

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1682

98TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, April 21, 2016, with recommendation that the Senate Committee Substitute do pass.

4902S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 334.040 and 376.1237, RSMo, and to enact in lieu thereof six new sections relating to health care providers.

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

Section A. Sections 334.040 and 376.1237, RSMo, are repealed and six
2 new sections enacted in lieu thereof, to be known as sections 324.048, 334.040,
3 334.280, 338.202, 376.685, and 376.1237, to read as follows:

324.048. 1. This section shall be known and may be cited as the
2 **"Medical Practice Freedom Act".**

3 **2. State licensure requirements for physicians, chiropractors,**
4 **optometrists, and dentists in this state shall be granted based on**
5 **demonstrated skill and academic competence. Licensure approval for**
6 **physicians, chiropractors, optometrists, and dentists in this state shall**
7 **not be conditioned upon or related to participation in any public or**
8 **private health insurance plan, public health care system, public service**
9 **initiative, or emergency room coverage.**

10 **3. State licensure for physicians, chiropractors, optometrists, and**
11 **dentists shall be conducted exclusively under chapters 334, 331, 336,**
12 **and 332, respectively.**

13 **4. State licensure for physicians and optometrists shall not be**
14 **conditioned upon or related to compliance with the "meaningful use" of**
15 **electronic health records as set forth in 45 CFR 170.**

334.040. 1. Except as provided in section 334.260, all persons desiring to
2 practice as physicians and surgeons in this state shall be examined as to their
3 fitness to engage in such practice by the board. All persons applying for

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

4 examination shall file a completed application with the board upon forms
5 furnished by the board.

6 2. The examination shall be sufficient to test the applicant's fitness to
7 practice as a physician and surgeon. The examination shall be conducted in such
8 a manner as to conceal the identity of the applicant until all examinations have
9 been scored. In all such examinations an average score of not less than
10 seventy-five percent is required to pass; provided, however, that the board may
11 require applicants to take the Federation Licensing Examination, also known as
12 FLEX, or the United States Medical Licensing Examination (USMLE). If the
13 FLEX examination is required, a weighted average score of no less than
14 seventy-five is required to pass. Scores from one test administration of [the
15 FLEX] **an examination** shall not be combined or averaged with scores from
16 other test administrations to achieve a passing score. [The passing score of the
17 United States Medical Licensing Examination shall be determined by the board
18 through rule and regulation.] Applicants graduating from a medical or
19 osteopathic college, as [defined] **described** in section 334.031 prior to January
20 1, 1994, shall provide proof of successful completion of the FLEX, USMLE, [an
21 exam administered by] the National Board of Osteopathic Medical Examiners
22 [(NBOME)] **Comprehensive Licensing Exam (COMLEX)**, a state board
23 examination approved by the board, compliance with subsection 2 of section
24 334.031, or compliance with 20 CSR 2150-2.005. Applicants graduating from a
25 medical or osteopathic college, as [defined] **described** in section 334.031 on or
26 after January 1, 1994, must provide proof of **successful** completion of the
27 USMLE or [an exam administered by NBOME] **the COMLEX** or provide proof
28 of compliance with subsection 2 of section 334.031. The board shall not issue a
29 permanent license as a physician and surgeon or allow the Missouri state board
30 examination to be administered to any applicant who has failed to achieve a
31 passing score within three attempts on licensing examinations administered in
32 one or more states or territories of the United States, the District of Columbia or
33 Canada. The steps one, two and three of the United States Medical Licensing
34 Examination **or the National Board of Osteopathic Medical Examiners**
35 **Comprehensive Licensing Exam** shall be taken within a seven-year period
36 with no more than three attempts on any step of the examination; however, the
37 board may grant an extension of the seven-year period if the applicant has
38 obtained a MD/PhD degree in a program accredited by the Liaison Committee on
39 Medical Education (LCME) and a regional university accrediting body or a

40 DO/PhD degree accredited by the American Osteopathic Association and a
41 regional university accrediting body. The board may waive the provisions of this
42 section if the applicant is licensed to practice as a physician and surgeon in
43 another state of the United States, the District of Columbia or Canada and the
44 applicant has achieved a passing score on a licensing examination administered
45 in a state or territory of the United States or the District of Columbia and no
46 license issued to the applicant has been disciplined in any state or territory of the
47 United States or the District of Columbia [and the applicant is certified in the
48 applicant's area of specialty by the American Board of Medical Specialties, the
49 American Osteopathic Association, or other certifying agency approved by the
50 board by rule].

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

55 4. If an applicant has not actively engaged in the practice of clinical
56 medicine or held a teaching or faculty position in a medical or osteopathic school
57 approved by the American Medical Association, the Liaison Committee on Medical
58 Education, or the American Osteopathic Association for any two years in the
59 three-year period immediately preceding the filing of his or her application for
60 licensure, the board may require successful completion of another examination,
61 continuing medical education, or further training before issuing a permanent
62 license. The board shall adopt rules to prescribe the form and manner of such
63 reexamination, continuing medical education, and training.

**334.280. 1. For purposes of this section, the following terms shall
2 mean:**

3 **(1) "Continuing medical education", continued postgraduate
4 medical education intended to provide medical professionals with
5 knowledge of new developments in their field;**

6 **(2) "Maintenance of certification", any process requiring periodic
7 recertification examinations to maintain specialty medical board
8 certification;**

9 **(3) "Maintenance of licensure", the Federation of State Medical
10 Boards' proprietary framework for physician license renewal including
11 additional periodic testing other than continuing medical education;**

12 **(4) "Specialty medical board certification", certification by a**

13 board that specializes in one particular area of medicine and typically
14 requires additional and more strenuous exams than state board of
15 registration for the healing arts requirements to practice medicine.

