

SECOND REGULAR SESSION

# HOUSE BILL NO. 2009

## 101ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE POLLOCK (123).

4310H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 167.181, 174.335, 210.003, 210.110, 210.115, 334.099, and 334.100, RSMo, and to enact in lieu thereof eight new sections relating to immunizations.

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

Section A. Sections 167.181, 174.335, 210.003, 210.110, 210.115, 334.099, and  
2 334.100, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as  
3 sections 167.181, 167.186, 174.335, 210.003, 210.110, 210.115, 334.099, and 334.100, to  
4 read as follows:

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

10 2. It is unlawful for any student to attend **public** school unless he **or she** has been  
11 immunized as required under the rules and regulations of the department of health and senior  
12 services~~[-]~~ and can provide satisfactory evidence of such immunization, **or unless he or she**  
13 **can provide satisfactory evidence of acquired immunity**; except that if he **or she** produces  
14 satisfactory evidence of having begun the process of immunization, he **or she** may continue  
15 to attend school as long as the immunization process is being accomplished in the prescribed

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.

16 manner. It is unlawful for any parent or guardian to refuse or neglect to have his **or her** child  
17 immunized as required by this section, unless the child is properly exempted.

18 3. This section shall not apply to any child if one parent or guardian objects in writing  
19 to his **or her** school administrator against the immunization of the child, because of religious  
20 **or conscientious** beliefs or medical contraindications. In cases where any such objection is  
21 for reasons of medical contraindications, a statement from a duly licensed physician must also  
22 be provided to the school administrator. **The written religious or conscientious belief**  
23 **objection may be a written statement of the parent or guardian as long as the written**  
24 **statement includes the child's name and the parent's or guardian's name and signature.**  
25 **Each public school shall accept the written religious or conscientious belief objection as**  
26 **described under this subsection or the religious or conscientious belief exemption form**  
27 **as described under section 167.186 and shall not require any additional actions**  
28 **including, but not limited to, submitting additional forms, making an appointment with**  
29 **the local health department, obtaining an official stamp or seal, watching a video, or**  
30 **attending a lecture.**

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

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

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

51 7. No rule or portion of a rule promulgated under the authority of this section shall  
52 become effective unless it has been promulgated pursuant to the provisions of chapter 536.

53 Any rule or portion of a rule, as that term is defined in section 536.010, that is created under  
 54 the authority delegated in this section shall become effective only if it complies with and is  
 55 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section  
 56 and chapter 536 are nonseverable and if any of the powers vested with the general assembly  
 57 pursuant to chapter 536 to review, to delay the effective date or to disapprove and annul a rule  
 58 are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
 59 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  
 2 informational brochure outlining the process of obtaining a medical contraindication  
 3 exemption or religious or conscientious belief exemption from the immunizations  
 4 required under sections 167.181, 174.335, and 210.003.

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

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

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

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

<p>(The Great Seal of the State of Missouri)</p> <p>MISSOURI DEPARTMENT OF HEALTH AND SENIOR SERVICES          RELIGIOUS OR CONSCIENTIOUS BELIEF EXEMPTION</p> <p>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</p>
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**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:**

**Poliomyelitis**       **Rubella**               **Rubeola**               **Mumps**  
 **Tetanus**               **Pertussis**               **Diphtheria**               **Hepatitis B**  
 **OTHER** \_\_\_\_\_

\_\_\_\_\_ **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**

20 **appointment with the local health department, obtaining an official stamp or seal,**  
 21 **watching a video, or attending a lecture.**

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

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

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

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

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

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

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

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

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

23 (3) The child is homeless or in the custody of the children's division and cannot  
 24 provide satisfactory evidence of the required immunizations. Satisfactory evidence shall be  
 25 presented within thirty days of enrollment and shall confirm either that the child has  
 26 completed all immunizations **required under this section that are** appropriate for his or her

27 age or has begun the process of immunization. If the child has begun the process of  
28 immunization, he or she may continue to attend as long as the process is being accomplished  
29 according to the schedule recommended by the department of health and senior services.

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

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

49         4. The administrator of each public~~;~~ ~~private or parochial~~ day care center, preschool,  
50 or nursery school shall cause to be prepared a record of immunization of every child enrolled  
51 in or attending a facility under his or her jurisdiction. An annual summary report shall be  
52 made by January fifteenth showing the immunization status of each child enrolled, using  
53 forms provided for this purpose by the department of health and senior services. The  
54 immunization records shall be available for review by department of health and senior  
55 services personnel upon request.

