "Certified nurse practitioner", a registered nurse who **has completed**
25 **an accredited graduate-level education program and** is currently certified
26 as a nurse practitioner by a nationally recognized certifying body approved by the
27 board of nursing;

28 (8) "Certified registered nurse anesthetist", a registered nurse who **has**
29 **completed an accredited graduate-level education program and** is
30 currently certified as a nurse anesthetist by the [Council on Certification of
31 Nurse Anesthetists, the Council on] **National Board of Certification and**
32 **Recertification of Nurse Anesthetists[,]** or other nationally recognized certifying
33 body approved by the board of nursing;

34 (9) "Executive director", a qualified individual employed by the board as
35 executive secretary or otherwise to administer the provisions of this chapter
36 under the board's direction. Such person employed as executive director shall not
37 be a member of the board;

38 (10) "Inactive nurse", as defined by rule pursuant to section 335.061;

39 (11) "Lapsed license status", as defined by rule under section 335.061;

40 (12) "Licensed practical nurse" or "practical nurse", a person licensed
41 pursuant to the provisions of this chapter to engage in the practice of practical
42 nursing;

43 (13) "Licensure", the issuing of a license to practice **advanced practice,**
44 professional, or practical nursing to candidates who have met the specified
45 requirements and the recording of the names of those persons as holders of a
46 license to practice **advanced practice,** professional, or practical nursing;

47 (14) "Practical nursing", the performance for compensation of selected acts
48 for the promotion of health and in the care of persons who are ill, injured, or
49 experiencing alterations in normal health processes. Such performance requires
50 substantial specialized skill, judgment and knowledge. All such nursing care
51 shall be given under the direction of a person licensed by a state regulatory board
52 to prescribe medications and treatments or under the direction of a registered
53 professional nurse. For the purposes of this chapter, the term "direction" shall
54 mean guidance or supervision provided by a person licensed by a state regulatory
55 board to prescribe medications and treatments or a registered professional nurse,
56 including, but not limited to, oral, written, or otherwise communicated orders or
57 directives for patient care. When practical nursing care is delivered pursuant to
58 the direction of a person licensed by a state regulatory board to prescribe
59 medications and treatments or under the direction of a registered professional
60 nurse, such care may be delivered by a licensed practical nurse without direct
61 physical oversight;

62 (15) "Professional nursing", the performance for compensation of any act
63 which requires substantial specialized education, judgment and skill based on

64 knowledge and application of principles derived from the biological, physical,
65 social and nursing sciences, including, but not limited to:

66 (a) Responsibility for the teaching of health care and the prevention of
67 illness to the patient and his or her family;

68 (b) Assessment, nursing diagnosis, nursing care, and counsel of persons
69 who are ill, injured or experiencing alterations in normal health processes;

70 (c) The administration of medications and treatments as prescribed by a
71 person licensed by a state regulatory board to prescribe medications and
72 treatments;

73 (d) The coordination and assistance in the delivery of a plan of health care
74 with all members of a health team;

75 (e) The teaching and supervision of other persons in the performance of
76 any of the foregoing;

77 (16) A "registered professional nurse" or "registered nurse", a person
78 licensed pursuant to the provisions of this chapter to engage in the practice of
79 professional nursing;

80 (17) "Retired license status", any person licensed in this state under this
81 chapter who retires from such practice. Such person shall file with the board an
82 affidavit, on a form to be furnished by the board, which states the date on which
83 the licensee retired from such practice, an intent to retire from the practice for
84 at least two years, and such other facts as tend to verify the retirement as the
85 board may deem necessary; but if the licensee thereafter reengages in the
86 practice, the licensee shall renew his or her license with the board as provided by
87 this chapter and by rule and regulation.

335.046. 1. [An applicant for a license to practice as a registered
2 professional nurse shall submit to the board a written application on forms
3 furnished to the applicant. The original application shall contain the applicant's
4 statements showing the applicant's education and other such pertinent
5 information as the board may require. The applicant shall be of good moral
6 character and have completed at least the high school course of study, or the
7 equivalent thereof as determined by the state board of education, and have
8 successfully completed the basic professional curriculum in an accredited or
9 approved school of nursing and earned a professional nursing degree or
10 diploma. Each application shall contain a statement that it is made under oath
11 or affirmation and that its representations are true and correct to the best
12 knowledge and belief of the person signing same, subject to the penalties of

13 making a false affidavit or declaration. Applicants from non-English-speaking
14 lands shall be required to submit evidence of proficiency in the English
15 language. The applicant must be approved by the board and shall pass an
16 examination as required by the board.

