

FIRST REGULAR SESSION

# HOUSE BILL NO. 832

## 94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WASSON.

Read 1st time February 12, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

1980L.01I

### AN ACT

To repeal sections 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, and 344.105, RSMo, and to enact in lieu thereof nine new sections relating to the licensing of nursing home administrators.

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

Section A. Sections 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, and 344.105, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, 344.105, and 344.108, to read as follows:

344.020. No person shall act or serve in the capacity of a nursing home administrator without first procuring a license from the Missouri board of nursing home administrators as provided in sections 344.010 to [344.100] **344.108**. The board may issue a separate license to administrators of assisted living facilities, as defined in section 198.006, RSMo. Any individual who receives a license to operate an assisted living facility is not thereby authorized to operate any intermediate care facility or skilled nursing facility as those terms are defined in section 198.006, RSMo.

344.030. 1. An applicant for an initial license shall file a completed application with the board on a form provided by the board, accompanied by an application fee [of one hundred dollars] **as prescribed by rule** payable to the [director of revenue] **department of health and senior services**. Information provided in the application shall be given under oath subject to the penalties for making a false affidavit.

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.

6           2. No initial license shall be issued to a person as a nursing home administrator unless:

7           (1) The applicant provides the board satisfactory proof that the applicant is twenty-one  
8 years of age or over, of good moral character and a high school graduate or equivalent;

9           (2) The applicant provides the board satisfactory proof that the applicant has had a  
10 minimum of three years' experience in health care administration or two years of postsecondary  
11 education in health care administration or has satisfactorily completed a course of instruction and  
12 training prescribed by the board, which includes instruction in the needs properly to be served  
13 by nursing homes, the protection of the interests of residents therein, and the elements of good  
14 nursing home administration, or has presented evidence satisfactory to the board of sufficient  
15 education, training, or experience in the foregoing fields to administer, supervise and manage  
16 a nursing home; and

17           (3) The applicant passes the [written examination] **examinations** administered by the  
18 board. If an applicant fails to make a passing grade on [the examination] **either examination**  
19 such applicant may make application for reexamination on a form furnished by the board and  
20 may be retested [at the next regularly scheduled examination]. If an applicant fails [the  
21 examination] **either examination** a third time, the applicant shall be required to complete a  
22 course of instruction prescribed and approved by the board [before the applicant may reapply for  
23 examination]. **After completion of the board-prescribed course of instruction, the applicant**  
24 **may reapply for examination. With regard to the national examination required for**  
25 **licensure, no examination scores from other states shall be recognized by the board after**  
26 **the applicant has failed his or her third attempt at the national examination.** There shall  
27 be a separate, nonrefundable fee for each examination. The board shall set the amount of the fee  
28 for examination by rules and regulations promulgated pursuant to section 536.021, RSMo. The  
29 fee shall be set at a level to produce revenue which shall not substantially exceed the cost and  
30 expense of administering the examination.

31           3. The board may issue a license through reciprocity to any person who is regularly  
32 licensed as a nursing home administrator in any other state, territory, or the District of Columbia,  
33 if the regulations for securing such license are equivalent to those required in the state of  
34 Missouri. However, no license by reciprocity shall be issued until the applicant passes a special  
35 examination approved by the board, which will examine the applicant's knowledge of specific  
36 provisions of Missouri statutes and regulations pertaining to nursing homes. The applicant shall  
37 furnish satisfactory evidence that such applicant is of good moral character and has acted in the  
38 capacity of a nursing home administrator in such state, territory, or the District of Columbia, at  
39 least one year after the securing of the license. The board, in its discretion, may enter into  
40 written reciprocal agreements pursuant to this section with other states which have equivalent  
41 laws and regulations.

42           4. Nothing in sections 344.010 to [344.100] **344.108**, or the rules or regulations  
43 thereunder shall be construed to require an applicant for a license as a nursing home  
44 administrator, who is employed by an institution listed and certified by the Commission for  
45 Accreditation of Christian Science Nursing Organizations/Facilities, Inc., to administer  
46 institutions certified by such commission for the care and treatment of the sick in accordance  
47 with the creed or tenets of a recognized church or religious denomination, to demonstrate  
48 proficiency in any techniques or to meet any educational qualifications or standards not in accord  
49 with the remedial care and treatment provided in such institutions. The applicant's license shall  
50 be endorsed to confine the applicant's practice to such institutions.

