

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE SUBSTITUTE

FOR

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FOR

HOUSE BILL NO. 564

AN ACT

To repeal sections 209.323, 324.200, 324.203, 324.205, 324.210, 324.215, 209.323, 324.077, 324.409, 327.401, 327.411, 328.080, 328.110, 329.050, 329.070, 331.010, 331.030, 331.050, 332.071, 332.171, 332.181, 332.261, 332.321, 332.327, 332.341, 334.530, 334.540, 334.550, 334.560, 334.655, 334.660, 334.665, 334.670, 334.702, 334.704, 334.706, 334.708, 334.710, 334.712, 334.715, 334.717, 337.030, 337.500, 337.505, 337.507, 337.510, 337.515, 337.520, 337.525, 337.530, 337.535, 337.540, 337.600, 337.633, 337.700, 337.703, 337.706, 337.709, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 337.736, 337.739, 339.010, 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.517, 339.537, 339.600, 339.603, 339.605, 339.606, 339.607, 339.608, 339.610, 339.612, 339.614, 339.617, 339.710, 339.760, 339.780, 339.800, 436.200, 436.205, 436.209, 436.212, and 621.045, RSMo, and to enact in lieu thereof one hundred sixty-six new sections relating to professional registration, with penalty provisions, an effective date for certain sections and an emergency clause for a certain section.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

Section A. Sections 209.323, 324.200, 324.203, 324.205, 324.210, 324.215, 209.323, 324.077, 324.409, 327.401, 327.411, 328.080, 328.110, 329.050, 329.070, 331.010, 331.030, 331.050, 332.071, 332.171, 332.181, 332.261, 332.321, 332.327, 332.341,

334.530, 334.540, 334.550, 334.560, 334.655, 334.660, 334.665, 334.670, 334.702, 334.704, 334.706, 334.708, 334.710, 334.712, 334.715, 334.717, 337.030, 337.500, 337.505, 337.507, 337.510, 337.515, 337.520, 337.525, 337.530, 337.535, 337.540, 337.600, 337.633, 337.700, 337.703, 337.706, 337.709, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 337.736, 337.739, 339.010, 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.517, 339.537, 339.600, 339.603, 339.605, 339.606, 339.607, 339.608, 339.610, 339.612, 339.614, 339.617, 339.710, 339.760, 339.780, 339.800, 436.200, 436.205, 436.209, 436.212, and 621.045, RSMo, are repealed and one hundred sixty-six new sections enacted in lieu thereof, to be known as sections 209.323, 324.077, 324.200, 324.203, 324.205, 324.206, 324.210, 324.215, 324.216, 324.409, 324.526, 324.1100, 324.1102, 324.1104, 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120, 324.1122, 324.1124, 324.1126, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1138, 324.1140, 324.1200, 324.1203, 324.1206, 324.1209, 324.1212, 324.1215, 324.1218, 324.1221, 324.1224, 324.1227, 324.1230, 324.1233, 324.1236, 324.1239, 324.1242, 324.1245, 324.1248, 324.1251, 324.1254, 324.1257, 327.172, 327.401, 327.411, 328.075, 328.080, 328.110, 329.050, 329.070, 331.010, 331.030, 331.050, 331.053, 332.069, 332.071, 332.171, 332.181, 332.261, 332.321, 332.327, 334.530, 334.535, 334.540, 334.550, 334.560, 334.655, 334.660, 334.665, 334.670, 334.672, 334.702, 334.704, 334.706, 334.708, 334.710, 334.712, 334.715, 334.717, 334.1000, 334.1003, 334.1006, 334.1015, 334.1018, 334.1021, 334.1024, 334.1027, 334.1030, 334.1033,

334.1036, 334.1039, 337.030, 337.300, 337.303, 337.305, 337.306, 337.312, 337.315, 337.400, 337.403, 337.406, 337.409, 337.412, 337.415, 337.418, 337.430, 337.433, 337.440, 337.505, 337.507, 337.510, 337.515, 337.525, 337.530, 337.600, 337.604, 337.633, 339.010, 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.517, 339.537, 339.710, 339.760, 339.780, 339.800, 621.045, 700.250, 700.252, 700.254, 700.256, 700.258, 700.260, 700.262, 700.264, 700.266, 700.268, 700.270, 700.272, 700.274, 700.276, 700.278, 700.280, 700.282, 700.284, and 1, to read as follows:

209.323. 1. Applications for licensure as an interpreter shall be submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, certification by either the National Registry of Interpreters for the Deaf, National Association of the Deaf or Missouri Interpreter Certification System and such other information as the division may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained in the application is true and correct to the best knowledge and belief of the applicant, subject to the penalties, as provided in sections 209.319 to 209.339, for the making of a false affidavit or declaration. Each application shall be accompanied by the required application fee. The application fee must be submitted in a manner as required by the committee and shall not be refundable. The applicant must be eighteen years of age or older.

2. Each license issued pursuant to the provisions of

sections 209.319 to 209.339 shall expire on the renewal date. The division shall mail a renewal notice to the last known address of each licensee prior to the [registration] license renewal date. The license will expire and renewal may be denied upon failure of the licensee to provide the division with the information required for [registration] renewal, including but not limited to satisfactory evidence of current certification issued by the Missouri commission for the deaf and hard of hearing, or failure to pay the required [registration] renewal fee within sixty days of the [registration] license renewal date. The license may be reinstated within two years after the [registration] license date, if the applicant applies for reinstatement [and], pays the required [registration] license fee plus a delinquency fee as established by the committee, and provides evidence of current certification issued by the Missouri commission for the deaf.

3. Except as provided in section 209.321, the committee with assistance from the division shall issue or renew a license to each person who files an application and fee as required by the provisions of sections 209.319 to 209.339 and who furnishes satisfactory evidence to the committee that he or she has complied with the provisions of subsection 1 or 2 of this section.

4. The committee may issue a new license to replace any license which is lost, destroyed or mutilated upon payment of a fee as provided by the committee.

324.077. The division, in collaboration with the board, may issue a limited permit, upon the payment of applicable fees and

completion of the required application, to a person who [sufficiently] provides satisfactory proof of eligibility to [set] sit for the [first available] examination [upon completion of all other necessary requirements for certification by the certifying entity. The limited permit shall allow the person to practice occupational therapy under the supervision of a person currently licensed pursuant to sections 324.050 to 324.089. A limited permit shall only be effective up to but not to exceed the time the results of the second available examination are received by the board unless the person successfully passes the examination in which instance the limited permit shall remain valid for an additional sixty days] administered by the certifying entity in accordance with the rules promulgated by the board.

324.200. 1. Sections 324.200 to 324.225 shall be known and may be cited as the "Dietitian Practice Act".

2. As used in sections 324.200 to 324.225, the following terms shall mean:

(1) "Commission on Accreditation for Dietetics Education", the American Dietetic Association's accrediting agency for education programs preparing students for professions as registered dietitians;

(2) "Committee", the state committee of dietitians established in section 324.203;

(3) "Dietetics practice", the application of principles derived from integrating knowledge of food, nutrition, biochemistry, physiology, management, and behavioral and social science to achieve and maintain the health of people by providing

nutrition assessment and nutrition care services. The primary function of dietetic practice is the provision of nutrition care services that shall include, but not be limited to:

(a) Assessing the nutrition needs of individuals and groups and determining resources and constraints in the practice setting;

(b) Establishing priorities, goals, and objectives that meet nutrition needs and are consistent with available resources and constraints;

(c) Providing nutrition counseling and education in health and disease;

(d) Developing, implementing, and managing nutrition care systems;

(e) Evaluating, making changes in, and maintaining appropriate standards of quality and safety in food and in nutrition services;

(f) Engaging in medical nutrition therapy as defined in subsection 8 of this section;

[(2)] (4) "Dietitian", a [health care professional engaged in the practice of medical nutrition therapy] person engaged in dietetic practice as defined in subdivision (3) of this subsection;

[(3)] (5) "Director", the director of the division of professional registration in the department of economic development;

[(4)] (6) "Division", the division of professional registration of the department of economic development;

[(5)] (7) "Licensed dietitian", a person who is licensed

pursuant to the provisions of sections 324.200 to 324.225 to engage in the practice of dietetics and medical nutrition therapy;

[(6)] (8) "Medical nutrition therapy", [specific medical nutrition therapies and treatment modalities based on clinical scientific research and practice that are used to treat illness, conditions and injuries and are referred by a person licensed in this state to prescribe medical nutrition therapies and modalities. Medical nutrition therapy includes clinical nutrition assessment, diet modification and intensive intervention and administration of specialized nutrition therapies] nutritional diagnostic, therapy, and counseling services which are furnished by a registered dietitian;

(9) "Registered dietitian", a person who, as determined by the Committee on Dietetic Registration:

(a) Has completed a minimum of a baccalaureate degree granted by a United States regionally accredited college or university or foreign equivalent; and

(b) Completed the academic requirements of a didactic program in dietetics, as approved by the Commission on Accreditation for Dietetics Education; and

(c) Successfully completed the Registration Examination for Dietitians; and

(d) Accrued seventy-five hours of approved continuing professional units every five years.

324.203. 1. There is hereby [established] created within the division of professional registration, a committee to be known as the "State Committee of Dietitians" [which shall guide,

advise and make recommendations to the division and fulfill other responsibilities designated by sections 324.200 to 324.225. The committee shall approve the examination required by section 324.210 and shall assist the division in carrying out the provisions of sections 324.200 to 324.225]. The committee shall assist the division in administering and enforcing the provisions of sections 324.200 to 324.225, and adopt, publish, and enforce such rules and regulations within the scope and purview of the provisions of sections 324.200 to 324.225 as may be considered to be necessary or proper for the effective administration and interpretation of the provisions of sections 324.200 to 324.225, and for the conduct of its business and management of its internal affairs.

2. The committee shall approve the examination required by section 324.210.

3. The committee shall consist of six members including one public member, appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state, and, except as provided in this section and except for the first members appointed, shall be licensed as a dietitian by this state. Beginning with the first appointments made after August 28, 1998, two members shall be appointed for four years, two members shall be appointed for three years and two members shall be appointed for two years. Thereafter, all members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the committee for a total of eight years. The membership of the committee shall

reflect the differences in levels of education and work experience with consideration being given to race, gender and ethnic origins. No more than three members shall be from the same political party. The membership shall be representative of the various geographic regions of the state.

[3.] 4. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

[4.] 5. Each member of the committee shall receive as compensation an amount set by the division not to exceed fifty dollars, and shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. The director, in collaboration with the department of economic development, shall establish by rule, guidelines for payment. All staff for the committee shall be provided by the division.

[5.] 6. The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and secretary. The committee may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least three days prior to the date of the meeting. A quorum of the committee shall consist of a majority of its members.

[6.] 7. The governor may remove a committee member for misconduct, incompetency, neglect of the member's official duties, or for cause.

[7.] 8. The public member shall be at the time of the person's appointment a citizen of the United States; a resident

of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated by sections 324.200 to 324.225, or the spouse of such a person; and a person who does not have and never has had a material financial interest in either the providing of the professional services regulated by sections 324.200 to 324.225, or an activity or organization directly related to any profession licensed or regulated by sections 324.200 to 324.225. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

324.205. 1. [After July 1, 2000, no person may use the title licensed dietitian or L.D. in this state unless the person is licensed pursuant to the provisions of sections 324.200 to 324.225.] Any person who holds a license to practice dietetics in this state may use the title "dietitian" and the abbreviation "L.D.". No other person may use the title "dietitian" or the abbreviation "L.D.". No other person shall assume any title or use any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the person using the same is a licensed dietitian.

2. [Any person who violates the provisions of subsection 1 of this section is guilty of an infraction.] No person shall practice or offer to practice dietetics in this state for compensation or use any title, sign, abbreviation, card, or device to indicate that such person is practicing dietetics

unless he or she has been duly licensed pursuant to the provisions of sections 324.200 to 324.225.

3. Any person who violates the provisions of this section is guilty of a class A misdemeanor.

324.206. Provided that a person does not represent or hold himself or herself out as a dietitian as defined by subdivision (2) of subsection 2 of section 324.200, nothing in sections 324.200 to 324.225 is intended to limit, preclude, or otherwise interfere with:

(1) Self-care by a person or gratuitous care by a friend or family member;

(2) Persons in the military services or working in federal facilities performing any activities described in sections 324.200 to 324.225 during the course of their assigned duties in the military service or a federal facility;

(3) A licensed healthcare provider performing any activities described in sections 324.200 to 324.225 that is within the scope of practice of the licensee;

(4) A person pursuing an approved educational program leading to a degree or certificate in dietetics at an accredited or approved educational program, provided such person does not provide dietetic services outside the educational program. Such person shall be designated by a title that clearly indicates the person's status as a student;

(5) Individuals who do not hold themselves out to be dietitians from marketing or distributing food products including dietary supplements as defined by the Food and Drug Administration or from engaging in the explanation and education

of customers regarding the use of such products; or

(6) Any person furnishing general nutrition information as to the use of food, food materials, or dietary supplements, nor prevent in any way the free dissemination of literature; provided, however, no such individual may hold themselves out as a dietitian unless they are licensed pursuant to this chapter.

324.210. 1. An applicant for licensure as a dietitian shall be at least twenty-one years of age.

2. Each applicant shall furnish evidence to the committee that:

(1) The applicant has completed a didactic program in dietetics which is approved or accredited by the commission on [accreditation/approval for dietetic] accreditation for dietetics education and a minimum of a baccalaureate degree from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education. Applicants who have obtained their education outside of the United States and its territories must have their academic degrees validated as equivalent to the baccalaureate or master's degree conferred by a regionally accredited college or university in the United States. Validation of a foreign degree does not eliminate the need for a verification statement of completion of a didactic program in dietetics;

(2) The applicant has completed a supervised practice requirement from an institution that is certified by a nationally recognized professional organization as having a dietetics specialty or who meets criteria for dietetics education

established by the committee. The committee may specify those professional organization certifications which are to be recognized and may set standards for education training and experience required for those without such specialty certification to become dietitians.

3. The applicant shall successfully pass an examination as determined by the committee. The committee may waive the examination requirement and grant licensure to an applicant for a license as a dietitian who presents satisfactory evidence to the committee of current registration as a dietitian with the commission on dietetic registration.

4. Prior to July 1, 2000, a person may apply for licensure without examination and shall be exempt from the academic requirements of this section if the committee is satisfied that the applicant has a bachelor's degree in a program approved by the committee and has work experience approved by the committee.

5. The committee may determine the type of documentation needed to verify that an applicant meets the qualifications provided in subsection 3 of this section.

324.215. 1. The committee shall issue a license to each candidate who files an application and pays the fee as required by the provisions of sections 324.200 to 324.225 and who furnishes evidence satisfactory to the committee that the candidate has complied with the provisions of section 324.210 or with the provisions of subsection 2 of this section.

2. The committee may issue a license to any dietitian who has a valid current license to practice dietetics and medical nutrition therapy in any jurisdiction, provided that such person

is licensed in a jurisdiction whose requirements for licensure are substantially equal to, or greater than, the requirements for licensure of dietitians in Missouri at the time the applicant applies for licensure.

3. The committee may not allow any person to sit for the examination for licensure as a dietitian in this state who has failed the examination as approved by the committee three times, until the applicant submits evidence of satisfactory completion of additional course work or experience and has been approved by the committee for reexamination.

324.216. 1. A licensed dietitian may choose not to renew such person's license and allow such practitioner's license to lapse, or may ask to be put on inactive status, provided such person does not practice dietetics during such period that the license is lapsed or the practitioner is on inactive status. If a person with a lapsed license desires to resume the practice of dietetics, the person shall apply for licensure under the licensing requirements in effect at the time the person applies to resume the practice of dietetics and pay the required fee as established by the committee. If the person wants to maintain such person's license on an inactive status and in order to avoid lapsing of such license, the person shall pay the required fee as established by the committee for maintaining an inactive license. An inactive license shall be renewed biennially. An inactive license may be reactivated by the committee as provided by rule.

2. Any person who practices as a dietitian during the time his or her license is inactive or lapsed shall be guilty of a class A misdemeanor.

324.409. 1. To be a registered commercial interior designer, a person:

(1) Shall take and pass or have passed the examination administered by the National Council for Interior Design Qualification or an equivalent examination approved by the council. In addition to proof of passage of the examination, the application shall provide substantial evidence to the council that the applicant:

(a) Is a graduate of a five-year or four-year interior design program from an accredited institution and has completed at least two years of diversified and appropriate interior design experience; or

(b) Has completed at least three years of an interior design curriculum from an accredited institution and has completed at least three years of diversified and appropriate interior design experience; or

(c) Is a graduate of a two-year interior design program from an accredited institution and has completed at least four years of diversified and appropriate interior design experience; or

(2) [Within twenty-four months of August 28, 1998, a person may qualify for registration by providing substantial evidence to the council that the applicant:

(a) Has passed the full examination administered by the National Council for Interior Design Qualification or an equivalent state examination approved by the council and has a minimum of six years of interior design experience acceptable to the council;

(b) Has passed or intends to take and pass within the next twelve months the building and barrier-free portion of the examination administered by the National Council for Interior Design Qualification or an equivalent state codes examination approved by the council and has provided satisfactory evidence of having used or been identified by the title, interior designer, and has diversified and appropriate experience totaling a minimum of ten years; or

(c) Has taken and passed the building and barrier-free portion of the examination administered by the National Council for Interior Design Qualification or an equivalent state codes examination approved by the council, and has passed the American Institute of Interior Designers accreditation examination; or

(3)] May qualify who is currently registered pursuant to sections 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining to the practice of architecture and registered with the council. Such applicant shall give authorization to the council in order to verify current registration with sections 327.091 to 327.171, RSMo, and section 327.401, RSMo, pertaining to the practice of architecture.

2. Verification of experience required pursuant to this section shall be based on a minimum of five client references, business or employment verification and five industry references, submitted to the council.

3. The council shall verify if an applicant has complied with the provisions of this section and has paid the required fees, then the council shall recommend such applicant be registered as a registered commercial interior designer by the

council.

324.526. 1. Notwithstanding any provision of the law to the contrary, the director of the division of professional registration shall issue a temporary license to practice tattooing, body piercing, or branding under the following requirements:

(1) The applicant for temporary licensure is entering the state of Missouri for the sole purpose of participating in a state or national convention wherein the applicant will be practicing the profession of tattooing, body piercing, or branding;

(2) The applicant files a completed application with the division at least two days prior to the start of the convention and tenders a fee of twenty-five dollars; and

(3) The applicant is otherwise qualified for licensure pursuant to sections 324.520 to 324.526, and the rules and regulations promulgated thereunder.