17 The board may require by rule as a requirement for licensure that each applicant
18 shall pass an oral or practical examination. Upon successfully passing the
19 examination, the board may issue to the applicant a license to practice nursing
20 as a registered professional nurse. The applicant for a license to practice
21 registered professional nursing shall pay a license fee in such amount as set by
22 the board. The fee shall be uniform for all applicants. Applicants from foreign
23 countries shall be licensed as prescribed by rule.

24 2. An applicant for license to practice as a licensed practical nurse shall
25 submit to the board a written application on forms furnished to the
26 applicant. The original application shall contain the applicant's statements
27 showing the applicant's education and other such pertinent information as the
28 board may require. Such applicant shall be of good moral character, and have
29 completed at least two years of high school, or its equivalent as established by the
30 state board of education, and have successfully completed a basic prescribed
31 curriculum in a state-accredited or approved school of nursing, earned a nursing
32 degree, certificate or diploma and completed a course approved by the board on
33 the role of the practical nurse. Each application shall contain a statement that
34 it is made under oath or affirmation and that its representations are true and
35 correct to the best knowledge and belief of the person signing same, subject to the
36 penalties of making a false affidavit or declaration. Applicants from
37 non-English-speaking countries shall be required to submit evidence of their
38 proficiency in the English language. The applicant must be approved by the
39 board and shall pass an examination as required by the board. The board may
40 require by rule as a requirement for licensure that each applicant shall pass an
41 oral or practical examination. Upon successfully passing the examination, the
42 board may issue to the applicant a license to practice as a licensed practical
43 nurse. The applicant for a license to practice licensed practical nursing shall pay
44 a fee in such amount as may be set by the board. The fee shall be uniform for all
45 applicants. Applicants from foreign countries shall be licensed as prescribed by
46 rule.] **An applicant for initial licensure to practice as a registered**
47 **professional nurse shall:**

48 **(1) Submit a completed written application, as established by the**

49 **board of nursing, which shall contain:**

50 **(a) The applicant's statement showing the applicant's education**
51 **and other such pertinent information as the board may require;**

52 **(b) A statement that it is made under oath or affirmation and**
53 **that its representations are true and correct to the best knowledge and**
54 **belief of the applicant, subject to the penalties of making a false**
55 **affidavit or declaration;**

56 **(2) Be of good moral character and have completed at least the**
57 **high school course of study, or the equivalent thereof, as determined**
58 **by the state board of education, and have successfully completed the**
59 **basic professional curriculum in an accredited or approved school of**
60 **nursing and earned a professional nursing degree or diploma;**

61 **(3) For applicants from non-English-speaking lands, submit**
62 **evidence of proficiency in the English language and be licensed as**
63 **prescribed by rule;**

64 **(4) Be approved by the board and pass an examination required**
65 **by the board. The board may require by rule as a requirement for**
66 **licensure that each applicant shall pass an oral or practical**
67 **examination. Upon successful passage of the examination, the board**
68 **may issue to the applicant a license to practice nursing as a registered**
69 **professional nurse;**

70 **(5) Pay a license fee in an amount established by the board by**
71 **rule, which shall be uniform for all applicants; and**

72 **(6) Provide other evidence as required by the board by rule.**

73 **2. An applicant for initial licensure to practice as a licensed**
74 **practical nurse shall:**

75 **(1) Submit a completed written application, as established by the**
76 **board of nursing, which shall contain:**

77 **(a) The applicant's statement showing the applicant's education**
78 **and other such pertinent information as the board may require;**

79 **(b) A statement that it is made under oath or affirmation and**
80 **that its representations are true and correct to the best knowledge and**
81 **belief of the applicant, subject to the penalties of making a false**
82 **affidavit or declaration;**

