

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 1122**  
**92ND GENERAL ASSEMBLY**

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Reported from the Committee on Professional Registration and Licensing, May 5, 2004, with recommendation that the House Committee Substitute for Senate Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill No. 1122 Do Pass.

STEPHEN S. DAVIS, Chief Clerk

4017L.12C

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**AN ACT**

To repeal sections 332.051, 332.071, 332.081, 332.111, 332.121, 334.100, and 334.506, RSMo, and to enact in lieu thereof nine new sections relating to professional licensing, with penalty provisions.

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

Section A. Sections 332.051, 332.071, 332.081, 332.111, 332.121, 334.100, and 334.506, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 332.032, 332.051, 332.071, 332.081, 332.111, 332.121, 332.122, 334.100, and 334.506, to read as follows:

**332.032. 1. Upon unanimous consent of the members of the board, the president or secretary of the board shall administer oaths, subpoena witnesses, issue subpoenas duces tecum, and require production of documents and records pertaining to the practice of dentistry. Subpoenas, including subpoenas duces tecum, shall be served by a person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the board may require sworn copies of such documents to be filed with it or delivered to its designated representative.**

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

9           **2. The board may enforce its subpoenas, including subpoena duces tecum, by**  
10 **applying to a circuit court of Cole County, the county of the investigation, hearing, or**  
11 **proceeding, or any county where the person resides or may be found, for an order upon**  
12 **any person who shall fail to obey a subpoena to show cause why such subpoena should not**  
13 **be enforced, which such order and a copy of the application therefore shall be served upon**  
14 **the person in the same manner as a summons in a civil action, and if the circuit court shall,**  
15 **after a hearing, determine that the subpoena should be sustained and enforced, such court**  
16 **shall proceed to enforce the subpoena in the same manner as though the subpoena had**  
17 **been issued in a civil case in the circuit court.**

332.051. 1. The board shall establish and maintain an office at Jefferson City, Missouri,  
2 where its records and files shall be kept.

3           2. Investigators employed by the board shall, among other duties, have the power in the  
4 name of the board to investigate alleged violations of this chapter including the right to inspect,  
5 on order of the board, [dental offices, including records, dental laboratories, dental equipment  
6 and instruments] **any person licensed to practice dentistry or entity providing dental services**  
7 **in this state, including all facilities and equipment related to the delivery of dental care or**  
8 **the fabrication or adjustment of dental prostheses and all clinical and administrative**  
9 **records related to the dental care of patients** with respect to violations of the provisions of this  
10 chapter.

332.071. A person or other entity "practices dentistry" within the meaning of this chapter  
2 who:

3           (1) Undertakes to do or perform dental work or dental services or dental operations or  
4 oral surgery, by any means or methods, including the use of lasers, gratuitously or for a salary  
5 or fee or other reward, paid directly or indirectly to the person or to any other person or entity;

6           (2) Diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats  
7 or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition of  
8 human teeth or adjacent structures or treats or professes to treat any disease or disorder or lesions  
9 of the oral regions;

10           (3) Attempts to or does replace or restore a part or portion of a human tooth;

11           (4) Attempts to or does extract human teeth or attempts to or does correct malformations  
12 of human teeth or jaws;

13           (5) Attempts to or does adjust an appliance or appliances for use in or used in connection  
14 with malposed teeth in the human mouth;

15           (6) Interprets or professes to interpret or read dental radiographs;

16           (7) Administers an anesthetic in connection with dental services or dental operations or  
17 dental surgery;

18 (8) Undertakes to or does remove hard and soft deposits from or polishes natural and  
19 restored surfaces of teeth;

20 (9) Uses or permits to be used for the person's benefit or for the benefit of any other  
21 person or other entity the following titles or words in connection with the person's name:  
22 "Doctor", "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters, titles, degrees or  
23 descriptive matter which directly or indirectly indicate or imply that the person is willing or able  
24 to perform any type of dental service for any person or persons, or uses or permits the use of for  
25 the person's benefit or for the benefit of any other person or other entity any card, directory,  
26 poster, sign or any other means by which the person indicates or implies or represents that the  
27 person is willing or able to perform any type of dental services or operation for any person;

28 (10) Directly or indirectly owns, leases, operates, maintains, manages or conducts an  
29 office or establishment of any kind in which dental services or dental operations of any kind are  
30 performed for any purpose; but this section shall not be construed to prevent owners or lessees  
31 of real estate from lawfully leasing premises to those who are qualified to practice dentistry  
32 within the meaning of this chapter;

33 (11) **Controls, influences, attempts to control or influence, or otherwise interferes**  
34 **with the dentist's independent professional judgment regarding the diagnosis or treatment**  
35 **of a dental disease, disorder, or physical condition except that any opinion rendered by any**  
36 **health care professional licensed under this chapter or chapter 330, 331, 334, 335, 336, 337,**  
37 **or 338, RSMo, regarding the diagnosis, treatment, disorder, or physical condition of any**  
38 **patient shall not be construed to control, influence, attempt to control or influence or**  
39 **otherwise interfere with a dentist's independent professional judgement;**