51           5. The board may issue a temporary emergency license for a period not to exceed ninety  
52 days to a person twenty-one years of age or over, of good moral character and a high school  
53 graduate or equivalent to serve as an acting nursing home administrator, provided such person  
54 is replacing a licensed nursing home administrator who has died, has been removed or has  
55 vacated the nursing home administrator's position. No temporary emergency license may be  
56 issued to a person who has had a nursing home administrator's license denied, suspended or  
57 revoked. A temporary emergency license may be renewed for one additional ninety-day period  
58 upon a showing that the person seeking the renewal of a temporary emergency license meets the  
59 qualifications for licensure and has filed an application for a regular license, accompanied by the  
60 application fee, and the examination [has not yet been given] **results have not been received**  
61 **by the board**. No temporary emergency license may be renewed more than one time.

          344.040. 1. Every license issued under this chapter shall expire on June thirtieth of the  
2 year following the year of issuance and every other year thereafter, provided that licenses issued  
3 or renewed during the year 2006 may be issued or renewed by the board for a period of either one  
4 or two years, as provided by rule. Licensees seeking renewal shall, during the month of May of  
5 the year of renewal, file an application for renewal on forms furnished by the board, which shall  
6 include evidence satisfactory to the board of completion of the approved continuing education  
7 hours required by the board, and shall be accompanied by a renewal fee as provided by rule  
8 payable to the department of health and senior services.

9           2. Upon receipt of an incomplete application for renewal, the board shall grant the  
10 applicant a temporary permit which shall be in effect for thirty days. The applicant is required  
11 to submit the required documentation or fee within the thirty-day period, or the board may refuse  
12 to renew his **or her** application. The thirty-day period can be extended for good cause shown  
13 for an additional thirty days. Upon receipt of the approved continuing education credits or other  
14 required documentation or fee within the appropriate time period, the board shall issue a license.

15           3. The board shall renew the license of an applicant who has met all of the requirements  
16 for renewal.

17           4. As a requirement for renewal of license, the board may require not more than  
18 forty-eight clock hours of continuing education a year. The continuing education provided for  
19 under this section shall be approved by the board. There shall be a separate, nonrefundable fee  
20 for each single offering provider. The board shall set the amount of fee for any single offering  
21 provided by rules and regulations promulgated pursuant to section 536.021, RSMo. The fee shall  
22 be set at a level to produce revenue which shall not substantially exceed the cost and expense in  
23 administering and reviewing any single offering.

24           5. By April first of each year, the board shall mail an application for renewal of license  
25 to every person whose license shall be renewed during the current year. The applicant must  
26 submit such information as will enable the board to determine if the applicant's license should  
27 be renewed. Information provided in the application shall be given under oath.

28           6. Any licensee who fails to apply to renew his **or her** license by June thirtieth of the  
29 licensee's year of renewal may be relicensed by the board if he meets the requirements set forth  
30 by the board pursuant to sections 344.010 to [344.100] **344.108** and pays the renewal fee  
31 required by rule, plus a penalty of twenty-five dollars. No action shall be taken by the board in  
32 addition to a penalty of twenty-five dollars imposed by this section against any such licensee  
33 whose license has not expired for a period of more than two months, and who has had no action  
34 in the preceding five years taken against them by the board, and who has met all other licensure  
35 requirements by June thirtieth of the year of renewal; provided, however, that nothing in this  
36 section shall prevent the board from taking any other disciplinary action against a licensee if  
37 there shall exist a cause for discipline pursuant to section 344.050. A person whose license has  
38 expired for a period of more than twelve months must meet the requirements set out in section  
39 344.030 for initial licensure.

          344.050. 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 his **or her** right to file a complaint  
5 with the administrative hearing commission as provided by chapter 621, RSMo. **As an**  
6 **alternative to refusal to issue or renew any certificate, registration or authority, permit or**  
7 **license, the board may, at its discretion, issue a license which is subject to probation for any**  
8 **one or any combination of causes stated in subsection 2 of this section. The board's order**  
9 **of probation shall contain a statement of discipline imposed, the basis therefore, the date**  
10 **such action shall be effective, and a statement that the applicant has thirty days to request**  
11 **in writing a hearing before the administrative hearing commission. If the board issues a**  
12 **probationary license to an applicant for licensure, the applicant may file a written petition**  
13 **with the administrative hearing commission within thirty days of the effective date of the**

14 **probationary license seeking review of whether cause exists to discipline the license under**  
15 **subsection 2 of this section. If no written request for a hearing is received by the**  
16 **administrative hearing commission within the thirty-day period, the right to seek review**  
17 **of the board's decision shall be considered 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 his **or her** certificate of registration or authority, permit or license  
22 for any one or any combination of the following causes:

23             (1) Use or unlawful possession of any controlled substance, as defined in chapter 195,  
24 RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the  
25 work of any 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, pursuant to criminal prosecution under the laws of any state or of the United  
28 States, for any offense reasonably related to the qualifications, functions or duties of any  
29 profession licensed or regulated under this chapter, for any offense an essential element of which  
30 is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether  
31 or 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) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by  
36 fraud, deception or misrepresentation;

37             (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty  
38 in the performance of the functions or duties of any profession licensed or regulated by this  
39 chapter;

40             (6) Violation of, or assisting or enabling any person to violate, any provision of this  
41 chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

42             (7) **Violation of, or assisting or enabling any person to violate any provision of**  
43 **chapter 198, RSMo, or any lawful rule or regulation promulgated thereunder;**

44             (8) Impersonation of any person holding a certificate of registration or authority, permit  
45 or license, or allowing any person to use his **or her** certificate of registration or authority, permit,  
46 license or diploma from any school;

47             [(8)] (9) Disciplinary action against the holder of a license or other right to practice any  
48 profession regulated by this chapter granted by another state, territory, federal agency or country  
49 upon grounds for which revocation or suspension is authorized in this state;

50        [(9)] (10) A person is finally adjudged incapacitated or disabled by a court of competent  
51 jurisdiction;

52        [(10)] (11) Assisting or enabling any person to practice or offer to practice any  
53 profession licensed or regulated by this chapter who is not registered and currently eligible to  
54 practice under this chapter;

55        [(11)] (12) Issuance of a certificate of registration or authority, permit or license based  
56 upon a material mistake of fact;

57        [(12)] (13) Violation of the drug laws or rules and regulations of this state, any other  
58 state or the federal government;

59        [(13)] (14) Knowingly failing to report abuse or neglect of a resident in a long-term care  
60 facility, as required by section 198.070, RSMo, of which he **or she** has actual knowledge that it  
61 is abuse or neglect;

62        **(15) Violation of any professional trust or confidence;**

63        **(16) Having served as the administrator, operator, or any principal involved in the**  
64 **operation of a facility licensed under chapter 198, RSMo, and during such time the facility**  
65 **has had its license revoked under section 198.036, RSMo; has entered into a consent**  
66 **agreement to obtain a probationary license under subsection 5 of section 198.026, RSMo;**  
67 **has had a license denied under subsection 2 of section 198.022, RSMo; or has surrendered**  
68 **its license while under investigation.**

69        3. The administrative hearing commission shall have no authority to require issuance of  
70 a license, pending a final determination by the commission, in any case in which an applicant is  
71 seeking initial licensure.

72        4. No license may be suspended or revoked and no application for renewal of a license  
73 may be denied under this section until the licensee has been afforded an opportunity for hearing  
74 after due notice as provided in sections 621.015 to 621.205, RSMo.

75        5. Upon a finding by the administrative hearing commission that the grounds, provided  
76 in subsection 2 of this section, for disciplinary action are met, the board may, singly or in  
77 combination[, place upon probation,] **censure or place the person named in the complaint on**  
78 **probation on such terms as the board deems appropriate, or may suspend or revoke [a] the**  
79 **certificate [of registration or authority], permit, or license. The board may exclude any**  
80 **application for up to five years for any person who has had his or her license revoked by**  
81 **the board or has surrendered his or her license to the board.**

344.060. 1. The director of the department of health and senior services shall appoint  
2 ten suitable persons who together with the director [of the division of aging] of the department  
3 of health and senior services, **or the director's designee**, shall constitute the "Missouri Board  
4 of Nursing Home Administrators" which is hereby created within the department of health and

5 senior services and which shall have the functions, powers and duties prescribed by sections  
6 344.010 to [344.100] **344.108**.