2. A temporary license to practice tattooing, body piercing, or branding issued pursuant to this section shall be valid for a period not to exceed fourteen days and shall not be renewable.

3. Notwithstanding the requirements of sections 620.127 and 620.145, RSMo, an applicant for temporary licensure pursuant to this section shall not be required to provide a Social Security number if the application is submitted by a citizen of a foreign country who has not been issued a Social Security number and who previously has not been licensed by any other state, United States territory, or federal agency.

324.1100. As used in sections 324.1100 to 324.1140, the following terms mean:

(1) "Board", the board of private investigator examiners established in section 324.1102;

(2) "Client", any person who engages the services of a private investigator;

(3) "Department", the department of economic development;

(4) "Law enforcement officer", a law enforcement officer as defined in section 556.061, RSMo;

(5) "Organization", a corporation, trust, estate, partnership, cooperative, or association;

(6) "Person", an individual or organization;

(7) "Private investigator", any person who receives any consideration, either directly or indirectly, for engaging in the private investigator business;

(8) "Private investigator agency", a person who regularly employs any other person, other than an organization, to engage in the private investigator business;

(9) "Private investigator business", the furnishing of, making of, or agreeing to make, any investigation for the purpose of obtaining information pertaining to:

(a) Crimes or wrongs done or threatened against the United States or any state or territory of the United States;

(b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(c) The location, disposition, or recovery of lost or stolen property;

(d) Securing evidence to be used before any court, board, officer, or investigating committee;

(e) The cause or responsibility for libel, losses, accident, or damage or injury to persons or property or personal protection of life or property; or

(f) The cause of responsibility for libel, losses, accident, or damage or injury to persons or property or protection of life or property.

324.1102. 1. The "Board of Private Investigator Examiners" is hereby created within the division of professional registration. The board shall be a body corporate and may sue and be sued.

2. The board shall be composed of five members appointed by the governor with the advice and consent of the senate. Each member of the board shall be a citizen of the United States, a resident of Missouri, at least thirty years of age, and shall have been actively engaged in the private investigator business for the previous five years. No more than one board member may be employed by, or affiliated with, the same private investigator agency. The initial board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after the effective date of the rules promulgated pursuant to sections 324.1100 to 324.1140 regarding licensure.

3. The members shall be appointed for terms of four years, except those first appointed, in which case two members, who shall be private investigators, shall be appointed for terms of

four years, two members shall be appointed for terms of three years and one member shall be appointed for a one-year term. Any vacancy on the board shall be filled for the unexpired term of the member and in the manner as the first appointment.

4. The members of the board may receive compensation, as determined by the director for their services, if appropriate, and shall be reimbursed for actual and necessary expenses incurred in performing their official duties on the board.

5. There is hereby created in the state treasury the "Board of Private Investigator Examiners Fund", hereafter the fund, which shall consist of money collected pursuant to sections 324.1100 to 324.1140. The fund shall be administered by the board of private investigator examiners, which shall collect the fees authorized by sections 324.1100 to 324.1140 and transmit them to the director of revenue for deposit to the state treasury to the credit of the fund. Money in the fund shall be used solely for the purposes of the board of private investigator examiners, as authorized by sections 324.1100 to 324.1140.

6. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule license renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from

the board's funds for the preceding fiscal year.

324.1104. Unless expressly exempted from the provisions of sections 324.1100 to 324.1140:

(1) It shall be unlawful for any person to engage in the private investigator business in this state unless such person is licensed as a private investigator pursuant to sections 324.1100 to 324.1140;

(2) It shall be unlawful for any person to engage in business in this state as a private investigator agency unless such person is licensed pursuant to sections 324.1100 to 324.1140.

324.1106. The following persons shall not be deemed to be engaging in the private investigator business:

(1) A person employed exclusively and regularly by one employer in connection only with the affairs of such employer and where there exists an employer-employee relationship;

(2) Any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;

(3) A consumer reporting agency as defined in 15 U.S.C. Section 1681(a) and its contract and salaried employees;

(4) An attorney performing duties as an attorney, or an attorney's paralegal or employee retained by such attorney assisting in the performance of such duties or investigation on behalf of such attorney;

(5) A collection agency or an employee thereof while acting within the scope of employment, while making an investigation incidental to the business of the agency, including an

investigation of the location of a debtor or a debtor's property where the contract with an assignor creditor is for the collection of claims owed or due, or asserted to be owed or due, or the equivalent thereof;

(6) Insurers and insurance producers licensed by the state, performing duties in connection with insurance transacted by them;

(7) Any bank subject to the jurisdiction of the director of the division of finance of the state of Missouri or the comptroller of currency of the United States, or any financial institution as defined in section 381.410, RSMo, or any consumer credit loan company licensed pursuant to sections 367.100 to 367.215, RSMo, performing duties thereunder;

(8) An insurance adjuster. For the purposes of sections 324.1100 to 324.1140, an "insurance adjuster" means any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business;

(9) Any private fire investigator whose primary purpose of employment is the determination of the origin, nature, cause, or calculation of losses relevant to a fire;

(10) Employees of a not-for-profit organization or its affiliate or subsidiary who makes and processes requests on behalf of health care providers and facilities for employee criminal and other background information pursuant to section 660.317, RSMo; or

(11) Any real estate broker, real estate salesperson, or

real estate appraiser acting within the scope of his or her license.

324.1108. 1. Every person desiring to be licensed in this state as a private investigator or private investigator agency shall make application therefor to the board of private investigator examiners. An application for a license pursuant to the provisions of sections 324.1100 to 324.1140 shall be on a form prescribed by the board of private investigator examiners and accompanied by the required application fee. An application shall be verified and shall include:

(1) The full name and business address of the applicant;
(2) The name under which the applicant intends to do business;

(3) A statement as to the general nature of the business in which the applicant intends to engage;

(4) A statement as to the classification or classifications under which the applicant desires to be qualified;

(5) Two recent photographs of the applicant, of a type prescribed by the board of private investigator examiners, and two classifiable sets of the applicant's fingerprints;

(6) A verified statement of the applicant's experience qualifications; and

(7) Such other information, evidence, statements, or documents as may be required by the board of private investigator examiners.

2. Before an application for a license may be granted, the applicant shall:

(1) Be at least twenty-one years of age;

(2) Be a citizen of the United States;

(3) Provide proof of insurance with amount to be no less than one million dollars in coverage for liability and proof of workers' compensation insurance as required in chapter 287, RSMo. The board shall have the authority to raise the requirements as deemed necessary; and

(4) Comply with such other qualifications as the board adopts by rules and regulations.

324.1110. 1. The board of private investigator examiners shall require as a condition of licensure as a private investigator that the applicant:

(1) Successfully complete a course of training conducted by a trainer certified pursuant to section 324.1132;

(2) Pass a written examination as evidence of knowledge of investigator business; and

(3) Submit to an oral interview with the board.

2. The board shall conduct a complete investigation of the background of each applicant for licensure as a private investigator to determine whether the applicant is qualified for licensure pursuant to sections 324.1100 to 324.1140. The board will outline basic qualification requirements for licensing as a private investigator and agency. The board will waive testing requirements and issue a license to existing persons and agencies who make application within one hundred eighty days after the rules go into effect and meet the requirements of subsection 3 of this section.

3. In the event requirements have been met so that testing has been waived, qualification is dependent on a showing of, for

the two previous years:

(1) Registration and good standing as a business in this state; and

(2) One quarter million dollars in business general liability insurance.

4. The board may review applicants seeking reciprocity. An applicant seeking reciprocity shall have undergone a licensing procedure similar to that required by this state and shall meet this state's minimum insurance requirements.

324.1112. The board of private investigator examiners may deny a request for a license if the applicant:

(1) Has committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license pursuant to the provisions of sections 324.1100 to 324.1140;

(2) Within two years prior to the effective date of this section:

(a) Has been convicted of or entered a plea of guilty or nolo contendere to a felony offense, including the receiving of a suspended imposition of sentence following a plea or finding of guilty to a felony offense;

(b) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude;

(c) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;

(d) Has been dependent on or abused alcohol or drugs; or

(e) Has used, possessed, or trafficked in any illegal substance;

(3) Been refused a license pursuant to the provisions of sections 324.1100 to 324.1140 or had a license revoked in this state or in any other state;

(4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1140 after the effective date of this section; or

(5) Knowingly made any false statement in the application. 324.1114. 1. Every application submitted pursuant to the provisions of sections 324.1100 to 324.1140 shall be accompanied by a fee as determined by the board as follows:

(1) For an individual license, agency license and employees being licensed to work under an agency license; or

(2) If a license is issued for a period of less than one year, the fee shall be prorated for the months, or fraction thereof, for which the license is issued.

2. The board shall set fees as authorized by sections 324.1100 to 324.1140 at a level to produce revenue which will not substantially exceed the cost and expense of administering sections 324.1100 to 324.1140.

3. The fees prescribed by sections 324.1100 to 324.1140 shall be exclusive and notwithstanding any other provision of law. No municipality may require any person licensed pursuant to sections 324.1100 to 324.1140 to furnish any bond, pass any examination, or pay any license fee or occupational tax relative to practicing the person's profession.

4. A private investigator license shall allow only the

individual licensed by the state to conduct investigations. An agency license shall be applied for separately and held by an individual who is licensed as a private investigator. The agency may hire individuals to work for the agency conducting investigations for the agency only. Persons hired shall make application as determined by the board and meet all requirements set forth by the board except that they shall not be required to meet any experience requirements and shall be allowed to begin working immediately upon the agency submitting their applications. Employees shall attend a certified training program within a time frame to be determined by the board.

324.1116. 1. The board of private investigator examiners shall determine the form of the license which shall include the:

- (1) Name of the licensee;
- (2) Name under which the licensee is to operate; and
- (3) Number and date of the license.

2. The license shall be posted at all times in a conspicuous place in the principal place of business of the licensee. Upon the issuance of a license, a pocket card of such size, design, and content as determined by the division shall be issued without charge to each licensee. Such card shall be evidence that the licensee is licensed pursuant to the provisions of sections 324.1100 to 324.1140. When any person to whom a card is issued terminates such person's position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the board of private investigator examiners for cancellation. Within thirty days after any change

of address, a licensee shall notify the board of the address change. The principal place of business may be at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office.

324.1118. 1. Any license issued pursuant to sections 324.1100 to 324.1140 shall expire two years after the date of its issuance. Renewal of any such license shall be made in the manner prescribed for obtaining an original license, including payment of the appropriate fee, except that:

(1) The application upon renewal need only provide information required of original applicants if the information shown on the original application or any renewal thereof on file with the board is no longer accurate;

(2) A new photograph shall be submitted with the application for renewal only if the photograph on file with the board has been on file more than two years; and

(3) Additional information may be required by rules and regulations adopted by the board of private investigator examiners.

2. A licensee shall at all times be legally responsible for the good conduct of each of the licensee's employees or agents while engaged in the business of the licensee and the licensee is legally responsible for any acts committed by such licensee's employees or agents which are in violation of sections 324.1100 to 324.1140. A person receiving an agency license shall directly manage the agency and employees.

3. A license issued pursuant to the provisions of sections 324.1100 to 324.1140 shall not be assignable.

324.1120. 1. Any licensee may divulge to the board, any law enforcement officer, or prosecuting attorney, or such person's representative, any information such person may acquire as to any criminal offense, or instruct his or her client to do so if the client is the victim but such person shall not divulge to any other person, except as he or she may be required by law to do, any information acquired by such person at the direction of the employer or client for whom the information was obtained.

2. No licensee or officer, director, partner, associate, or employee thereof shall:

(1) Knowingly make any false report to his or her employer or client for whom information was being obtained;

(2) Cause any written report to be submitted to a client except by the licensee, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such report are true and correct;

(3) Use a title, wear a uniform, use an insignia or an identification card, or make any statement with the intent to give an impression that such person is connected in any way with the federal government, a state government, or any political subdivision of a state government;

(4) Appear as an assignee party in any proceeding involving claim and delivery, replevin or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien;

(5) Manufacture false evidence; or

(6) Create any video recording of an individual in their domicile without the individual's permission. Furthermore, if

such video recording is made, it shall not be admissible as evidence in any civil proceeding.

324.1122. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board of private investigator examiners. Such licensee shall file with the board the complete address of the licensee's principal place of business including the name and number of the street. The board may require the filing of other information for the purpose of identifying such principal place of business.

324.1124. Every advertisement by a licensee soliciting or advertising business shall contain the licensee's name, city, and state as it appears in the records of the board of private investigator examiners. A licensee shall not advertise or conduct business from any Missouri address other than that shown on the records of the board as the licensee's principal place of business unless the licensee has received a branch office certificate for such location after compliance with the provisions of sections 324.1100 to 324.1140 and such additional requirements necessary for the protection of the public as the board may prescribe by regulation. A licensee shall notify the board in writing within ten days after closing or changing the location of a branch office.

324.1126. 1. The board of private investigator examiners may suspend or revoke a license issued pursuant to sections 324.1100 to 324.1140 if, after notice and opportunity for hearing in accordance with the provisions of chapter 621, RSMo, the administrative hearing commission determines that the licensee

has:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) Violated any provision of sections 324.1100 to 324.1140;

(3) Violated any rule of the board of private investigator examiners adopted pursuant to the authority contained in sections 324.1100 to 324.1140;

(4) Impersonated, or permitted or aided and abetted an employee to impersonate, a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof;

(5) Committed, or permitted any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

(6) Knowingly violated, or advised, encouraged, or assisted the violation of, any court order or injunction in the course of business as a licensee;

(7) Used any letterhead, advertisement, or other printed matter, or in any manner whatever represented that such person is an instrumentality of the federal government, a state, or any political subdivision thereof;

(8) Used a name different from that under which such person is currently licensed in any advertisement, solicitation, or contract for business; or

(9) Committed any act which is grounds for denial of an

application for a license pursuant to the provisions of section 324.1112.

2. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction, and a plea or verdict of guilty is deemed to be a conviction within the meaning thereof.

3. The agency may continue under the direction of another employee if the individual holding the license is suspended or revoked as approved by the board. The board shall establish a time frame in which the agency shall identify an acceptable person who is qualified to assume control of the agency, as required by the board.

4. After the filing of a complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds in subsection 1 of this section for disciplinary action are met, the board may singly or in combination censure or place the person named in the complaint on probation pursuant to such terms and conditions as the board deems appropriate for a period not to exceed five years, may suspend for a period not to exceed three years, or revoke the license.

324.1128. 1. Each private investigator or investigator agency operating pursuant to the provisions of sections 324.1100 to 324.1140 shall be required to keep a complete record of the business transactions of such investigator or investigator agency for a period of seven years. Upon the service of a court order issued by a court of competent jurisdiction or upon the service

of a subpoena issued by the board which is based on a complaint supported by oath or affirmation, and particularly describing the records and reports, any licensed private investigator who is the owner, partner, director, corporate officer, or custodian of business records shall provide an opportunity for the inspection of the same and to inspect reports made; but any information obtained by the board shall be kept confidential, except as may be necessary to commence and prosecute any legal proceedings.

The board shall not personally enter a licensee's place of business to inspect records, but shall utilize an employee of the division of professional registration to act as a gatherer of information and facts to present to the board regarding any complaint or inspection they are looking into.

2. For the purpose of enforcing the provisions of sections 324.1100 to 324.1140, and in making investigations relating to any violation thereof, the board shall have the power to subpoena and bring before the board any person in this state and require the production of any books, records, or papers which the board deems relevant to the inquiry. The board also may administer an oath to and take the testimony of any person, or cause such person's deposition to be taken, except that any applicant or licensee or officer, director, partner, or associate thereof shall not be entitled to any fees or mileage. A subpoena issued pursuant to this section shall be governed by the Missouri rules of civil procedure and shall comply with any confidentiality standards or legal limitations imposed by privacy or open records acts, fair credit reporting acts, polygraph acts, driver privacy protection acts, judicially recognized privileged communications,

and the bill of rights of both the United States and Missouri Constitutions. Any person duly subpoenaed, who fails to obey such subpoena without reasonable cause or without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualification of such applicant or licensee or such applicant's alleged unlawful or deceptive practices and methods or such violations, shall be guilty of a class A misdemeanor. The testimony of witnesses in any investigative proceeding shall be under oath.

324.1130. 1. The board shall adopt such rules and regulations as may be necessary to carry out the provisions of sections 324.1100 to 324.1140.

2. No rule or portion of a rule promulgated pursuant to the authority of sections 324.1100 to 324.1140 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

324.1132. 1. The board of private investigator examiners shall certify persons who are qualified to train private investigators.

2. In order to be certified as a trainer pursuant to this section, a trainer shall:

(1) Be twenty-one or more years of age;

(2) Have a minimum of one-year supervisory experience with a private investigator agency; and

(3) Be personally licensed as a private investigator pursuant to sections 324.1100 to 324.1140 and qualified to train private investigators.

3. Persons wishing to become certified trainers shall make

application to the board of private investigator examiners on a form prescribed by the board and accompanied by a fee determined by the board. The application shall contain a statement of the plan of operation of the training offered by the applicant and the materials and aids to be used and any other information required by the board.

4. A certificate shall be granted to a trainer if the board finds that the applicant:

- (1) Meets the requirements of subsection 2 of this section;
- (2) Has sufficient knowledge of private investigator business to be a suitable person to train private investigators;
- (3) Has supplied all required information to the board; and
- (4) Has paid the required fee.

5. The certificate issued pursuant to this section shall expire on the third year after the year in which it is issued and shall be renewable triennially upon application and payment of a fee.

324.1134. Any person who knowingly falsifies the fingerprints or photographs or other information required to be submitted pursuant to sections 324.1100 to 324.1140 is guilty of a class D felony; and any person who violates any of the other provisions of sections 324.1100 to 324.1140 is guilty of a class A misdemeanor.

324.1136. The board may negotiate and enter into reciprocal agreements with appropriate officials in other states to permit licensed private investigator agencies and licensed private investigators who meet or exceed the qualifications established in sections 324.1100 to 324.1140 to operate across state lines

under mutually acceptable terms.