40 (12) Constructs, supplies, reproduces or repairs any prosthetic denture, bridge, artificial  
41 restoration, appliance or other structure to be used or worn as a substitute for natural teeth,  
42 except when one, not a registered and licensed dentist, does so pursuant to a written uniform  
43 laboratory work order, in the form to be prescribed by the board and copies of which shall be  
44 retained by the nondentist for two years, of a dentist registered and currently licensed in Missouri  
45 and which the substitute in this subdivision described is constructed upon or by use of casts or  
46 models made from an impression furnished by a dentist registered and currently licensed in  
47 Missouri;

48 [(12)] (13) Attempts to or does place any substitute described in subdivision [(11)] (12)  
49 of this section in a human mouth or attempts to or professes to adjust any substitute or delivers  
50 any substitute to any person other than the dentist upon whose order the work in producing the  
51 substitute was performed;

52 [(13)] (14) Advertises, solicits, or offers to or does sell or deliver any substitute  
53 described in subdivision [(11)] (12) of this section or offers to or does sell the person's services

54 in constructing, reproducing, supplying or repairing the substitute to any person other than a  
55 registered and licensed dentist in Missouri;

56 [(14)] **(15) Undertakes to do or perform any physical evaluation of a patient in the**  
57 **person's office or in a hospital, clinic, or other medical or dental facility prior to or incident to**  
58 **the performance of any dental services, dental operations, or dental surgery;**

59 **(16) Reviews examination findings, x-rays, or other patient data to make judgments**  
60 **or decisions about the dental care rendered to a patient in this state.**

332.081. 1. No person **or other entity** shall practice dentistry in Missouri **or provide**  
2 **dental services** as defined in section 332.071 unless and until the board has issued to the person  
3 a certificate certifying that the person has been duly registered as a dentist in Missouri **or to an**  
4 **entity that has been duly registered to provide dental services by licensed dentists and**  
5 **dental hygienists** and unless and until the board has issued to the person a license, to be renewed  
6 each period, as provided in this chapter, to practice dentistry **or as a dental hygienist, or has**  
7 **issued to the person or entity a permit, to be renewed each period, to provide dental**  
8 **services** in Missouri[; but]. Nothing in this chapter shall be so construed as to make it unlawful  
9 for: [a legally qualified and licensed physician or surgeon, who does not practice dentistry as a  
10 specialty, from extracting teeth, or to make it unlawful for a dentist licensed in a state other than  
11 Missouri from making a clinical demonstration before a meeting of dentists in Missouri, or to  
12 make it unlawful for dental students in any accredited dental school to practice dentistry under  
13 the personal direction of instructors, or to make it unlawful for any duly registered and licensed  
14 dental hygienist in Missouri to practice as a dental hygienist as defined in section 332.091, or to  
15 make it unlawful for dental assistants, certified dental assistants or expanded functions dental  
16 assistants to be delegated duties as defined in section 332.093, or to make it unlawful for persons  
17 to practice dentistry in the United States armed services or in or for the United States Public  
18 Health Service, or in or for the United States Veterans Bureau, or to make it unlawful to teach  
19 in an accredited dental school, or to make it unlawful for a duly qualified anesthesiologist or  
20 anesthetist to administer an anesthetic in connection with dental services or dental surgery.]

21 **(1) A legally qualified physician or surgeon, who does not practice dentistry as a**  
22 **specialty, from extracting teeth;**

23 **(2) A dentist licensed in a state other than Missouri from making a clinical**  
24 **demonstration before a meeting of dentists in Missouri;**

25 **(3) Dental students in any accredited dental school to practice dentistry under the**  
26 **personal direction of instructors;**

27 **(4) Dental hygiene students in any accredited dental hygiene school to practice**  
28 **dental hygiene under the personal direction of instructors;**

29 **(5) A duly registered and licensed dental hygienist in Missouri to practice dental**

30 hygiene as defined in section 332.091;

31 (6) A dental assistant, certified dental assistant, or expanded functions dental  
32 assistant to be delegated duties as defined in section 332.093;

33 (7) A duly registered dentist or dental hygienist to teach in an accredited dental or  
34 dental hygiene school;

35 (8) A duly qualified anesthesiologist or nurse anesthetist to administer an anesthetic  
36 in connection with dental services or dental surgery; or

37 (9) A person to practice dentistry in or for:

38 (a) The United States armed forces;

39 (b) The United States Public Health Service;

40 (c) Migrant, community, or health care for the homeless health centers provided  
41 in section 330 of the Public Health Service Act (42 U.S.C. 254b);

42 (d) Federally qualified health centers as defined in section 1905(l) (42 U.S.C.  
43 1396d(l)) of the Social Security Act;

44 (e) Governmental entities, including county health departments; or

45 (f) The United States Veterans Bureau.