7         2. In addition to the director of the [division of aging] **department of health and senior**  
8 **services** or [his] **the director's** designee the membership of the board shall consist of one  
9 licensed physician, two licensed health professionals, one person from the field of health care  
10 education, four persons who have been in general administrative charge of a licensed nursing  
11 home for a period of at least five years immediately preceding their appointment, and two public  
12 members. **In addition to these qualifications, the physician, the two licensed health care**  
13 **professionals, and the health care educator shall be citizens of the United States and tax-**  
14 **paying residents of the state of Missouri for one year preceding their appointments. The**  
15 **four appointees who have been in general administrative charge of a licensed nursing home**  
16 **shall be citizens of the United States and either residents of the state of Missouri for one**  
17 **year preceding their appointments or persons who have been licensed by the board and**  
18 **whose five years of employment in a licensed nursing home immediately proceeding their**  
19 **appointment have occurred in the state of Missouri. The public members shall be citizens**  
20 **of the United States, residents of the state of Missouri for one year preceding their**  
21 **appointment, and registered voters.** The public members shall be persons who are not, or  
22 never were, licensed nursing home administrators or the spouse of such persons, or persons who  
23 do not have or never have had a material, financial interest in either the providing of licensed  
24 nursing home services or in an activity or organization directly related to licensed nursing home  
25 administration. Neither the one licensed physician, the two licensed health professionals, nor  
26 the person from the health care education field shall have any financial interest in a licensed  
27 nursing home.

28         3. The members of the board shall be appointed for three-year terms or until their  
29 successors are appointed and qualified provided that no more than four members' terms shall  
30 expire in the same year. All members appointed prior to September 28, 1979, shall serve the  
31 term for which they were appointed. The governor shall fill any vacancies on the board as  
32 necessary. Appointment to fill an unexpired term shall not be considered an appointment for a  
33 full term. Board membership, continued until successors are appointed and qualified, shall not  
34 constitute an extension of the three-year term and the successors shall serve only the remainder  
35 of the term.

36         4. Every member shall receive a certificate of appointment; and every appointee, before  
37 entering upon his or her duties, shall take the oath of office required by article VII, section 11,  
38 of the Constitution of Missouri.

39           5. Any member of the board may be removed by the director of the department of health  
40 and senior services for misconduct, incompetency or neglect to duty after first being given an  
41 opportunity to be heard in his **or her** own behalf.

344.070. 1. The board shall annually elect one of its members as president, another as  
2 vice president, and another as secretary. It shall adopt an official seal. It shall file and preserve  
3 all written applications, petitions, complaints, charges or requests made or presented to it. It  
4 shall cause to be kept accurate records and minutes of its proceedings, and shall maintain a  
5 register of the names and addresses of all persons holding licenses as nursing home  
6 administrators. A copy of any entry in the register, or of any records or minutes of the board,  
7 certified by the president or secretary of the board under its seal, shall be received in evidence,  
8 to all intents and purposes as the original. The board may employ such part- or full-time clerical  
9 assistance, purchase such equipment and supplies, employ legal counsel, employ a part- or  
10 full-time investigator, and incur travel and other expense, within the limits of its appropriations.

11           2. The board shall adopt, amend and repeal rules and regulations necessary to carry out  
12 the provisions of sections 344.030 to [344.100] **344.108**. Any rule or regulation under the  
13 authority of sections 344.030 to [344.100] **344.108** shall be promulgated in accordance with  
14 chapter 536, RSMo. The committee on administrative rules may file a complaint in accordance  
15 with the provisions of chapter 536, RSMo, before the commission contesting the validity of any  
16 rule purportedly promulgated under the authority of sections 344.030 to [344.100] **344.108**. On  
17 filing any complaint in accordance with this section, the administrative hearing commission shall  
18 immediately suspend that portion of the rule which is challenged until the commission has  
19 determined the matter. The commission shall hold a hearing within ten days of the filing to  
20 determine the matter. No rule or portion of a rule promulgated under the authority of this chapter  
21 shall become effective unless it has been promulgated pursuant to the provisions of section  
22 536.024, RSMo.

23           3. The board shall examine, license, and renew the license of duly qualified applicants,  
24 and shall conduct hearings affording due process of law, upon charges calling for discipline of  
25 a licensee. The board shall refer to the appropriate prosecuting attorney information regarding  
26 any persons violating the provisions of sections 344.010 to [344.100] **344.108** and may incur  
27 necessary expenses therefor.

344.080. The members of the board, other than the director of the [division of aging]  
2 **department of health and senior services** or his **or her** designee, shall receive as compensation  
3 for their services fifty dollars for each day devoted to the affairs of the board, and shall be  
4 entitled to reimbursement for their expenses necessarily incurred in the discharge of their official  
5 duties.