324.1138. Law enforcement officers who perform private investigations shall be licensed pursuant to this chapter subject to the following qualifications and limitations:

(1) The board may waive testing for law enforcement officers currently certified pursuant to then existing peace officer standards and training requirements pursuant to chapter 590, RSMo;

(2) Law enforcement officers shall pay the appropriate licensing fees;

(3) Law enforcement officers shall assume individual liability for their actions while performing private investigations, complying with any insurance or bonding requirements imposed pursuant to sections 324.1100 to 324.1140;

(4) Law enforcement officers shall not utilize their official capacity in the course of a private investigation, including but not limited to:

(a) Accessing information intended only for police officials. Law enforcement officers shall comply with the legal limits on access to information by a private citizen;

(b) Utilizing any official item, such as a uniform, badge, or vehicle, while performing a private investigation. Law enforcement officers shall provide their own equipment;

(c) Utilizing law enforcement officer arrest and use of force standards. Law enforcement officers shall use private person arrest and use of force standards while operating as a private investigator;

(5) Law enforcement officers shall produce evidence of

training and experience concerning the legal limits imposed on private investigations or pass a test on such subject produced by the board; and

(6) The provisions of sections 324.1100 to 324.1140 shall not apply to law enforcement officers who provide only private security services and not private investigator services.

324.1140. Any person who violates sections 324.1100 to 324.1140 is guilty of a class A misdemeanor. Any second or subsequent violation of sections 324.1100 to 324.1140 is a class D felony.

324.1200. Sections 324.1200 to 324.1257 may be cited as the "Uniform Athlete Agents Act".

324.1203. As used in sections 324.1200 to 324.1257, the following terms shall mean:

(1) "Agency contract", an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract;

(2) "Athlete agent", an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization. The term includes an individual who represents to the public that the individual is an athlete agent;

(3) "Athletic director", an individual responsible for

administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate;

(4) "Contact", a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract;

(5) "Director", the director of the division of professional registration;

(6) "Division", the division of professional registration;

(7) "Endorsement contract", an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;

(8) "Intercollegiate sport", a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics;

(9) "Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity;

(10) "Professional-sports-services contract", an agreement under which an individual is employed or agrees to render

services as a player on a professional sports team, with a professional sports organization, or as a professional athlete;

(11) "Record", information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(12) "Registration", registration as an athlete agent pursuant to sections 324.1200 to 324.1257;

(13) "State", a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(14) "Student-athlete", an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

324.1206. 1. The director of the division of professional registration shall administer the provisions of sections 324.1200 to 324.1257.

2. By engaging in the business of an athlete agent in this state, a nonresident individual appoints the director as the individual's agent to accept service of process in any civil action related to the individual's business as an athlete agent in this state.

3. The director may subpoena witnesses, issue subpoenas duces tecum and require production of documents and records. Subpoenas, including subpoenas duces tecum, shall be served by a

person authorized to serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the board may require sworn copies of such documents to be filed with it or delivered to its designated representative.

4. The director may enforce its subpoenas, including subpoena duces tecum, by applying to a circuit court of Cole County, the county of the investigation, hearing or proceeding, or any county where the person resides or may be found, for an order upon any person who shall fail to obey a subpoena to show cause why such subpoena should not be enforced, which such order and a copy of the application therefore shall be served upon the person in the same manner as a summons in a civil action, and if the circuit court shall, after a hearing, determine that the subpoena should be sustained and enforced, such court shall proceed to enforce the subpoena in the same manner as though the subpoena had been issued in a civil case in the circuit court.

324.1209. 1. Except as otherwise provided in subsection 2 of this section, an individual may not act as an athlete agent in this state before being issued a certificate of registration pursuant to section 324.1215 or 324.1221.

2. An individual with a temporary license pursuant to section 324.1221, may act as an athlete agent before being issued a certificate of registration for all purposes except signing an agency contract if:

(1) A student-athlete or another acting on behalf of the student-athlete initiates communication with the individual; and

(2) Within seven days after an initial act as an athlete

agent, the individual submits an application to register as an athlete agent in this state.

3. An agency contract resulting from conduct in violation of this section is void. The athlete agent shall return any consideration received under the contract.

324.1212. 1. An applicant for registration shall submit an application for registration to the director in a form prescribed by the director. The application must be in the name of an individual and signed by the applicant under penalty of perjury and must state or contain:

(1) The name of the applicant and the address of the applicant's principal place of business;

(2) The name of the applicant's business or employer, if applicable;

(3) Any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application;

(4) A description of the applicant's:

(a) Formal training as an athlete agent;

(b) Practical experience as an athlete agent; and

(c) Educational background relating to the applicant's activities as an athlete agent;

(5) The names and addresses of three individuals not related to the applicant who are willing to serve as references;

(6) The name, sport, and last known team for each individual for whom the applicant provided services as an athlete agent during the five years next preceding the date of submission of the application;

(7) The names and addresses of all persons who are:

(a) With respect to the athlete agent's business if it is not a corporation, the partners, officers, associates, or profit-sharers; and

(b) With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation with a five percent or greater interest;

(8) Whether the applicant or any other person named pursuant to subdivision (7) of this subsection has been convicted of a crime that, if committed in this state, would be a felony or other crime involving moral turpitude, and identify the crime;

(9) Whether there has been any administrative or judicial determination that the applicant or any other person named pursuant to subdivision (7) of this subsection has made a false, misleading, deceptive, or fraudulent representation;

(10) Any instance in which the prior conduct of the applicant or any other person named pursuant to subdivision (7) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;

(11) Any sanction, suspension, or disciplinary action taken against the applicant or any other person named pursuant to subdivision (7) of this subsection arising out of occupational or professional conduct; and

(12) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any other person

named pursuant to subdivision (7) of this subsection as an athlete agent in any state.

324.1215. 1. Except as otherwise provided in subsection 2 of this section, the director shall issue a certificate of registration to an individual who complies with subsection 1 of section 324.1212.

2. The director may refuse to issue a certificate of registration if the director determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to serve as an athlete agent. In making the determination, the director may consider whether the applicant has:

(1) Been convicted of a crime that, if committed in this state, would be a felony or other crime involving moral turpitude;

(2) Made a materially false, misleading, deceptive, or fraudulent representation as an athlete agent or in the application;

(3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(4) Engaged in conduct prohibited by section 324.1239;

(5) Had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure in any state;

(6) Engaged in conduct or failed to engage in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-

athlete or educational institution; or

(7) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

3. In making a determination pursuant to subsection 3 of this section, the director shall consider:

(1) How recently the conduct occurred;

(2) The nature of the conduct and the context in which it occurred; and

(3) Any other relevant conduct of the applicant.

4. An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the director. The application for renewal must be signed by the applicant under penalty of perjury under section 575.040, RSMo, and must contain current information on all matters required in an original registration.

5. A certificate of registration or a renewal of a registration is valid for two years.

324.1218. 1. The director may revoke, suspend, or refuse to renew any certificate of registration required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The director shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The director may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration

required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration for any one or any combination of the following causes:

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

(2) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of registration pursuant to this chapter;

(3) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or unprofessional conduct in the performance of the functions regulated by this chapter, including, but not limited to, the following:

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

(b) Attempting, directly or indirectly, by way of intimidation, coercion, or deception, to obtain consultation;

(c) Failure to comply with any subpoena or subpoena duces tecum from the director;

(d) Failing to inform the director of the athlete agent's current residence and business address;

(4) Violation of, or attempting to violate, directly or

indirectly, or assisting or enabling any person to violate any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(5) Impersonation of any person holding a certificate of registration or allowing any person to use his or her certificate of registration;

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

(7) Knowingly making, or causing to be made, or aiding, or abetting in the making of, a false statement in any birth or other certificate or document executed in connection with the transaction;

(8) Soliciting patronage in person or by agents or representatives, or by any other means or manner, under the person's own name or under the name of another person or concern, actual or pretended, in such a manner as to confuse, deceive, or mislead the public;

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

3. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the director may, singly or in combination, warn, censure or place the person named in the complaint on probation on such terms and conditions as the

director deems appropriate for a period not to exceed six months, or may suspend the person's certificate of registration period not to exceed one year, or restrict or limit the person's certificate of registration for an indefinite period of time, or revoke the person's certificate of registration.

4. In any order of revocation, the director may provide that the person may not apply for reinstatement of the person's certificate of registration for a period of time ranging from two to seven years following the date of the order of revocation. All stay orders shall toll this time period.

324.1221. The director may issue a temporary certificate of registration while an application for registration or renewal is pending.

324.1224. 1. An application for registration or renewal of registration shall be accompanied by a fee which shall be determined by the director and established by rule. All fees payable pursuant to the provisions of this section shall be collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Athlete Agent Fund" which is hereby established. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in the athlete agent fund shall not be transferred and placed to the credit of general revenue until the amount in the athlete agent fund at the end of the biennium exceeds two times the amount of the appropriations from such fund for the preceding fiscal year or, if the director allows renewal of registration less frequently than yearly, then three times the appropriations from

such fund for the preceding fiscal year; provided that no amount from such fund may be transferred to the credit of general revenue earlier than two years following the effective date of this section. The amount, if any, which may be transferred to the credit of general revenue after two years following the effective date of this section is that amount in the athlete agent fund which exceeds the appropriate multiple of the appropriations from such fund for the preceding fiscal year.

2. The director may promulgate rules to authorize and file "athlete agent" documents as that term is defined in section 536.010, RSMo, 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, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

324.1227. 1. An agency contract must be in a record, signed by the parties.

2. An agency contract must state or contain:

(1) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the

services;

(2) The name of any person not listed in the application for registration or renewal who will be compensated because the student-athlete signed the agency contract;

(3) A description of any expenses that the student-athlete agrees to reimburse;

(4) A description of the services to be provided to the student-athlete;

(5) The duration of the contract; and

(6) The date of execution.

3. An agency contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

"WARNING TO STUDENT-ATHLETE

IF YOU SIGN THIS CONTRACT:

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;

(2) BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY."

4. An agency contract that does not conform to this section is voidable by the student-athlete.

5. The athlete agent shall give a copy of the signed agency contract to the student-athlete at the time of signing.

324.1230. 1. Within seventy-two hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in writing of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

2. Within seventy-two hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall in writing inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.

324.1233. 1. A student-athlete may cancel an agency contract by giving notice in writing to the athlete agent of the cancellation within fourteen days after the contract is signed.

2. A student-athlete may not waive the right to cancel an agency contract.

3. If a student-athlete cancels an agency contract within fourteen days of signing the contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the agent to induce the student-athlete to enter into the contract.

324.1236. 1. An athlete agent shall retain the following records for a period of five years:

(1) The name and address of each individual represented by the athlete agent;

(2) Any agency contract entered into by the athlete agent; and

(3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete.

2. Records required by subsection 1 of this section to be retained are open to inspection by the director during normal business hours.

324.1239. 1. An athlete agent may not do any of the following with the intent to induce a student-athlete to enter into an agency contract:

(1) Give any materially false or misleading information or make a materially false promise or representation;

(2) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or

(3) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

2. An athlete agent may not intentionally:

(1) Initiate contact with a student-athlete unless registered pursuant to sections 324.1200 to 324.1257;

(2) Refuse or willfully fail to retain or permit inspection of the records required by section 436.251;

(3) Violate section 324.1209 by failing to register;

(4) Provide materially false or misleading information in an application for registration or renewal of registration;

(5) Predate or postdate an agency contract; or

(6) Fail to notify a student-athlete prior to the

student athlete's signing an agency contract for a particular sport that the signing by the student-athlete may make the student-athlete ineligible to participate as a student-athlete in that sport.

324.1242. The commission of any act prohibited by section 324.1239 by an athlete agent is a class B misdemeanor.

324.1245. 1. An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of sections 324.1200 to 324.1257. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

2. Damages of an educational institution under subsection 1 of this section include losses and expenses incurred because, as a result of the activities of an athlete agent or former student-athlete, the educational institution was injured by a violation of sections 324.1200 to 324.1257 or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions.

3. A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.

4. Any liability of the athlete agent or the former student-athlete under this section is several and not joint.

5. Sections 324.1200 to 324.1257 do not restrict rights, remedies, or defenses of any person under law or equity.

324.1248. Any person who violates any provisions of sections 324.1200 to 324.1257 is guilty of a misdemeanor and, upon conviction thereof, shall be punished as for a class A misdemeanor.

324.1251. In applying and construing sections 324.1200 to 324.1257, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of sections 324.1200 to 324.1257 among states that enact it.

324.1254. If any provision of sections 324.1200 to 324.1257 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections 324.1200 to 324.1257 which can be given effect without the invalid provision or application, and to this end the provisions of sections 324.1200 to 324.1257 are severable.

324.1257. Any moneys collected by the director pursuant to section 324.1248 shall immediately be transferred to the department of revenue for deposit in the state treasury to the credit of general revenue.

327.172. 1. An architect licensed in this state may apply to the board for inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form and the board's determination that the licensee meets the requirements established by rule, the board shall declare the licensee inactive and shall place

the licensee on an inactive status list. A person whose license is inactive shall not offer or practice architecture within this state, but may continue to use the title architect.

2. If a licensee is granted inactive status, the licensee may return to active status by notifying the board in advance of such intention, by paying appropriate fees as determined by the board, and by meeting all established requirements of the board including the demonstration of current knowledge, competency, and skill in the practice of architecture as a condition of reinstatement.

3. In the event an inactive licensee does not maintain a current license in any state for a five-year period immediately prior to requesting reinstatement, such person may be required to take an examination as the board deems necessary to determine such person's qualifications. Such examination shall cover areas designed to demonstrate the proficiency in current methods of architecture.

327.401. 1. The right to practice as an architect [or to practice as a], professional engineer [or to practice as a], professional land surveyor, or landscape architect shall be deemed a personal right, based upon the qualifications of the individual, evidenced by such individual's professional license and shall not be transferable; but any architect [or], any professional engineer [or], any professional land surveyor, or any landscape architect may practice his or her profession through the medium of, or as a member or as an employee of, a partnership or corporation if the plans,

specifications, estimates, plats, reports, surveys or other like documents or instruments of the partnership or corporation are signed and stamped with the personal seal of the architect, professional engineer [or] professional land surveyor, or landscape architect by whom or under whose immediate personal supervision the same were prepared and provided that the architect [or] professional engineer [or] professional land surveyor, or landscape architect who affixes his or her signature and personal seal to any such plans, specifications, estimates, plats, reports or other documents or instruments shall be personally and professionally responsible therefor.

2. Any domestic corporation formed under the corporation law of this state, or any foreign corporation, now or hereafter organized and having as one of its purposes the practicing of architecture [or] professional engineering [or] professional land surveying, or landscape architecture and any existing corporation which amends its charter to propose to practice architecture [or] professional engineering [or] professional land surveying, or landscape architecture shall obtain a certificate of authority for each profession named in the articles of incorporation or articles of organization from the board which shall be renewed in accordance with the provisions of section 327.171 or 327.261 or 327.351, as the case may be, and from and after the date of such certificate of authority and while the authority or a renewal thereof is in effect, may offer and render architectural [or] professional engineering [or]

professional land surveying, or landscape architectural
services in this state if:

(1) At all times during the authorization or any renewal thereof the directors of the corporation shall have assigned responsibility for the proper conduct of all its architectural [or], professional engineering [or], professional land surveying, or any landscape architectural activities in this state to an architect licensed and authorized to practice architecture in this state or to a professional engineer licensed and authorized to practice engineering in this state or to a professional land surveyor licensed and authorized to practice professional land surveying in this state, or to a landscape architect licensed and authorized to practice landscape architecture in this state, as the case may be; and

(2) The person or persons who is or are personally in charge and supervises or supervise the architectural [or], professional engineering [or], professional land surveying, or landscape architectural activities, as the case may be, of any such corporation in this state shall be licensed and authorized to practice architecture [or], professional engineering [or], professional land surveying, or landscape architecture, as the case may be, as provided in this chapter; and

(3) The corporation pays such fees for the certificate of authority, renewals or reinstatements thereof as are required.

327.411. 1. Each architect and each professional engineer and each professional land surveyor and each

landscape architect shall have a personal seal in a form prescribed by the board, and he or she shall affix the seal to all final documents including, but not limited to, plans, specifications, estimates, plats, reports, surveys, proposals and other documents or instruments prepared by the licensee, or under such licensee's immediate personal supervision, and such licensee shall be held personally responsible for the contents of all such documents sealed by such licensee.

2. The personal seal of an architect [or], professional engineer [or], professional land surveyor, or landscape architect shall be the legal equivalent of the licensee's signature whenever and wherever used, and the owner of the seal shall be responsible for the architectural, engineering [or], surveying, or landscape architectural documents, as the case may be, when the licensee places his or her personal seal on such plans, specifications, estimates, plats, reports, surveys or other documents or instruments for, or to be used in connection with, any architectural [or], engineering project [or], survey, or landscape architectural project.

3. Any architect, professional engineer [or], professional land surveyor, or landscape architect may, but is not required to, attach a statement over his or her signature, authenticated by his or her personal seal, specifying the particular plans, specifications, plats, reports, surveys or other documents or instruments, or portions thereof, intended to be authenticated by the seal, and disclaiming any responsibility for all other plans, specifications, estimates, reports, or other documents or instruments relating to or

intended to be used for any part or parts of the architectural [or], engineering project [or], survey, or landscape architect.

4. Nothing in this section, or any rule or regulation of the board shall require any professional to seal preliminary or incomplete documents.

328.075. 1. Any person desiring to practice as an apprentice for barbering in this state shall apply to the board, be licensed with the board, and shall pay the appropriate fees prior to beginning their apprenticeship. Barber apprentices shall be of good moral character and shall be at least sixteen years of age.

2. Any person desiring to act as an apprentice supervisor for barbering in this state shall first possess a certificate of registration to practice the occupation of barbering, apply to the board, complete an eight-hour apprentice supervision instruction course certified by the board, and be issued a license as barber apprentice supervisor prior to supervising barber apprentices. Barber apprentice supervisors shall supervise no more than two apprentices at one time.

328.080. 1. Any person desiring to practice barbering in this state shall make application for a certificate to the board and shall pay the required barber examination fee. He or she shall be present at the next regular meeting of the board for the examination of applicants.

2. The board shall examine the applicant and, upon successful completion of the examination and payment of the

required registration fee, shall issue to him or her a certificate of registration authorizing him or her to practice the trade in this state and enter his name in the register herein provided for, if it finds that he or she:

(1) Is [seventeen years of age or older and of] at least sixteen years of age, applicants shall be a person of good moral character;

(2) Is free of contagious or infectious diseases;

(3) Has studied for at least one thousand hours in a period of not less than six months in a properly appointed and conducted barber school under the direct supervision of a licensed instructor; or, if the applicant is an apprentice, the applicant shall have served and completed no less than two thousand hours under the direct supervision of a licensed barber apprentice supervisor;

(4) Is possessed of requisite skill in the trade of barbering to properly perform the duties thereof, including the preparation of tools, shaving, haircutting and all the duties and services incident thereto; and

(5) Has sufficient knowledge of the common diseases of the face and skin to avoid the aggravation and spread thereof in the practice of barbering.