46 (10) A dentist licensed in a state other than Missouri to evaluate a patient or render  
47 an oral, written, or otherwise documented dental opinion when providing testimony or  
48 records for the purpose of a civil or criminal action before any judicial or administrative  
49 proceeding of this state or other forum in this state.

50 2. No corporation shall practice dentistry as defined in section 332.071 unless that  
51 corporation is organized under the provisions of chapter 355 or 356, RSMo, provided that a  
52 corporation organized under the provisions of chapter 355, RSMo, and qualifying as an  
53 organization under 26 U.S.C. Section 501(c)(3), may only employ dentists and dental  
54 hygienists licensed in this state to render dental services to Medicaid recipients, low-income  
55 individuals who have available income below two hundred percent of the federal poverty  
56 level, and all participants in the SCHIP program, unless such limitation is contrary to or  
57 inconsistent with federal or state law or regulation. This subsection shall not apply to:

58 (1) A hospital licensed under chapter 197, RSMo, that provides care and treatment  
59 only to children under the age of eighteen at which a person regulated under this chapter  
60 provides dental care within the scope of his or her license or registration;

61 (2) A federally qualified health center as defined in Section 1905(l) of the Social  
62 Security Act (42 U.S.C. 1396(d)(l)), or a migrant, community, or health care for the  
63 homeless health center provided for in Section 330 of the Public Health Services Act (42  
64 U.S.C. 254(b)) at which a person regulated under this chapter provides dental care within  
65 the scope of his or her license or registration;

66           **(3) A city or county health department organized under chapter 192, RSMo, or**  
67 **chapter 205, RSMo, at which a person regulated under this chapter provides dental care**  
68 **within the scope of his or her license or registration;**

69           **(4) A social welfare board organized under section 205.770, RSMo, a city health**  
70 **department operating under a city charter, or a city-county health department at which**  
71 **a person regulated under this chapter provides dental care within the scope of his or her**  
72 **license or registration;**

73           **(5) Any entity that has received a permit from the dental board and does not**  
74 **receive compensation from the patient or from any third party on the patient's behalf at**  
75 **which a person regulated under this chapter provides dental care within the scope of his**  
76 **or her license or registration;**

77           **(6) Any hospital nonprofit corporation exempt from taxation under Section**  
78 **501(c)(3) of the Internal Revenue Code, as amended, that engages in its operations and**  
79 **provides dental services at facilities owned by a city, county, or other political subdivision**  
80 **of the state at which a person regulated under this chapter provides dental care within the**  
81 **scope of his or her license or registration.**

82  
83 **If any of the entities exempted from the requirements of this subsection are unable to**  
84 **provide services to a patient due to the lack of a qualified provider and a referral to**  
85 **another entity is made, the exemption shall extend to the person or entity that subsequently**  
86 **provides services to the patient.**

87           **3. No unincorporated organization shall practice dentistry as defined in section**  
88 **332.071, RSMo, unless such organization is exempt from federal taxation under Section**  
89 **501(c)(3) of the Internal Revenue Code of 1986, as amended, and provides dental treatment**  
90 **without compensation from the patient or any third party on their behalf as a part of a**  
91 **broader program of social services including food distribution. Nothing in this chapter**  
92 **shall prohibit organizations under this subsection from employing any person regulated**  
93 **by this chapter.**

94           **4. A dentist shall not enter into a contract that allows a person who is not a dentist**  
95 **to influence or interfere with the exercise of the dentist's independent professional**  
96 **judgment.**

97           **5. A not-for-profit corporation organized under the provisions of chapter 355,**  
98 **RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3), an**  
99 **unincorporated organization operating pursuant to subsection 3 of this section, or any**  
100 **other person should not direct or interfere or attempt to direct or interfere with a licensed**  
101 **dentist's professional judgment and competent practice of dentistry. Nothing in this**

subsection shall be so construed as to make it unlawful for not-for-profit organizations to enforce employment contracts, corporate policy and procedure manuals, or quality improvement or assurance requirements.

6. All entities defined in subsection 2 of this section and those exempted under subsection 3 of this section shall apply for a permit to employ dentists and dental hygienists licensed in this state to render dental services, and the entity shall apply for the permit in writing on forms provided by the Missouri dental board. The board shall not charge a fee of any kind for the issuance or renewal of such permit. The provisions of this subsection shall not apply to a federally qualified health center as defined in Section 1905(l) of the Social Security Act (42 U.S.C. 1396d(l)).

