

SECOND REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1682
98TH GENERAL ASSEMBLY

4902S.03T

2016

AN ACT

To repeal sections 191.332, 334.040, 376.1237, and 630.175, RSMo, and to enact in lieu thereof twelve new sections relating to health care providers.

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

Section A. Sections 191.332, 334.040, 376.1237, and 630.175, RSMo, are repealed and
2 twelve new sections enacted in lieu thereof, to be known as sections 191.332, 191.1075,
3 191.1080, 191.1085, 192.947, 324.048, 334.040, 334.280, 338.202, 376.685, 376.1237, and
4 630.175, to read as follows:

191.332. 1. By January 1, 2002, the department of health and senior services shall,
2 subject to appropriations, expand the newborn screening requirements in section 191.331 to
3 include potentially treatable or manageable disorders, which may include but are not limited to
4 cystic fibrosis, galactosemia, biotinidase deficiency, congenital adrenal hyperplasia, maple syrup
5 urine disease (MSUD) and other amino acid disorders, glucose-6-phosphate dehydrogenase
6 deficiency (G-6-PD), MCAD and other fatty acid oxidation disorders, methylmalonic acidemia,
7 propionic acidemia, isovaleric acidemia and glutaric acidemia Type I.

8 **2. By January 1, 2017, the department of health and senior services shall, subject**
9 **to appropriations, expand the newborn screening requirements in section 191.331 to**
10 **include severe combined immunodeficiency (SCID), also known as bubble boy disease. The**
11 **department may increase the fee authorized under subsection 6 of section 191.331 to cover**
12 **any additional costs of the expanded newborn screening requirements under this**
13 **subsection.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 **3.** The department of health and senior services may promulgate rules to implement the
15 provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of
16 this section shall become effective unless it has been promulgated pursuant to chapter 536.

191.1075. As used in sections 191.1075 to 191.1085, the following terms shall mean:

2 **(1) "Department", the department of health and senior services;**

3 **(2) "Health care professional", a physician or other health care practitioner**
4 **licensed, accredited, or certified by the state of Missouri to perform specified health**
5 **services;**

6 **(3) "Hospital":**

7 **(a) A place devoted primarily to the maintenance and operation of facilities for the**
8 **diagnosis, treatment, or care of not less than twenty-four consecutive hours in any week**
9 **of three or more nonrelated individuals suffering from illness, disease, injury, deformity,**
10 **or other abnormal physical conditions; or**

11 **(b) A place devoted primarily to provide for not less than twenty-four consecutive**
12 **hours in any week medical or nursing care for three or more unrelated individuals.**
13 **"Hospital" does not include convalescent, nursing, shelter, or boarding homes as defined**
14 **in chapter 198.**

191.1080. 1. There is hereby created within the department of health and senior
2 **services the "Missouri Palliative Care and Quality of Life Interdisciplinary Council",**
3 **which shall be a palliative care consumer and professional information and education**
4 **program to improve quality and delivery of patient-centered and family-focused care in**
5 **this state.**

6 **2. On or before December 1, 2016, the following members shall be appointed to the**
7 **council:**

8 **(1) Two members of the senate, appointed by the president pro tempore of the**
9 **senate;**

10 **(2) Two members of the house of representatives, appointed by the speaker of the**
11 **house of representatives;**

12 **(3) Two board-certified hospice and palliative medicine physicians licensed in this**
13 **state, appointed by the governor with the advice and consent of the senate;**

14 **(4) Two certified hospice and palliative nurses licensed in this state, appointed by**
15 **the governor with the advice and consent of the senate;**

16 **(5) A certified hospice and palliative social worker, appointed by the governor with**
17 **the advice and consent of the senate;**

18 **(6) A patient and family caregiver advocate representative, appointed by the**
19 **governor with the advice and consent of the senate;**

20 (7) A spiritual professional with experience in palliative care and health care,
21 appointed by the governor with the advice and consent of the senate.

22 3. Council members shall serve for a term of three years. The members of the
23 council shall elect a chair and vice chair whose duties shall be established by the council.
24 The department shall determine a time and place for regular meetings of the council, which
25 shall meet at least biannually.