83 **(2) Be of good moral character and have completed at least two**
84 **years of high school, or its equivalent as established by the state board**
85 **of education, and have successfully completed a basic prescribed**

86 curriculum in a state-accredited or approved school of nursing, earned
87 a nursing degree, certificate, or diploma and completed a course
88 approved by the board on the role of the practical nurse;

89 (3) For applicants from non-English-speaking lands, submit
90 evidence of proficiency in the English language and be licensed as
91 prescribed by rule;

92 (4) Be approved by the board and pass an examination required
93 by the board. The board may require by rule as a requirement for
94 licensure that each applicant shall pass an oral or practical
95 examination. Upon successful passage of the examination, the board
96 may issue to the applicant a license to practice nursing as a licensed
97 practical nurse;

98 (5) Pay a license fee in an amount established by the board by
99 rule, which shall be uniform for all applicants; and

100 (6) Provide other evidence as required by the board by rule.

101 3. An applicant for initial licensure to practice as an advanced
102 practice registered nurse shall:

103 (1) Submit a completed written application, as established by the
104 board of nursing, which shall contain:

105 (a) The applicant's statement showing the applicant's education
106 and other such pertinent information as the board may require;

107 (b) A statement that it is made under oath or affirmation and
108 that its representations are true and correct to the best knowledge and
109 belief of the applicant, subject to the penalties of making a false
110 affidavit or declaration;

111 (2) Be of good moral character and meets the following
112 educational requirements:

113 (a) Prior to July 1, 1998, completion of a formal post basic
114 educational program from or formally affiliated with an accredited
115 college, university, or hospital of at least one academic year, which
116 includes advanced practice nursing theory and clinical nursing
117 practice, leading to a graduate degree or certificate with a
118 concentration in an advanced practice nursing clinical specialty area;

119 (b) After July 1, 1998, completion of a graduate degree from an
120 accredited college or university with a concentration in an advanced
121 practice nursing clinical specialty area, which includes advanced
122 nursing theory and clinical nursing practice;

123 (c) After January 1, 2009, completion of an accredited graduate-
124 level advanced practice registered nurse program in one of the four
125 roles and at least one population focus;

126 (3) Be currently certified by a national certifying body
127 recognized by the board of nursing in the advanced practice registered
128 nurse role and population foci appropriate to educational preparation;

129 (4) For applicants from non-English-speaking lands, submit
130 evidence of proficiency in the English language and be licensed as
131 prescribed by rule;

132 (5) Pay a license fee in an amount established by the board by
133 rule, which shall be uniform for all applicants. Upon issuance of an
134 advanced practice registered nurse license, the license holder's APRN
135 license and RN license shall be treated as one license for the purpose
136 of license renewal and assessment of license renewal fees;

137 (6) Provide other evidence as required by the board by rule; and

138 (7) Any person holding a document of recognition to practice
139 nursing as an advanced practice registered nurse in this state which is
140 valid on August 28, 2013, shall be deemed to be licensed as an APRN
141 under this section.

142 [3.] 4. Upon refusal of the board to allow any applicant to sit for either
143 the registered professional nurses' examination or the licensed practical nurses'
144 examination, as the case may be, the board shall comply with the provisions of
145 section 621.120 and advise the applicant of his or her right to have a hearing
146 before the administrative hearing commission. The administrative hearing
147 commission shall hear complaints taken pursuant to section 621.120.

148 [4.] 5. The board shall not deny a license because of sex, religion, race,
149 ethnic origin, age or political affiliation.

335.056. The license of every person licensed under the provisions of
2 [sections 335.011 to 335.096] **section 335.046** shall be renewed as provided. An
3 application for renewal of license shall be mailed to every person to whom a
4 license was issued or renewed during the current licensing period. The applicant
5 shall complete the application and return it to the board by the renewal date with
6 a renewal fee in an amount to be set by the board. The fee shall be uniform for
7 all applicants. The certificates of renewal shall render the holder thereof a legal
8 practitioner of nursing for the period stated in the certificate of renewal. Any
9 person who practices nursing as an advanced practice registered nurse, as

10 a registered professional nurse, or as a licensed practical nurse during the time
11 his **or her** license has lapsed shall be considered an illegal practitioner and shall
12 be subject to the penalties provided for violation of the provisions of sections
13 335.011 to [335.096] **335.099**.

