

HOUSE AMENDMENT NO. ____
TO
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Offered By

AMEND House Amendment No. ____ to House Committee Substitute for Senate Substitute for Senate Committee Substitute for Senate Bill Nos. 775, 751 & 640, Page 1, Line 5, by deleting all of the said line and inserting in lieu thereof the following:

167.181. 1. The department of health and senior services, after consultation with the department of elementary and secondary education, shall promulgate rules and regulations governing the immunization against poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis, diphtheria, and hepatitis B, to be required of children attending public~~[-private, parochial or parish]~~ schools. Such rules and regulations ~~[may modify the]~~ shall not require immunizations against diseases that are ~~[required of children]~~ not listed in this subsection. The immunizations required and the manner and frequency of their administration shall conform to recognized standards of medical practice. The department of health and senior services shall supervise and secure the enforcement of the required immunization program.

2. It is unlawful for any student to attend public school unless he or she has been immunized as required under the rules and regulations of the department of health and senior services~~[-]~~ and can provide satisfactory evidence of such immunization, or unless he or she can provide satisfactory evidence of acquired immunity; except that if he or she produces satisfactory evidence of having begun the process of immunization, he or she may continue to attend school as long as the immunization process is being accomplished in the prescribed manner. It is unlawful for any parent or guardian to refuse or neglect to have his or her child immunized as required by this section, unless the child is properly exempted.

3. This section shall not apply to any child if one parent or guardian objects in writing to his or her school administrator against the immunization of the child, because of religious or conscientious beliefs or medical contraindications. In cases where any such objection is for reasons of medical contraindications, a statement from a duly licensed physician must also be provided to the school administrator. The written religious or conscientious belief objection may be a written statement of the parent or guardian as long as the written statement includes the child's name and the parent's or guardian's name and signature. Each public school shall accept the written religious or conscientious belief objection as described under this subsection or the religious or conscientious

Action Taken _____ Date _____

belief exemption form as described under section 167.186 and shall not require any additional actions including, but not limited to, submitting additional forms, making an appointment with the local health department, obtaining an official stamp or seal, watching a video, or attending a lecture.

4. Each school superintendent~~[, whether]~~ of a public~~[, private, parochial or parish]~~ school~~[,]~~ shall cause to be prepared a record showing the immunization status of every child enrolled in or attending a school under his or her jurisdiction. The name of any parent or guardian who neglects or refuses to permit a nonexempted child to be immunized against diseases as required by the rules and regulations promulgated pursuant to the provisions of this section shall be reported by the school superintendent to the department of health and senior services.

5. The immunization required may be done by any duly licensed physician or by someone under his or her direction. If the parent or guardian is unable to pay, the child shall be immunized at public expense by a physician or nurse at or from the county, district, city public health center or a school nurse or by a nurse or physician in the private office or clinic of the child's personal physician with the costs of immunization paid through the state Medicaid program, private insurance or in a manner to be determined by the department of health and senior services subject to state and federal appropriations, and after consultation with the school superintendent and the advisory committee established in section 192.630. When a child receives his or her immunization, the treating physician may also administer the appropriate fluoride treatment to the child's teeth.

6. Funds for the administration of this section and for the purchase of vaccines for children of families unable to afford them shall be appropriated to the department of health and senior services from general revenue or from federal funds if available.

7. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 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, 2001, shall be invalid and void.

167.186. 1. The department of health and senior services shall develop an informational brochure outlining the process of obtaining a medical contraindication exemption or religious or conscientious belief exemption from the immunizations required under sections 167.181, 174.335, and 210.003.

2. The brochure shall include the religious or conscientious belief exemption form, the medical contraindication exemption form, and a statement that a student without immunizations cannot, on the basis of not having immunizations, be prohibited from attending a public school, a public institution of higher education, or a public day care center, preschool, or nursery school if the student has an exemption described under section 167.181, 174.335, or 210.003.

1 3. The department shall make the brochure available on its website. Every public school,
 2 public institution of higher education, and public day care center, preschool, and nursery school
 3 shall provide notice of the brochure to each student or, if the student is under eighteen years of age,
 4 to the student's parent or guardian any time notice of the vaccine requirements are provided.

5 4. The department shall develop and make a religious or conscientious belief exemption
 6 form available on its website. The religious or conscientious belief exemption form shall not
 7 require any information other than the date; the student's name; the student's signature or, if the
 8 student is a minor, the name and signature of the parent or guardian; and a list of the immunizations
 9 to which the student or the student's parent or guardian objects.

