

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]

HOUSE BILL NO. 440

92ND GENERAL ASSEMBLY

1577L.01T

2003

AN ACT

To repeal section 332.327, RSMo, and to enact in lieu thereof one new section relating to dentists.

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

Section A. Section 332.327, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 332.327, to read as follows:

332.327. 1. The board may establish an impaired dentist or dental hygienist committee, to be designated as the well-being committee, to promote the early identification, intervention, treatment and rehabilitation of dentists or dental hygienists who may be impaired by reasons of illness, substance abuse, or as a result of any physical or mental condition. The board may enter into a contractual agreement with a nonprofit corporation or a dental association for the purpose of creating, supporting and maintaining a committee to be designated as the well-being committee. The board may promulgate administrative rules subject to the provisions of this section and chapter 536, RSMo, to effectuate and implement any committee formed pursuant to this section. The board may expend appropriated funds necessary to provide for operational expenses of the committee formed pursuant to this section. Any member of the well-being committee, as well as any administrator, staff member, consultant, agent or employee of the committee, acting within the scope of his or her duties and without actual malice and, all other persons who furnish information to the committee in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation or action taken by the committee, or by any individual member of the committee.

2. All information, interviews, reports, statements, memoranda or other documents furnished to or produced by the well-being committee, as well as communications to or from the committee, any findings, conclusions, interventions, treatment, rehabilitation or other proceedings of the committee which in any way pertain to a licensee who may be, or who actually is, impaired shall be privileged and confidential.

3. All records and proceedings of the well-being committee which pertain or refer to a

22 licensee who may be, or who actually is, impaired shall be privileged and confidential and shall
23 be used by the committee and its members only in the exercise of the proper function of the
24 committee and shall not be considered public records pursuant to chapter 610, RSMo, and shall
25 not be subject to court subpoena or subject to discovery or introduction as evidence in any civil,
26 criminal or administrative proceedings except as provided in subsection 4 of this section.

27 4. The well-being committee may disclose information relative to an impaired licensee
28 only when:

29 (1) It is essential to disclose the information to further the intervention, treatment or
30 rehabilitation needs of the impaired licensee and only to those persons or organization with a
31 need to know;

32 (2) Its release is authorized in writing by the impaired licensee;

33 (3) The committee is required to make a report to the board; or

34 (4) The information is subject to a court order.

35 5. In lieu of pursuing discipline against a dentist or dental hygienist for violating one or
36 more causes stated in subsection 2 of section 332.321, the board may enter into a diversion
37 agreement with a dentist or dental hygienist to refer the licensee to the dental well-being
38 committee under such terms and conditions as are agreed to by the board and licensee for a
39 period not to exceed five years. The board shall enter into no more than two diversion
40 agreements with any individual licensee. If the licensee violates a term or condition of a
41 diversion agreement entered into pursuant to this section, the board may elect to pursue
42 discipline against the licensee pursuant to chapter 621, RSMo, for the original conduct that
43 resulted in the diversion agreement, or for any subsequent violation of subsection 2 of section
44 332.321. While the licensee participates in the well-being committee, the time limitations of
45 section 620.154, RSMo, shall toll pursuant to subsection 7 of section 620.154, RSMo. All
46 records pertaining to diversion agreements are confidential and may only be released pursuant
47 to subdivision (7) of subsection 14 of section 620.010, RSMo.

48 **6. The board may disclose information and records to the well-being committee to**
49 **assist the committee in the identification, intervention, treatment, and rehabilitation of**
50 **dentists or dental hygienists who may be impaired by reason of illness, substance abuse,**
51 **or as the result of any physical or mental condition. The well-being committee shall keep**
52 **all information and records provided by the board confidential to the extent the board is**
53 **required to treat the information and records as closed to the public pursuant to chapter**
54 **620, RSMo.**