

HCS SCS SB 308 -- LICENSED PROFESSIONALS

SPONSOR: Crowell (Wasson)

COMMITTEE ACTION: Voted "do pass" by the Special Committee on Professional Registration and Licensing by a vote of 10 to 0.

This substitute changes the laws regarding the licensing of certain professions in the Division of Professional Registration within the Department of Insurance, Financial Institutions, and Professional Registration and establishes vision screening examinations for children in public schools.

VISION SCREENINGS

Beginning July 1, 2008, the substitute requires public school students enrolling in kindergarten or first grade to receive a vision examination from a state licensed optometrist or physician. The State Board of Education in conjunction with the Department of Health and Senior Services will maintain a list of sources to which children who may need vision exams or have been found to be in need of further examination or vision correction may be referred for free or reduced-cost treatment.

Beginning July 1, 2008, and continuing through the 2011-2012 school year, all public schools are required to conduct eye screening exams for each student prior to the completion of the first grade and again before the completion of the third grade. When a student fails an eye screening, the school district must notify the parent or guardian of the results and require the student to receive a complete eye exam from an optometrist or physician. A student will be excused from the eye screening examination if his or her parent or guardian submits an objection to the exam in writing to the appropriate school administrator.

The Children's Vision Commission is established to develop standardized screening tests, reporting forms, appropriate training programs, and a brochure specifying the benefits of ongoing eye care for children and to conduct a four-year pilot project tracking the results of eye screenings. The commission must submit a report to the General Assembly by October 1, 2012, on the results and findings of the study.

MIXED MARTIAL ARTS

The substitute changes the laws regarding the regulation of mixed martial arts, full-contact karate, boxing, kickboxing, and wrestling. The substitute:

- (1) Defines "amateur," "boxing," "mixed martial arts,"

"full-contact karate," "kickboxing," and "wrestling";

(2) Redefines "combative fighting";

(3) Revises the definition of "bout" to include professional mixed martial arts;

(4) Authorizes the Division of Professional Registration to establish rules governing amateur sanctioning bodies;

(5) Allows a gross receipts tax to be assessed on pay-per-view telecasts of these events;

(6) Limits the number of rounds and the time of each round for professional events;

(7) Increases the length of the medical suspension for contestants who lose consciousness during a professional event from 120 to 180 days;

(8) Expands the disciplinary authority of the Office of Athletics within the division; and

(9) Requires contestants participating in boxing, kickboxing, wrestling, full-contact karate, or mixed martial arts to sign a bout contract with the event promoter before each contest which specifies their weight, how much they are being paid, and the date and location of the event.

PRIVATE INVESTIGATORS

The substitute establishes the Board of Private Investigator Examiners within the Division of Professional Registration. No person can provide private investigative services without first being licensed. The substitute specifies the membership and duties of the board; exemptions from licensure; requirements for application and licensure; proof of liability insurance; training and written examinations; fees; background checks on applicants; the appeal process for the denial, suspension, or revocation of licenses; types and terms of licenses; and the procedure for applicants seeking reciprocity. Licensees are allowed to disclose to the board, any law enforcement agency, a prosecutor, or the licensee's own representative any information regarding a criminal offense or to instruct their clients to do so if they are victims of a criminal act. Licensees are prohibited from making false reports, presenting themselves as a state or federal officer, or manufacturing false evidence. Certain identifying evidence must be filed with the board by licensees. Private investigators or investigator agencies are required to maintain complete records of business transactions. Records may be

confidentially examined by the board under certain circumstances.

ARCHITECTS, ENGINEERS, LAND SURVEYORS, AND LANDSCAPE ARCHITECTS

The substitute authorizes the Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects to impose civil penalties upon any person practicing these professions without a valid license, subject to an administrative action by the board.

Complaints must be filed with the Administrative Hearing Commission. If the commission finds that an unlicensed person has violated the provisions of the substitute, the board may issue a civil penalty not to exceed \$5,000 for each day of violation, with a maximum penalty of \$25,000. The person being fined has the right to appeal to a circuit court. Once the case is finalized, the Attorney General will commence an action to recover the penalty, including court costs, attorney fees, and surcharges.

The board is also authorized to assess reasonable costs and expenses incurred in conducting the investigation and administrative hearing and impose a civil penalty against a licensee after the commission has found a cause for discipline.

The substitute also allows unlicensed persons to use a form of the word "engineer" without being subject to disciplinary action if the use of the term is reflective of their profession and does not imply that they are a professional engineer.

PHYSICIAN ASSISTANTS

The substitute expands the definition of "supervision" of physician assistants to allow supervising physicians to be available via telecommunications for consultation, assistance, or intervention. Supervising physicians must be present for a minimum of 66% of the clinic's hours for practice supervision and collaboration when utilizing physician assistants, and physician assistants must practice within 30 miles of the supervising physician.

The Advisory Commission on Physician Assistants is authorized to create a waiver mechanism by which an individual physician and a physician assistant together may apply with the State Board of Registration for the Healing Arts for alternate amounts of on-site supervision. After receiving a waiver, the physician assistant will be allowed to conduct unsupervised practice up to 50 miles from the supervising physician in a designated health professional shortage area.