3. The board shall be the judge of whether the barber school or college is properly appointed and conducted under proper instruction to give sufficient training in the trade.

4. The sufficiency of the qualifications of applicants shall be determined by the board.

5. For the purposes of meeting the minimum requirements

for examination, the apprentice training shall be recognized by the board for a period not to exceed five years.

328.110. 1. Every person engaged in barbering shall on or before the renewal date apply for the renewal of his or her certificate of registration.

2. Each application for renewal shall state the number of applicant's expiring certificate, and be accompanied by his or her renewal fee. Any person holding a certificate of registration as a barber, except as herein provided, who fails to apply for renewal within two months of the expiration date of his or her certificate of registration, shall pay a reinstatement fee in addition to the regular registration renewal fee. Any person who fails to renew his or her certificate of registration, except as herein provided, for a period not exceeding two years may reinstate his or her certificate of registration upon payment of the registration renewal fee for each delinquent year in addition to the reinstatement fee prescribed herein, but any barber, except as herein provided, who fails to renew his or her certificate of registration for a period exceeding two years but less than five years and desires to be reregistered as a barber in this state will be required to appear before the board and pass [a satisfactory] the practicum portion of the state licensing examination as to his or her qualifications to practice barbering and shall pay the barber examination fee.

3. A holder of a certificate of registration who has been honorably discharged from the United States armed forces, and has not renewed his or her certificate of registration as

herein provided, shall, upon his or her return to barbering within one year from date of honorable discharge, pay one dollar for renewal of same.

329.050. 1. Applicants for examination or licensure pursuant to this chapter shall possess the following qualifications:

(1) They must be persons of good moral character, have an education equivalent to the successful completion of the tenth grade and be at least seventeen years of age;

(2) If the applicants are apprentices, they shall have served and completed, as an apprentice under the supervision of a licensed cosmetologist, the time and studies required by the board which shall be no less than three thousand hours for cosmetologists, and no less than [seven hundred eighty] eight hundred hours for manicurists and no less than fifteen hundred hours for esthetics. However, when the classified occupation of manicurist is apprenticed in conjunction with the classified occupation of cosmetologist, the apprentices shall be required to successfully complete the apprenticeship of no less than a total of three thousand hours;

(3) If the applicants are students, they shall have had the required time in a licensed school of no less than one thousand five hundred hours training or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended, for the classification of cosmetologist, with the exception of public vocational technical schools in which a student shall complete no less than one thousand two hundred

twenty hours training. All students shall complete no less than four hundred hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended, for the classification of manicurist. All students shall complete no less than seven hundred fifty hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended, for the classification of esthetician. However, when the classified occupation of manicurist is taken in conjunction with the classified occupation of cosmetologist, the student shall not be required to serve the extra four hundred hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended, otherwise required to include manicuring of nails; and

(4) They shall have passed an examination to the satisfaction of the board.

2. A person may apply to take the examination required by subsection 1 of this section if the person is a graduate of a school of cosmetology or apprentice program in another state or territory of the United States which has substantially the same requirements as an educational establishment licensed pursuant to this chapter.

3. Each application shall contain a statement that, subject to the penalties of making a false affidavit or declaration, the application is made under oath or affirmation and that its representations are true and correct to the best

knowledge and belief of the person signing the application.

4. The sufficiency of the qualifications of applicants shall be determined by the board, but the board may delegate this authority to its executive director subject to such provisions as the board may adopt.

5. For the purpose of meeting the minimum requirements for examination, training completed by a student or apprentice shall be recognized by the board for a period of no more than five years from the date it is received.

329.070. 1. Apprentices or students shall be licensed with the board and shall pay a student fee or an apprentice fee prior to beginning their course, and shall be of good moral character and have an education equivalent to the successful completion of the tenth grade.

2. An apprentice or student shall not be enrolled in a course of study that shall exceed ~~[eight]~~ twelve hours per day or that is less than three hours per day. The course of study shall be no more than ~~[forty-eight]~~ seventy-two hours per week and no less than fifteen hours per week.

3. Every person desiring to act as an apprentice in any of the classified occupations within this chapter shall file with the board a written application on a form supplied to the applicant, together with the required apprentice fee.

331.010. 1. The "practice of chiropractic" is defined as the science and art of examination, diagnosis, [adjustment, manipulation] and treatment of disease through the adjustment or manipulation of malpositioned, subluxated, or biomechanically altered articulations and structures of the

body and by those methods commonly taught in any chiropractic college or chiropractic program in a university recognized and approved by the board, both in inpatient and outpatient settings. The adjustment, manipulation, or treatment shall be directed toward restoring and maintaining [the] normal neuromuscular and musculoskeletal function and health. It shall not include the use of operative surgery, obstetrics, osteopathy, podiatry, nor the administration or prescribing of any drug or medicine nor the practice of medicine. The practice of chiropractic is declared not to be the practice of medicine and operative surgery or osteopathy within the meaning of chapter 334, RSMo, and not subject to the provisions of the chapter.

2. A licensed [chiropractor] chiropractic physician may practice chiropractic as defined in subsection 1 of this section by those methods commonly taught in any chiropractic college or chiropractic program in a university recognized and approved by the board.

3. Chiropractors may advise and instruct patients in all matters pertaining to hygiene, nutrition, and sanitary measures, and order appropriate clinical care as commonly taught in any chiropractic college or chiropractic program in a university recognized and approved by the board.

4. A chiropractic physician licensed outside of this state shall not be required to obtain a Missouri license when:

(1) In consultation, as a result of transmission of individual patient data by electronic or other means from within this state to an out-of-state licensed chiropractor,

with a chiropractor licensed to practice in this state; and

(2) The chiropractor licensed in this state retains ultimate authority and responsibility for the diagnosis or diagnoses and treatment in the care of the patient located within this state; or

(3) When providing testimony or records for the purpose of any civil or criminal action before any judicial or administrative proceeding of this state or other forum in this state.

331.030. 1. No person shall engage in the practice of chiropractic without having first secured a chiropractic license as provided in this chapter.

2. Any person desiring to procure a license authorizing the person to practice chiropractic in this state shall be at least twenty-one years of age and shall make application on the form prescribed by the board. The application shall contain a statement that it is made under oath or affirmation and that representations contained thereon are true and correct to the best knowledge and belief of the person signing the application, subject to the penalties of making a false affidavit or declaration, and shall give the applicant's name, address, age, sex, name of chiropractic schools or colleges which the person attended or of which the person is a graduate, and such other reasonable information as the board may require. The applicant shall give evidence satisfactory to the board of the successful completion of the educational requirements of this chapter, that the applicant is of good moral character, and that the chiropractic school or college

of which the applicant is a graduate is teaching chiropractic in accordance with the requirements of this chapter. The board may make a final determination as to whether or not the school from which the applicant graduated is so teaching.

3. Before a person shall be eligible to sit for a practical examination, the applicant shall furnish evidence satisfactory to the board that the applicant has received, prior to entering chiropractic college, a minimum of sixty credit hours, leading to a baccalaureate degree, from a preprofessional college, which credit must be in those subjects, hours and course content as may be provided for by the Council on Chiropractic Education or, in the absence of the Council on Chiropractic Education or its provision for such subjects, hours and course content, as adopted by rule of the board. The examination applicant shall also provide evidence satisfactory to the board of having graduated from a chiropractic college having status with the Commission on Accreditation of the Council on Chiropractic Education or its successor. Any senior student in a chiropractic college having status with the Commission on Accreditation on the Council on Chiropractic Education or its successor, may take a practical examination administered or approved by the board under such requirements and conditions as are adopted by the board by rule, but no license shall be issued until all of the requirements for licensure have been met.

4. Each applicant shall pay upon application an application or examination fee. All moneys collected pursuant to the provisions of this chapter shall be nonrefundable and

shall be collected by the director of the division of professional registration who shall transmit it to the department of revenue for deposit in the state treasury to the credit of the chiropractic board fund. Any person failing to pass a practical examination administered or approved by the board may be reexamined upon fulfilling such requirements, including the payment of a reexamination fee, as the board may by rule prescribe.

5. Every applicant for licensure by examination shall have taken and successfully passed all required and optional parts of the written examination given by the National Board of Chiropractic Examiners, including the written clinical competency examination, under such conditions as established by rule of the board, and all applicants for licensure by examination shall successfully pass a practical examination administered or approved by the board and a written examination testing the applicant's knowledge and understanding of the laws and regulations regarding the practice of chiropractic in this state. The board shall issue to each applicant who meets the standards and successful completion of the examinations, as established by rule of the board, a license to practice chiropractic. The board shall not recognize any correspondence work in any chiropractic school or college as credit for meeting the requirements of this chapter.

6. The board shall issue a license without examination to persons who have been regularly licensed to practice chiropractic in any other state, territory, or the District of

Columbia, or in any foreign country, [provided that the licensing authority grants equivalent reciprocal licensing to Missouri licensees and] provided that the regulations for securing a license in the other jurisdiction are equivalent to those required for licensure in the state of Missouri, when the applicant furnishes satisfactory evidence that the applicant has continuously practiced chiropractic for at least one year immediately preceding the applicant's application to the board and that the applicant is of good moral character, and upon the payment of the reciprocity license fee as established by rule of the board. The board may require an applicant to successfully complete the special purposes examination for chiropractic (SPEC) administered by the National Board of Chiropractic Examiners if the [applicant's licensing authority does not grant equivalent reciprocal licensing to Missouri licensees, or if the] requirements for securing a license in the other jurisdiction are not equivalent to those required for licensure in the state of Missouri at the time application is made for licensure pursuant to this subsection.

7. Any applicant who has failed any portion of the practical examination administered or approved by the board three times shall be required to return to an accredited chiropractic college for a semester of additional study in the subjects failed, as provided by rule of the board.

331.050. 1. All persons once licensed to practice chiropractic in this state shall pay on or before the license renewal date a renewal license fee and shall furnish to the

board satisfactory evidence of the completion of the requisite number of hours, which shall not be less than twelve hours nor more than twenty-four hours per year, of postgraduate study or not less than twenty-four hours nor more than forty-eight hours if renewal occurs biennially. The postgraduate study required shall be a course of study approved by the board. The requisite number of hours is to be determined by the board. The board may set the requisite number of hours between the range of twelve to twenty-four hours, but may not increase the number of hours in excess of twelve hours by more than four hours in any two-year period. The board shall give advance notice of one year to all chiropractors licensed in the state before increasing the number of required hours. The educational requirements may be waived by the board upon presentation to it of satisfactory evidence of the illness of the chiropractor or for other good cause. A notice that the renewal fee will be due on the renewal date shall, on or before the first day of the month immediately preceding the renewal date, be mailed to all chiropractors licensed in the state for more than three months. Each practitioner of chiropractic shall display in his or her office, in a conspicuous place, his or her renewal license together with his or her original license showing that such practitioner of chiropractic is lawfully entitled to practice chiropractic. Failure of the licensee to receive the renewal form shall not relieve the licensee of the duty to renew his or her license and pay the fee required by this chapter.

2. Any licensee who allows his or her license to lapse

by failing to renew the license as provided in sections 331.010 to 331.100 may be reinstated upon satisfactory explanation of such failure to renew his or her license and the payment of a reactivation fee and the current renewal fee. Any delinquent licensee who has been out of active practice for more than ~~[three]~~ five years shall be required to return to an accredited chiropractic college for a semester of additional study in the clinical subjects prior to the board reviewing his or her request for reinstatement, and to pass a practical examination administered by the board.

3. Notwithstanding any law to the contrary, any person licensed pursuant to this chapter may apply to the state board of chiropractic examiners for an inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form and the board's determination that the licensee meets the requirements established by rule, the board shall place the license on an inactive status. A person whose license is inactive or who has discontinued the practice of chiropractic because of retirement shall be allowed to practice chiropractic only on himself or herself and immediate family.

4. During any period of inactive status, the licensee shall not be required to comply with the board's minimum requirements for continuing education.

5. If a licensee is granted inactive status, the licensee may return to active status within five years of the license being placed on inactive status by notifying the board in advance in writing, paying the appropriate fees, and

meeting all established requirements of the board as defined by rule, excluding the licensing examination, as a condition of reinstatement.

331.053. 1. Chiropractors shall maintain an adequate and complete patient record for each patient, and may maintain electronic records provided the record keeping format is capable of being printed for review by the state board of chiropractic examiners. An adequate and complete patient record shall include documentation of the following information:

(1) Identification of the patient, including name, birth date, address, and telephone number;

(2) The date or dates the patient was seen;

(3) The current status of the patient, including the reason for the visit;

(4) Observation of pertinent physical findings;

(5) Assessment and clinical impression or diagnosis;

(6) Plan for care and treatment, or additional consultations or diagnostic testing, if necessary. If treatment includes vitamins or nutritional supplements, the chiropractor shall include in the patient record the vitamin or supplement name and dosage recommended or sold; and

(7) Any informed consent for office procedures or tests.

2. Patient records remaining under the care, custody, and control of the licensee shall be maintained by the licensee of the board, or the licensee's designee, for a minimum of seven years from the date of when the last professional service was provided.

3. Any correction, addition, or change in any patient record made more than forty-eight hours after the final entry is entered in the record and signed by the chiropractor shall be clearly marked and identified as such, and the date, time, and name of the person making the correction, addition, or change shall be included, as well as the reason for the correction, addition, or change.

4. A consultative report shall be considered an adequate medical record for a radiologist, pathologist, physician, or a consulting chiropractor.

5. The board shall not initiate disciplinary action pursuant to section 331.060 against a licensee solely based on a violation of this section. If the board initiates disciplinary action against the licensee for any reason other than a violation of this section, the board may allege violation of this section as an additional cause for discipline pursuant to section 331.060.

6. The board shall not obtain a patient medical record without written authorization from the patient to obtain the medical record or the issuance of a subpoena for the patient medical record.

332.069. 1. Any person not registered as a licensed dentist in Missouri shall not engage in the practice of dentistry, as defined in section 332.171, across state lines, except as provided in this section.

2. For the purposes of this chapter, the "practice of dentistry across state lines" shall mean:

(1) The rendering of a written or otherwise documented

dental opinion concerning the diagnosis or treatment of a patient within this state by a dentist located outside this state as a result of transmission of individual patient data by electronic, telephonic or other means from within this state or any other state to such dentist or dentist's agent; or

(2) The rendering of treatment to a patient within this state by a dentist located outside this state as a result of transmission of individual patient data by electronic, telephonic or other means from within this state or any other state to such dentist or dentist's agent.

3. A dentist located outside of this state shall not be required to obtain a license when:

(1) Consultation is requested by a duly licensed dentist in this state who retains the ultimate authority and responsibility for the diagnosis or treatment in the care of the patient located within this state; and

(2) The consultation request is not due to a contractual agreement to authorize or request consultations from a person or entity not licensed to practice dentistry in Missouri; or

(3) Evaluating a patient or rendering an oral, written or otherwise documented dental opinion when providing testimony or records for the purpose of any civil or criminal action before any judicial or administrative proceeding of this state or other forum in this state.

332.071. A person or other entity "practices dentistry" within the meaning of this chapter who:

(1) Undertakes to do or perform dental work or dental

services or dental operations or oral surgery, by any means or methods, including the use of lasers, gratuitously or for a salary or fee or other reward, paid directly or indirectly to the person or to any other person or entity;

(2) Diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition of human teeth or adjacent structures or treats or professes to treat any disease or disorder or lesions of the oral regions;

(3) Attempts to or does replace or restore a part or portion of a human tooth;

(4) Attempts to or does extract human teeth or attempts to or does correct malformations of human teeth or jaws;

(5) Attempts to or does adjust an appliance or appliances for use in or used in connection with malposed teeth in the human mouth;

(6) Interprets or professes to interpret or read dental radiographs;

(7) Administers an anesthetic in connection with dental services or dental operations or dental surgery;

(8) Undertakes to or does remove hard and soft deposits from or polishes natural and restored surfaces of teeth;

(9) Uses or permits to be used for the person's benefit or for the benefit of any other person or other entity the following titles or words in connection with the person's name: "Doctor", "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters, titles, degrees or descriptive matter which

directly or indirectly indicate or imply that the person is willing or able to perform any type of dental service for any person or persons, or uses or permits the use of for the person's benefit or for the benefit of any other person or other entity any card, directory, poster, sign or any other means by which the person indicates or implies or represents that the person is willing or able to perform any type of dental services or operation for any person;

(10) Directly or indirectly owns, leases, operates, maintains, manages or conducts an office or establishment of any kind in which dental services or dental operations of any kind are performed for any purpose; but this section shall not be construed to prevent owners or lessees of real estate from lawfully leasing premises to those who are qualified to practice dentistry within the meaning of this chapter;

(11) Constructs, supplies, reproduces or repairs any prosthetic denture, bridge, artificial restoration, appliance or other structure to be used or worn as a substitute for natural teeth, except when one, not a registered and licensed dentist, does so pursuant to a written uniform laboratory work order, in the form to be prescribed by the board and copies of which shall be retained by the nondentist for two years, of a dentist registered and currently licensed in Missouri and which the substitute in this subdivision described is constructed upon or by use of casts or models made from an impression furnished by a dentist registered and currently licensed in Missouri;

(12) Attempts to or does place any substitute described

in subdivision (11) of this section in a human mouth or attempts to or professes to adjust any substitute or delivers any substitute to any person other than the dentist upon whose order the work in producing the substitute was performed;

(13) Advertises, solicits, or offers to or does sell or deliver any substitute described in subdivision (11) of this section or offers to or does sell the person's services in constructing, reproducing, supplying or repairing the substitute to any person other than a registered and licensed dentist in Missouri; or

(14) Undertakes to do or perform any physical evaluation of a patient in the person's office or in a hospital, clinic, or other medical or dental facility prior to or incident to the performance of any dental services, dental operations, or dental surgery.

332.171. 1. The board shall upon application [and without examination] issue a specialist's [certificate] license to any [registered and] currently licensed dentist in Missouri who has been certified in any specialty by an [American] examining board recognized by the American Dental Association[; but any]. Any such application shall be accompanied by the required [specialty] fee.