10 5. The religious or conscientious belief exemption form shall be in substantially the
 11 following form:

(The Great Seal of the State of Missouri)

MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES

RELIGIOUS OR CONSCIENTIOUS BELIEF EXEMPTION

Pursuant to the requirements of the Missouri state vaccination law (Sections 167.181, 174.335, and 210.003, RSMo) for children and students attending a public day care center, preschool, or nursery school; public elementary or secondary school; or a public institution of higher education, the following exemption is claimed:

THIS IS TO CERTIFY THAT

 NAME OF CHILD OR STUDENT (Print or type)

IS HEREBY EXEMPT FROM RECEIVING THE FOLLOWING CHECKED VACCINATION(S) BECAUSE SUCH VACCINATIONS VIOLATE MY RELIGIOUS OR CONSCIENTIOUS BELIEFS:

☐ <u>Poliomyelitis</u>	☐ <u>Rubella</u>	☐ <u>Rubeola</u>	☐ <u>Mumps</u>
☐ <u>Tetanus</u>	☐ <u>Pertussis</u>	☐ <u>Diphtheria</u>	☐ <u>Hepatitis B</u>
☐ <u>OTHER _____</u>			

 STUDENT or PARENT/GUARDIAN (Print or type)

STUDENT or PARENT/GUARDIAN SIGNATURE

DATE

174.335. 1. Beginning with the 2004-05 school year and for each school year thereafter, every public institution of higher education in this state shall require all students who reside in on-campus housing to have received the meningococcal vaccine not more than five years prior to enrollment and in accordance with the latest recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, unless a signed statement of medical exemption or religious or conscientious belief exemption is on file with the institution's administration. A student shall be exempted from the immunization requirement of this section upon signed certification by a physician licensed under chapter 334 indicating that either the immunization would seriously endanger the student's health or life or the student has documentation of the disease or laboratory evidence of immunity to the disease. A student shall be exempted from the immunization requirement of this section if he or she objects in writing to the institution's administration that immunization violates his or her religious or conscientious beliefs. The written religious or conscientious belief objection may be a written statement of the student as long as the written statement includes the student's name and signature. Each public institution of higher education shall accept the written religious or conscientious belief objection as described under this subsection or the religious or conscientious belief exemption form as described under section 167.186 and shall not require any additional actions including, but not limited to, submitting additional forms, making an appointment with the local health department, obtaining an official stamp or seal, watching a video, or attending a lecture.

2. Each public university or college in this state shall maintain records on the meningococcal vaccination status of every student residing in on-campus housing at the university or college.

3. Nothing in this section shall be construed as requiring any institution of higher education to provide or pay for vaccinations against meningococcal disease.

4. For purposes of this section, the term "on-campus housing" shall include~~[-, but not be limited to, any fraternity or sorority residence, regardless of whether such residence is privately owned, on or near the campus of a public institution of higher education]~~ only publicly owned property.

210.003. 1. No child shall be permitted to enroll in or attend any public~~[-, private or parochial]~~ day care center, preschool, or nursery school ~~[caring for ten or more children]~~ unless such child has been adequately immunized against ~~[vaccine-preventable childhood illnesses specified by the department of health and senior services in accordance with recommendations of the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices (ACIP). The parent or guardian of such child shall provide satisfactory evidence of the required immunizations]~~ poliomyelitis, rubella, rubeola, mumps, tetanus, pertussis, diphtheria, and hepatitis B.

2. A child who has not completed all immunizations required under this section that are appropriate for his or her age may enroll~~[,]~~ if:

(1) Satisfactory evidence is produced that such child has begun the process of immunization. The child may continue to attend as long as the immunization process is being accomplished according to the ~~[ACIP/Missouri]~~ schedule recommended by the department of health and senior services ~~[recommended schedule]~~;

(2) The parent or guardian has signed and placed on file with the day care administrator a statement of exemption which may be either of the following:

(a) A medical exemption, by which a child shall be exempted from the requirements of this section upon certification by a licensed physician that such immunization would seriously endanger the child's health or life; or

(b) A ~~[parent or guardian]~~ religious or conscientious belief exemption, by which a child shall be exempted from the requirements of this section if one parent or guardian files a written objection to immunization with the day care administrator; or

(3) The child is homeless or in the custody of the children's division and cannot provide satisfactory evidence of the required immunizations. Satisfactory evidence shall be presented within thirty days of enrollment and shall confirm either that the child has completed all immunizations required under this section that are appropriate for his or her age or has begun the process of immunization. If the child has begun the process of immunization, he or she may continue to attend as long as the process is being accomplished according to the schedule recommended by the department of health and senior services.