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

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

62         7. All public~~;~~ ~~private, and parochial~~ day care centers, preschools, and nursery  
63 schools shall notify the parent or guardian of each child at the time of initial enrollment in or

64 attendance at the facility that the parent or guardian may request notice of whether there are  
65 children currently enrolled in or attending the facility for whom an immunization exemption  
66 has been filed. Beginning December 1, 2015, all public~~[-private, and parochial]~~ day care  
67 centers, preschools, and nursery schools shall notify the parent or guardian of each child  
68 currently enrolled in or attending the facility that the parent or guardian may request notice of  
69 whether there are children currently enrolled in or attending the facility for whom an  
70 immunization exemption has been filed. Any public~~[-private, or parochial]~~ day care center,  
71 preschool, or nursery school shall notify the parent or guardian of a child enrolled in or  
72 attending the facility, upon request, of whether there are children currently enrolled in or  
73 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,  
2 the following terms mean:

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

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

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

19 (b) Developmental, behavioral, and emotional screening in addition to early periodic  
20 screening, diagnosis, and treatment services, including a core set of standardized and  
21 recognized instruments as well as interviews with the child and appropriate caregivers. The  
22 screening battery may be performed by a licensed mental health professional familiar with the  
23 effects of abuse and neglect on young children, who will then serve as the liaison between all  
24 service providers in ensuring that needed services are provided. Such treatment services may  
25 include in-home services, out-of-home placement, intensive twenty-four-hour treatment  
26 services, family counseling, parenting training and other best practices.

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

31 (3) "Central registry", a registry of persons where the division has found probable  
32 cause to believe prior to August 28, 2004, or by a preponderance of the evidence after August  
33 28, 2004, or a court has substantiated through court adjudication that the individual has  
34 committed child abuse or neglect or the person has pled guilty or has been found guilty of a  
35 crime pursuant to section 565.020, 565.021, 565.023, 565.024, 565.050, 566.030, 566.060, or  
36 567.050 if the victim is a child less than eighteen years of age, or any other crime pursuant to  
37 chapter 566 if the victim is a child less than eighteen years of age and the perpetrator is  
38 twenty-one years of age or older, a crime under section 568.020, 568.030, 568.045, 568.050,  
39 568.060, 568.080, 568.090, 573.023, 573.025, 573.035, 573.037, 573.040, 573.200, or  
40 573.205, or an attempt to commit any such crimes. Any persons placed on the registry prior  
41 to August 28, 2004, shall remain on the registry for the duration of time required by section  
42 210.152;

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

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

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

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

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

59 (9) "Family support team meeting" or "team meeting", a meeting convened by the  
60 division or children's services provider in behalf of the family and/or child for the purpose of  
61 determining service and treatment needs, determining the need for placement and developing  
62 a plan for reunification or other permanency options, determining the appropriate placement  
63 of the child, evaluating case progress, and establishing and revising the case plan;



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

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

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

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

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

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

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

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

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

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

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

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

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

210.115. 1. When any physician, medical examiner, coroner, dentist, chiropractor,  
2 optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in  
3 the examination, care, treatment or research of persons, and any other health practitioner,  
4 psychologist, mental health professional, social worker, day care center worker or other child-  
5 care worker, juvenile officer, probation or parole officer, jail or detention center personnel,  
6 teacher, principal or other school official, minister as provided by section 352.400, peace

7 officer or law enforcement official, volunteer or personnel of a community service program  
8 that offers support services for families in crisis to assist in the delegation of any powers  
9 regarding the care and custody of a child by a properly executed power of attorney pursuant to  
10 sections 475.600 to 475.604, or other person with responsibility for the care of children has  
11 reasonable cause to suspect that a child has been or may be subjected to abuse or neglect or  
12 observes a child being subjected to conditions or circumstances which would reasonably  
13 result in abuse or neglect, that person shall immediately report to the division in accordance  
14 with the provisions of sections 210.109 to 210.183. No internal investigation shall be  
15 initiated until such a report has been made. As used in this section, the term "abuse" is not  
16 limited to abuse inflicted by a person responsible for the child's care, custody and control as  
17 specified in section 210.110, but shall also include abuse inflicted by any other person.

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

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

32         4. Notwithstanding any other provision of sections 210.109 to 210.183, any child  
33 ~~[who does]~~ not ~~[receive]~~ **receiving** specified medical treatment by reason of the legitimate  
34 practice of the religious belief of the child's parents, guardian, or others legally responsible for  
35 the child~~[-for that reason alone,]~~ **or not receiving immunizations by reason of the religious**  
36 **or conscientious belief of the child's parents, guardian, or others legally responsible for**  
37 **the child** shall not be ~~[found to be]~~ **a contributing factor for a finding of** an abused or  
38 neglected child, and such parents, guardian or other persons legally responsible for the child  
39 shall not be entered into the central registry. However, the division may accept reports  
40 concerning such a child and may subsequently investigate or conduct a family assessment as a  
41 result of that report; **except that, a child not receiving immunizations shall not be a**  
42 **contributing factor in the division's decision to accept reports concerning such a child or**  
43 **to investigate or conduct a family assessment.** Such an exception shall not limit the

44 administrative or judicial authority of the state to ensure that medical services are provided to  
45 the child when the child's health requires it.