2. Any [registered and] currently licensed dentist in Missouri who has completed a dental speciality program accredited by the Council on Dental Accreditation but is not eligible [to apply] for speciality licensure under subsection 1 [above] of this section, may apply to the board for [certification] speciality licensure in one of the [special]

specialty areas [approved] recognized by the American Dental Association [for specialty practice]. Each such application shall be accompanied by the required [specialty] fee. The board shall establish by rule the minimum requirements for specialty [certification] licensure under this subsection. The board shall issue a specialty licensure to an applicant pursuant to this subsection so long as the applicant meets the requirements of this subsection.

3. [An examination committee, appointed by the board, consisting of three dentists who have been certified by an American board approved by the American Dental Association as having met the standards set by that association for the specialty for which application is made, shall examine each applicant for a specialty at the time and place fixed by the board in a manner to thoroughly test his qualifications in the specialty applied for, and report to the board as to whether the applicant is qualified in the specialty.

4. In the event any applicant fails to pass the examination and is reported by the examining committee as not qualified, he may upon application to the board be reexamined by the committee at such time and place as the board may specify, but any such applicant shall pay a reexamination fee equivalent to the specialty fee.] The board shall grant a license in one of the specialty areas recognized by the American Dental Association to a dentist who has been so certified or licensed and is practicing in another state, province, or territory if the applicant meets the following requirements and the application is accompanied by the

required fee:

(1) The applicant currently holds a Missouri license to practice dentistry or obtains one through the provisions of such license pursuant to sections 332.131 and 332.181 or section 332.211.

(2) The applicant meets the educational requirements for specialty licensure required of original applicants for specialty licensure in the state of Missouri as required in subsection 1 or 2 of this section.

(3) The applicant meets such other minimum requirements as may be established by rule of the board for specialty licensure under this subsection.

4. The board may establish a committee for each American Dental Association recognized specialty applied for to be comprised of at least two dentists appointed by the board who hold Missouri specialty licenses in the recognized specialty and who are current diplomats of an American specialty board recognized by the American Dental Association. Each committee shall assist the board in evaluating an applicant for specialty licensure in the recognized specialty for which that committee was established and assume such other duties as shall be established by rule of the board.

5. Each member of [each examining] a specialty committee appointed by the board as provided in this section shall receive [as] compensation in an amount set by the board, not to exceed fifty dollars[,] for each day spent in the performance of his or her duties on the committee, and each member shall be reimbursed for all actual and necessary

expenses incurred in the performance of his or her duties.

6. [The board shall issue to each applicant who has been recommended as qualified by the examining committee, as provided in subsection 3 of this section, a certificate of registration to practice dentistry in the specialty in which he has been so recommended.] All speciality licenses shall be subject to discipline for cause as set forth in section 332.321 and each specialty license holder shall renew his or her specialty license or licenses as provided in section 332.181 and shall pay the required renewal fee.

7. [The board may also grant without examination a certificate of registration and a license in one of the specialty areas recognized by the American Dental Association to a dentist who has been so certified and/or licensed in another state, if the applicant meets the following requirements:

(1) Applicant must either currently hold a Missouri license to practice dentistry or obtain one through the provisions of sections 332.131 and 332.181, or through the provisions of section 332.211;

(2) Applicant must have taken and passed an examination equivalent to that given in Missouri and have been granted a specialty license in another state. It is the obligation of the applicant to provide proper documentation which must include the content and grades received in each portion of the examination and be certified by the state which administered the examination. Determination as to whether an examination taken in another state is equivalent to that given in Missouri

will be made by the current Missouri specialty examining committee in the appropriate specialty area;

(3) Applicant must have met the same educational requirements for certification and licensure under this subsection as required of original applicants in the state of Missouri, as established by rule by the board.

8. All such certificates shall be subject to revocation and suspension for the causes set forth in section 332.321 and each certificate holder shall renew his regular license as provided in section 332.181 and shall pay the regular renewal fee provided therefor and shall also renew his specialty license and shall pay a specialty renewal fee.] The board shall issue to each applicant who has been recommended as qualified by the speciality committee, as provided in subsection 4 of this section, a license to practice dentistry in the specialty in which he or she has been so recommended.

332.181. 1. No person shall engage in the practice of dentistry in Missouri without having first secured a license as provided for in this chapter.

2. Any person desiring a license to practice dentistry in Missouri shall pay the required fee and make application to the board on a form prescribed by the board pursuant to section 332.141. An application for licensure shall be active for one year after the date it is received by the board. The application becomes void if not completed within such one-year period.

3. All persons once licensed to practice dentistry in Missouri shall renew his or her license to practice dentistry

in Missouri on or before the license renewal date and shall display his or her license for each current licensing period in the office in which he or she practices or offers to practice dentistry.

4. Effective with the licensing period beginning on December 1, 2002, a license shall be renewed every two years. [The board shall not renew the license of any dentist unless the licensee provides satisfactory evidence that he or she has completed fifty hours of continuing education within a two-year period.] To renew a license, each dentist shall submit satisfactory evidence of completion of fifty hours of continuing education during the two-year period immediately preceding the renewal period. Each dentist shall maintain documentation of completion of the required continuing education hours as provided by rule. Failure to obtain the required continuing education hours, submit satisfactory evidence, or maintain documentation is a violation of section 332.321 and may subject the licensee to discipline. As provided by rule, the board may waive or extend the time requirements for completion of continuing education [up to six months] for reasons related to health, military service, foreign residency or for other good cause. All requests for waivers or extensions of time shall be made in writing and submitted to the board before the renewal date. [The board may waive the requirements for continuing education for retired or disabled dentists or for other good cause.]

5. Any licensed dentist who fails to renew his or her license on or before the renewal date may apply to the board

for renewal of his or her license within four years subsequent to the date of the license expiration[, provided that any such applicant shall pay a reinstatement fee for the license] upon payment of the reinstatement fee and presentation of satisfactory evidence that he or she has completed the continuing education requirements the same as if the license had remained active. The license of any dentist who fails to renew within four years of the time his or her license has expired shall be void. The dentist may reapply for a license, provided that, unless application is made pursuant to section 332.211, he or she shall pay the same fees and be examined in the same manner as an original applicant for licensure as a dentist.

[6. The license of any dentist who fails to renew within four years of the time his or her license has expired shall be void. The dentist may reapply for a license, provided that, unless application is made pursuant to section 332.211, he or she shall pay the same fees and be examined in the same manner as an original applicant for licensure as a dentist. A currently licensed dentist in Missouri may apply to the board to be placed on an inactive list of dentists, and during the time his or her name remains on the inactive list, he or she shall not practice dentistry. If a dentist wishes to be removed from the inactive list, unless he or she applies pursuant to section 332.211, he or she shall apply for a current license and pay the license fees for the years between the date of the entry of his or her name on the inactive list and the date of issuance of his current license. If the

dentist has been on the inactive list for more than four years, he or she shall be examined in the same manner as an original applicant for licensure as a dentist.

7. A currently licensed dentist in Missouri who does not maintain a practice in this state or does not reside in this state may apply to the board to be placed on an out-of-state licensee list of dentists. Any dentist applying to be so licensed shall accompany his or her application with a fee not greater than the licensure fee for a licensee who maintains a practice in this state or who resides in this state. The required fee shall be established by the board, by rule, as with other licensing fees.]

332.261. 1. No person shall engage in the practice of dental hygiene without having first secured a license as provided for in this chapter.

2. Any person desiring a license to practice dental hygiene in Missouri shall pay the required fee and make application to the board on a form prescribed by the board pursuant to section 332.241. An application for licensure shall be active for one year after the date it is received by the board. The application becomes void if not completed within such one-year period.

3. All persons once licensed to practice as a dental hygienist in Missouri shall renew his or her license to practice on or before the renewal date and shall display his or her license for each current licensing period in the office in which he or she practices or offers to practice as a dental hygienist.

4. Effective with the licensing period beginning on December 1, 2002, a license shall be renewed every two years. [The board shall not renew the license of any hygienist unless the licensee provides satisfactory evidence that he or she has completed thirty hours of continuing education within a two-year period.] To renew a license, each dental hygienist shall submit satisfactory evidence of completion of thirty hours of continuing education during the two-year period immediately preceding the renewal period. Each dental hygienist shall maintain documentation of completion of the required continuing education hours as provided by rule. Failure to obtain the required continuing education hours, submit satisfactory evidence, or maintain documentation is a violation of section 332.321, and may subject the licensee to discipline. As provided by rule, the board may waive or extend the time requirements for completion of the continuing education [up to six months] for reasons related to health, military service, foreign residency or for other good cause. All requests for waivers or extensions of time shall be made in writing and submitted to the board before the renewal date. [The board may waive the requirements for continuing education for retired or disabled hygienists or for other good cause.]

5. Any licensed dental hygienist who fails to renew his or her license on or before the renewal date may apply to the board for renewal of his or her license within four years subsequent to the date of the license expiration[, provided that any such applicant shall pay a reinstatement fee for the license] upon payment of the reinstatement fee and

presentation of satisfactory evidence that he or she has completed the continuing education requirements the same as if the license had remained active. The license of any dental hygienist who fails to renew within four years of the time his or her license has expired shall be void. The dental hygienist may reapply for a license; provided that, unless application is made pursuant to section 332.281, he or she shall pay the same fees and be examined in the same manner as an original applicant for licensure as a dental hygienist.

[6. The license of any dental hygienist who fails to renew within four years of the time that his or her license expired shall be void. The dental hygienist may apply for a new license, provided that, unless application is made pursuant to section 332.281, he or she shall pay the same fees and be examined in the same manner as an original applicant for licensure as a dental hygienist. A currently licensed dental hygienist in Missouri may apply to the board to be placed on an inactive list of dental hygienists, and during the time his or her name remains on the inactive list, he or she shall not practice as a dental hygienist. If a dental hygienist wishes to be removed from the inactive list, unless he or she applies pursuant to section 332.281, he or she shall apply for a current license and pay the license fees for the years between the date of the entry of his or her name on the inactive list and the date of issuance of his or her current license. If the dental hygienist has been on the inactive list for more than four years, he or she shall be examined in the same manner as an original applicant for licensure as a

dental hygienist.

7. A currently licensed dental hygienist in Missouri who does not practice in this state or who does not reside in this state may apply to the board to be placed on an out-of-state registration list of dental hygienists. Any dental hygienist applying to be so licensed shall accompany his or her application with a fee not greater than the license fee for a licensee who practices in this state or resides in this state. The required fee shall be established by the board, by rule, as with other licensing fees.]

332.321. 1. The board may refuse to issue or renew a permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section or the board may, as a condition to issuing or renewing any such permit or license, require a person to submit himself or herself for identification, intervention, treatment or rehabilitation by the well-being committee as provided in section 332.327. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any permit or license required by this chapter or any person who has failed to renew or has surrendered his or her permit or license for any one or any combination of the following causes:

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

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

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

(4) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation; or increasing charges when a patient utilizes a third-party payment program; or for repeated irregularities in billing a third party for services rendered to a patient. For the purposes of this subdivision, irregularities in billing shall include:

(a) Reporting charges for the purpose of obtaining a total payment in excess of that usually received by the dentist for the services rendered;

(b) Reporting incorrect treatment dates for the purpose

of obtaining payment;

(c) Reporting charges for services not rendered;

(d) Incorrectly reporting services rendered for the purpose of obtaining payment that is greater than that to which the person is entitled;

(e) Abrogating the co-payment or deductible provisions of a third-party payment contract. Provided, however, that this paragraph shall not prohibit a discount, credit or reduction of charges provided under an agreement between the licensee and an insurance company, health service corporation or health maintenance organization licensed pursuant to the laws of this state; or governmental third-party payment program; or self-insurance program organized, managed or funded by a business entity for its own employees or labor organization for its members;

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of, or relating to one's ability to perform, the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a permit or license or allowing any person to use his or her permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by this chapter imposed by another state, province, territory, federal

agency or country upon grounds for which discipline is authorized in this state;

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

(10) Assisting or enabling any person to practice or offer to practice, by lack of supervision or in any other manner, any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter;

(11) Issuance of a permit or license based upon a material mistake of fact;

(12) Failure to display a valid certificate, permit or license if so required by this chapter or by any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation that is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed. False, misleading or deceptive advertisements or solicitations shall include, but not be limited to:

(a) Promises of cure, relief from pain or other physical or mental condition, or improved physical or mental health;

(b) Any misleading or deceptive statement offering or promising a free service. Nothing herein shall be construed to make it unlawful to offer a service for no charge if the offer is announced as part of a full disclosure of routine fees including consultation fees;

(c) Any misleading or deceptive claims of patient cure,

relief or improved condition; superiority in service, treatment or materials; new or improved service, treatment or material; or reduced costs or greater savings. Nothing herein shall be construed to make it unlawful to use any such claim if it is readily verifiable by existing documentation, data or other substantial evidence. Any claim that exceeds or exaggerates the scope of its supporting documentation, data or evidence is misleading or deceptive;

(d) Any announced fee for a specified service where that fee does not include the charges for necessary related or incidental services, or where the actual fee charged for that specified service may exceed the announced fee, but it shall not be unlawful to announce only the maximum fee that can be charged for the specified service, including all related or incidental services, modified by the term "up to" if desired;

(e) Any announcement in any form including the term "specialist" or the phrase "limited to the specialty of" unless each person named in conjunction with the term or phrase, or responsible for the announcement, holds a valid Missouri certificate and license evidencing that the person is a specialist in that area;

(f) Any announcement containing any of the terms denoting recognized specialties, or other descriptive terms carrying the same meaning, unless the announcement clearly designates by list each dentist not licensed as a specialist in Missouri who is sponsoring or named in the announcement, or employed by the entity sponsoring the announcement, after the following clearly legible or audible statement: "Notice: the

following dentist(s) in this practice is (are) not licensed in Missouri as specialists in the advertised dental specialty(s) of";

(g) Any announcement containing any terms denoting or implying specialty areas that are not recognized by the American Dental Association;

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

(16) Failure or refusal to properly guard against contagious, infectious or communicable diseases or the spread thereof;

(17) Failing to maintain his or her office or offices, laboratory, equipment and instruments in a safe and sanitary condition;

(18) Accepting, tendering or paying "rebates" to or "splitting fees" with any other person; provided, however, that nothing herein shall be so construed as to make it unlawful for a dentist practicing in a partnership or as a corporation organized pursuant to the provisions of chapter 356, RSMo, to distribute profits in accordance with his or her stated agreement;

(19) Administering, or causing or permitting to be administered, nitrous oxide gas in any amount to himself or herself, or to another unless as an adjunctive measure to patient management;

(20) Being unable to practice as a dentist, specialist or hygienist with reasonable skill and safety to patients by reasons of professional incompetency, or because of illness,

drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. In enforcing this subdivision the board shall, after a hearing before the board, upon a finding of probable cause, require the dentist or specialist or hygienist to submit to a reexamination for the purpose of establishing his or her competency to practice as a dentist, specialist or hygienist, which reexamination shall be conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the dentist's, specialist's or hygienist's professional competence by at least three dentists or fellow specialists, or to submit to a mental or physical examination or combination thereof by at least three physicians. One examiner shall be selected by the dentist, specialist or hygienist compelled to take examination, one selected by the board, and one shall be selected by the two examiners so selected. Notice of the physical or mental examination shall be given by personal service or registered mail. Failure of the dentist, specialist or hygienist to submit to the examination when directed shall constitute an admission of the allegations against him or her, unless the failure was due to circumstances beyond his or her control. A dentist, specialist or hygienist whose right to practice has been affected pursuant to this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that he or she can resume competent practice with reasonable skill and safety to patients.

(a) In any proceeding pursuant to this subdivision,

neither the record of proceedings nor the orders entered by the board shall be used against a dentist, specialist or hygienist in any other proceeding. Proceedings pursuant to this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(b) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the following: denying his or her application for a license; permanently withholding issuance of a license; administering a public or private reprimand; placing on probation, suspending or limiting or restricting his or her license to practice as a dentist, specialist or hygienist for a period of not more than five years; revoking his or her license to practice as a dentist, specialist or hygienist; requiring him or her to submit to the care, counseling or treatment of physicians designated by the dentist, specialist or hygienist compelled to be treated; or requiring such person to submit to identification, intervention, treatment or rehabilitation by the well-being committee as provided in section 332.327. For the purpose of this subdivision, "license" includes the certificate of registration, or license, or both, issued by the board.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in

combination:

(1) Censure or place the person or firm named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years; or

(2) Suspend the license, certificate or permit for a period not to exceed three years; or

(3) Revoke the license, certificate, or permit. In any order of revocation, the board may provide that the person shall not apply for licensure for a period of not less than one year following the date of the order of revocation; or

(4) Cause the person or firm named in the complaint to make restitution to any patient, or any insurer or third-party payer who shall have paid in whole or in part a claim or payment for which they should be reimbursed, where restitution would be an appropriate remedy, including the reasonable cost of follow-up care to correct or complete a procedure performed or one that was to be performed by the person or firm named in the complaint; or

(5) Request the attorney general to bring an action in the circuit court of competent jurisdiction to recover a civil penalty on behalf of the state in an amount to be assessed by the court.

4. If the board concludes that a dentist or dental hygienist has committed an act or is engaging in a course of conduct that would be grounds for disciplinary action and constitutes a clear and present danger to the public health and safety, the board may file a complaint before the

administrative hearing commission requesting an expedited hearing and specifying the conduct that gives rise to the danger and the nature of the proposed restriction or suspension of the dentist's or dental hygienist's license. Within fifteen days after service of the complaint on the dentist or dental hygienist, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged conduct of the dentist or the dental hygienist appears to constitute a clear and present danger to the public health and safety that justifies that the dentist's or dental hygienist's license be immediately restricted or suspended. The burden of proving that a dentist or dental hygienist is a clear and present danger to the public health and safety shall be upon the Missouri dental board. The administrative hearing commission shall issue its decision immediately after the hearing and shall either grant to the board the authority to suspend or restrict the license or dismiss the action.

5. If the administrative hearing commission grants temporary authority to the board to restrict or suspend a dentist's or dental hygienist's license, the dentist or dental hygienist named in the complaint may request a full hearing before the administrative hearing commission. A request for a full hearing shall be made within thirty days after the administrative hearing commission issues its decision. The administrative hearing commission shall, if requested by the dentist or dental hygienist named in the complaint, set a date to hold a full hearing under the provisions of chapter 621,

RSMo, regarding the activities alleged in the initial complaint filed by the board. The administrative hearing commission shall set the date for full hearing within ninety days from the date its decision was issued. Either party may request continuances, which shall be granted by the administrative hearing commission upon a showing of good cause by either party or consent of both parties. If a request for a full hearing is not made within thirty days, the authority to impose discipline shall become final and the board shall set the matter for hearing in accordance with section 621.110, RSMo.

