

SECOND REGULAR SESSION

HOUSE BILL NO. 2462

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES McCLANAHAN (Sponsor), PORTWOOD, WITTE, PAGE,
KUESSNER, YOUNG, EL-AMIN AND DOUGHERTY (Co-sponsors).

Read 1st time March 26, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

4671L.02I

AN ACT

To repeal sections 192.068 and 620.010, RSMo, and to enact in lieu thereof two new sections relating to information obtained by the state board of nursing.

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

Section A. Sections 192.068 and 620.010, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 192.068 and 620.010, to read as follows:

192.068. 1. Any entity subject to the provisions of sections 354.400 to 354.636, RSMo,
2 shall provide data regarding quality of care, access to care, member satisfaction and member
3 health status to the director of the department of health and senior services. Failure to provide
4 such data shall be reported to the director of the department of insurance and shall be subject to
5 the penalties provided in section 354.444, RSMo. Any entity subject to the provisions of
6 sections 354.400 to 354.636, RSMo, which continually or substantially fails to comply with the
7 provisions of this section may be prohibited by the director of the department of insurance from
8 participating in any health program administered by the state. The department of health and
9 senior services shall promulgate rules defining continual or substantial failure to comply with
10 the provisions of this section.

11 2. The department of health and senior services shall specify by rule the types of data
12 which shall be submitted and the methods of collection and submission. In defining data
13 standards for the measurement of the quality of care, access to care, member satisfaction and
14 member health status, the director of the department of health and senior services may:

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.

15 (1) Use as the data set the Health Plan Employer Data and Information Set (HEDIS) or
16 an equivalent data set as determined by the department of health and senior services;

17 (2) Consider published standards developed by nationally recognized accreditation
18 organizations including, but not limited to, the National Committee for Quality Assurance and
19 the Joint Committee on Accreditation of Health Care Organizations;

20 (3) Consult with other state agencies and interested parties responsible for delivering,
21 financing and purchasing health care in the state; and

22 (4) Use available department of health and senior services data and other agency data
23 wherever appropriate.

24 3. Data or other information obtained by the department of health and senior services
25 pursuant to the provisions of this section shall not be public information. **De-identified**
26 **information and** reports and studies prepared by the department based upon such information
27 shall be public information and may identify individual entities in the business of delivering or
28 financing health care. The department of health and senior services may authorize the use of the
29 data for other research pursuant to the provisions of section 192.067. The department shall not
30 release data in a form which could be used to identify a patient.

31 4. The department may choose to perform studies and shall publish information,
32 including at least an annual consumer guide, based upon the information obtained pursuant to
33 the provisions of this section. The department shall allow health care financing entities or health
34 care providers who have submitted data which will be used in any report to review and comment
35 on the report prior to its publication or release for public use. With the permission of the entity
36 or the health care provider, the department may include any comments of a health care financing
37 entity or health care provider in the publication. The reports shall be made available to the
38 public. The department may charge a reasonable fee to any entity in the business of delivering
39 or financing health care for specialized reports or services requested by such entity. The fees
40 shall be credited to the public health services fund established in section 192.900.

620.010. 1. There is hereby created a "Department of Economic Development" to be
2 headed by a director appointed by the governor, by and with the advice and consent of the senate.
3 All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus
4 State Reorganization Act of 1974 shall continue to apply to this department and its divisions,
5 agencies and personnel.

6 2. The office of director of the department of business and administration, chapter 35,
7 RSMo, and others, is abolished and all powers, duties, personnel and property of that office, not
8 previously reassigned by executive reorganization plan no. 1 of 1973 as submitted by the
9 governor pursuant to chapter 26, RSMo, are transferred by type I transfer to the director of the

10 department of economic development. The department of business and administration is hereby
11 abolished.

12 3. The duties and responsibilities relating to subsection 2 of section 35.010, RSMo, are
13 transferred by type I transfer to the personnel division, office of administration.

14 4. The powers, duties and functions vested in the public service commission, chapters
15 386, 387, 388, 389, 390, 392, and 393, RSMo, and others, and the administrative hearing
16 commission, sections 621.015 to 621.198, RSMo, and others, are transferred by type III transfers,
17 and the state banking board, chapter 361, RSMo, and others, and the savings and loan
18 commission, chapter 369, RSMo, and others, are transferred by type II transfers to the
19 department of economic development. The director of the department is directed to provide and
20 coordinate staff and equipment services to these agencies in the interest of facilitating the work
21 of the bodies and achieving optimum efficiency in staff services common to all the bodies.
22 Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service
23 commission from presenting additional budget requests or from explaining or clarifying its
24 budget requests to the governor or general assembly.