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

51         6. Any person or official required to report pursuant to this section, including  
52 employees of the division, who has probable cause to suspect that a child who is or may be  
53 under the age of eighteen, who is eligible to receive a certificate of live birth, has died shall  
54 report that fact to the appropriate medical examiner or coroner. If, upon review of the  
55 circumstances and medical information, the medical examiner or coroner determines that the  
56 child died of natural causes while under medical care for an established natural disease, the  
57 coroner, medical examiner or physician shall notify the division of the child's death and that  
58 the child's attending physician shall be signing the death certificate. In all other cases, the  
59 medical examiner or coroner shall accept the report for investigation, shall immediately notify  
60 the division of the child's death as required in section 58.452 and shall report the findings to  
61 the child fatality review panel established pursuant to section 210.192.

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

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

72         9. For the purposes of providing supportive services or verifying the status of a youth  
73 as unaccompanied or homeless for the purposes of accessing supportive services, the fact that  
74 a child is an unaccompanied youth as defined in 42 U.S.C. Section 11434a(6) is not, in and of  
75 itself, a sufficient basis for reporting child abuse or neglect, unless the child is under sixteen  
76 years of age or is an incapacitated person, as defined in section 475.010. Nothing in this  
77 subsection shall limit a mandated reporter from making a report under this section if the  
78 mandated reporter knows or has reasonable cause to suspect that an unaccompanied youth has  
79 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  
2 cause exists to believe that a licensee or applicant is unable to practice his or her profession  
3 with reasonable skill and safety to the public by reason of medical or osteopathic  
4 incompetency, mental or physical incapacity, or due to the excessive use or abuse of alcohol  
5 or controlled substances. **The board shall not initiate a contested hearing on the basis of,  
6 or in retaliation for, any licensee or applicant providing an immunization exemption  
7 statement or certification under section 167.181, 174.335, or 210.003.**

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

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

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

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

34 (6) Written notice of the order for an examination shall be sent to the applicant or  
35 licensee by registered mail, addressed to the licensee or applicant at the licensee's or  
36 applicant's last known address on file with the board, or shall be personally served on the  
37 applicant or licensee. The order shall state the cause for the examination, how to obtain

38 information about approved facilities, and a time limit for obtaining the examination. The  
39 licensee or applicant shall cause a report of the examination to be sent to the board.

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

43 (8) After receiving the report of the examination ordered in subdivision (4) of this  
44 subsection, the board may hold a contested hearing to determine if by clear and convincing  
45 evidence the licensee or applicant is unable to practice with reasonable skill or safety to the  
46 public by reasons of medical or osteopathic incompetency, reason of mental or physical  
47 incapacity, or due to the excessive use or abuse of alcohol or controlled substances. If the  
48 board finds that the licensee or applicant is unable to practice with reasonable skill or safety to  
49 the public by reasons of medical or osteopathic incompetency, reason of mental or physical  
50 incapacity, or excessive use or abuse of controlled substances, the board shall, after a hearing,  
51 enter an order imposing one or more of the disciplinary measures set forth in subsection 4 of  
52 section 334.100.

53 (9) The provisions of chapter 536 for a contested case, except those provisions or  
54 amendments which are in conflict with this section, shall apply to and govern the proceedings  
55 contained in this subsection and the rights and duties of the parties involved. The person  
56 appealing such an action shall be entitled to present evidence under chapter 536 relevant to  
57 the allegations.

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

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

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

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

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

334.100. 1. (1) The board may refuse to issue or renew any certificate of registration  
2 or authority, permit or license required pursuant to this chapter for one or any combination of  
3 causes stated in subsection 2 of this section. The board shall notify the applicant in writing of  
4 the reasons for the refusal and shall advise the applicant of the applicant's right to file a  
5 complaint with the administrative hearing commission as provided by chapter 621. As an  
6 alternative to a refusal to issue or renew any certificate, registration or authority, the board  
7 may, at its discretion, issue a license which is subject to probation, restriction or limitation to  
8 an applicant for licensure for any one or any combination of causes stated in subsection 2 of  
9 this section. The board's order of probation, limitation or restriction shall contain a statement  
10 of the discipline imposed, the basis therefor, the date such action shall become effective, and a  
11 statement that the applicant has thirty days to request in writing a hearing before the  
12 administrative hearing commission. If the board issues a probationary, limited or restricted  
13 license to an applicant for licensure, either party may file a written petition with the  
14 administrative hearing commission within thirty days of the effective date of the probationary,  
15 limited or restricted license seeking review of the board's determination. If no written request  
16 for a hearing is received by the administrative hearing commission within the thirty-day  
17 period, the right to seek review of the board's decision shall be considered as waived.