6. If the administrative hearing commission dismisses without prejudice the complaint filed by the board pursuant to subsection 4 of this section or dismisses the action based on a finding that the board did not meet its burden of proof establishing a clear and present danger, such dismissal shall not bar the board from initiating a subsequent action on the same grounds in accordance with this chapter and chapters 536 and 621, RSMo.

7. Notwithstanding any other provisions of section 332.071 or of this section, a currently licensed dentist in Missouri may enter into an agreement with individuals and organizations to provide dental health care, provided such agreement does not permit or compel practices that violate any provision of this chapter.

[5.] 8. At all proceedings for the enforcement of these or any other provisions of this chapter the board shall, as it deems necessary, select, in its discretion, either the

attorney general or one of the attorney general's assistants designated by the attorney general or other legal counsel to appear and represent the board at each stage of such proceeding or trial until its conclusion.

[6.] 9. If at any time when any discipline has been imposed pursuant to this section or pursuant to any provision of this chapter, the licensee removes himself or herself from the state of Missouri, ceases to be currently licensed pursuant to the provisions of this chapter, or fails to keep the Missouri dental board advised of his or her current place of business and residence, the time of his or her absence, or unlicensed status, or unknown whereabouts shall not be deemed or taken as any part of the time of discipline so imposed.

332.327. 1. The board may establish an impaired dentist or dental hygienist committee, to be designated as the well-being committee, to promote the early identification, intervention, treatment and rehabilitation of dentists or dental hygienists who may be impaired by reasons of illness, substance abuse, or as a result of any physical or mental condition. The board may enter into a contractual agreement with a nonprofit corporation or a dental association for the purpose of creating, supporting and maintaining a committee to be designated as the well-being committee. The board may promulgate administrative rules subject to the provisions of this section and chapter 536, RSMo, to effectuate and implement any committee formed pursuant to this section. The board may expend appropriated funds necessary to provide for operational expenses of the committee formed pursuant to this

section. Any member of the well-being committee, as well as any administrator, staff member, consultant, agent or employee of the committee, acting within the scope of his or her duties and without actual malice and, all other persons who furnish information to the committee in good faith and without actual malice, shall not be liable for any claim of damages as a result of any statement, decision, opinion, investigation or action taken by the committee, or by any individual member of the committee.

2. All information, interviews, reports, statements, memoranda or other documents furnished to or produced by the well-being committee, as well as communications to or from the committee, any findings, conclusions, interventions, treatment, rehabilitation or other proceedings of the committee which in any way pertain to a licensee who may be, or who actually is, impaired shall be privileged and confidential.

3. All records and proceedings of the well-being committee which pertain or refer to a licensee who may be, or who actually is, impaired shall be privileged and confidential and shall be used by the committee and its members only in the exercise of the proper function of the committee and shall not be considered public records pursuant to chapter 610, RSMo, and shall not be subject to court subpoena or subject to discovery or introduction as evidence in any civil, criminal or administrative proceedings except as provided in subsection 4 of this section.

4. The well-being committee may disclose information

relative to an impaired licensee only when:

(1) It is essential to disclose the information to further the intervention, treatment or rehabilitation needs of the impaired licensee and only to those persons or organization with a need to know;

(2) Its release is authorized in writing by the impaired licensee;

(3) The committee is required to make a report to the board; or

(4) The information is subject to a court order.

5. In lieu of pursuing discipline against a dentist or dental hygienist for violating one or more causes stated in subsection 2 of section 332.321, the board may enter into a diversion agreement with a dentist or dental hygienist to refer the licensee to the dental well-being committee under such terms and conditions as are agreed to by the board and licensee for a period not to exceed five years. The board shall enter into no more than two diversion agreements with any individual licensee. If the licensee violates a term or condition of a diversion agreement entered into pursuant to this section, the board may elect to pursue discipline against the licensee pursuant to chapter 621, RSMo, for the original conduct that resulted in the diversion agreement, or for any subsequent violation of subsection 2 of section 332.321. While the licensee participates in the well-being committee, the time limitations of section 620.154, RSMo, shall toll pursuant to subsection 7 of section 620.154, RSMo. All records pertaining to diversion agreements are confidential

and may only be released pursuant to subdivision (7) of subsection 14 of section 620.010, RSMo.

6. The board may disclose information and records to the well-being committee to assist the committee in the identification, intervention, treatment, and rehabilitation of dentists or dental hygienists who may be impaired by reason of illness, substance abuse, or as the result of any physical or mental condition. The well-being committee shall keep all information and records provided by the board confidential to the extent the board is required to treat the information and records as closed to the public pursuant to chapter 620, RSMo.

334.530. 1. A candidate for license to practice as a physical therapist shall be at least twenty-one years of age. A candidate shall furnish evidence of such person's good moral character and the person's educational qualifications by submitting satisfactory evidence of completion of a program of physical therapy education approved as reputable by the board. A candidate who presents satisfactory evidence of the person's graduation from a school of physical therapy approved as reputable by the American Medical Association or, if graduated before 1936, by the American Physical Therapy Association, or if graduated after 1988, the Commission on Accreditation for Physical Therapy Education or its successor, is deemed to have complied with the educational qualifications of this subsection.

2. Persons desiring to practice as physical therapists in this state shall appear before the board at such time and place as the board may direct and be examined as to their

fitness to engage in such practice. Applications for examination shall be in writing, on a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications set forth in subsection 1 of this section. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the statement, subject to the penalties of making a false affidavit or declaration. The board shall not issue a permanent license to practice as a physical therapist or allow any person to sit for the Missouri state board examination for physical therapists who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia. The board may waive the provisions of this section if:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States or District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States or the District of Columbia; or

(2) The applicant has held a provisional license pursuant to section 334.535 for three years and the provisional license has not been disciplined or limited.

If the applicant fails the licensure examination three times, and then obtains a professional degree in physical therapy at a higher level than previously completed, the applicant can sit for the licensure examination three additional times.

3. The examination of qualified candidates for licenses to practice physical therapy shall include a written examination and shall embrace the subjects taught in reputable programs of physical therapy education, sufficiently strict to test the qualifications of the candidates as practitioners. The examination shall be given by the board at least once each year and shall be administered to all candidates, and the examination given at any particular time shall be the same for all candidates and the same subjects shall be included and the same questions shall be asked. Candidates shall be required to achieve a passing score, as determined by the board, on an examination before being issued a license.

4. The examination shall embrace, in relation to the human being, the subjects of anatomy, chemistry, kinesiology, pathology, physics, physiology, psychology, physical therapy theory and procedures as related to medicine, surgery and psychiatry, and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice physical therapy.

5. Examination grades or scores shall be preserved by the board subject to public inspection. Examination papers retained by the board shall be subject to public inspection for a period of three years, after which they may be destroyed.

334.535. 1. The board may issue a provisional license as a physical therapist for any applicant who:

(1) Has failed three or more times to achieve a passing score on a physical therapist licensing examination administered in one or more states or territories of the United States; and

(2) Has achieved a passing score on a physical therapist licensing examination administered in one or more states or territories of the United States; and

(3) Otherwise meets all requirements for permanent licensure as defined in sections 334.500 to 334.620; and

(4) Submits an application to the board on a form prescribed by the board.

2. A provisional licensed physical therapist shall, at all times, practice physical therapy under the direction and supervision of a physical therapist licensed in this state. The supervising licensed physical therapist shall be available to the provisional licensed physical therapist at all times either in person or via telecommunications. The board shall determine by rule the scope of practice of the provisional licensed physical therapist and the amount of time and type of supervision of the provisional licensed physical therapist by the supervising licensed physical therapist.

3. A provisional license shall be renewed annually by submitting an application to the board on a form prescribed by the board.

4. If a supervising licensed physical therapist is unable to continue supervising a provisional licensed physical

therapist, the provisional licensed physical therapist shall cease practicing immediately and the provisional license shall terminate. The board shall adopt by rule procedures for reinstatement of the provisional license if the person obtains a new supervising licensed physical therapist.

334.540. 1. The board shall issue a license to any physical therapist who is licensed in another jurisdiction and who has had no violations, suspensions or revocations of a license to practice physical therapy in any jurisdiction, provided that, such person is licensed in a jurisdiction whose requirements are substantially equal to, or greater than, the requirements for licensure of physical therapists in Missouri at the time the applicant applies for licensure.

2. Every applicant for a license pursuant to this section, upon making application and showing the necessary qualifications as provided in subsection 1 of this section, shall be required to pay the same fee as the fee required to be paid by applicants who apply to take the examination before the board. Within the limits provided in this section, the board may negotiate reciprocal compacts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, the board shall not issue a license to any applicant who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia. The board may waive the provisions of this section

if:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States or District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States or the District of Columbia; or

(2) The applicant has held a provisional license pursuant to section 334.535 for three years and the provisional license has not been disciplined or limited.

If the applicant fails the licensure examination three times, and then obtains a professional degree in physical therapy at a higher level than previously completed, the applicant can sit for the licensure examination three additional times.

334.550. 1. Upon the applicant paying a temporary license fee, the board shall issue without examination [a] an initial temporary license to practice physical therapy for a period of time not to extend beyond the time when the results of the [next] examination are announced to any person who meets the qualifications of subsection 1 of section 334.530, not to exceed six months; provided that, the applicant has not previously been examined in one or more states or territories of the United States or the District of Columbia. The temporary license may be renewed at the discretion of the

board and payment of the temporary license fee.

2. The board may [once] renew a temporary license [issued] once pursuant to this section if the licensee fails to sit for the next scheduled examination; provided that, the applicant shows good and exceptional cause for failing to sit for the examination. The applicant shall state the good and exceptional cause in writing and shall verify such statement by oath. The board shall define good and exceptional cause by rules and regulations. The duration of the temporary licensure shall be determined by the board.

3. The board may renew a temporary license not to exceed six months following the first failure of the examination by an applicant if such person submits an amended agreement-to-supervise form which is signed by the applicant's supervising licensed physical therapist. Such renewed temporary licensee shall only engage in the practice of physical therapy under the on-site supervision of a licensed physical therapist. The board shall define by rule the scope of such supervision which shall require stricter supervision than that required for an initial temporary license. The board shall not renew a temporary license following the second failure of the examination by the applicant.

4. The board may issue an initial temporary license pursuant to this section for a first-time applicant for licensure by examination without presentation of a diploma indicating graduation or final semester transcripts; provided that, all other documentation and fees necessary for an initial temporary license have been submitted to and approved

by the board.

5. The board may issue [a] an initial temporary license to any first-time applicant for licensure by examination if such person submits a diploma indicating graduation and final semester transcripts acceptable to the board, and an agreement- to-supervise form which is signed by the applicant's supervising physical therapist. Such initial temporary licensee may only engage in the practice of physical therapy under the supervision of a licensed physical therapist. The board shall define the scope of such supervision by rules and regulations.

334.560. 1. The board shall charge each person who applies for examination for a license to practice as a physical therapist an examination fee.

2. Should the examination results prove unsatisfactory and the board refuse to issue a license as a physical therapist thereon, the applicant failing to pass the examination may reapply and return to any meeting and be examined upon payment of a reexamination fee[; but no temporary license may be issued to such persons]. A renewed temporary license may be issued to such persons pursuant to subsection 3 of section 334.550.

3. Upon failure for the second time of an applicant for licensure as a physical therapist by examination, the board shall require the applicant to pursue and successfully complete a program of remediation before sitting for the examination for a third time. Such program of remediation shall:

(1) Be submitted on forms and in a manner approved by the board;

(2) Be provided by a licensed physical therapist approved by the board prior to the initiation of the program; and

(3) Have the results of the program documented by the licensed physical therapist, and reviewed and approved by the board following completion of the program.

4. Upon failure for the third time of an applicant for licensure as a physical therapist by examination, the board shall not permit such applicant to reapply for the examination. Such persons shall not receive a license to practice as a physical therapist in this state, except as otherwise provided in sections 334.530 to 334.540.

334.655. 1. A candidate for licensure to practice as a physical therapist assistant shall be at least nineteen years of age. A candidate shall furnish evidence of the person's good moral character and of the person's educational qualifications. The educational requirements for licensure as a physical therapist assistant are:

(1) A certificate of graduation from an accredited high school or its equivalent; and

(2) Satisfactory evidence of completion of an associate degree program of physical therapy education accredited by the commission on accreditation of physical therapy education.

2. Persons desiring to practice as a physical therapist assistant in this state shall appear before the board at such time and place as the board may direct and be examined as to

the person's fitness to engage in such practice. Applications for examination shall be in writing, on a form furnished by the board and shall include evidence satisfactory to the board that the applicant possesses the qualifications provided in subsection 1 of this section. Each application shall contain a statement that the statement is made under oath of affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the statement, subject to the penalties of making a false affidavit or declaration.

3. The examination of qualified candidates for licensure to practice as physical therapist assistants shall embrace a written examination and which shall cover the curriculum taught in accredited associate degree programs of physical therapy assistant education. Such examination shall be sufficient to test the qualification of the candidates as practitioners. The examination shall be given by the board at least once each year. The board shall not issue a license to practice as a physical therapist assistant or allow any person to sit for the Missouri state board examination for physical therapist assistants who has failed three or more times any physical therapist licensing examination administered in one or more states or territories of the United States or the District of Columbia. The board may waive the provisions of this section if:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia

or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States or District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States or the District of Columbia; or

(2) The applicant has held a provisional license pursuant to section 334.535 for three years and the provisional license has not been disciplined or limited.

If the applicant fails the licensure examination three times, and then obtains a professional degree in physical therapy at a higher level than previously completed, the applicant can sit for the licensure examination three additional times. The examination given at any particular time shall be the same for all candidates and the same curriculum shall be included and the same questions shall be asked.

4. The examination shall include, as related to the human body, the subjects of anatomy, kinesiology, pathology, physiology, psychology, physical therapy theory and procedures as related to medicine and such other subjects, including medical ethics, as the board deems useful to test the fitness of the candidate to practice as a physical therapist assistant.

5. Examination grades or scores shall be preserved by the board subject to public inspection. Examination papers retained by the board shall be subject to public inspection for a period of three years and thereafter may be destroyed.

6. The board shall license without examination any legally qualified person who is a resident of this state and who was actively engaged in practice as a physical therapist assistant on August 28, 1993. The board may license such person pursuant to this subsection until ninety days after the effective date of this section.

7. A candidate to practice as a physical therapist assistant who does not meet the educational qualifications may submit to the board an application for examination if such person can furnish written evidence to the board that the person has been employed in this state for at least three of the last five years under the supervision of a licensed physical therapist and such person possesses the knowledge and training equivalent to that obtained in an accredited school. The board may license such persons pursuant to this subsection until ninety days after rules developed by the state board of healing arts regarding physical therapist assistant licensing become effective.

334.660. The board shall license without examination legally qualified persons who hold certificates of licensure, registration or certification in any state or territory of the United States or the District of Columbia, who have had no violations, suspensions or revocations of such license, registration or certification, if such persons have passed a written examination to practice as a physical therapist assistant that was substantially equal to the examination requirements of this state and in all other aspects, including education, the requirements for such certificates of

licensure, registration or certification were, at the date of issuance, substantially equal to the requirements for licensure in this state. The board shall not issue a license to any applicant who has failed three or more times any physical therapist assistant licensing examination administered in one or more states or territories of the United States or the District of Columbia. The board may waive the provisions of this section if:

(1) The applicant is licensed and has maintained an active clinical practice for the previous three years in another state of the United States, the District of Columbia or Canada and the applicant has achieved a passing score on a licensing examination administered in a state or territory of the United States or District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States or the District of Columbia; or

(2) The applicant has held a provisional license pursuant to section 334.535 for three years and the provisional license has not been disciplined or limited.

If the applicant fails the licensure examination three times, and then obtains a professional degree in physical therapy at a higher level than previously completed, the applicant can sit for the licensure examination three additional times.

Every applicant for a license pursuant to this section, upon making application and providing documentation of the necessary qualifications as provided in this section, shall

pay the same fee required of applicants to take the examination before the board. Within the limits of this section, the board may negotiate reciprocal contracts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

334.665. 1. Upon the applicant paying a temporary fee, the board shall issue, without examination, [a] an initial temporary license to practice as a physical therapist assistant for a period of time not to exceed beyond the time when the results of the next examination are announced to any person who meets the qualifications of section 334.655, not to exceed six months; provided that, the applicant has not previously been examined in one or more states or territories of the United States or the District of Columbia. The temporary license may be renewed at the discretion of the board and upon payment of a temporary license fee.

2. The board may issue an initial temporary license pursuant to this section for a first-time applicant for licensure by examination without presentation of a diploma indicating graduation or final semester transcripts; provided that, all other documentation and fees necessary for an initial temporary license have been submitted to and approved by the board.

3. The board may issue an initial temporary license to any first-time applicant for licensure by examination if such person submits a diploma indicating graduation and final semester transcripts acceptable to the board, and an agreement-to-supervise form which is signed by the applicant's

supervising physical therapist. Such initial temporary licensee may only engage in the practice of physical therapy under the supervision of a licensed physical therapist. The board shall define the scope of such supervision by rules and regulations.

4. The board may renew a temporary license once pursuant to this section if the licensee fails to sit for the next scheduled examination; provided that, the applicant shows good and exceptional cause for failing to sit for the examination. The applicant shall state the good and exceptional cause in writing and shall verify such statement by oath. The board shall define good and exceptional cause by rules and regulations. The duration of the temporary licensure shall be determined by the board.

5. The board may renew a temporary license not to exceed six months following the first failure of the examination by an applicant if such person submits an amended agreement-to-supervise form which is signed by the applicant's supervising licensed physical therapist. Such renewed temporary licensee shall only engage in the practice of physical therapy under the on-site supervision of a licensed physical therapist. The board shall define by rule the scope of such supervision which shall require stricter supervision than that required for an initial temporary license. The board shall not renew a temporary license following the second failure of the examination by the applicant.

334.670. 1. The board shall charge a person, who applies for examination for a license to practice as a

physical therapist assistant, an examination fee. If the person does not score a passing grade on the examination, the board may refuse to issue a license. Any applicant who fails to pass the examination may reapply and be reexamined upon payment of a reexamination fee. [No temporary license may be issued to any person who has previously failed the examination in Missouri or any other state or jurisdiction.] A renewed temporary license may be issued to such persons pursuant to the provisions of section 334.655.