25 5. The powers, duties and functions vested in the office of the public counsel are
26 transferred by type III transfer to the department of economic development. Funding for the
27 general counsel's office shall be by general revenue.

28 6. The public service commission is authorized to employ such staff as it deems
29 necessary for the functions performed by the general counsel other than those powers, duties and
30 functions relating to representation of the public before the public service commission.

31 7. There is hereby created a "Division of Credit Unions" in the department of economic
32 development, to be headed by a director, nominated by the department director and appointed
33 by the governor with the advice and consent of the senate. All the powers, duties and functions
34 vested in the state supervisor of credit unions in chapter 370, RSMo, and the powers and duties
35 relating to credit unions vested in the commissioner of finance in chapter 370, RSMo, are
36 transferred to the division of credit unions of the department of economic development, by a type
37 II transfer, and the office of the state supervisor of credit unions is abolished. The salary of the
38 director of the division of credit unions shall be set by the director of the department within the
39 limits of the appropriations therefor. The director of the division shall assume all the duties and
40 functions of the state supervisor of credit unions and the commissioner of finance only where the
41 director has duties and responsibilities relating to credit unions as set out in chapter 370, RSMo.

42 8. The powers, duties and functions vested in the division of finance, chapters 361, 362,
43 364, 365, 367, and 408, RSMo, and others, are transferred by type II transfer to the department
44 of economic development. There shall be a director of the division who shall be nominated by
45 the department director and appointed by the governor with the advice and consent of the senate.

46 9. All the powers, duties and functions vested in the director of the division of savings
47 and loan supervision in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, or by any other
48 provision of law are transferred to the division of finance of the department of economic
49 development by a type I transfer. The position of the director of the division of savings and loan
50 supervision is hereby abolished. The director of the division of finance shall assume all the
51 duties and functions of the director of the division of savings and loan supervision as provided
52 in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any other provision of law.
53 The division of savings and loan is hereby abolished. The powers of the savings and loan
54 commission are hereby limited to hearing appeals from decisions of the director of the division
55 of finance approving or denying applications to incorporate savings and loan associations or to
56 establish branches of savings and loan associations and approving regulations pertaining to
57 savings and loan associations. Any appeals shall be held in accordance with section 369.319,
58 RSMo.

59 10. On and after August 28, 1990, the status of the division is modified under a specific
60 type transfer pursuant to section 1 of the Omnibus Reorganization Act of 1974. The status of
61 the division is modified from that of a division transferred to the department of economic
62 development pursuant to a type II transfer, as provided for in this section, to that of an agency
63 possessing the characteristics of a division transferred pursuant to a type III transfer; provided,
64 however, that the division will remain within the department of economic development. The
65 division of insurance shall be assigned to the department of economic development as a type III
66 division, and the director of the department of economic development shall have no supervision,
67 authority or control over the actions or decisions of the director of the division. All authority,
68 records, property, personnel, powers, duties, functions, matter pending and all other pertinent
69 vestiges pertaining thereto shall be retained by the division except as modified by this section.
70 If the division of insurance becomes a department by operation of a constitutional amendment,
71 the department of economic development shall continue until December 31, 1991, to provide at
72 least the same assistance as was provided in previous fiscal years for personnel, data processing
73 support and other benefits from appropriations.

74 11. All the powers, duties and functions of the commerce and industrial development
75 division and the industrial development commission, chapters 184 and 255, RSMo, and others,
76 not otherwise transferred, are transferred by type I transfer to the department of economic
77 development, and the industrial development commission is abolished. All powers, duties and
78 functions of the division of commerce and industrial development and the division of community
79 development are transferred by a type I transfer to the department of economic development, and
80 the division of commerce and industrial development and the division of community
81 development are abolished.

82 12. All the powers, duties and functions vested in the tourism commission, chapter 258,
83 RSMo, and others, are transferred to the "Division of Tourism", which is hereby created, by type
84 III transfer.

85 13. All the powers, duties and functions of the department of community affairs, chapter
86 251, RSMo, and others, not otherwise assigned, are transferred by type I transfer to the
87 department of economic development, and the department of community affairs is abolished.
88 The director of the department of economic development may assume all the duties of the
89 director of community affairs or may establish within the department such subunits and advisory
90 committees as may be required to administer the programs so transferred. The director of the
91 department shall appoint all members of such committees and heads of subunits.