7. Any entity that obtains a permit to render dental services in this state is subject to discipline pursuant to section 332.321. If the board concludes that the person or entity has committed an act or is engaging in a course of conduct that would be grounds for disciplinary action, the board may file a complaint before the administrative hearing commission. The board may refuse to issue or renew the permit of any entity for one or any combination of causes stated in subsection 2 of section 332.321. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

8. A federally qualified health center as defined in Section 1905(l) of the Social Security Act (42 U.S.C. 1396d(l)) shall register with the board. The information provided to the board as part of the registration shall include the name of the health center, the non-profit status of the health center, sites where dental services will be provided, and the names of all persons employed by, or contracting with, the health center who are required to hold a license pursuant to this chapter. The registration shall be renewed every twenty-four months. The board shall not charge a fee of any kind for the issuance or renewal of the registration. The registration of the health center shall not be subject to discipline pursuant to section 332.321. Nothing in this subsection shall prohibit disciplinary action against a licensee of this chapter who is employed by, or contracts with, such health center for the actions of the licensee in connection with such employment or contract. All licensed persons employed by, or contracting with, the health center shall certify in writing to the board at the time of issuance and renewal of the registration that the facility of the health center meets the same operating standards regarding cleanliness, sanitation, and professionalism as would the facility of a dentist licensed by this chapter. The board shall promulgate rules regarding such standards.

9. The board may promulgate rules and regulations to ensure not-for-profit

corporations are rendering care to the patient populations as set forth herein, including requirements for covered not-for-profit corporations to report patient census data to the board. The provisions of this subsection shall not apply to a federally qualified health center as defined in Section 1905(l) of the Social Security Act (42 U.S.C. 1396d(l)).

**10. All not-for-profit corporations organized or operated pursuant to the provisions of chapter 355, RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3), or the requirements relating to migrant, community, or health care for the homeless health centers provided in Section 330 of the Public Health Service Act (42 U.S.C. 254b) and federally qualified health centers as defined in Section 1905(l) (42 U.S.C. 1396d(l)) of the Social Security Act, that employ persons who practice dentistry or dental hygiene in this state shall do so in accordance with the relevant laws of this state except to the extent that such laws are contrary to, or inconsistent with, federal statute or regulation.**

332.111. Any person who practices dentistry as defined in section 332.071, **or as a dental hygienist as defined in section 332.091**, who is not [a] duly registered and currently licensed [dentist] in Missouri as hereinafter provided, [or any person who practices as a dental hygienist as defined in section 332.091 who is not a duly registered and currently licensed dental hygienist in Missouri as hereinafter provided] is guilty of a class A misdemeanor.

332.121. 1. Upon application by the board and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order, or other order as may be appropriate to enjoin a person [or], **corporation, firm, or other entity** from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required by this chapter upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state or client or patient of the licensee; **or**

**(3) Directing, interfering with, or attempting to direct or interfere with a licensed dentist's professional judgment or competent practice of dentistry.**

**Nothing in this subsection shall be so construed as to make it unlawful for not-for-profit organizations to enforce employment contracts, corporate policy and procedure manuals, or quality improvement or assurance requirements.**

2. Any such action shall be commenced either in the county in which the defendant resides or in the county in which such conduct occurred.

3. Any action brought under this section shall be in addition to and not in lieu of any



20 penalty provided by this chapter and may be brought concurrently with other actions to enforce  
21 this chapter.

**332.122. 1. The determination of whether a service provided to a patient is covered  
2 or reimbursable under the terms of a health benefit or dental benefit plan and the creation  
3 and management of a health care provider network are:**

4 **(1) Deemed not to be the practice of dentistry or other profession governed by this  
5 chapter; and**

6 **(2) Not in any way subject to the provisions of this chapter.**

7 **2. Claims, records, and documents pertaining to the operations of a health benefit,  
8 dental benefit, or health care provider network are not clinical and administrative records  
9 under section 332.051.**

10 **3. Nothing in subsection 1 or 2 of this section shall be construed as affecting the  
11 obligations of a health carrier, under chapters 354 and 376, RSMo, as health carrier is  
12 defined in section 376.1350, RSMo.**

334.100. 1. The board may refuse to issue or renew any certificate of registration or  
2 authority, permit or license required pursuant to this chapter for one or any combination of  
3 causes stated in subsection 2 of this section. The board shall notify the applicant in writing of  
4 the reasons for the refusal and shall advise the applicant of the applicant's right to file a  
5 complaint with the administrative hearing commission as provided by chapter 621, RSMo. As  
6 an alternative to a refusal to issue or renew any certificate, registration or authority, the board  
7 may, at its discretion, issue a license which is subject to probation, restriction or limitation to an  
8 applicant for licensure for any one or any combination of causes stated in subsection 2 of this  
9 section. The board's order of probation, limitation or restriction shall contain a statement of the  
10 discipline imposed, the basis therefore, the date such action shall become effective, and a  
11 statement that the applicant has thirty days to request in writing a hearing before the  
12 administrative hearing commission. If the board issues a probationary, limited or restricted  
13 license to an applicant for licensure, either party may file a written petition with the  
14 administrative hearing commission within thirty days of the effective date of the probationary,  
15 limited or restricted license seeking review of the board's determination. If no written request  
16 for a hearing is received by the administrative hearing commission within the thirty-day period,  
17 the right to seek review of the board's decision shall be considered as waived.