335.066. 1. The board may refuse to issue or reinstate any certificate of
2 registration or authority, permit or license required pursuant to chapter 335 for
3 one or any combination of causes stated in subsection 2 of this section or the
4 board may, as a condition to issuing or reinstating any such permit or license,
5 require a person to submit himself or herself for identification, intervention,
6 treatment, or rehabilitation by the impaired nurse program as provided in section
7 335.067. The board shall notify the applicant in writing of the reasons for the
8 refusal and shall advise the applicant of his or her right to file a complaint with
9 the administrative hearing commission as provided by chapter 621.

10 2. The board may cause a complaint to be filed with the administrative
11 hearing commission as provided by chapter 621 against any holder of any
12 certificate of registration or authority, permit or license required by sections
13 335.011 to [335.096] **335.099** or any person who has failed to renew or has
14 surrendered his or her certificate of registration or authority, permit or license
15 for any one or any combination of the following causes:

16 (1) Use or unlawful possession of any controlled substance, as defined in
17 chapter 195, or alcoholic beverage to an extent that such use impairs a person's
18 ability to perform the work of any profession licensed or regulated by sections
19 335.011 to [335.096] **335.099**;

20 (2) The person has been finally adjudicated and found guilty, or entered
21 a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws
22 of any state or of the United States, for any offense reasonably related to the
23 qualifications, functions or duties of any profession licensed or regulated
24 pursuant to sections 335.011 to [335.096] **335.099**, for any offense an essential
25 element of which is fraud, dishonesty or an act of violence, or for any offense
26 involving moral turpitude, whether or not sentence is imposed;

27 (3) Use of fraud, deception, misrepresentation or bribery in securing any
28 certificate of registration or authority, permit or license issued pursuant to
29 sections 335.011 to [335.096] **335.099** or in obtaining permission to take any
30 examination given or required pursuant to sections 335.011 to [335.096] **335.099**;

31 (4) Obtaining or attempting to obtain any fee, charge, tuition or other
32 compensation by fraud, deception or misrepresentation;

33 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation
34 or dishonesty in the performance of the functions or duties of any profession
35 licensed or regulated by sections 335.011 to [335.096] **335.099**;

36 (6) Violation of, or assisting or enabling any person to violate, any
37 provision of sections 335.011 to [335.096] **335.099**, or of any lawful rule or
38 regulation adopted pursuant to sections 335.011 to [335.096] **335.099**;

39 (7) Impersonation of any person holding a certificate of registration or
40 authority, permit or license or allowing any person to use his or her certificate of
41 registration or authority, permit, license or diploma from any school;

42 (8) Disciplinary action against the holder of a license or other right to
43 practice any profession regulated by sections 335.011 to [335.096] **335.099**
44 granted by another state, territory, federal agency or country upon grounds for
45 which revocation or suspension is authorized in this state;

46 (9) A person is finally adjudged insane or incompetent by a court of
47 competent jurisdiction;

48 (10) Assisting or enabling any person to practice or offer to practice any
49 profession licensed or regulated by sections 335.011 to [335.096] **335.099** who is
50 not registered and currently eligible to practice pursuant to sections 335.011 to
51 [335.096] **335.099**;

52 (11) Issuance of a certificate of registration or authority, permit or license
53 based upon a material mistake of fact;

54 (12) Violation of any professional trust or confidence;

55 (13) Use of any advertisement or solicitation which is false, misleading or
56 deceptive to the general public or persons to whom the advertisement or
57 solicitation is primarily directed;

58 (14) Violation of the drug laws or rules and regulations of this state, any
59 other state or the federal government;

60 (15) Placement on an employee disqualification list or other related
61 restriction or finding pertaining to employment within a health-related profession
62 issued by any state or federal government or agency following final disposition by
63 such state or federal government or agency;

64 (16) Failure to successfully complete the impaired nurse program;

65 (17) **Prescribing, administering, or dispensing of a controlled**
66 **substance that is nontherapeutic in nature or nontherapeutic in the**
67 **manner in which it is prescribed, administered, or dispensed, or fails**
68 **to keep complete and accurate records of the diagnosis and treatment**