92 14. (1) There is hereby established a "Division of Professional Registration" assigned
93 to the department of economic development as a type III division, headed by a director appointed
94 by the governor with the advice and consent of the senate.

95 (2) The director of the division of professional registration shall promulgate rules and
96 regulations which designate for each board or commission assigned to the division the renewal
97 date for licenses or certificates. After the initial establishment of renewal dates, no director of
98 the division shall promulgate a rule or regulation which would change the renewal date for
99 licenses or certificates if such change in renewal date would occur prior to the date on which the
100 renewal date in effect at the time such new renewal date is specified next occurs. Each board or
101 commission shall by rule or regulation establish licensing periods of one, two, or three years.
102 Registration fees set by a board or commission shall be effective for the entire licensing period
103 involved, and shall not be increased during any current licensing period. Persons who are
104 required to pay their first registration fees shall be allowed to pay the pro rata share of such fees
105 for the remainder of the period remaining at the time the fees are paid. Each board or
106 commission shall provide the necessary forms for initial registration, and thereafter the director
107 may prescribe standard forms for renewal of licenses and certificates. Each board or commission
108 shall by rule and regulation require each applicant to provide the information which is required
109 to keep the board's records current. **Each board or commission shall have the authority to**
110 **collect and analyze information required to support workforce planning and policy**
111 **development.** Each board or commission shall issue the original license or certificate.

112 (3) The division shall provide clerical and other staff services relating to the issuance and
113 renewal of licenses for all the professional licensing and regulating boards and commissions
114 assigned to the division. The division shall perform the financial management and clerical
115 functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and
116 renewal of licenses and certificates" means the ministerial function of preparing and delivering
117 licenses or certificates, and obtaining material and information for the board or commission in

connection with the renewal thereof. It does not include any discretionary authority with regard to the original review of an applicant's qualifications for licensure or certification, or the subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action contemplated against the licensee or certificate holder. The division may develop and implement microfilming systems and automated or manual management information systems.

(4) The director of the division shall establish a system of accounting and budgeting, in cooperation with the director of the department, the office of administration, and the state auditor's office, to ensure proper charges are made to the various boards for services rendered to them. The general assembly shall appropriate to the division and other state agencies from each board's funds, moneys sufficient to reimburse the division and other state agencies for all services rendered and all facilities and supplies furnished to that board.

(5) For accounting purposes, the appropriation to the division and to the office of administration for the payment of rent for quarters provided for the division shall be made from the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for the purpose defined in subdivision (4) of this subsection. The fund shall consist of moneys deposited into it from each board's fund. Each board shall contribute a prorated amount necessary to fund the division for services rendered and rent based upon the system of accounting and budgeting established by the director of the division as provided in subdivision (4) of this subsection. Transfers of funds to the professional registration fees fund shall be made by each board on July first of each year; provided, however, that the director of the division may establish an alternative date or dates of transfers at the request of any board. Such transfers shall be made until they equal the prorated amount for services rendered and rent by the division. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the appropriation from the professional registration fees fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the professional registration fees fund for the preceding fiscal year.

(6) The director of the division shall be responsible for collecting and accounting for all moneys received by the division or its component agencies. Any money received by a board or commission shall be promptly given, identified by type and source, to the director. The director shall keep a record by board and state accounting system classification of the amount of revenue the director receives. The director shall promptly transmit all receipts to the department of revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall provide each board with all relevant financial information in a timely fashion. Each board shall cooperate with the director by providing necessary information.

(7) All educational transcripts, test scores, complaints, investigatory reports, and information pertaining to any person who is an applicant or licensee of any agency assigned to the division of professional registration by statute or by the department of economic development are confidential and may not be disclosed to the public or any member of the public, except with the written consent of the person whose records are involved. The agency which possesses the records or information shall disclose the records or information if the person whose records or information is involved has consented to the disclosure. Each agency is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that any board may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority. Information regarding identity, including names and addresses, registration, and currency of the license of the persons possessing licenses to engage in a professional occupation and the names and addresses of applicants for such licenses is not confidential information.

(8) Any deliberations conducted and votes taken in rendering a final decision after a hearing before an agency assigned to the division shall be closed to the parties and the public. Once a final decision is rendered, that decision shall be made available to the parties and the public.