~~[Exemptions shall be accepted by the day care administrator when the necessary information as determined by the department of health and senior services is filed with the day care administrator by the parent or guardian. Exemption forms shall be provided by the department of health and senior services]~~ The written religious or conscientious belief objection may be a written statement of the parent or guardian as long as the written statement includes the child's name and the parent's or guardian's name and signature. Each public day care center, preschool, and nursery school shall accept the written religious or conscientious belief objection as described under this subsection or the religious or conscientious belief exemption form as described under section 167.186 and shall not require any additional actions including, but not limited to, submitting additional forms, making an appointment with the local health department, obtaining an official stamp or seal, watching a video, or attending a lecture.

3. In the event of an outbreak or suspected outbreak of a vaccine-preventable disease within a particular facility, the administrator of the facility shall follow the control measures instituted by the local health authority or the department of health and senior services or both the local health authority and the department of health and senior services, as established in Rule 19 CSR 20-20.040, "Measures for the Control of Communicable, Environmental and Occupational Diseases".

4. The administrator of each public~~, private or parochial~~ day care center, preschool, or nursery school shall cause to be prepared a record of immunization of every child enrolled in or attending a facility under his or her jurisdiction. An annual summary report shall be made by

January fifteenth showing the immunization status of each child enrolled, using forms provided for this purpose by the department of health and senior services. The immunization records shall be available for review by department of health and senior services personnel upon request.

5. For purposes of this section, "satisfactory evidence of immunization" means a statement, certificate or record from a physician or other recognized health facility or personnel, stating that the required immunizations have been given to the child and verifying the type of vaccine and the month, day and year of administration.

6. Nothing in this section shall preclude any political subdivision from adopting more stringent rules regarding the immunization of preschool children.

7. All public~~[-private, and parochial]~~ day care centers, preschools, and nursery schools shall notify the parent or guardian of each child at the time of initial enrollment in or attendance at the facility that the parent or guardian may request notice of whether there are children currently enrolled in or attending the facility for whom an immunization exemption has been filed. Beginning December 1, 2015, all public~~[-private, and parochial]~~ day care centers, preschools, and nursery schools shall notify the parent or guardian of each child currently enrolled in or attending the facility that the parent or guardian may request notice of whether there are children currently enrolled in or attending the facility for whom an immunization exemption has been filed. Any public~~[-private, or parochial]~~ day care center, preschool, or nursery school shall notify the parent or guardian of a child enrolled in or attending the facility, upon request, of whether there are children currently enrolled in or attending the facility for whom an immunization exemption has been filed.

210.110. As used in sections 210.109 to 210.165, and sections 210.180 to 210.183, the following terms mean:

(1) "Abuse", any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control, except that discipline including spanking, administered in a reasonable manner, or a decision by those responsible for the child's care, custody, and control to not immunize a child shall not be construed to be abuse. Victims of abuse shall also include any victims of sex trafficking or severe forms of trafficking as those terms are defined in 22 U.S.C. [78] Section [7102(9)-(10)] 7102, as amended;

(2) "Assessment and treatment services for children", an approach to be developed by the children's division which will recognize and treat the specific needs of at-risk and abused or neglected children. The developmental and medical assessment may be a broad physical, developmental, and mental health screening to be completed within thirty days of a child's entry into custody and in accordance with the periodicity schedule set forth by the American Academy of Pediatrics thereafter as long as the child remains in care. Screenings may be offered at a centralized location and include, at a minimum, the following:

(a) Complete physical to be performed by a pediatrician familiar with the effects of abuse and neglect on young children;

(b) Developmental, behavioral, and emotional screening in addition to early periodic screening, diagnosis, and treatment services, including a core set of standardized and recognized

1 instruments as well as interviews with the child and appropriate caregivers. The screening battery
2 may be performed by a licensed mental health professional familiar with the effects of abuse and
3 neglect on young children, who will then serve as the liaison between all service providers in
4 ensuring that needed services are provided. Such treatment services may include in-home services,
5 out-of-home placement, intensive twenty-four-hour treatment services, family counseling, parenting
6 training and other best practices.