18 2. The board may cause a complaint to be filed with the administrative hearing  
19 commission as provided by chapter 621, RSMo, against any holder of any certificate of  
20 registration or authority, permit or license required by this chapter or any person who has failed  
21 to renew or has surrendered the person's certificate of registration or authority, permit or license  
22 for any one or any combination of the following causes:

23           (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic  
24 beverage to an extent that such use impairs a person's ability to perform the work of any  
25 profession licensed or regulated by this chapter;

26           (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty  
27 or nolo contendere, in a criminal prosecution under the laws of any state or of the United States,  
28 for any offense reasonably related to the qualifications, functions or duties of any profession  
29 licensed or regulated pursuant to this chapter, for any offense an essential element of which is  
30 fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or  
31 not sentence is imposed;

32           (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of  
33 registration or authority, permit or license issued pursuant to this chapter or in obtaining  
34 permission to take any examination given or required pursuant to this chapter;

35           (4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or  
36 unprofessional conduct in the performance of the functions or duties of any profession licensed  
37 or regulated by this chapter, including, but not limited to, the following:

38           (a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by  
39 fraud, deception or misrepresentation; willfully and continually overcharging or overtreating  
40 patients; or charging for visits to the physician's office which did not occur unless the services  
41 were contracted for in advance, or for services which were not rendered or documented in the  
42 patient's records;

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

45           (c) Willfully and continually performing inappropriate or unnecessary treatment,  
46 diagnostic tests or medical or surgical services;

47           (d) Delegating professional responsibilities to a person who is not qualified by training,  
48 skill, competency, age, experience or licensure to perform such responsibilities;

49           (e) Misrepresenting that any disease, ailment or infirmity can be cured by a method,  
50 procedure, treatment, medicine or device;

51           (f) Performing or prescribing medical services which have been declared by board rule  
52 to be of no medical or osteopathic value;

53           (g) Final disciplinary action by any professional medical or osteopathic association or  
54 society or licensed hospital or medical staff of such hospital in this or any other state or territory,  
55 whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension,  
56 limitation, or restriction of the person's license or staff or hospital privileges, failure to renew  
57 such privileges or license for cause, or other final disciplinary action, if the action was in any way  
58 related to unprofessional conduct, professional incompetence, malpractice or any other violation

59 of any provision of this chapter;

60 (h) Signing a blank prescription form; or dispensing, prescribing, administering or  
61 otherwise distributing any drug, controlled substance or other treatment without sufficient  
62 examination, or for other than medically accepted therapeutic or experimental or investigative  
63 purposes duly authorized by a state or federal agency, or not in the course of professional  
64 practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical  
65 infirmity or disease, except as authorized in section 334.104;

66 (i) Exercising influence within a physician-patient relationship for purposes of engaging  
67 a patient in sexual activity;

68 (j) Terminating the medical care of a patient without adequate notice or without making  
69 other arrangements for the continued care of the patient;

70 (k) Failing to furnish details of a patient's medical records to other treating physicians  
71 or hospitals upon proper request; or failing to comply with any other law relating to medical  
72 records;

73 (l) Failure of any applicant or licensee, other than the licensee subject to the  
74 investigation, to cooperate with the board during any investigation;

75 (m) Failure to comply with any subpoena or subpoena duces tecum from the board or  
76 an order of the board;

77 (n) Failure to timely pay license renewal fees specified in this chapter;

78 (o) Violating a probation agreement with this board or any other licensing agency;

79 (p) Failing to inform the board of the physician's current residence and business address;

80 (q) Advertising by an applicant or licensee which is false or misleading, or which  
81 violates any rule of the board, or which claims without substantiation the positive cure of any  
82 disease, or professional superiority to or greater skill than that possessed by any other physician.  
83 An applicant or licensee shall also be in violation of this provision if the applicant or licensee  
84 has a financial interest in any organization, corporation or association which issues or conducts  
85 such advertising;

86 (5) Any conduct or practice which is or might be harmful or dangerous to the mental or  
87 physical health of a patient or the public; or incompetency, gross negligence or repeated  
88 negligence in the performance of the functions or duties of any profession licensed or regulated  
89 by this chapter. For the purposes of this subdivision, "repeated negligence" means the failure,  
90 on more than one occasion, to use that degree of skill and learning ordinarily used under the  
91 same or similar circumstances by the member of the applicant's or licensee's profession;

