

FIRST REGULAR SESSION

HOUSE BILL NO. 265

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SMITH (150) (Sponsor), WELLS,
POLLOCK AND DUGGER (Co-sponsors).

0520L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 335.066 and 335.075, RSMo, and to enact in lieu thereof two new sections relating to nurses.

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

Section A. Sections 335.066 and 335.075, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 335.066 and 335.075, to read as follows:

335.066. 1. The board may refuse to issue or reinstate any certificate of registration or
2 authority, permit or license required pursuant to chapter 335 for one or any combination of
3 causes stated in subsection 2 of this section or the board may, as a condition to issuing or
4 reinstating any such permit or license, require a person to submit himself or herself for
5 identification, intervention, treatment, or rehabilitation by the impaired nurse program as
6 provided in section 335.067. The board shall notify the applicant in writing of the reasons for
7 the refusal and shall advise the applicant of his or her right to file a complaint with the
8 administrative hearing commission as provided by chapter 621.

9 2. The board may cause a complaint to be filed with the administrative hearing
10 commission as provided by chapter 621 against any holder of any certificate of registration or
11 authority, permit or license required by sections 335.011 to 335.096 or any person who has failed
12 to renew or has surrendered his or her certificate of registration or authority, permit or license
13 for any one or any combination of the following causes:

14 (1) Use or unlawful possession of any controlled substance, as defined in chapter 195,
15 or alcoholic beverage to an extent that such use impairs a person's ability to perform the work
16 of any profession licensed or regulated by sections 335.011 to 335.096;

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.

17 (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty
18 or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United
19 States, for any offense reasonably related to the qualifications, functions or duties of any
20 profession licensed or regulated pursuant to sections 335.011 to 335.096, for any offense an
21 essential element of which is fraud, dishonesty or an act of violence, or for any offense involving
22 moral turpitude, whether or not sentence is imposed;

23 (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of
24 registration or authority, permit or license issued pursuant to sections 335.011 to 335.096 or in
25 obtaining permission to take any examination given or required pursuant to sections 335.011 to
26 335.096;

27 (4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by
28 fraud, deception or misrepresentation;

29 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty
30 in the performance of the functions or duties of any profession licensed or regulated by sections
31 335.011 to 335.096;

32 (6) Violation of, or assisting or enabling any person to violate, any provision of sections
33 335.011 to 335.096, or of any lawful rule or regulation adopted pursuant to sections 335.011 to
34 335.096;

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

38 (8) Disciplinary action against the holder of a license or other right to practice any
39 profession regulated by sections 335.011 to 335.096 granted by another state, territory, federal
40 agency or country upon grounds for which revocation or suspension is authorized in this state;

41 (9) A person is finally adjudged insane or incompetent by a court of competent
42 jurisdiction;

43 (10) Assisting or enabling any person to practice or offer to practice any profession
44 licensed or regulated by sections 335.011 to 335.096 who is not registered and currently eligible
45 to practice pursuant to sections 335.011 to 335.096;

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

48 (12) Violation of any professional trust or confidence;

49 (13) Use of any advertisement or solicitation which is false, misleading or deceptive to
50 the general public or persons to whom the advertisement or solicitation is primarily directed;

51 (14) Violation of the drug laws or rules and regulations of this state, any other state or
52 the federal government;

53 (15) Placement on an employee disqualification list or other related restriction or finding
54 pertaining to employment within a health-related profession issued by any state or federal
55 government or agency following final disposition by such state or federal government or agency;

56 (16) Failure to successfully complete the impaired nurse program.

57 3. After the filing of such complaint, the proceedings shall be conducted in accordance
58 with the provisions of chapter 621. Upon a finding by the administrative hearing commission
59 that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the
60 board may, singly or in combination, censure or place the person named in the complaint on
61 probation on such terms and conditions as the board deems appropriate for a period not to exceed
62 five years, or may suspend, for a period not to exceed three years, or revoke the license,
63 certificate, or permit.