15. (1) The division of registration and examination, department of education, within chapter 161, RSMo, and others, is abolished and the following boards and commissions are transferred by specific type transfers to the division of professional registration, department of economic development: state board of accountancy, chapter 326, RSMo; state board of barber examiners, chapter 328, RSMo; state board of registration for architects, professional engineers and land surveyors, chapter 327, RSMo; state board of chiropractic examiners, chapter 331, RSMo; state board of cosmetology, chapter 329, RSMo; state board of healing arts, chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; state board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of podiatry, chapter 330, RSMo; Missouri real estate commission, chapter 339, RSMo; and Missouri veterinary medical board chapter 340, RSMo. The governor shall appoint members of these boards by and with the advice and consent of the senate from nominees submitted by the director of the department.

(2) The boards and commissions assigned to the division shall exercise all their respective statutory duties and powers, except those clerical and other staff services involving collecting and accounting for moneys and financial management relating to the issuance and

190 renewal of licenses, which services shall be provided by the division, within the appropriation
191 therefor. All clerical and other staff services relating to the issuance and renewal of licenses of
192 the individual boards and commissions are abolished. All clerical and other staff services
193 pertaining to collecting and accounting for moneys and to financial management relative to the
194 issuance and renewal of licenses of the individual boards and commissions are abolished.
195 Nothing herein shall prohibit employment of professional examining or testing services from
196 professional associations or others as required by the boards or commissions on contract.
197 Nothing herein shall be construed to affect the power of a board or commission to expend its
198 funds as appropriated. However, the division shall review the expense vouchers of each board.
199 The results of such review shall be submitted to the board reviewed and to the house and senate
200 appropriations committees annually.

201 (3) Notwithstanding any other provisions of law, the director of the division shall
202 exercise only those management functions of the boards and commissions specifically provided
203 in the Reorganization Act of 1974, and those relating to the allocation and assignment of space,
204 personnel other than board personnel, and equipment.

205 (4) "Board personnel", as used in this section or chapters 326, 327, 328, 329, 330, 331,
206 332, 333, 334, 335, 336, 338, 339 and 340, RSMo, shall mean personnel whose functions and
207 responsibilities are in areas not related to the clerical duties involving the issuance and renewal
208 of licenses, to the collecting and accounting for moneys, or to financial management relating to
209 issuance and renewal of licenses; specifically included are executive secretaries (or comparable
210 positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these
211 positions; and such other positions as are established and authorized by statute for a particular
212 board or commission. Boards and commissions may employ legal counsel, if authorized by law,
213 and temporary personnel if the board is unable to meet its responsibilities with the employees
214 authorized above. Any board or commission which hires temporary employees shall annually
215 provide the division director and the appropriation committees of the general assembly with a
216 complete list of all persons employed in the previous year, the length of their employment, the
217 amount of their remuneration and a description of their responsibilities.

218 (5) Board personnel for each board or commission shall be employed by and serve at the
219 pleasure of the board or commission, shall be supervised as the board or commission designates,
220 and shall have their duties and compensation prescribed by the board or commission, within
221 appropriations for that purpose, except that compensation for board personnel shall not exceed
222 that established for comparable positions as determined by the board or commission pursuant
223 to the job and pay plan of the department of economic development. Nothing herein shall be
224 construed to permit salaries for any board personnel to be lowered except by board action.

(6) Each board or commission shall receive complaints concerning its licensees' business or professional practices. Each board or commission shall establish by rule a procedure for the handling of such complaints prior to the filing of formal complaints before the administrative hearing commission. The rule shall provide, at a minimum, for the logging of each complaint received, the recording of the licensee's name, the name of the complaining party, the date of the complaint, and a brief statement of the complaint and its ultimate disposition. The rule shall provide for informing the complaining party of the progress of the investigation, the dismissal of the charges or the filing of a complaint before the administrative hearing commission.

16. All the powers, duties and functions of the division of athletics, chapter 317, RSMo, and others, are transferred by type I transfer to the division of professional registration. The athletic commission is abolished.

17. The state council on the arts, chapter 185, RSMo, and others, is transferred by type II transfer to the department of economic development, and the members of the council shall be appointed by the director of the department.

18. The Missouri housing development commission, chapter 215, RSMo, is assigned to the department of economic development, but shall remain a governmental instrumentality of the state of Missouri and shall constitute a body corporate and politic.

19. All the authority, powers, duties, functions, records, personnel, property, matters pending and other pertinent vestiges of the division of manpower planning of the department of social services are transferred by a type I transfer to the "Division of Job Development and Training", which is hereby created, within the department of economic development. The division of manpower planning within the department of social services is abolished. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section.

20. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

H.B. 2462

10