92 (6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling  
93 any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted  
94 pursuant to this chapter;

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

98           (8) Revocation, suspension, restriction, modification, limitation, reprimand, warning,  
99 censure, probation or other final disciplinary action against the holder of or applicant for a  
100 license or other right to practice any profession regulated by this chapter by another state,  
101 territory, federal agency or country, whether or not voluntarily agreed to by the licensee or  
102 applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing  
103 the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject  
104 to an investigation or while actually under investigation by any licensing authority, medical  
105 facility, branch of the armed forces of the United States of America, insurance company, court,  
106 agency of the state or federal government, or employer;

107           (9) A person is finally adjudged incapacitated or disabled by a court of competent  
108 jurisdiction;

109           (10) Assisting or enabling any person to practice or offer to practice any profession  
110 licensed or regulated by this chapter who is not registered and currently eligible to practice  
111 pursuant to this chapter; or knowingly performing any act which in any way aids, assists,  
112 procures, advises, or encourages any person to practice medicine who is not registered and  
113 currently eligible to practice pursuant to this chapter. A physician who works in accordance with  
114 standing orders or protocols or in accordance with the provisions of section 334.104 shall not be  
115 in violation of this subdivision;

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

118           (12) Failure to display a valid certificate or license if so required by this chapter or any  
119 rule promulgated pursuant to this chapter;

120           (13) Violation of the drug laws or rules and regulations of this state, any other state or  
121 the federal government;

122           (14) Knowingly making, or causing to be made, or aiding, or abetting in the making of,  
123 a false statement in any birth, death or other certificate or document executed in connection with  
124 the practice of the person's profession;

125           (15) Soliciting patronage in person or by agents or representatives, or by any other means  
126 or manner, under the person's own name or under the name of another person or concern, actual  
127 or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or  
128 necessity for or appropriateness of health care services for all patients, or the qualifications of  
129 an individual person or persons to diagnose, render, or perform health care services;

130           (16) Using, or permitting the use of, the person's name under the designation of

131 "Doctor", "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial  
132 exploitation of any goods, wares or merchandise;

133 (17) Knowingly making or causing to be made a false statement or misrepresentation of  
134 a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208,  
135 RSMo, or chapter 630, RSMo, or for payment from Title XVIII or Title XIX of the federal  
136 Medicare program;

137 (18) Failure or refusal to properly guard against contagious, infectious or communicable  
138 diseases or the spread thereof; maintaining an unsanitary office or performing professional  
139 services under unsanitary conditions; or failure to report the existence of an unsanitary condition  
140 in the office of a physician or in any health care facility to the board, in writing, within thirty  
141 days after the discovery thereof;

142 (19) Any candidate for licensure or person licensed to practice as a physical therapist,  
143 paying or offering to pay a referral fee or, **notwithstanding section 334.010 to the contrary,**  
144 practicing or offering to practice professional physical therapy independent of the prescription  
145 and direction of a person licensed and registered as a physician and surgeon pursuant to this  
146 chapter, as a dentist pursuant to chapter 332, RSMo, or as a podiatrist pursuant to chapter 330,  
147 RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another**  
148 **jurisdiction** whose license is in good standing;

149 (20) Any candidate for licensure or person licensed to practice as a physical therapist,  
150 treating or attempting to treat ailments or other health conditions of human beings other than by  
151 professional physical therapy and as authorized by sections 334.500 to 334.620;

152 (21) Any person licensed to practice as a physician or surgeon, requiring, as a condition  
153 of the physician-patient relationship, that the patient receive prescribed drugs, devices or other  
154 professional services directly from facilities of that physician's office or other entities under that  
155 physician's ownership or control. A physician shall provide the patient with a prescription which  
156 may be taken to the facility selected by the patient and a physician knowingly failing to disclose  
157 to a patient on a form approved by the advisory commission for professional physical therapists  
158 as established by section 334.625 which is dated and signed by a patient or guardian  
159 acknowledging that the patient or guardian has read and understands that the physician has a  
160 pecuniary interest in a physical therapy or rehabilitation service providing prescribed treatment  
161 and that the prescribed treatment is available on a competitive basis. This subdivision shall not  
162 apply to a referral by one physician to another physician within a group of physicians practicing  
163 together;

164 (22) A pattern of personal use or consumption of any controlled substance unless it is  
165 prescribed, dispensed or administered by another physician who is authorized by law to do so;

166 (23) Revocation, suspension, limitation or restriction of any kind whatsoever of any

167 controlled substance authority, whether agreed to voluntarily or not;

168 (24) For a physician to operate, conduct, manage, or establish an abortion facility, or for  
169 a physician to perform an abortion in an abortion facility, if such facility comes under the  
170 definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, RSMo, and  
171 such facility has failed to obtain or renew a license as an ambulatory surgical center;