7
8 Children whose screenings indicate an area of concern may complete a comprehensive, in-depth
9 health, psychodiagnostic, or developmental assessment within sixty days of entry into custody;

10 (3) "Central registry", a registry of persons where the division has found probable cause to
11 believe prior to August 28, 2004, or by a preponderance of the evidence after August 28, 2004, or a
12 court has substantiated through court adjudication that the individual has committed child abuse or
13 neglect or the person has pled guilty or has been found guilty of a crime pursuant to section 565.020,
14 565.021, 565.023, 565.024, 565.050, 566.030, 566.060, or 567.050 if the victim is a child less than
15 eighteen years of age, or any other crime pursuant to chapter 566 if the victim is a child less than
16 eighteen years of age and the perpetrator is twenty-one years of age or older, a crime under section
17 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, 568.090, 573.023, 573.025, 573.035,
18 573.037, 573.040, 573.200, or 573.205, or an attempt to commit any such crimes. Any persons
19 placed on the registry prior to August 28, 2004, shall remain on the registry for the duration of time
20 required by section 210.152;

21 (4) "Child", any person, regardless of physical or mental condition, under eighteen years of
22 age;

23 (5) "Children's services providers and agencies", any public, quasi-public, or private entity
24 with the appropriate and relevant training and expertise in delivering services to children and their
25 families as determined by the children's division, and capable of providing direct services and other
26 family services for children in the custody of the children's division or any such entities or agencies
27 that are receiving state moneys for such services;

28 (6) "Director", the director of the Missouri children's division within the department of
29 social services;

30 (7) "Division", the Missouri children's division within the department of social services;

31 (8) "Family assessment and services", an approach to be developed by the children's
32 division which will provide for a prompt assessment of a child who has been reported to the division
33 as a victim of abuse or neglect by a person responsible for that child's care, custody or control and of
34 that child's family, including risk of abuse and neglect and, if necessary, the provision of
35 community-based services to reduce the risk and support the family;

36 (9) "Family support team meeting" or "team meeting", a meeting convened by the division
37 or children's services provider in behalf of the family and/or child for the purpose of determining
38 service and treatment needs, determining the need for placement and developing a plan for
39 reunification or other permanency options, determining the appropriate placement of the child,

1 evaluating case progress, and establishing and revising the case plan;

2 (10) "Investigation", the collection of physical and verbal evidence to determine if a child
3 has been abused or neglected;

4 (11) "Jail or detention center personnel", employees and volunteers working in any premises
5 or institution where incarceration, evaluation, care, treatment or rehabilitation is provided to persons
6 who are being held under custody of the law;

7 (12) "Neglect", failure to provide, by those responsible for the care, custody, and control of
8 the child, the proper or necessary support, education as required by law, nutrition or medical,
9 surgical, or any other care necessary for the child's well-being. Victims of neglect shall also include
10 any victims of sex trafficking or severe forms of trafficking as those terms are defined in 22 U.S.C.
11 [78] Section ~~[7102(9)-(10)] 7102~~, as amended. "Neglect" shall not include a decision by those
12 responsible for the child's custody, care, and control to not immunize a child;

13 (13) "Preponderance of the evidence", that degree of evidence that is of greater weight or
14 more convincing than the evidence which is offered in opposition to it or evidence which as a whole
15 shows the fact to be proved to be more probable than not;

16 (14) "Probable cause", available facts when viewed in the light of surrounding
17 circumstances which would cause a reasonable person to believe a child was abused or neglected;

18 (15) "Report", the communication of an allegation of child abuse or neglect to the division
19 pursuant to section 210.115;

20 (16) "Those responsible for the care, custody, and control of the child", includes, but is not
21 limited to:

22 (a) The parents or legal guardians of a child;

23 (b) Other members of the child's household;

24 (c) Those exercising supervision over a child for any part of a twenty-four-hour day;

25 (d) Any adult person who has access to the child based on relationship to the parents of the
26 child or members of the child's household or the family;

27 (e) Any person who takes control of the child by deception, force, or coercion; or

28 (f) School personnel, contractors, and volunteers, if the relationship with the child was
29 established through the school or through school-related activities, even if the alleged abuse or
30 neglect occurred outside of school hours or off school grounds.