26 4. Members of the council shall serve without compensation, but shall, subject to
27 appropriations, be reimbursed for their actual and necessary expenses incurred in the
28 performance of their duties as members of the council.

29 5. The council shall consult with and advise the department on matters related to
30 the establishment, maintenance, operation, and outcomes evaluation of palliative care
31 initiatives in this state, including the palliative care consumer and professional information
32 and education program established in section 191.1085.

33 6. The council shall submit an annual report to the general assembly which includes
34 an assessment of the availability of palliative care in this state for patients at early stages
35 of serious disease and an analysis of barriers to greater access to palliative care.

36 7. The council authorized under this section shall automatically expire August 28,
37 2022.

191.1085. 1. There is hereby established the "Palliative Care Consumer and
2 Professional Information and Education Program" within the department of health and
3 senior services.

4 2. The purpose of the program is to maximize the effectiveness of palliative care in
5 this state by ensuring that comprehensive and accurate information and education about
6 palliative care is available to the public, health care providers, and health care facilities.

7 3. The department shall publish on its website information and resources, including
8 links to external resources, about palliative care for the public, health care providers, and
9 health care facilities, including but not limited to:

10 (1) Continuing education opportunities for health care providers;

11 (2) Information about palliative care delivery in the home, primary, secondary, and
12 tertiary environments; and

13 (3) Consumer educational materials and referral information for palliative care,
14 including hospice.

15 4. Each hospital in this state is encouraged to have a palliative care presence on its
16 intranet or internet website which provides links to one or more of the following
17 organizations: the Institute of Medicine, the Center to Advance Palliative Care, the
18 Supportive Care Coalition, the National Hospice and Palliative Care Organization, the

19 American Academy of Hospice and Palliative Medicine, and the National Institute on
20 Aging.

21 **5. Each hospital in this state is encouraged to have patient education information**
22 **about palliative care available for distribution to patients.**

23 **6. The department shall consult with the palliative care and quality of life**
24 **interdisciplinary council established in section 191.1080 in implementing the section.**

25 **7. The department may promulgate rules to implement the provisions of sections**
26 **191.1075 to 191.1085. Any rule or portion of a rule, as that term is defined in section**
27 **536.010, that is created under the authority delegated in sections 191.1075 to 191.1085 shall**
28 **become effective only if it complies with and is subject to all of the provisions of chapter**
29 **536 and, if applicable, section 536.028. Sections 191.1075 to 191.1085 and chapter 536 are**
30 **nonseverable and if any of the powers vested with the general assembly pursuant to**
31 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
32 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
33 **proposed or adopted after August 28, 2016, shall be invalid and void.**

34 **8. Notwithstanding the provisions of section 23.253 to the contrary, the program**
35 **authorized under this section shall automatically expire on August 28, 2022.**

192.947. 1. No individual or health care entity organized under the laws of this
2 **state shall be subject to any adverse action by the state or any agency, board, or**
3 **subdivision thereof, including civil or criminal prosecution, denial of any right or privilege,**
4 **the imposition of a civil or administrative penalty or sanction, or disciplinary action by any**
5 **accreditation or licensing board or commission if such individual or health care entity, in**
6 **its normal course of business and within its applicable licenses and regulations, acts in**
7 **good faith upon or in furtherance of any order or recommendation by a neurologist**
8 **authorized under section 192.945 relating to the medical use and administration of hemp**
9 **extract with respect to an eligible patient.**

10 **2. The provisions of subsection 1 of this section shall apply to the recommendation,**
11 **possession, handling, storage, transfer, destruction, dispensing, or administration of hemp**
12 **extract, including any act in preparation of such dispensing or administration.**

13 **3. This section shall not be construed to limit the rights provided under law for a**
14 **patient to bring a civil action for damages against a physician, hospital, registered or**
15 **licensed practical nurse, pharmacist, any other individual or entity providing health care**
16 **services, or an employee of any entity listed in this subsection.**