69 **plan;**

70 **(18) Failure to keep complete and accurate records of controlled**
71 **substances received, prescribed, dispensed, and administered, and**
72 **disposal of drugs listed in sections 195.005 to 195.425, or of controlled**
73 **substances scheduled in the Federal Comprehensive Drug Abuse**
74 **Prevention and Control Act of 1970, 21 U.S.C. Section 801, et seq.;**

75 **(19) Writing false or fictitious prescriptions for controlled**
76 **substances as scheduled in sections 195.005 to 195.425, or for controlled**
77 **substances scheduled in the Federal Comprehensive Drug Abuse**
78 **Prevention and Control Act of 1970, 21 U.S.C. Section 801, et seq.;**

79 **(20) Prescribing, administering, or dispensing in a manner which**
80 **is inconsistent with sections 195.005 to 195.425, or the Federal**
81 **Comprehensive Drug Abuse Prevention and Control Act of 1970, 21**
82 **U.S.C. Section 801, et seq.**

83 3. After the filing of such complaint, the proceedings shall be conducted
84 in accordance with the provisions of chapter 621. Upon a finding by the
85 administrative hearing commission that the grounds, provided in subsection 2 of
86 this section, for disciplinary action are met, the board may, singly or in
87 combination, censure or place the person named in the complaint on probation on
88 such terms and conditions as the board deems appropriate for a period not to
89 exceed five years, or may suspend, for a period not to exceed three years, or
90 revoke the license, certificate, or permit.

91 4. For any hearing before the full board, the board shall cause the notice
92 of the hearing to be served upon such licensee in person or by certified mail to the
93 licensee at the licensee's last known address. If service cannot be accomplished
94 in person or by certified mail, notice by publication as described in subsection 3
95 of section 506.160 shall be allowed[;]. Any representative of the board is
96 authorized to act as a court or judge would in that section[;]. Any employee of
97 the board is authorized to act as a clerk would in that section.

98 5. An individual whose license has been revoked shall wait one year from
99 the date of revocation to apply for relicensure. Relicensure shall be at the
100 discretion of the board after compliance with all the requirements of sections
101 335.011 to [335.096] **335.099** relative to the licensing of an applicant for the first
102 time.

103 6. The board may notify the proper licensing authority of any other state
104 concerning the final disciplinary action determined by the board on a license in

105 which the person whose license was suspended or revoked was also licensed of the
106 suspension or revocation.

107 7. Any person, organization, association or corporation who reports or
108 provides information to the board of nursing pursuant to the provisions of
109 sections 335.011 to 335.259 and who does so in good faith shall not be subject to
110 an action for civil damages as a result thereof.

111 8. If the board concludes that a nurse has committed an act or is engaging
112 in a course of conduct which would be grounds for disciplinary action which
113 constitutes a clear and present danger to the public health and safety, the board
114 may file a complaint before the administrative hearing commission requesting an
115 expedited hearing and specifying the activities which give rise to the danger and
116 the nature of the proposed restriction or suspension of the nurse's license. Within
117 fifteen days after service of the complaint on the nurse, the administrative
118 hearing commission shall conduct a preliminary hearing to determine whether
119 the alleged activities of the nurse appear to constitute a clear and present danger
120 to the public health and safety which justify that the nurse's license be
121 immediately restricted or suspended. The burden of proving that a nurse is a
122 clear and present danger to the public health and safety shall be upon the state
123 board of nursing. The administrative hearing commission shall issue its decision
124 immediately after the hearing and shall either grant to the board the authority
125 to suspend or restrict the license or dismiss the action.

126 9. If the administrative hearing commission grants temporary authority
127 to the board to restrict or suspend the nurse's license, such temporary authority
128 of the board shall become final authority if there is no request by the nurse for
129 a full hearing within thirty days of the preliminary hearing. The administrative
130 hearing commission shall, if requested by the nurse named in the complaint, set
131 a date to hold a full hearing under the provisions of chapter 621 regarding the
132 activities alleged in the initial complaint filed by the board.