31 210.115. 1. When any physician, medical examiner, coroner, dentist, chiropractor,
32 optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the
33 examination, care, treatment or research of persons, and any other health practitioner, psychologist,
34 mental health professional, social worker, day care center worker or other child-care worker,
35 juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or
36 other school official, minister as provided by section 352.400, peace officer or law enforcement
37 official, volunteer or personnel of a community service program that offers support services for
38 families in crisis to assist in the delegation of any powers regarding the care and custody of a child
39 by a properly executed power of attorney pursuant to sections 475.600 to 475.604, or other person

1 with responsibility for the care of children has reasonable cause to suspect that a child has been or
2 may be subjected to abuse or neglect or observes a child being subjected to conditions or
3 circumstances which would reasonably result in abuse or neglect, that person shall immediately
4 report to the division in accordance with the provisions of sections 210.109 to 210.183. No internal
5 investigation shall be initiated until such a report has been made. As used in this section, the term
6 "abuse" is not limited to abuse inflicted by a person responsible for the child's care, custody and
7 control as specified in section 210.110, but shall also include abuse inflicted by any other person.

8 2. If two or more members of a medical institution who are required to report jointly have
9 knowledge of a known or suspected instance of child abuse or neglect, a single report may be made
10 by a designated member of that medical team. Any member who has knowledge that the member
11 designated to report has failed to do so shall thereafter immediately make the report. Nothing in this
12 section, however, is meant to preclude any person from reporting abuse or neglect.

13 3. The reporting requirements under this section are individual, and no supervisor or
14 administrator may impede or inhibit any reporting under this section. No person making a report
15 under this section shall be subject to any sanction, including any adverse employment action, for
16 making such report. Every employer shall ensure that any employee required to report pursuant to
17 subsection 1 of this section has immediate and unrestricted access to communications technology
18 necessary to make an immediate report and is temporarily relieved of other work duties for such
19 time as is required to make any report required under subsection 1 of this section.

20 4. Notwithstanding any other provision of sections 210.109 to 210.183, any child ~~[who~~
21 ~~does]~~ not ~~[receive]~~ receiving specified medical treatment by reason of the legitimate practice of the
22 religious belief of the child's parents, guardian, or others legally responsible for the child~~[-for that~~
23 ~~reason alone,]~~ or not receiving immunizations by reason of the religious or conscientious belief of
24 the child's parents, guardian, or others legally responsible for the child shall not be ~~[found to be]~~ a
25 contributing factor for a finding of an abused or neglected child, and such parents, guardian or other
26 persons legally responsible for the child shall not be entered into the central registry. However, the
27 division may accept reports concerning such a child and may subsequently investigate or conduct a
28 family assessment as a result of that report; except that, a child not receiving immunizations shall
29 not be a contributing factor in the division's decision to accept reports concerning such a child or to
30 investigate or conduct a family assessment. Such an exception shall not limit the administrative or
31 judicial authority of the state to ensure that medical services are provided to the child when the
32 child's health requires it.

33 5. In addition to those persons and officials required to report actual or suspected abuse or
34 neglect, any other person may report in accordance with sections 210.109 to 210.183 if such person
35 has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or
36 observes a child being subjected to conditions or circumstances which would reasonably result in
37 abuse or neglect.

38 6. Any person or official required to report pursuant to this section, including employees of
39 the division, who has probable cause to suspect that a child who is or may be under the age of

18 eighteen, who is eligible to receive a certificate of live birth, has died shall report that fact to the appropriate medical examiner or coroner. If, upon review of the circumstances and medical information, the medical examiner or coroner determines that the child died of natural causes while under medical care for an established natural disease, the coroner, medical examiner or physician shall notify the division of the child's death and that the child's attending physician shall be signing the death certificate. In all other cases, the medical examiner or coroner shall accept the report for investigation, shall immediately notify the division of the child's death as required in section 58.452 and shall report the findings to the child fatality review panel established pursuant to section 210.192.

7. Any person or individual required to report may also report the suspicion of abuse or neglect to any law enforcement agency or juvenile office. Such report shall not, however, take the place of reporting to the division.

8. If an individual required to report suspected instances of abuse or neglect pursuant to this section has reason to believe that the victim of such abuse or neglect is a resident of another state or was injured as a result of an act which occurred in another state, the person required to report such abuse or neglect may, in lieu of reporting to the Missouri children's division, make such a report to the child protection agency of the other state with the authority to receive such reports pursuant to the laws of such other state. If such agency accepts the report, no report is required to be made, but may be made, to the children's division.

9. For the purposes of providing supportive services or verifying the status of a youth as unaccompanied or homeless for the purposes of accessing supportive services, the fact that a child is an unaccompanied youth as defined in 42 U.S.C. Section 11434a(6) is not, in and of itself, a sufficient basis for reporting child abuse or neglect, unless the child is under sixteen years of age or is an incapacitated person, as defined in section 475.010. Nothing in this subsection shall limit a mandated reporter from making a report under this section if the mandated reporter knows or has reasonable cause to suspect that an unaccompanied youth has been or may be a victim of abuse or neglect.