64 4. For any hearing before the full board, the board shall cause the notice of the hearing
65 to be served upon such licensee in person or by certified mail to the licensee at the licensee's last
66 known address. If service cannot be accomplished in person or by certified mail, notice by
67 publication as described in subsection 3 of section 506.160 shall be allowed[;] . Any
68 representative of the board is authorized to act as a court or judge would in that section; any
69 employee of the board is authorized to act as a clerk would in that section.

70 5. An individual whose license has been revoked shall wait one year from the date of
71 revocation to apply for relicensure. Relicensure shall be at the discretion of the board after
72 compliance with all the requirements of sections 335.011 to 335.096 relative to the licensing of
73 an applicant for the first time.

74 6. The board may notify the proper licensing authority of any other state concerning the
75 final disciplinary action determined by the board on a license in which the person whose license
76 was suspended or revoked was also licensed of the suspension or revocation.

77 7. Any person, organization, association or corporation who reports or provides
78 information to the board of nursing pursuant to the provisions of sections 335.011 to 335.259 and
79 who does so in good faith shall not be subject to an action for civil damages as a result thereof.

80 8. If the board concludes that a nurse has committed an act or is engaging in a course of
81 conduct which would be grounds for disciplinary action which constitutes a clear and present
82 danger to the public health and safety, the board may file a complaint before the administrative
83 hearing commission requesting an expedited hearing and specifying the activities which give rise
84 to the danger and the nature of the proposed restriction or suspension of the nurse's license.
85 Within fifteen days after service of the complaint on the nurse, the administrative hearing
86 commission shall conduct a preliminary hearing to determine whether the alleged activities of
87 the nurse appear to constitute a clear and present danger to the public health and safety which
88 justify that the nurse's license be immediately restricted or suspended. The burden of proving

89 that a nurse is a clear and present danger to the public health and safety shall be upon the state
90 board of nursing. The administrative hearing commission shall issue its decision immediately
91 after the hearing and shall either grant to the board the authority to suspend or restrict the license
92 or dismiss the action.

93 9. If the administrative hearing commission grants temporary authority to the board to
94 restrict or suspend the nurse's license, such temporary authority of the board shall become final
95 authority if there is no request by the nurse for a full hearing within thirty days of the preliminary
96 hearing. The administrative hearing commission shall, if requested by the nurse named in the
97 complaint, set a date to hold a full hearing under the provisions of chapter 621 regarding the
98 activities alleged in the initial complaint filed by the board.

99 10. If the administrative hearing commission refuses to grant temporary authority to the
100 board or restrict or suspend the nurse's license under subsection 8 of this section, such dismissal
101 shall not bar the board from initiating a subsequent disciplinary action on the same grounds.

102 **11. Upon restricting or suspending a license under this section, the board shall**
103 **notify any known current employer of the sanctioning of a nurse employee's license,**
104 **including any employers who have requested notification under section 335.075. Nothing**
105 **in this subsection shall be construed as requiring the board to determine the current**
106 **employer of any person whose license is sanctioned under this section.**

335.075. 1. Before hiring a registered nurse, licensed practical nurse, or advanced
2 practice registered nurse in Missouri, an employer shall verify that the applicant has a current,
3 valid license to practice nursing under chapter 335. This section shall not apply for employment
4 which does not require the possession of a current, valid license to practice nursing.

5 2. Employers shall have a process in place to verify licensure status of each registered
6 nurse, licensed practical nurse, or advanced practice registered nurse coinciding with the license
7 renewal.

8 **3. Employers shall be notified by the board of nursing regarding any change in the**
9 **licensure status of any employee licensed by the board of nursing if the current employer**
10 **of such employee is known to the board or if an employer provides a list of current nurse**
11 **employees and requests in writing to the board to be notified upon a change in the**
12 **licensure status of any such nurse employee.**