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

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

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

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

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

5 2. The examination shall be sufficient to test the applicant's fitness to practice as a
6 physician and surgeon. The examination shall be conducted in such a manner as to conceal the
7 identity of the applicant until all examinations have been scored. In all such examinations an
8 average score of not less than seventy-five percent is required to pass; provided, however, that
9 the board may require applicants to take the Federation Licensing Examination, also known as
10 FLEX, or the United States Medical Licensing Examination (USMLE). If the FLEX
11 examination is required, a weighted average score of no less than seventy-five is required to pass.
12 Scores from one test administration of [the FLEX] **an examination** shall not be combined or
13 averaged with scores from other test administrations to achieve a passing score. [The passing
14 score of the United States Medical Licensing Examination shall be determined by the board
15 through rule and regulation.] Applicants graduating from a medical or osteopathic college, as
16 [defined] **described** in section 334.031 prior to January 1, 1994, shall provide proof of successful
17 completion of the FLEX, USMLE, [an exam administered by] the National Board of Osteopathic
18 Medical Examiners [(NBOME)] **Comprehensive Licensing Exam (COMLEX)**, a state board
19 examination approved by the board, compliance with subsection 2 of section 334.031, or
20 compliance with 20 CSR 2150-2.005. Applicants graduating from a medical or osteopathic
21 college, as [defined] **described** in section 334.031 on or after January 1, 1994, must provide
22 proof of **successful** completion of the USMLE or [an exam administered by NBOME] **the**
23 **COMLEX** or provide proof of compliance with subsection 2 of section 334.031. The board
24 shall not issue a permanent license as a physician and surgeon or allow the Missouri state board
25 examination to be administered to any applicant who has failed to achieve a passing score within

26 three attempts on licensing examinations administered in one or more states or territories of the
27 United States, the District of Columbia or Canada. The steps one, two and three of the United
28 States Medical Licensing Examination **or the National Board of Osteopathic Medical**
29 **Examiners Comprehensive Licensing Exam** shall be taken within a seven-year period with no
30 more than three attempts on any step of the examination; however, the board may grant an
31 extension of the seven-year period if the applicant has obtained a MD/PhD degree in a program
32 accredited by the Liaison Committee on Medical Education (LCME) and a regional university
33 accrediting body or a DO/PhD degree accredited by the American Osteopathic Association and
34 a regional university accrediting body. The board may waive the provisions of this section if the
35 applicant is licensed to practice as a physician and surgeon in another state of the United States,
36 the District of Columbia or Canada and the applicant has achieved a passing score on a licensing
37 examination administered in a state or territory of the United States or the District of Columbia
38 and no license issued to the applicant has been disciplined in any state or territory of the United
39 States or the District of Columbia [and the applicant is certified in the applicant's area of
40 specialty by the American Board of Medical Specialties, the American Osteopathic Association,
41 or other certifying agency approved by the board by rule].

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

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

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

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

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

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

10 **(4) "Specialty medical board certification", certification by a board that specializes**
11 **in one particular area of medicine and typically requires additional and more strenuous**
12 **exams than state board of registration for the healing arts requirements to practice**
13 **medicine.**

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

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

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

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

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

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

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

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

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

21 **6. For the purposes of this section, the following terms shall mean:**

22 **(1) "Covered services", optometric or ophthalmic services or materials for which**
23 **reimbursement from the health benefit or vision plan is provided for by an enrollee's plan**
24 **contract, or for which a reimbursement would be available but for the application of the**
25 **enrollee's contractual limitations of deductibles, copayments, coinsurance, waiting periods,**
26 **annual or lifetime maximums, alternative benefit payments, or frequency limitations;**

27 **(2) "Health benefit plan", the same meaning as such term is defined in section**
28 **376.1350;**

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

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

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

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

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

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

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

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

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

630.175. 1. No person admitted on a voluntary or involuntary basis to any mental health
2 facility or mental health program in which people are civilly detained pursuant to chapter 632
3 and no patient, resident or client of a residential facility or day program operated, funded or
4 licensed by the department shall be subject to physical or chemical restraint, isolation or
5 seclusion unless it is determined by the head of the facility, the attending licensed physician, or
6 in the circumstances specifically set forth in this section, by an advanced practice registered
7 nurse in a collaborative practice arrangement, **or a physician assistant or an assistant**
8 **physician with a supervision agreement**, with the attending licensed physician that the chosen
9 intervention is imminently necessary to protect the health and safety of the patient, resident,
10 client or others and that it provides the least restrictive environment. An advanced practice
11 registered nurse in a collaborative practice arrangement, **or a physician assistant or an**
12 **assistant physician with a supervision agreement**, with the attending licensed physician may
13 make a determination that the chosen intervention is necessary for patients, residents, or clients
14 of facilities or programs operated by the department, in hospitals as defined in section 197.020
15 that only provide psychiatric care and in dedicated psychiatric units of general acute care
16 hospitals as hospitals are defined in section 197.020. Any determination made by the advanced
17 practice registered nurse, **physician assistant, or assistant physician** shall be documented as
18 required in subsection 2 of this section and reviewed in person by the attending licensed
19 physician if the episode of restraint is to extend beyond:

20 (1) Four hours duration in the case of a person under eighteen years of age;

21 (2) Eight hours duration in the case of a person eighteen years of age or older; or

22 (3) For any total length of restraint lasting more than four hours duration in a
23 twenty-four-hour period in the case of a person under eighteen years of age or beyond eight hours
24 duration in the case of a person eighteen years of age or older in a twenty-four-hour period.

25

26 The review shall occur prior to the time limit specified under subsection 6 of this section and
27 shall be documented by the licensed physician under subsection 2 of this section.

28 2. Every use of physical or chemical restraint, isolation or seclusion and the reasons
29 therefor shall be made a part of the clinical record of the patient, resident or client under the
30 signature of the head of the facility, or the attending licensed physician, or the advanced practice
31 registered nurse in a collaborative practice arrangement, **or a physician assistant or an**
32 **assistant physician with a supervision agreement**, with the attending licensed physician.

33 3. Physical or chemical restraint, isolation or seclusion shall not be considered standard
34 treatment or habilitation and shall cease as soon as the circumstances causing the need for such
35 action have ended.

36 4. The use of security escort devices, including devices designed to restrict physical
37 movement, which are used to maintain safety and security and to prevent escape during transport
38 outside of a facility shall not be considered physical restraint within the meaning of this section.
39 Individuals who have been civilly detained under sections 632.300 to 632.475 may be placed in
40 security escort devices when transported outside of the facility if it is determined by the head of
41 the facility, or the attending licensed physician, or the advanced practice registered nurse in a
42 collaborative practice arrangement, **or a physician assistant or an assistant physician with a**
43 **supervision agreement**, with the attending licensed physician that the use of security escort
44 devices is necessary to protect the health and safety of the patient, resident, client, or other
45 persons or is necessary to prevent escape. Individuals who have been civilly detained under
46 sections 632.480 to 632.513 or committed under chapter 552 shall be placed in security escort
47 devices when transported outside of the facility unless it is determined by the head of the facility,
48 or the attending licensed physician, or the advanced practice registered nurse in a collaborative
49 practice arrangement, **or a physician assistant or an assistant physician with a supervision**
50 **agreement**, with the attending licensed physician that security escort devices are not necessary
51 to protect the health and safety of the patient, resident, client, or other persons or is not necessary
52 to prevent escape.

53 5. Extraordinary measures employed by the head of the facility to ensure the safety and
54 security of patients, residents, clients, and other persons during times of natural or man-made
55 disasters shall not be considered restraint, isolation, or seclusion within the meaning of this
56 section.

57 6. Orders issued under this section by the advanced practice registered nurse in a
58 collaborative practice arrangement, **or a physician assistant or an assistant physician with a**
59 **supervision agreement**, with the attending licensed physician shall be reviewed in person by
60 the attending licensed physician of the facility within twenty-four hours or the next regular

61 working day of the order being issued, and such review shall be documented in the clinical
62 record of the patient, resident, or client.

63 7. For purposes of this subsection, "division" shall mean the division of developmental
64 disabilities. Restraint or seclusion shall not be used in habilitation centers or community
65 programs that serve persons with developmental disabilities that are operated or funded by the
66 division unless such procedure is part of an emergency intervention system approved by the
67 division and is identified in such person's individual support plan. Direct-care staff that serve
68 persons with developmental disabilities in habilitation centers or community programs operated
69 or funded by the division shall be trained in an emergency intervention system approved by the
70 division when such emergency intervention system is identified in a consumer's individual
71 support plan.

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