334.099. 1. (1) The board may initiate a contested hearing to determine if reasonable cause exists to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental or physical incapacity, or due to the excessive use or abuse of alcohol or controlled substances. The board shall not initiate a contested hearing on the basis of, or in retaliation for, any licensee or applicant providing an immunization exemption statement or certification under section 167.181, 174.335, or 210.003.

(2) The board shall serve notice pursuant to section 536.067 of the contested hearing at least fifteen days prior to the hearing. Such notice shall include a statement of the reasons the board believes there is reasonable cause to believe that a licensee or applicant is unable to practice his or her profession with reasonable skill and safety to the public by reason of medical or osteopathic incompetency, mental, or physical incapacity, or due to the excessive use or abuse of alcohol or

1 controlled substances.

2 (3) For purposes of this section and prior to any contested hearing, the board may,
3 notwithstanding any other law limiting access to medical or other health data, obtain medical data
4 and health records relating to the licensee or applicant without the licensee's or applicant's consent,
5 upon issuance of a subpoena by the board. These data and records shall be admissible without
6 further authentication by either board or licensee at any hearing held pursuant to this section.

7 (4) After a contested hearing before the board, and upon a showing of reasonable cause to
8 believe that a licensee or applicant is unable to practice his or her profession with reasonable skill
9 and safety to the public by reason of medical or osteopathic incompetency, mental, or physical
10 incapacity, or due to the excessive use or abuse of alcohol or controlled substances the board may
11 require a licensee or applicant to submit to an examination. The board shall maintain a list of
12 facilities approved to perform such examinations. The licensee or applicant may propose a facility
13 not previously approved to the board and the board may accept such facility as an approved facility
14 for such licensee or applicant by a majority vote.

15 (5) For purposes of this subsection, every licensee or applicant is deemed to have consented
16 to an examination upon a showing of reasonable cause. The applicant or licensee shall be deemed
17 to have waived all objections to the admissibility of testimony by the provider of the examination
18 and to the admissibility of examination reports on the grounds that the provider of the examination's
19 testimony or the examination is confidential or privileged.

20 (6) Written notice of the order for an examination shall be sent to the applicant or licensee
21 by registered mail, addressed to the licensee or applicant at the licensee's or applicant's last known
22 address on file with the board, or shall be personally served on the applicant or licensee. The order
23 shall state the cause for the examination, how to obtain information about approved facilities, and a
24 time limit for obtaining the examination. The licensee or applicant shall cause a report of the
25 examination to be sent to the board.

26 (7) The licensee or applicant shall sign all necessary releases for the board to obtain and use
27 the examination during a hearing and to disclose the recommendations of the examination as part of
28 a disciplinary order.

29 (8) After receiving the report of the examination ordered in subdivision (4) of this
30 subsection, the board may hold a contested hearing to determine if by clear and convincing evidence
31 the licensee or applicant is unable to practice with reasonable skill or safety to the public by reasons
32 of medical or osteopathic incompetency, reason of mental or physical incapacity, or due to the
33 excessive use or abuse of alcohol or controlled substances. If the board finds that the licensee or
34 applicant is unable to practice with reasonable skill or safety to the public by reasons of medical or
35 osteopathic incompetency, reason of mental or physical incapacity, or excessive use or abuse of
36 controlled substances, the board shall, after a hearing, enter an order imposing one or more of the
37 disciplinary measures set forth in subsection 4 of section 334.100.

38 (9) The provisions of chapter 536 for a contested case, except those provisions or
39 amendments which are in conflict with this section, shall apply to and govern the proceedings

1 contained in this subsection and the rights and duties of the parties involved. The person appealing
2 such an action shall be entitled to present evidence under chapter 536 relevant to the allegations.

3 2. Failure to submit to the examination when directed shall be cause for the revocation of
4 the license of the licensee or denial of the application. No license may be reinstated or application
5 granted until such time as the examination is completed and delivered to the board or the board
6 withdraws its order.

7 3. Neither the record of proceedings nor the orders entered by the board shall be used
8 against a licensee or applicant in any other proceeding, except for a proceeding in which the board
9 or its members are a party or in a proceeding involving any state or federal agency.