133 10. If the administrative hearing commission refuses to grant temporary
134 authority to the board or restrict or suspend the nurse's license under subsection
135 8 of this section, such dismissal shall not bar the board from initiating a
136 subsequent disciplinary action on the same grounds.

335.076. 1. Any person who holds a license to practice professional
2 nursing in this state may use the title "Registered Professional Nurse" and the
3 abbreviation "R.N.". No other person shall use the title "Registered Professional
4 Nurse" or the abbreviation "R.N.". No other person shall assume any title or use

5 any abbreviation or any other words, letters, signs, or devices to indicate that the
6 person using the same is a registered professional nurse.

7 2. Any person who holds a license to practice practical nursing in this
8 state may use the title "Licensed Practical Nurse" and the abbreviation "L.P.N."
9 No other person shall use the title "Licensed Practical Nurse" or the abbreviation
10 "L.P.N.". No other person shall assume any title or use any abbreviation or any
11 other words, letters, signs, or devices to indicate that the person using the same
12 is a licensed practical nurse.

13 3. Any person who holds a license [or recognition] to practice advanced
14 practice nursing in this state [may] **shall have the right to** use the title
15 "Advanced Practice Registered Nurse", and the [abbreviation "APRN", and any
16 other title designations appearing on his or her license] **roles of "certified**
17 **registered nurse anesthetist", "certified nurse midwife", "certified**
18 **clinical nurse specialist", and "certified nurse practitioner", and the**
19 **abbreviations "APRN", "CRNA", "CNM", "CNS", and "CNP", respectively.** No
20 other person shall use the title "Advanced Practice Registered Nurse" or the
21 abbreviation "APRN". No other person shall assume any title or use any
22 abbreviation or any other words, letters, signs, or devices to indicate that the
23 person using the same is an advanced practice registered nurse.

24 4. No person shall practice or offer to practice professional nursing,
25 practical nursing, or advanced practice nursing in this state or use any title, sign,
26 abbreviation, card, or device to indicate that such person is a practicing
27 professional nurse, practical nurse, or advanced practice nurse unless he or she
28 has been duly licensed under the provisions of this chapter.

29 5. In the interest of public safety and consumer awareness, it is unlawful
30 for any person to use the title "nurse" in reference to himself or herself in any
31 capacity, except individuals who are or have been licensed as a registered nurse,
32 licensed practical nurse, or advanced practice registered nurse under this chapter.

33 6. Notwithstanding any law to the contrary, nothing in this chapter shall
34 prohibit a Christian Science nurse from using the title "Christian Science nurse",
35 so long as such person provides only religious nonmedical services when offering
36 or providing such services to those who choose to rely upon healing by spiritual
37 means alone and does not hold his or her own religious organization and does not
38 hold himself or herself out as a registered nurse, advanced practice registered
39 nurse, nurse practitioner, licensed practical nurse, nurse midwife, clinical nurse
40 specialist, or nurse anesthetist, unless otherwise authorized by law to do so.

335.086. No person, firm, corporation or association shall:

- 2 (1) Sell or attempt to sell or fraudulently obtain or furnish or attempt to
3 furnish any nursing diploma, license, renewal or record or aid or abet therein;
- 4 (2) Practice [professional or practical] nursing as defined by sections
5 335.011 to [335.096] **335.099** under cover of any diploma, license, or record
6 illegally or fraudulently obtained or signed or issued unlawfully or under
7 fraudulent representation;
- 8 (3) Practice [professional nursing or practical] nursing as defined by
9 sections 335.011 to [335.096] **335.099** unless duly licensed to do so under the
10 provisions of sections 335.011 to [335.096] **335.099**;
- 11 (4) Use in connection with his **or her** name any designation tending to
12 imply that he **or she** is a licensed **advanced practice registered nurse, a**
13 registered professional nurse or a licensed practical nurse unless duly licensed
14 so to practice under the provisions of sections 335.011 to [335.096] **335.099**;
- 15 (5) Practice [professional nursing or practical] nursing during the time his
16 license issued under the provisions of sections 335.011 to [335.096] **335.099** shall
17 be suspended or revoked; or
- 18 (6) Conduct a nursing education program for the preparation of
19 professional or practical nurses unless the program has been accredited by the
20 board.

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