344.105. 1. Any nursing home administrator possessing a current license to practice as  
2 a nursing home administrator in this state who has maintained an active license for at least ten  
3 years may retire his or her license by filing an affidavit with the board which states the date on  
4 which the licensee retired from such practice and such other facts as tend to verify the retirement  
5 as the board may deem necessary. The affidavit shall be accompanied by a fee [of twenty-five  
6 dollars] **as provided by rule** made payable to the [division of aging] **department of health and**  
7 **senior services**. Such request for retired status may also be accomplished by signing the request  
8 for retired status that appears on the nursing home administrator's application for license renewal  
9 and returning such application to the board prior to June thirtieth of the year of renewal of the  
10 administrator's active license, accompanied by a fee [of twenty-five dollars] **as provided by rule**  
11 made payable to the [division of aging] **department of health and senior services**. Information  
12 provided in the request for retired status shall be given under oath subject to the penalties for the  
13 making of a false affidavit.

14 2. An individual who requests retired license status shall return his or her original wall  
15 license and all other indicia of licensure to the board. Once the board has received the original  
16 wall license from the licensee **or evidence satisfactory to the board that the license has been**  
17 **lost, stolen, or destroyed**, and the other requirements for requesting retired status have been  
18 met, the board shall issue a new license to the licensee indicating that the licensee is retired.

19 3. A retired license may be reactivated within five years of the granting of the retired  
20 license by filing with the board evidence satisfactory to the board of the completion of twenty  
21 clock hours of continuing education for each calendar year the license was retired **accompanied**  
22 **by a fee, as provided by rule, made payable to the department of health and senior services**.  
23 All clock hours of continuing education shall be completed prior to the filing of the affidavit or  
24 renewal form requesting reactivation of the retired license. If more than five years have passed  
25 since the issuance of a retired license to a licensee, the licensee shall follow the procedures for  
26 initial licensure stated in section 344.030.

27 4. No person shall practice as a nursing home administrator in this state or hold himself  
28 or herself out as a nursing home administrator if his or her license is retired.

29 5. Retired licensees shall remain subject to disciplinary action for violations of this  
30 chapter and the rules promulgated thereunder.

**344.108. 1. Any nursing home administrator possessing a current license to**  
2 **practice as a nursing home administrator in this state may place such license on inactive**  
3 **status by filing a written signed request for inactive status with the board, accompanied**  
4 **by evidence satisfactory to the board of completion of ten clock hours of continuing**  
5 **education in the area of patient care and a fee as provided by rule made payable to the**  
6 **department of health and senior services. This request may also be accomplished by**

7 signing the request for inactive status that appears on the nursing home administrator's  
8 application for license renewal and returning such application to the board prior to June  
9 thirtieth of the year of renewal of the administrator's active license, accompanied by  
10 evidence satisfactory to the board of completion of ten clock hours of continuing education  
11 in the area of patient care and a fee as provided by rule made payable to the department  
12 of health and senior services. Information provided in the request for inactive status shall  
13 be given under oath subject to the penalties of making a false affidavit.

14       2. An individual who requests that his or her license be placed on inactive status  
15 shall return all indicia of licensure to the board.

16       3. An inactive license shall expire on June thirtieth of the year following the year  
17 of issuance and every other year thereafter. Licensees seeking to renew shall, during the  
18 month of May of the year of renewal, file an application for renewal on forms furnished  
19 by the board that include evidence satisfactory to the board of completion of ten clock  
20 hours of continuing education in the area of patient care and shall be accompanied by a  
21 renewal fee as provided by rule payable to the department of health and senior services.

22       4. A license may be carried in inactive status for up to six years from the date of  
23 issuance. If the licensee does not reactivate the license during the six-year period, the  
24 license shall expire on the last day of the six-year period.

25       5. A holder of an inactive license may reactivate the license by submitting a written  
26 request to the board, accompanied by evidence satisfactory to the board of the completion  
27 of forty clock hours of continuing education and a fee as provided by rule made payable  
28 to the department of health and senior services. The forty clock hours of continuing  
29 education shall be earned no earlier than six months prior to the request for reactivation  
30 and no later than six months after the inactive license has been reactivated. If the holder  
31 of an inactive license requests reactivation prior to completing the forty clock hours of  
32 continuing education, the board shall issue a six-month interim license to the licensee. The  
33 interim license shall expire six months from the date of issuance or at such earlier time as  
34 the licensee earns the forty clock hours of continuing education and submits evidence  
35 satisfactory to the board of completion of the required hours.

36       6. A request for reactivation of an inactive license shall show, under oath or  
37 affirmation of the nursing home administrator, a statement that the nursing home  
38 administrator has not practiced during the inactive period and is not presently practicing  
39 in this state.

40       7. No person shall practice as a nursing home administrator or hold himself or  
41 herself out as a nursing home administrator in this state while his or her license is inactive.

42           **8. Inactive licenses shall remain subject to discipline for violations of this chapter**  
43   **and the rules promulgated thereunder.**

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