10 4. A licensee or applicant whose right to practice has been affected under this section shall,
11 at reasonable intervals not to exceed twelve months, be afforded an opportunity to demonstrate that
12 he or she can resume the competent practice of his or her profession or should be granted a license.
13 The board may hear such motion more often upon good cause shown.

14 5. The board shall promulgate rules and regulations to carry out the provisions of this
15 section.

16 6. For purposes of this section, "examination" means a skills, multidisciplinary, or substance
17 abuse evaluation.

18 334.100. 1. (1) The board may refuse to issue or renew any certificate of registration or
19 authority, permit or license required pursuant to this chapter for one or any combination of causes
20 stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons
21 for the refusal and shall advise the applicant of the applicant's right to file a complaint with the
22 administrative hearing commission as provided by chapter 621. As an alternative to a refusal to
23 issue or renew any certificate, registration or authority, the board may, at its discretion, issue a
24 license which is subject to probation, restriction or limitation to an applicant for licensure for any
25 one or any combination of causes stated in subsection 2 of this section. The board's order of
26 probation, limitation or restriction shall contain a statement of the discipline imposed, the basis
27 therefor, the date such action shall become effective, and a statement that the applicant has thirty
28 days to request in writing a hearing before the administrative hearing commission. If the board
29 issues a probationary, limited or restricted license to an applicant for licensure, either party may file
30 a written petition with the administrative hearing commission within thirty days of the effective date
31 of the probationary, limited or restricted license seeking review of the board's determination. If no
32 written request for a hearing is received by the administrative hearing commission within the thirty-
33 day period, the right to seek review of the board's decision shall be considered as waived.

34 (2) The board shall not refuse to issue or renew any certificate of registration or authority,
35 permit, or license required by this chapter on the basis of, or in retaliation for, providing an
36 immunization exemption statement or certification under section 167.181, 174.335, or 210.003. The
37 board shall not issue a license that is subject to probation, restriction, or limitation on the basis of, or
38 in retaliation for, providing an immunization exemption statement or certification under section
39 167.181, 174.335, or 210.003.

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

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

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

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

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

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

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

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

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

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

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

35 (g) Final disciplinary action by any professional medical or osteopathic association or
36 society or licensed hospital or medical staff of such hospital in this or any other state or territory,
37 whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension,
38 limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such
39 privileges or license for cause, or other final disciplinary action, if the action was in any way related

1 to unprofessional conduct, professional incompetence, malpractice₂ or any other violation of any
2 provision of this chapter;

3 (h) Signing a blank prescription form; or dispensing, prescribing, administering₂ or
4 otherwise distributing any drug, controlled substance₂ or other treatment without sufficient
5 examination including failing to establish a valid physician-patient relationship pursuant to section
6 334.108, or for other than medically accepted therapeutic or experimental or investigative purposes
7 duly authorized by a state or federal agency, or not in the course of professional practice, or not in
8 good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity₂ or disease,
9 except as authorized in section 334.104;

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

12 (j) Being listed on any state or federal sexual offender registry;

13 (k) Terminating the medical care of a patient without adequate notice or without making
14 other arrangements for the continued care of the patient;

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

17 (m) Failure of any applicant or licensee to cooperate with the board during any
18 investigation;

19 (n) Failure to comply with any subpoena or subpoena duces tecum from the board or an
20 order of the board;

21 (o) Failure to timely pay license renewal fees specified in this chapter;

22 (p) Violating a probation agreement, order, or other settlement agreement with this board or
23 any other licensing agency;

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

25 (r) Advertising by an applicant or licensee which is false or misleading, or which violates
26 any rule of the board, or which claims without substantiation the positive cure of any disease, or
27 professional superiority to or greater skill than that possessed by any other physician. An applicant
28 or licensee shall also be in violation of this provision if the applicant or licensee has a financial
29 interest in any organization, corporation₂ or association which issues or conducts such advertising;

30 (s) Any other conduct that is unethical or unprofessional involving a minor;

31 (5) Any conduct or practice which is or might be harmful or dangerous to the mental or
32 physical health of a patient or the public; or incompetency, gross negligence₂ or repeated negligence
33 in the performance of the functions or duties of any profession licensed or regulated by this chapter.
34 For the purposes of this subdivision, "repeated negligence" means the failure, on more than one
35 occasion, to use that degree of skill and learning ordinarily used under the same or similar
36 circumstances by the member of the applicant's or licensee's profession;

37 (6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any
38 person to violate, any provision of this chapter or chapter 324, or of any lawful rule or regulation
39 adopted pursuant to this chapter or chapter 324;