16 2. The state shall not require any form of maintenance of
17 licensure as a condition of physician licensure including requiring any
18 form of maintenance of licensure tied to maintenance of
19 certification. Current requirements including continuing medical
20 education shall suffice to demonstrate professional competency.

21 3. The state shall not require any form of specialty medical board
22 certification or any maintenance of certification to practice medicine
23 within the state. There shall be no discrimination by the state board
24 of registration for the healing arts or any other state agency against
25 physicians who do not maintain specialty medical board certification
26 including recertification.

338.202. 1. Notwithstanding any other provision of law, unless
2 the prescriber has specified on the prescription that dispensing a
3 prescription for a maintenance medication in an initial amount
4 followed by periodic refills is medically necessary, a pharmacist may
5 exercise his or her professional judgment to dispense varying
6 quantities of maintenance medication per fill up to the total number of
7 dosage units as authorized by the prescriber on the original
8 prescription, including any refills. Dispensing of the maintenance
9 medication based on refills authorized by the physician on the
10 prescription shall be limited to no more than a ninety-day supply of the
11 medication, and the maintenance medication shall have been previously
12 prescribed to the patient for at least a three-month period.

13 2. For the purposes of this section "maintenance medication" is
14 a medication prescribed for chronic, long-term conditions and is taken
15 on a regular, recurring basis, except that it shall not include controlled
16 substances as defined in section 195.010.

376.685. 1. No agreement between a health carrier or other
2 insurer that writes vision insurance and an optometrist for the
3 provision of vision services on a preferred or in-network basis to plan
4 members or insurance subscribers in connection with coverage under
5 a stand-alone vision plan, medical plan, health benefit plan, or health
6 insurance policy shall require that an optometrist provide optometric
7 or ophthalmic services or materials at a fee limited or set by the plan

8 or health carrier unless the services or materials are reimbursed as
9 covered services under the contract.

10 2. No provider shall charge more for services or materials that
11 are not covered under a health benefit or vision plan than his or her
12 usual and customary rate for those services or materials.

13 3. Reimbursement paid by the health benefit or vision plan for
14 covered services or materials shall be reasonable and shall not provide
15 nominal reimbursement in order to claim that services or materials are
16 covered services. No health carrier shall provide de minimis
17 reimbursement or coverage in an effort to avoid the requirements of
18 this section.

19 4. No vision care insurance policy or vision care discount plan
20 that provides covered services for materials shall have the effect,
21 directly or indirectly, of limiting the choice of sources and suppliers of
22 materials by a patient of a vision care provider.

23 5. Notwithstanding any other provisions in this section, nothing
24 shall prohibit an optometrist from contractually opting in to an
25 optometric services discount plan sponsored by a stand-alone vision
26 plan, medical plan, health benefit plan, or health insurance policy.

27 6. For the purposes of this section, the following terms shall
28 mean:

29 (1) "Covered services", optometric or ophthalmic services or
30 materials for which reimbursement from the health benefit or vision
31 plan is provided for by an enrollee's plan contract, or for which a
32 reimbursement would be available but for the application of the
33 enrollee's contractual limitations of deductibles, copayments,
34 coinsurance, waiting periods, annual or lifetime maximums, alternative
35 benefit payments, or frequency limitations;

36 (2) "Health benefit plan", the same meaning as such term is
37 defined in section 376.1350;

38 (3) "Health carrier", the same meaning as such term is defined in
39 section 376.1350;

40 (4) "Materials", includes, but is not limited to, lenses, frames,
41 devices containing lenses, prisms, lens treatment and coatings, contact
42 lenses, orthoptics, vision training devices, and prosthetic devices to
43 correct, relieve, or treat defects or abnormal conditions of the human
44 eye or its adnexa;

45 **(5) "Optometric services", any services within the scope of**
46 **optometric practice under chapter 336;**

47 **(6) "Vision plan", any policy, contract of insurance, or discount**
48 **plan issued by a health carrier, health benefit plan, or company which**
49 **provides coverage or a discount for optometric or ophthalmic services**
50 **or materials.**

376.1237. 1. Each health carrier or health benefit plan that offers or
2 issues health benefit plans which are delivered, issued for delivery, continued, or
3 renewed in this state on or after January 1, 2014, and that provides coverage for
4 prescription eye drops shall provide coverage for the refilling of an eye drop
5 prescription prior to the last day of the prescribed dosage period without regard
6 to a coverage restriction for early refill of prescription renewals as long as the
7 prescribing health care provider authorizes such early refill, and the health
8 carrier or the health benefit plan is notified.

9 2. For the purposes of this section, health carrier and health benefit plan
10 shall have the same meaning as defined in section 376.1350.

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

14 4. The provisions of this section shall not apply to a supplemental
15 insurance policy, including a life care contract, accident-only policy, specified
16 disease policy, hospital policy providing a fixed daily benefit only, Medicare
17 supplement policy, long-term care policy, short-term major medical policies of six
18 months' or less duration, or any other supplemental policy as determined by the
19 director of the department of insurance, financial institutions and professional
20 registration.

21 5. The provisions of this section shall terminate on January 1, [2017]
22 **2020.**

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