2. Upon failure for the second time of an applicant for licensure as a physical therapist assistant by examination, the board shall require the applicant to pursue and successfully complete a program of remediation before sitting for the examination for a third time. Such program of remediation shall:

(1) Be submitted on forms and in a manner approved by the board;

(2) Be provided by a licensed physical therapist approved by the board prior to the initiation of the program; and

(3) Have the results of the program documented by the licensed physical therapist, and reviewed and approved by the board following completion of the program.

3. Upon failure for the third time of an applicant for licensure as a physical therapist assistant by examination, the board shall not permit such applicant to reapply for the examination. Such persons shall not receive a license to practice as a physical therapist assistant in this state,

except as otherwise provided in section 334.655 or 334.660.

334.672. 1. The board may issue a provisional license as a physical therapist assistant for any applicant who:

(1) Has failed three or more times to achieve a passing score on a physical therapist assistant licensing examination administered in one or more states or territories of the United States; and

(2) Has achieved a passing score on a physical therapist assistant licensing examination administered in one or more states or territories of the United States; and

(3) Otherwise meets all requirements for permanent licensure as defined in sections 334.500 to 334.620; and

(4) Submits an application to the board on a form prescribed by the board.

2. A provisional licensed physical therapist assistant shall, at all times, practice physical therapy under the direction and supervision of a physical therapist licensed in this state. The supervising licensed physical therapist shall be available to the provisional licensed physical therapist assistant at all times either in person or via telecommunications. The board shall determine by rule the scope of practice of the provisional licensed physical therapist assistant and the amount of time and type of supervision of the provisional licensed physical therapist assistant by the supervising licensed physical therapist.

3. A provisional license shall be renewed annually by submitting an application to the board on a form prescribed by the board.

4. If a supervising licensed physical therapist is unable to continue supervising a provisional licensed physical therapist assistant, the provisional licensed physical therapist assistant shall cease practicing immediately and the provisional license shall terminate. The board shall adopt by rule procedures for reinstatement of the provisional license if the person obtains a new supervising licensed physical therapist.

334.702. As used in sections 334.700 to 334.725, unless the context clearly requires otherwise, the following terms mean:

(1) "Apprentice athletic trainer", a person who assists in the duties usually performed by an athletic trainer and who works under the direct supervision of a [registered] licensed athletic trainer;

(2) "Athlete", a person who participates in a sanctioned amateur or professional sport or recreational sport activity;

(3) "Athletic trainer", a person who meets the qualifications of section 334.708 and who, upon the direction of the team physician and/or consulting physician, practices prevention, emergency care, first aid, treatment, or physical rehabilitation of injuries incurred by athletes in the manner, means, and methods deemed necessary to effect care or rehabilitation, or both;

(4) "Board", the Missouri board for the healing arts;

(5) "Committee", the athletic trainers advisory committee;

(6) "Division", the division of professional

registration of the department of economic development.

334.704. No person shall hold himself out as an athletic trainer in this state unless he has been [registered] licensed as such under the provisions of sections 334.700 to 334.725.

334.706. 1. The board shall register applicants who meet the qualifications for athletic trainers, who file for [registration] licensure, and who pay all fees required for this [registration] licensure.

2. The board shall:

(1) Prescribe application forms to be furnished to all persons seeking [registration] licensure under sections 334.700 to 334.725;

(2) Prepare and conduct examinations for applicants for [registration] licensure under sections 334.700 to 334.725;

(3) Prescribe the form and design of the [registration] licensure to be issued under sections 334.700 to 334.725;

(4) Set the fee for examination, [registration] licensure, and renewal thereof;

(5) Keep a record of all of its proceedings regarding the Missouri athletic trainers act and of all athletic trainers [registered] licensed in this state;

(6) Annually prepare a roster of the names and addresses of all athletic trainers [registered] licensed in this state, copies of which shall be made available upon request to any person paying the fee therefor;

(7) Set the fee for the roster at an amount sufficient to cover the actual cost of publishing and distributing the roster;

(8) Appoint members of the Missouri athletic trainer advisory committee;

(9) Adopt an official seal.

3. The board may:

(1) Issue subpoenas to compel witnesses to testify or produce evidence in proceedings to deny, suspend, or revoke [registration] licensure;

(2) Promulgate rules pursuant to chapter 536, RSMo, in order to carry out the provisions of sections 334.700 to 334.725;

(3) Establish guidelines for athletic trainers in sections 334.700 to 334.725.

4. No rule or portion of a rule promulgated under the authority of sections 334.700 to 334.725 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

334.708. 1. Any person seeking [registration] licensure under sections 334.700 to 334.725 must be a resident or in the process of establishing residency in this state and must meet at least one set of the following qualifications:

(1) Has met all of the National Athletic Trainers Association certification qualifications;

(2) Holds a degree in physical therapy with at least a minor in physical education or health which included a basic athletic training course and has spent at least two academic years, military duty included, working under the direct supervision of a certified athletic trainer;

(3) Can show proof acceptable to the board of experience

and educational quality equal to that in subdivision (1), and can pass the examination for [registration] licensure under sections 334.700 to 334.725.

2. The board shall grant, without examination, [registration] licensure to any qualified nonresident athletic trainer holding a license or registration in another state if such other state recognizes [registrants] licensure of the state of Missouri in the same manner.

334.710. 1. All applications for initial [registration] licensure under sections 334.700 to 334.725 shall be submitted on forms prescribed by the board and shall be accompanied by an initial [registration] licensure fee. All applications for renewal of [registration] licensure issued under sections 334.700 to 334.725 shall be submitted on forms prescribed by the board and shall be accompanied by a renewal fee.

2. All fees of any kind and character authorized to be charged by the board shall be paid to the director of revenue and shall be deposited by the state treasurer into the board for the healing arts fund, to be disbursed only in payment for expenses of maintaining the athletic trainer [registration] licensure program and for the enforcement of the provisions of sections 334.700 to 334.725.

334.712. 1. Any person who meets the qualifications listed in section 334.708, submits his application and fees in accordance with section 334.710, and has not committed any act listed in section 334.715 shall be issued [registration] a license under sections 334.700 to 334.725.

2. Each [registration] license issued under sections

334.700 to 334.725 shall contain the name of the person to whom it was issued, the date on which it was issued and such other information as the board deems advisable. All [registrations] licenses issued under sections 334.700 to 334.725 shall expire on January thirtieth of each year.

334.715. 1. The board may refuse to [register] license any applicant or may suspend, revoke, or refuse to renew the [registration] license of any registrant for any one or any combination of the causes provided in section 334.100, or if the applicant or [registrant] licensee:

(1) Violated or conspired to violate any provision of sections 334.700 to 334.725 or any provision of any rule promulgated pursuant to sections 334.700 to 334.725; or

(2) Has been found guilty of unethical conduct as defined in the ethical standards of the National Athletic Trainers Association or the National Athletic Trainers Association Board of Certification as adopted and published by the committee and the board and filed with the secretary of state.

2. Upon receipt of a written application made in the form and manner prescribed by the board, the board may reinstate any [registration] license which has expired, been suspended or been revoked or may issue any [registration] license which has been denied; provided, that no application for reinstatement or issuance of [registration] license shall be considered until at least six months have elapsed from the date of denial, expiration, suspension, or revocation when the [registration] license to be reinstated or issued was denied

issuance or renewal or was suspended or revoked for one of the causes listed in subsection 1 of this section.

334.717. 1. There is hereby created the "Missouri Athletic Trainer Advisory Committee", to be composed of five members to be appointed by the board.

2. The athletic trainer advisory committee shall:

(1) Assist the board in conducting examinations for applicants of athletic trainer [registration] licensure;

(2) Advise the board on all matters pertaining to the [registration] licensure of athletic trainers;

(3) Review all complaints and/or investigations wherein there is a possible violation of sections 334.700 to 334.725 or regulations promulgated pursuant thereto and make recommendations to the board for action;

(4) Follow the provisions of the board's administrative practice procedures in conducting all official duties.

3. Each athletic trainer advisory committee member shall:

(1) Be a citizen of the United States and a resident of the state of Missouri for five years next preceding appointment; and

(2) Be comprised of three [registered] licensed athletic trainers except for initial appointees; and

(3) One member shall be a physician duly licensed by the Missouri state board for the healing arts; and

(4) One member shall be a general public member.

4. Except for the initial appointees, members shall hold office for terms of six years. The board shall designate one

member for a term expiring in 1984, one member for a term expiring in 1985, one member for a term expiring in 1986, one member for a term expiring in 1987, and one member for a term expiring in 1988. In the event of death, resignation, or removal of any member, the vacancy of the unexpired term shall be filled by the board in the same manner as the other appointments.

334.1000. 1. As used in sections 334.1000 to 334.1039 the following terms mean:

(1) "Approved naturopathic college", a four academic year in-residence naturopathic medical education program that is accredited by the Council on Naturopathic Medical Education and which is located at an institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education;

(2) "Board", the state board of registration for the healing arts;

(3) "Department", the department of economic development;

(4) "Diagnose", to examine in any manner another person, parts of a person's body, or substances, fluids, or materials excreted from a person's body, or produced by a person's body to determine the source, kind, or extent of a disease or other physical condition;

(5) "Natural medicine", includes:

(a) Food, food extracts, and dietary supplements as defined by the Federal Food, Drug and Cosmetic Act (21 U.S.C. Section 301 et seq.), as amended;

(b) Plant, animal, mineral, and microbial substances that are not designated as prescription drugs or controlled substances; and

(c) Homeopathic remedies and substances prepared according to the Homeopathic Pharmacopeia of the United States;

(6) "Naturopathic physician" or "naturopath", a person licensed to practice naturopathic medicine pursuant to sections 334.1000 to 334.1039;

(7) "Naturopathic medicine" or "naturopathy", a system of primary health care for the prevention, diagnosis, and care of human health conditions, injuries, and diseases that uses education and natural substances and remedies to support and stimulate the individual's intrinsic self-processes;

(8) "Naturopathic physical medicine", the use of the physical agents of air, water, heat, cold, sound, light, and the physical modalities of electrotherapy, biofeedback, diathermy, ultraviolet light, ultrasound, hydrotherapy, and exercise. The term does not include the practice of physical therapy, acupuncture, or chiropractic;

(9) "Topical preparations", topical analgesics, anesthetics, antiseptics, scabicides, antifungals, and antibacterials.

2. Any person who is not currently a licensed naturopathic doctor within the meaning of the law to practice naturopathic medicine in any of its departments shall not engage in the practice of naturopathic medicine except as provided by sections 334.1000 to 334.1039.

3. As used in the laws of this state, the terms "naturopath", "naturopathic physician", "practitioner of naturopathic medicine", "naturopathy", "N.M.D." (Doctor of Naturopathic Medicine), "N.D." (naturopathic doctor), or similar terms shall be construed to mean naturopathic physicians licensed pursuant to this chapter.

4. The term "naturopathic physician", and the designation "N.D." shall be used in any sign, letterhead, advertisement, solicitation, or other method of addressing the public.

334.1003. Candidates for licensure as naturopathic physicians shall furnish satisfactory evidence of their good moral character and their preliminary qualifications as follows:

- (1) File an application with the department;
- (2) Earned a degree of doctor of naturopathy from an approved naturopathic college;
- (3) Have experience as a naturopathic physician satisfactory to the board and in accordance with the board's regulations;
- (4) Pass the naturopathic physician's licensing exam (NPLEX), or its successor or equivalent examination, as determined by the board;
- (5) Be at least twenty-one years of age;
- (6) Be a United States citizen or an alien lawfully admitted for permanent residence in the United States; and
- (7) Pay all application and examination fees required by the board.

334.1006. 1. There is hereby established an "Advisory Commission for Naturopathic Medicine" for the purpose of advising the state board of registration for the healing arts on the licensing and supervising of all naturopathic physicians. The commission shall consist of six members, including one voting public member, to be appointed by the governor with the advice and consent of the senate. At least four members of the commission shall be licensed naturopaths. Each naturopath member of the commission shall be a citizen of the United States, actively engaged in the practice of naturopathy immediately preceding his or her appointment. One member shall be appointed from an appropriate healing profession, including medicine, as a person licensed pursuant to this chapter. No more than four members shall be affiliated with the same political party. All members shall be appointed for a term of four years. Each member shall receive compensation in an amount set by the commission not to exceed fifty dollars for each day devoted to the duties of the commission, and shall be entitled to reimbursement for the member's expenses necessarily incurred in the discharge of his or her official duties.

2. The commission's initial naturopathic physician members shall be professional members of the Missouri Association of Naturopathic Physicians:

- (1) Be actively practicing naturopathic medicine; or
- (2) Hold an active license to practice naturopathic medicine in another state where such license requires passage of a professional naturopathic medical licensing examination.

The naturopathic physician members appointed to the initial commission shall be licensed in accordance with sections 334.1000 to 334.1039 not later than one year after establishment of the licensing rules and regulations. If for any reason such a member cannot be licensed within such time period, a new member shall be appointed.

3. The initial appointments to the commission shall be one member for a term of one year, one member for a term of two years, one member for a term of three years, and two members for a term of four years.

4. The public member shall, at the time of his or her appointment, be a citizen of the United States, a resident of this state for a period of one year, and a registered voter. The public member shall not be a person who is or ever was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person, and a person who has or has ever had a material financial interest in providing for the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from a list submitted by the director of the department of economic development. The duties of the public member shall not include the determination of technical requirements for licensure or whether any person meets such technical requirements or of the technical competence or judgment of a licensee or candidate.

334.1015. 1. The state board of registration for the

healing arts shall:

(1) Adopt rules that are necessary or proper for the administration of sections 334.1000 to 334.1039;

(2) Administer and enforce all provisions of sections 334.1000 to 334.1039 and all rules adopted by the board pursuant to the authority granted in sections 334.1000 to 334.1039;

(3) Set the amount of the fees which sections 334.1000 to 334.1039 authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 334.1000 to 334.1039;

(4) Deposit all funds received pursuant to sections 334.1000 to 334.1039 in the board of registration for the healing arts fund established in section 334.050, RSMo; and

(5) Adopt rules for conducting licensing examinations required by sections 334.1000 to 334.1039.

2. The board may:

(1) Adopt rules that prescribe continuing medical education for the renewal of licenses issued pursuant to sections 334.1000 to 334.1039;

(2) Employ permanent or temporary personnel it deems necessary to carry out the purposes of sections 334.1000 to 334.1039 and designate their duties.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 334.1000 to 334.1039 shall

become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

334.1018. 1. A person who holds a license pursuant to sections 334.1000 to 334.1039 shall display such document in a conspicuous place that is accessible to view by the public.

2. A person who practices, conducts affairs, or is employed at more than one location and who maintains a continuing activity as authorized by the license shall display a duplicate of such document issued by the board at each location.

334.1021. 1. All persons desiring to practice as a naturopathic physician in this state shall be examined as to their fitness to engage in such practice by the board. All persons applying for examination shall file an application with the board at least thirty days before the date set for the examination upon applications furnished by the board.

2. The examination shall be sufficient to test the applicant's fitness to practice as a doctor of naturopathic medicine. The examination shall be conducted in such a manner as to conceal the identity of the applicant until all examinations have been scored. In all such examinations an

average score of not less than seventy-five percent is required to pass.

3. The examination required for a license pursuant to sections 334.1000 to 334.1039 shall be the naturopathic physician's licensing examination (NPLEX) or its successor examination or equivalent as determined by the board.

334.1024. Sections 334.1000 to 334.1039 do not apply to the following persons:

(1) Any naturopathic physician who is employed as a resident in a public hospital, provided such practice is limited to such hospital and is under the supervision of a licensed naturopathic physician;

(2) Any naturopathic physician who is licensed in another state or country and who is meeting a naturopathic physician licensed in this state, for purposes of consultation, provided such practice is limited to such consultation;

(3) Any naturopathic physician who is licensed in another state or country, who is visiting a naturopathic or other medical school or teaching hospital in this state to conduct naturopathic instruction for a period not to exceed six months, provided such practice is limited to such instruction and is under the supervision of a licensed naturopathic physician pursuant to sections 334.1000 to 334.1039;

(4) Any naturopathic student who is performing a clinical clerkship or similar function in a hospital and who is matriculated in a naturopathic school which meets standards

satisfactory to the department, provided such practice is limited to such clerkship or similar function in such hospital;

(5) A person engaged in the sale of vitamins, health foods, dietary supplements, herbs, or other products of nature the sale of which is not otherwise prohibited under state or federal law;

(6) Any other person licensed in this state in any health care profession while the person is practicing within the scope of the license.

334.1027. 1. Notwithstanding the provisions of sections 334.1015 to 334.1018, a person may be licensed as a naturopathic physician without meeting the requirements of section 334.1015 if the applicant:

(1) Is a resident of this state;

(2) Is at least twenty-one years of age;

(3) Provides proof acceptable to the board, as established by rule of the board, that the person has been actively engaged in naturopathic health care and has held the person out to the public as qualified to practice naturopathy for at least eight of the last ten years before August 28, 2003;

(4) Derives the majority of the person's income from the practice of naturopathic medicine; and

(5) Applies for a license pursuant to this section before January 1, 2005.

2. The board by rule may provide for limitations on the practice of a person licensed pursuant to subsection 1 of this

section. The board may require a person licensed pursuant to this section to be identified as a person whose practice is limited.

3. A person licensed pursuant to this section may:

(1) Use the title naturopathic physician and any other title allowed pursuant to sections 334.1000 to 334.1039; and

(2) Practice naturopathy only within the scope of practice that reflects the limits of the person's training and experience.

334.1030. Any person who violates any provision of sections 334.1000 to 334.1039 is guilty of a class A misdemeanor.

334.1033. The board shall not renew any license unless the licensee provides satisfactory evidence that the licensee has complied with the board's minimum requirements for continuing education. All persons once licensed to practice naturopathic medicine in this state shall, on or before the license renewal date, furnish to the board satisfactory evidence of completion of the requisite number of hours of postsecondary study, which shall be twenty-four hours during each twelve months of the registration period immediately preceding the filing of the registration renewal application. The postgraduate study required shall be from a board-approved continuing education program.

334.1036. 1. Every person licensed pursuant to the provisions of sections 334.1000 to 334.1039 shall renew his or her application on or before the registration renewal date. The application shall be made under oath on a form furnished

by the board. The application shall include, but not be limited to, disclosure of the following:

(1) The applicant's full name, the applicant's office and residence address, and the date and number of his or her license;

(2) All final disciplinary actions taken against the applicant; and

(3) Information concerning the applicant's current physical and mental fitness to practice as a naturopathic physician.