172 (25) Being unable to practice as a physician and surgeon or with a specialty with  
173 reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or  
174 because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any  
175 mental or physical condition. The following shall apply to this subdivision:

176 (a) In enforcing this subdivision the board shall, after a hearing by the board, upon a  
177 finding of probable cause, require a physician to submit to a reexamination for the purpose of  
178 establishing his or her competency to practice as a physician or surgeon or with a specialty  
179 conducted in accordance with rules adopted for this purpose by the board, including rules to  
180 allow the examination of the pattern and practice of such physician's or surgeon's professional  
181 conduct, or to submit to a mental or physical examination or combination thereof by at least three  
182 physicians, one selected by the physician compelled to take the examination, one selected by the  
183 board, and one selected by the two physicians so selected who are graduates of a professional  
184 school approved and accredited as reputable by the association which has approved and  
185 accredited as reputable the professional school from which the licentiate graduated. However,  
186 if the physician is a graduate of a medical school not accredited by the American Medical  
187 Association or American Osteopathic Association, then each party shall choose any physician  
188 who is a graduate of a medical school accredited by the American Medical Association or the  
189 American Osteopathic Association;

190 (b) For the purpose of this subdivision, every physician licensed pursuant to this chapter  
191 is deemed to have consented to submit to a mental or physical examination when directed in  
192 writing by the board and further to have waived all objections to the admissibility of the  
193 examining physician's testimony or examination reports on the ground that the examining  
194 physician's testimony or examination is privileged;

195 (c) In addition to ordering a physical or mental examination to determine competency,  
196 the board may, notwithstanding any other law limiting access to medical or other health data,  
197 obtain medical data and health records relating to a physician or applicant without the physician's  
198 or applicant's consent;

199 (d) Written notice of the reexamination or the physical or mental examination shall be  
200 sent to the physician, by registered mail, addressed to the physician at the physician's last known  
201 address. Failure of a physician to designate an examining physician to the board or failure to  
202 submit to the examination when directed shall constitute an admission of the allegations against

203 the physician, in which case the board may enter a final order without the presentation of  
204 evidence, unless the failure was due to circumstances beyond the physician's control. A  
205 physician whose right to practice has been affected under this subdivision shall, at reasonable  
206 intervals, be afforded an opportunity to demonstrate that the physician can resume the competent  
207 practice as a physician and surgeon with reasonable skill and safety to patients;

208 (e) In any proceeding pursuant to this subdivision neither the record of proceedings nor  
209 the orders entered by the board shall be used against a physician in any other proceeding.  
210 Proceedings under this subdivision shall be conducted by the board without the filing of a  
211 complaint with the administrative hearing commission;

212 (f) When the board finds any person unqualified because of any of the grounds set forth  
213 in this subdivision, it may enter an order imposing one or more of the disciplinary measures set  
214 forth in subsection 4 of this section.

215 3. Collaborative practice arrangements, protocols and standing orders shall be in writing  
216 and signed and dated by a physician prior to their implementation.

217 4. After the filing of such complaint before the administrative hearing commission, the  
218 proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon  
219 a finding by the administrative hearing commission that the grounds, provided in subsection 2  
220 of this section, for disciplinary action are met, the board may, singly or in combination, warn,  
221 censure or place the person named in the complaint on probation on such terms and conditions  
222 as the board deems appropriate for a period not to exceed ten years, or may suspend the person's  
223 license, certificate or permit for a period not to exceed three years, or restrict or limit the person's  
224 license, certificate or permit for an indefinite period of time, or revoke the person's license,  
225 certificate, or permit, or administer a public or private reprimand, or deny the person's  
226 application for a license, or permanently withhold issuance of a license or require the person to  
227 submit to the care, counseling or treatment of physicians designated by the board at the expense  
228 of the individual to be examined, or require the person to attend such continuing educational  
229 courses and pass such examinations as the board may direct.

230 5. In any order of revocation, the board may provide that the person may not apply for  
231 reinstatement of the person's license for a period of time ranging from two to seven years  
232 following the date of the order of revocation. All stay orders shall toll this time period.

233 6. Before restoring to good standing a license, certificate or permit issued pursuant to this  
234 chapter which has been in a revoked, suspended or inactive state for any cause for more than two  
235 years, the board may require the applicant to attend such continuing medical education courses  
236 and pass such examinations as the board may direct.

237 7. In any investigation, hearing or other proceeding to determine a licensee's or  
238 applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall

239 be discoverable by the board and admissible into evidence, regardless of any statutory or  
240 common law privilege which such licensee, applicant, record custodian or patient might  
241 otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold  
242 records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of  
243 privilege between such licensee, applicant or record custodian and a patient.

