

SECOND REGULAR SESSION

HOUSE BILL NO. 2306

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHNELTING.

3297H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 324.002 and 324.042, RSMo, and to enact in lieu thereof two new sections relating to licensed professions.

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

Section A. Sections 324.002 and 324.042, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 324.002 and 324.042, to read as follows:

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

10 **2. If a complaint received under this section is based on the licensee's or license**
11 **applicant's exercise of rights protected under the free exercise clause or the free speech**
12 **clause of the Constitution of Missouri or the Constitution of the United States, the board**
13 **or commission shall immediately cease any investigation of the licensee or license**
14 **applicant and dismiss the complaint.**

324.042. **1.** Any board, commission, or committee within the division of professional
2 registration may impose additional discipline when it finds after hearing that a licensee,
3 registrant, or permittee has violated any disciplinary terms previously imposed or agreed to

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.

4 pursuant to settlement. The board, commission, or committee may impose as additional
5 discipline any discipline it would be authorized to impose in an initial disciplinary hearing.

6 **2. (1) As used in this subsection, the terms "license" and "oversight body" shall**
7 **have the same meanings given to the terms in section 324.009, and the term "adverse**
8 **action" shall mean any action taken to discharge, demote, or suspend an individual as**
9 **an employee or to threaten, harass, or otherwise discriminate against an individual.**

10 **(2) Notwithstanding the provisions of this section or any other provision of law**
11 **governing unprofessional conduct or discipline of a license holder or applicant, it is not**
12 **unprofessional conduct for a license holder or applicant to engage in the exercise of**
13 **rights protected under the free exercise clause or the free speech clause of the**
14 **Constitution of Missouri or the Constitution of the United States. An oversight body**
15 **shall not impose discipline for engaging in the exercise of such rights.**

16 **(3) (a) It shall be considered unprofessional conduct for a license holder or**
17 **applicant to aid or abet a person or organization in taking an adverse action against a**
18 **license holder or applicant because of speech or conduct that:**

19 **a. Is not made in the license holder's or license applicant's professional capacity;**
20 **and**

21 **b. Had the adverse action been taken by a state actor, would have been protected**
22 **under the free exercise clause or the free speech clause of the Constitution of Missouri or**
23 **the Constitution of the United States.**

24 **(b) The unprofessional conduct described in this subdivision shall be grounds for**
25 **an oversight body to take any action that it is authorized to take for other conduct for**
26 **which discipline may be imposed according to its complaint procedure.**

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