18 **(2) The board shall not refuse to issue or renew any certificate of registration or**  
19 **authority, permit, or license required by this chapter on the basis of, or in retaliation for,**  
20 **providing an immunization exemption statement or certification under section 167.181,**  
21 **174.335, or 210.003. The board shall not issue a license that is subject to probation,**  
22 **restriction, or limitation on the basis of, or in retaliation for, providing an immunization**  
23 **exemption statement or certification under section 167.181, 174.335, or 210.003.**

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

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

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

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

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

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

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

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

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

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

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

59 (g) Final disciplinary action by any professional medical or osteopathic association or  
60 society or licensed hospital or medical staff of such hospital in this or any other state or  
61 territory, whether agreed to voluntarily or not, and including, but not limited to, any removal,  
62 suspension, limitation, or restriction of the person's license or staff or hospital privileges,  
63 failure to renew such privileges or license for cause, or other final disciplinary action, if the  
64 action was in any way related to unprofessional conduct, professional incompetence,  
65 malpractice, or any other violation of any provision of this chapter;

66 (h) Signing a blank prescription form; or dispensing, prescribing, administering, or  
67 otherwise distributing any drug, controlled substance, or other treatment without sufficient  
68 examination including failing to establish a valid physician-patient relationship pursuant to  
69 section 334.108, or for other than medically accepted therapeutic or experimental or  
70 investigative purposes duly authorized by a state or federal agency, or not in the course of  
71 professional practice, or not in good faith to relieve pain and suffering, or not to cure an  
72 ailment, physical infirmity, or disease, except as authorized in section 334.104;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

110 (8) Revocation, suspension, restriction, modification, limitation, reprimand, warning,  
111 censure, probation, or other final disciplinary action against the holder of or applicant for a



112 license or other right to practice any profession regulated by this chapter by another state,  
113 territory, federal agency, or country, whether or not voluntarily agreed to by the licensee or  
114 applicant, including, but not limited to, the denial of licensure, surrender of the license,  
115 allowing the license to expire or lapse, or discontinuing or limiting the practice of medicine  
116 while subject to an investigation or while actually under investigation by any licensing  
117 authority, medical facility, branch of the Armed Forces of the United States of America,  
118 insurance company, court, agency of the state or federal government, or employer;

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

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

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

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

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

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

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

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

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

147 (18) Knowingly making or causing to be made a false statement or misrepresentation  
148 of a material fact, with intent to defraud, for payment pursuant to the provisions of chapter  
149 208 or chapter 630 or for payment from Title XVIII or Title XIX of the Social Security Act;

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

155 (20) Any candidate for licensure or person licensed to practice as a physical therapist,  
156 paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary,  
157 practicing or offering to practice professional physical therapy independent of the prescription  
158 and direction of a person licensed and registered as a physician and surgeon pursuant to this  
159 chapter, as a dentist pursuant to chapter 332, as a podiatrist pursuant to chapter 330, as an  
160 advanced practice registered nurse under chapter 335, or any licensed and registered  
161 physician, dentist, podiatrist, or advanced practice registered nurse practicing in another  
162 jurisdiction, whose license is in good standing;

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

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

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

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

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

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

188 (27) For a physician to operate, conduct, manage, or establish an abortion facility, or  
189 for a physician to perform an abortion in an abortion facility, if such facility comes under the  
190 definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, and such  
191 facility has failed to obtain or renew a license as an ambulatory surgical center.

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

194 4. After the filing of such complaint before the administrative hearing commission,  
195 the proceedings shall be conducted in accordance with the provisions of chapter 621. Upon a  
196 finding by the administrative hearing commission that the grounds, provided in subsection 2  
197 of this section, for disciplinary action are met, the board may, singly or in combination, warn,  
198 censure, or place the person named in the complaint on probation on such terms and  
199 conditions as the board deems appropriate for a period not to exceed ten years, or may  
200 suspend the person's license, certificate, or permit for a period not to exceed three years, or  
201 restrict or limit the person's license, certificate or permit for an indefinite period of time, or  
202 revoke the person's license, certificate, or permit, or administer a public or private reprimand,  
203 or deny the person's application for a license, or permanently withhold issuance of a license or  
204 require the person to submit to the care, counseling or treatment of physicians designated by  
205 the board at the expense of the individual to be examined, or require the person to attend such  
206 continuing educational courses and pass such examinations as the board may direct.

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

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

214 7. In any investigation, hearing, or other proceeding to determine a licensee's or  
215 applicant's fitness to practice, any record relating to any patient of the licensee or applicant  
216 shall be discoverable by the board and admissible into evidence, regardless of any statutory or  
217 common law privilege which such licensee, applicant, record custodian, or patient might

218 otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold  
219 records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground  
220 of privilege between such licensee, applicant, or record custodian and a patient.

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