334.506. 1. Nothing in this chapter shall prevent a physical therapist, whose license is  
2 in good standing, from providing educational resources and training, developing fitness or  
3 wellness programs for asymptomatic persons, or providing screening or consultative services  
4 within the scope of physical therapy practice without the prescription and direction of a person  
5 licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor  
6 pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist  
7 pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or**  
8 **podiatrist practicing in another jurisdiction** whose license is in good standing, except that no  
9 physical therapist shall initiate treatment for a new injury or illness without the prescription or  
10 direction of a person licensed and registered as a physician and surgeon pursuant to this chapter,  
11 as chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or  
12 a podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist,**  
13 **or podiatrist practicing in another jurisdiction** whose license is in good standing.

14 2. Nothing in this chapter shall prevent a physical therapist, whose license is in good  
15 standing, from examining and treating, without the prescription and direction of a person  
16 licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor  
17 pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist  
18 pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist, or**  
19 **podiatrist practicing in another jurisdiction** whose license is in good standing, any person  
20 with a recurring, self-limited injury within one year of diagnosis by a person licensed and  
21 registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to  
22 chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to  
23 chapter 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist**  
24 **practicing in another jurisdiction** whose license is in good standing, or any person with a  
25 chronic illness that has been previously diagnosed by a person licensed and registered as a  
26 physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo,  
27 as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, **or**  
28 **any licensed and registered physician, dentist, or podiatrist practicing in another**  
29 **jurisdiction** whose license is in good standing, except that a physical therapist shall contact the  
30 patient's current physician, chiropractor, dentist, or podiatrist, within seven days of initiating  
31 physical therapy services, pursuant to this subsection, shall not change an existing physical



32 therapy referral available to the physical therapist without approval of the patient's current  
33 physician, chiropractor, dentist, or podiatrist, and shall refer to a person licensed and registered  
34 as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331,  
35 RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330,  
36 RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in another**  
37 **jurisdiction** whose license is in good standing, any patient whose medical condition should, at  
38 the time of examination or treatment, be determined to be beyond the scope of practice of  
39 physical therapy. A physical therapist shall refer to a person licensed and registered as a  
40 physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo,  
41 as a dentist pursuant to chapter 332, RSMo, or as a podiatrist pursuant to chapter 330, RSMo, **or**  
42 **any licensed and registered physician, dentist, or podiatrist practicing in another**  
43 **jurisdiction** whose license is in good standing, any person whose condition, for which physical  
44 therapy services are rendered pursuant to this subsection, has not been documented to be  
45 progressing toward documented treatment goals after six visits or fourteen days, whichever shall  
46 come first. If the person's condition for which physical therapy services are rendered under this  
47 subsection shall be documented to be progressing toward documented treatment goals, a physical  
48 therapist may continue treatment without referral from a physician, chiropractor, dentist or  
49 podiatrist, whose license is in good standing. If treatment rendered under this subsection is to  
50 continue beyond thirty days, a physical therapist shall notify the patient's current physician,  
51 chiropractor, dentist, or podiatrist before continuing treatment beyond the thirty-day limitation.  
52 A physical therapist shall also perform such notification before continuing treatment rendered  
53 under this subsection for each successive period of thirty days.

54 3. The provision of physical therapy services of evaluation and screening pursuant to this  
55 section, shall be limited to a physical therapist, and any authority for evaluation and screening  
56 granted within this section, may not be delegated. Upon each reinitiation of physical therapy  
57 services, a physical therapist shall provide a full physical therapy evaluation prior to the  
58 reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the  
59 provisions of subsection 2 of this section, may be delegated by physical therapists to physical  
60 therapist assistants only if the patient's current physician, chiropractor, dentist, or podiatrist has  
61 been so informed as part of the physical therapist's seven-day notification upon reinitiation of  
62 physical therapy services as required in subsection 2 of this section. Nothing in this subsection  
63 shall be construed as to limit the ability of physical therapists or physical therapist assistants to  
64 provide physical therapy services in accordance with the provisions of this chapter, and upon the  
65 referral of a physician and surgeon licensed pursuant to this chapter, a chiropractor pursuant to  
66 chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter  
67 330, RSMo, **or any licensed and registered physician, dentist, or podiatrist practicing in**

68 **another jurisdiction** whose license is in good standing. Nothing in this subsection shall prohibit  
69 a person licensed or registered as a physician or surgeon licensed pursuant to this chapter, a  
70 chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a  
71 podiatrist pursuant to chapter 330, RSMo, **or any licensed and registered physician, dentist,**  
72 **or podiatrist practicing in another jurisdiction** whose license is in good standing, from acting  
73 within the scope of their practice as defined by the applicable chapters of RSMo.

74 4. No person licensed to practice, or applicant for licensure, as a physical therapist or  
75 physical therapist assistant shall make a medical diagnosis.