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

4 (8) Revocation, suspension, restriction, modification, limitation, reprimand, warning,
5 censure, probation, or other final disciplinary action against the holder of or applicant for a license
6 or other right to practice any profession regulated by this chapter by another state, territory, federal
7 agency, or country, whether or not voluntarily agreed to by the licensee or applicant, including, but
8 not limited to, the denial of licensure, surrender of the license, allowing the license to expire or
9 lapse, or discontinuing or limiting the practice of medicine while subject to an investigation or while
10 actually under investigation by any licensing authority, medical facility, branch of the Armed Forces
11 of the United States of America, insurance company, court, agency of the state or federal
12 government, or employer;

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

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

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

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

25 (13) Violation of the drug laws or rules and regulations of this state, including but not
26 limited to any provision of chapter 195, any other state, or the federal government;

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

30 (15) Knowingly making a false statement, orally or in writing to the board;

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

36 (17) Using, or permitting the use of, the person's name under the designation of "Doctor",
37 "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial exploitation
38 of any goods, wares, or merchandise;

39 (18) Knowingly making or causing to be made a false statement or misrepresentation of a

1 material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208 or
2 chapter 630 or for payment from Title XVIII or Title XIX of the Social Security Act;

3 (19) Failure or refusal to properly guard against contagious, infectious, or communicable
4 diseases or the spread thereof; maintaining an unsanitary office or performing professional services
5 under unsanitary conditions; or failure to report the existence of an unsanitary condition in the office
6 of a physician or in any health care facility to the board, in writing, within thirty days after the
7 discovery thereof;

8 (20) Any candidate for licensure or person licensed to practice as a physical therapist,
9 paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary,
10 practicing or offering to practice professional physical therapy independent of the prescription and
11 direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a
12 dentist pursuant to chapter 332, as a podiatrist pursuant to chapter 330, as an advanced practice
13 registered nurse under chapter 335, or any licensed and registered physician, dentist, podiatrist, or
14 advanced practice registered nurse practicing in another jurisdiction, whose license is in good
15 standing;

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

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

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

32 (24) Habitual intoxication or dependence on alcohol, evidence of which may include more
33 than one alcohol-related enforcement contact as defined by section 302.525;

34 (25) Failure to comply with a treatment program or an aftercare program entered into as part
35 of a board order, settlement agreement, or licensee's professional health program;

36 (26) Revocation, suspension, limitation, probation, or restriction of any kind whatsoever of
37 any controlled substance authority, whether agreed to voluntarily or not, or voluntary termination of
38 a controlled substance authority while under investigation;

39 (27) For a physician to operate, conduct, manage, or establish an abortion facility, or for a

1 physician to perform an abortion in an abortion facility, if such facility comes under the definition of
2 an ambulatory surgical center pursuant to sections 197.200 to 197.240, and such facility has failed to
3 obtain or renew a license as an ambulatory surgical center.

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

6 4. After the filing of such complaint before the administrative hearing commission, the
7 proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a finding by
8 the administrative hearing commission that the grounds, provided in subsection 2 of this section, for
9 disciplinary action are met, the board may, singly or in combination, warn, censure, or place the
10 person named in the complaint on probation on such terms and conditions as the board deems
11 appropriate for a period not to exceed ten years, or may suspend the person's license, certificate, or
12 permit for a period not to exceed three years, or restrict or limit the person's license, certificate or
13 permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or
14 administer a public or private reprimand, or deny the person's application for a license, or
15 permanently withhold issuance of a license or require the person to submit to the care, counseling or
16 treatment of physicians designated by the board at the expense of the individual to be examined, or
17 require the person to attend such continuing educational courses and pass such examinations as the
18 board may direct.

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

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

26 7. In any investigation, hearing, or other proceeding to determine a licensee's or applicant's
27 fitness to practice, any record relating to any patient of the licensee or applicant shall be
28 discoverable by the board and admissible into evidence, regardless of any statutory or common law
29 privilege which such licensee, applicant, record custodian, or patient might otherwise invoke. In
30 addition, no such licensee, applicant, or record custodian may withhold records or testimony bearing
31 upon a licensee's or applicant's fitness to practice on the ground of privilege between such licensee,
32 applicant, or record custodian and a patient.

33 435.300. As used in sections 435.300 to 435.312, the following terms mean:"; and

34
35 Further amend said bill by amending the title, enacting clause, and intersectional references
36 accordingly.

37
38 THIS AMENDS AMENDMENT 3386H08.34H