Prior to allowing a physician assistant to practice without the physician being physically present, the physician assistant will practice for one month with continuous physician supervision. After January 1, 2008, a physician assistant applicant must have a master's degree in a health or medical science related field.

The substitute also voids and makes it against public policy to require any physician to enter into any contract or other agreement to act as a supervising physician for any physician assistant. A physician has the right to refuse to act as a supervising physician, and no contract will limit the supervising physician's ultimate authority over any protocols or standing orders.

Except in a hospital setting, a physician cannot supervise more than three full-time physician assistants.

NURSES

The substitute changes the laws regarding the licensing of nurses. The substitute:

- (1) Establishes a lapsed and a retired license status;
- (2) Requires the notice of a disciplinary hearing before the State Board of Nursing to be served by certified mail. If this cannot be accomplished, the board may publish the notice in a local newspaper;
- (3) Authorizes the board to implement an impaired nurse program to promote early intervention and treatment of nurses who may be impaired by reasons of illness, substance abuse, or mental illness;
- (4) Allows the board to ask for an expedited hearing before the Administrative Hearing Commission if the board determines that a nurse has committed an act which is a clear and present danger to the public. Fifteen days after the complaint and after a preliminary hearing, the board may immediately restrict or suspend the license. Temporary authority to suspend a license becomes final if the nurse does not request a full hearing within 30 days;
- (5) Allows for the sealing of records if the board, commission, or a court of competent jurisdiction determines that a complaint does not constitute a violation of the Nursing Practice Act and is unsubstantiated;
- (6) Allows a person holding the title of advanced practice registered nurse to use the title or any other title appearing on

his or her license;

(7) Makes it unlawful for any unlicensed person to use the title of nurse;

(8) Specifies that reports made to the board do not violate the federal Health Insurance Portability and Accountability Act because the board qualifies as a health oversight agency; and

(9) Defines "temporary nursing staffing agency" as any person, firm, partnership, or corporation doing business within the state that supplies, on a temporary basis, registered nurses or licensed practical nurses to a hospital, nursing home, or other facility.

OPTOMETRISTS

The substitute changes the laws regarding the licensing and practice of optometry. The substitute:

(1) Specifies that the term "practice of optometry" is the examination, diagnosis, treatment, and preventative care of the eye, adnexa, and vision;

(2) Prohibits any person from practicing optometry without a license;

(3) Specifies who is qualified to receive a license;

(4) Requires optometrists practicing away from their principal place of business to obtain a duplicate license and display it in clear public view;

(5) Allows optometrists licensed in other states who have been practicing for the last three years with a pharmaceutical certification to be eligible to make application for licensure;

(6) Removes the requirement that the State Board of Optometry give 30 days' notice of the time and place of board meetings;

(7) Requires the board to accept renewal applications which include approved continuing education programs which are not available in Missouri; and

(8) Changes the laws regarding the administering of pharmaceuticals, course of instruction necessary to administer pharmaceuticals, standards of care, and referrals to physicians.

REAL ESTATE COMMISSION

The substitute authorizes the Missouri Real Estate Commission to impose civil penalties upon a licensee as a form of sanction for a violation of the real estate licensing regulations and also against an unlicensed person performing any acts for which a valid real estate license is required. Complaints must be filed with the Administrative Hearing Commission; and if the commission finds that a person has violated the provisions of the substitute, the Missouri Real Estate Commission may issue a civil penalty, not to exceed \$2,500 for each day of violation.

AUDIOLOGY AND HEARING INSTRUMENT FITTERS

The substitute expands the practice of audiology by adding the fitting, programming, and dispensing of assistive listening devices. Licensees who sell these devices are required to provide a purchase agreement to the buyer containing product information including the terms of sale, name of manufacturer, make, model, and current condition of the product.

The substitute also phases in educational requirements for applicants for instrument specialist licenses or specialist-in-training permits.

PEER REVIEW COMMITTEES

The substitute authorizes licensed ambulance services, emergency medical response agencies, and not-for-profit organizations which contract for ambulance services to establish peer review committees.

The provisions of the substitute regarding children's eye screenings will expire on June 30, 2012.

FISCAL NOTE: Estimated Cost on General Revenue Fund of \$3,287 in FY 2008, Greater than \$510,169 in FY 2009, and Greater than \$200,410 in FY 2010. Estimated Effect on Other State Funds of a cost of \$63,539 in FY 2008, an income of \$113,201 to \$212,201 in FY 2009, and a cost of \$73,743 to \$172,743 in FY 2010.

PROPOSERS: Supporters say that this is a compromise between parties, allowing the regulatory boards to be held harmless. The bill also makes needed updates to the law allowing audiologists to practice under one license and makes upgrades to the educational requirements of hearing instrument dealers and fitters.

Testifying for the bill were Senator Crowell; Missouri Speech-Hearing-Language Association; Missouri Hearing Society; and Division of Professional Registration, Department of Insurance, Financial Services, and Professional Registration.

OPPONENTS: There was no opposition voiced to the committee.