2. A blank form for application for registration shall be mailed to each person licensed in this state at the person's last known office or residence address. The failure to receive it does not, however, relieve any person of the duty to register and pay the fee required by this chapter nor exempt him or her from the penalties provided by sections 334.1000 to 334.1039 for failure to register.

3. If a person licensed by the board does not renew such license by the license expiration date, such license shall be deemed void. If such person's license is deemed void, he or she may apply for a reinstatement of such license pursuant to the procedures established by the board.

334.1039. 1. Each applicant for license pursuant to sections 334.1000 to 334.1039 shall accompany the application for license with a license fee to be paid to the director of revenue. If the application is filed and the fee paid after the license renewal date, a delinquent fee shall be paid; but whenever in the opinion of the board the applicant's failure

to register is caused by extenuating circumstances including illness of the applicant, as defined by rule, the delinquent fee may be waived by the board. Whenever any new license is granted to any person pursuant to the provisions of sections 334.1000 to 334.1039, the board shall, upon application, issue to such licensee a license covering a period from the date of the issuance of the license to the next renewal date without the payment of any registration fee.

2. The board shall set the amount of the fees which sections 334.1000 to 334.1039 authorizes and requires by rules promulgated pursuant to chapter 536, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 334.1000 to 334.1039.

337.030. 1. Each psychologist licensed pursuant to the provisions of sections 337.010 to 337.090, who has not filed with the committee a verified statement that the psychologist has retired from or terminated the psychologist's practice of psychology in this state, shall register with the division on or before the registration renewal date. The division shall require a registration fee which shall be submitted together with proof of compliance with the continuing education requirement as provided in section 337.050 and any other information required for such registration. Upon receipt of the required material and of the registration fee, the division shall issue a renewal certificate of registration. The division shall, when issuing an initial license to an applicant who has met all of the qualifications of sections

337.010 to 337.093 and has been approved for licensure by the committee shall grant the applicant, without payment of any further fee, a certificate of registration valid until the next registration renewal date.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the registration renewal date. Failure to provide the division with the proof of compliance with the continuing education requirement and other information required for registration, or to pay the registration fee after such notice shall effect a revocation of the license after a period of sixty days from the registration renewal date. The license shall be restored if, within two years of the registration renewal date, the applicant provides written application and the payment of the registration fee and a delinquency fee and proof of compliance with the requirements for continuing education as provided in section 337.050.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the committee, upon payment of a reasonable fee.

4. The committee shall set the amount of the fees authorized by sections 337.010 to 337.093 and required by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 337.010 to 337.090.

5. The committee may issue an inactive license to any licensee who makes written application for such license on a

form provided by the board and remits the fee for an inactive license established by the committee. An inactive license shall be issued only to a person who has previously been issued a license to practice psychology in the state of Missouri, who is no longer regularly engaged in such practice, and who does not hold himself or herself out to the public as being professionally engaged in such practice in the state of Missouri. Each inactive license shall be subject to all provisions of this chapter, except as otherwise specifically provided. Each inactive license may be renewed by the committee subject to all provisions of this section and all other provisions of this chapter. The inactive licensee shall not be required to submit evidence of completion of continuing education as required by this chapter. An inactive licensee may apply for a license to regularly engage in the practice of psychology upon filing a written application on a form provided by the committee, submitting the reactivation fee established by the committee and submitting proof of current competency as established by the committee.

337.300. As used in sections 337.300 to 337.315, sections 337.400 to 337.440, and sections 337.505 to 337.540, the following terms mean:

(1) "Board", the board of counselors and therapists established in section 337.303;

(2) "Department", the Missouri department of economic development;

(3) "Director", the director of the division of professional registration in the Missouri department of

economic development;

(4) "Division", the division of professional registration;

(5) "Fund", the board of counselors and therapists fund created by section 337.312;

(6) "Licensed professional counselor", any person who offers to render professional counseling services to individuals, groups, organizations, institutions, corporations, government agencies, or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed in counseling, and who holds a current, valid license to practice counseling;

(7) "Practice of professional counseling", rendering, offering to render, or supervising those who render to individuals, couples, groups, organizations, institutions, corporations, schools, government agencies, or the general public any counseling service involving the application of counseling procedures, and the principles and methods thereof, to assist in achieving more effective intrapersonal or interpersonal, marital, decisional, social, educational, vocational, developmental, or rehabilitative adjustments;

(8) "Professional counseling", includes, but is not limited to:

(a) The use of verbal or nonverbal counseling or both techniques, methods, or procedures based on principles for assessing, understanding, or influencing behavior, such as principles of learning, conditioning, perception, motivation, thinking, emotions, or social systems;

(b) Appraisal or assessment, which means selecting, administering, scoring, or interpreting instruments designed to assess a person's or group's aptitudes, intelligence, attitudes, abilities, achievement, interests, and personal characteristics;

(c) The use of referral or placement techniques or both which serve to further the goals of counseling;

(d) Therapeutic vocational or personal or both rehabilitation in relation to coping with or adapting to physical disability, emotional disability, or intellectual disability or any combination of the three;

(e) Designing, conducting, and interpreting research;

(f) The use of group methods or techniques to promote the goals of counseling;

(g) The use of informational and community resources for career, personal, or social development;

(h) Consultation on any item in paragraphs (a) to (g) above; and

(i) No provision of sections 337.505 to 337.540, or of chapter 354 or 375, RSMo, shall be construed to mandate benefits or third-party reimbursement for services of professional counselors in the policies or contracts of any insurance company, health services corporation, or other third-party payer;

(9) "Provisional licensed professional counselor", any person who is a graduate of an acceptable educational institution, as defined by division rules, with at least a master's degree with a major in counseling, or its equivalent,

and meets all requirements of a licensed professional counselor, other than the supervised counseling experience prescribed by subdivision (1) of section 337.510, and who is supervised by a person who is qualified for the practice of professional counseling.

337.303. 1. There is hereby created a "Board of Counselors and Therapists", which shall guide, advise, and make recommendations to the division and fulfill all other responsibilities designated by sections 337.400 to 337.440 as such sections pertain to marital and family therapists and sections 337.505 to 337.540 as such sections pertain to licensed professional counselors. The duties and responsibilities of the board of counselors and therapists shall not take full force and effect until such time as the governor appoints the members of the board of counselors and therapists and the appointments are confirmed by the senate. At such time, the powers and duties of the state committee of marital and family therapists and the committee for professional counselors shall be merged into the board of counselors and therapists pursuant to section 337.305.

2. The board of counselors and therapists shall be appointed by the governor with the advice and consent of the senate and shall consist of nine members that are United States citizens and residents of this state. Of these nine members, four shall be licensed professional counselors who shall constitute the subcommittee for professional counselors, and four shall be licensed marital and family therapists who shall constitute the subcommittee for marital and family

therapists, and one shall be a public voting member.

3. At least one member of each of the subcommittees and the public member of the initial board shall be appointed by the governor with the advice and consent of the senate to serve a term of four years, two members of each of the subcommittees shall be appointed by the governor with the advice and consent of the senate to serve a term of three years and the remaining members of the initial board shall be appointed for a term of two years. Thereafter, all members shall be appointed by the governor with the advice and consent of the senate to serve four-year terms. No person shall be eligible for reappointment that has served as a member of the board for a total of eight years. The membership of the board shall reflect the differences in levels of education and work experience with consideration being given to race, gender, and ethnic origins. No more than one counselor-educator shall be a member of the board at the same time.

4. At the time of appointment, the public member shall be a citizen of the United States, a resident of this state for a period of at least one year immediately preceding the appointment, and a registered voter. The public member or the spouse of such member shall be a person who is not and never was a member of any profession licensed or regulated by the board of counselors and therapists. The public member and the spouse of such member shall be a person who does not have and never has had a material financial interest in the provision of the professional services regulated by the board of counselors and therapists, or an activity or organization

directly related to any professions licensed or regulated by the board of counselors and therapists.

5. Each member of the board shall receive compensation in an amount set by the division not to exceed fifty dollars for each day devoted to the affairs of the board, including meeting and conference attendance, meeting preparation and travel, and activities related to the board and subject to approval by the director of the division. The division shall provide all staff for the board, which shall include inspectors, investigators, and clerical support.

337.305. 1. Upon appointment by the governor and confirmation by the senate of the board of counselors and therapists, the committee for professional counselors and the state committee of marital and family therapists are abolished and their duties and responsibilities shall merge into the board of counselors and therapists as established pursuant to section 337.303. The board of counselors and therapists shall be a continuance of and shall carry out the duties of the committee for professional counselors and the state committee of marital and family therapists.

2. Upon appointment by the governor and confirmation by the senate of the board of counselors and therapists, all of the powers, duties, and functions of the committee for professional counselors and the state committee of marital and family therapists are transferred to, conferred, and imposed upon the board of counselors and therapists. The board of counselors and therapists shall be the successor in every way to the powers, duties, and functions of the committee for

professional counselors and the state committee of marital and family therapists.

3. Every act performed in the exercise of such powers, duties, and authorities by or under the authority of the board of counselors and therapists shall be deemed to have the same force and effect as if performed by the committee for professional counselors or state committee of marital and family therapists pursuant to sections 337.400 to 337.440 and sections 337.505 to 337.540, including any amendments thereto effective with the passage of this law or prior to the effective date of this act.

4. All rules and regulations of the committee for professional counselors and the state committee of marital and family therapists and amendments thereto shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the board of counselors and therapists until revised, amended, or repealed by the board of counselors and therapists. The board of counselors and therapists shall review such rules and regulations and shall adopt new rules and regulations as required for the administration of the licensure law for professional counselors and marital and family therapists.

5. Any person licensed or provisionally licensed as a professional counselor by the committee for professional counselors or any person licensed by the state committee of marital and family therapists prior to the appointment by the governor and confirmation by the senate of the board of counselors and therapists, shall be considered licensed as a

professional counselor, provisionally licensed as a professional counselor, or licensed as a marital and family therapist by the board of counselors and therapists. Any person pursuing post-degree experience approved by the committee for professional counselors or the state committee of marital and family therapists shall be considered approved for post-degree experience by the board of counselors and therapists.

337.306. Any communication made by any person to a licensed professional counselor or a licensed marital and family therapist in the course of professional services rendered by the licensed professional counselor or the licensed marital and family therapist shall be deemed a privileged communication and the licensed professional counselor or the licensed marital and family therapist shall not be examined or be made to testify to any privileged communication without the prior consent of the person who received their professional services.

337.312. 1. There is hereby created in the state treasury a fund to be known as the "Board of Counselors and Therapists Fund" which shall consist of all moneys collected by the board of counselors and therapists.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriations from the board of counselors and therapists fund for the preceding fiscal year.

The amount, if any, in the fund that shall lapse is that amount in the fund that exceeds the appropriate multiple of the appropriations from the board of counselors and therapists fund for the preceding fiscal year.

3. Upon appointment by the governor and confirmation by the senate of the board of counselors and therapists, all moneys deposited in the committee for professional counselors fund created in section 337.507 and the marital and family therapists fund created in section 337.712, shall be transferred to the board of counselors and therapists fund created in subsection 1 of this section. The committee for professional counselors fund and the marital and family therapists fund shall be abolished when all moneys are transferred to the board of counselors and therapists fund.

337.315. 1. The division, on behalf of the board, shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.400 to 337.440 and sections 337.505 to 337.540, and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.400 to 337.440 and sections 337.505 to 337.540;

(3) The content, conduct, and administration of the licensing examinations required by sections 337.415 and 337.510;

(4) The characteristics of supervised clinical experience, as that term is used in section 337.415;

(5) The characteristics of acceptable supervised

counseling experience, as that term is used in section 337.510;

(6) The equivalent of the basic educational requirements set forth in sections 337.415 and 337.510;

(7) The standards and methods to be used in assessing competency as a licensed marital and family therapist and the standards and methods to be used in assessing competency as a professional counselor;

(8) Establishment and promulgation of procedures for investigating, hearing, and determining grievances and violations occurring under the provisions of sections 337.400 to 337.440 and sections 337.505 to 337.540;

(9) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing under the constitution or laws of this state;

(10) Establishment and promulgation of procedures for licensure by reciprocity with other states, including states that do not have marital and family therapist licensing laws or professional counselor licensing laws and states whose licensing laws are not substantially the same or greater than those of this state;

(11) The form and content of ethical standards for marital and family therapists, as that term is used in subdivision (15) of subsection 2 of section 337.430, and the form and content of ethical standards for professional counselors as that term is used in subdivision (15) of subsection 2 of section 337.525;

(12) The characteristics of an acceptable educational

institution as that term is used in section 337.510;

(13) The characteristics of an acceptable agent for the certification of an exempted occupation as used in section 337.505; and

(14) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.400 to 337.440 and sections 337.505 to 337.540.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 337.400 to 337.440 and sections 337.505 to 337.540 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Section 337.400 to 337.440 and sections 337.505 to 337.540 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

337.400. As used in sections 337.400 to 337.440 the following terms mean:

(1) "Licensed marital and family therapist", a person to whom a license has been issued pursuant to the provisions of sections 337.400 to 337.440, whose license is in force and not suspended or revoked;

(2) "Marital and family therapy", the use of scientific and applied marriage and family theories, methods, and

procedures for the purpose of describing, evaluating, and modifying marital, family, and individual behavior within the context of marital and family systems, including the context of marital formation and dissolution. Marital and family therapy is based on systems theories, marriage and family development, normal and dysfunctional behavior, human sexuality, and psychotherapeutic marital and family therapy theories and techniques and includes the use of marriage and family therapy theories and techniques in the evaluation, assessment, and treatment of intrapersonal or interpersonal dysfunctions within the context of marriage and family systems. Marital and family therapy may also include clinical research into more effective methods for the treatment and prevention of the above-named conditions;

(3) "Practice of marital and family therapy", the rendering of professional marital and family therapy services to individuals, family groups, and marital pairs, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise.

337.403. No person shall use the title of licensed marital and family therapist, or marital and family therapist, or engage in the practice of marital and family therapy in this state unless the person is licensed pursuant to sections 337.400 to 337.440. Sections 337.400 to 337.440 shall not apply to:

(1) Any person registered, certificated, or licensed by this state, another state, or any recognized national

certification agent acceptable to the board to practice any other occupation or profession while rendering services similar in nature to marital and family therapy in the performance of the occupation or profession in which the person is registered, certificated, or licensed, so long as the person does not use the title of licensed marital and family therapist;

(2) The practice of any marital and family therapist who is employed by any political subdivision, school district, agency, or department of this state while discharging the therapist's duties in that capacity; and

(3) Duly ordained ministers or clergy, religious workers and volunteers, or Christian Science practitioners.

337.406. No person may engage in marital and family therapy for compensation or hold themselves out as a licensed marital and family therapist unless the person complies with all educational and examination requirements of sections 337.400 to 337.440 and is licensed pursuant to the provisions of sections 337.400 to 337.440.

337.409. No provision of sections 337.400 to 337.440 shall be construed to require any agency, corporation, or organization, to employ licensed marital and family therapists if they are not otherwise required by law to do so.

337.412. 1. Applications for licensure as a marital and family therapist shall be in writing and submitted to the board on forms prescribed by the board and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience, and

such other information as the board may require. Each application shall contain a statement that is made under oath or affirmation that the information contained in the application is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the board.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the license renewal date. Notwithstanding this notice requirement, the failure to receive a license renewal notification from the division does not excuse the licensee from renewing his or her license as required by law. Failure to provide the board with the information required for license renewal, or failure to pay the license renewal fee within a period of sixty days from the license renewal date shall cause the license to expire. The license shall be restored if the applicant submits written application and the payment of the licensure fee and a delinquency fee within two years of the license renewal date. If a license issued by the board has expired for more than two years and the applicant has not held a valid, unrevoked, unsuspended license as a marital and family therapist in another state at the time of application to the board, the applicant shall pay the required fee and obtain continuing education relating to the practice of marital and family therapy as defined by board rule. Continuing education required for the renewal of an expired license shall not

exceed twenty hours of continuing education credit.

3. A new certificate to replace any certificate lost, destroyed, or mutilated may be issued subject to the rules of the board, upon payment of a fee, if the board requires such fee.

4. The board shall set the amount of the fees authorized by sections 337.400 to 337.440. The fees shall be set at a level to produce revenue that shall not substantially exceed the cost and expense of administering the provisions of sections 337.400 to 337.440. All fees required pursuant to sections 337.400 to 337.440 shall be collected by the director who shall deposit the same with the state treasurer in the board of counselors and therapists fund.

337.415. 1. Each applicant for licensure as a marital and family therapist shall furnish evidence to the board that:

(1) The applicant has a master's degree or a doctoral degree in marital and family therapy or its equivalent from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body that has been approved by the federal Department of Education;

(2) The applicant has twenty-four months of postgraduate supervised clinical experience acceptable to the board, as the board determines by rule;

(3) Upon examination, the applicant possesses the requisite knowledge of the profession, including techniques and applications, research and its interpretation, and professional affairs and ethics;

(4) The applicant is at least eighteen years of age, is

of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during the ten years immediately prior to application for licensure.

2. Any person holding a current, unrevoked license, certificate, or registration from another state or territory of the United States having substantially the same or greater licensing requirements as this state for marital and family therapists, as determined by the board, may be granted a license to practice as a marital and family therapist in this state upon application to the board accompanied by the appropriate fee as established by the board pursuant to section 337.412.

3. Any person who previously held a valid, unrevoked, and unsuspended license as a marital and family therapist in this state and who holds a valid license as a marital and family therapist in another state at the time of application to the board shall be granted a license to engage in marital and family therapy in this state upon application to the board accompanied by the appropriate fee as established by the board.

4. The board shall issue a license to each person who files an application and fee as required by the provisions of sections 337.400 to 337.440, and who furnishes evidence satisfactory to the board that the applicant has complied with the provisions of subsection 1 or 2 of this section.

337.418. 1. Each license issued pursuant to the provisions of sections 337.400 to 337.440 shall expire on the

renewal date established by the director. The term of licensure shall be twenty-four months; however, the director may establish a shorter term for the licenses issued pursuant to sections 337.400 to 337.440 during the first year after the creation of the board. The board shall renew any license upon application for renewal and upon payment of the fee established by the board pursuant to the provisions of section 337.412.

2. The board may issue temporary permits to practice under extenuating circumstances as determined by the board and defined by rule.

337.430. 1. The board may refuse to issue or renew any license required by the provisions of sections 337.400 to 337.440 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 337.400 to 337.440 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the

occupation of marital and family therapist; except the fact that a person has undergone treatment for past substance or alcohol abuse or has participated in a recovery program shall not by itself be cause for refusal to issue or renew a license;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere in a criminal prosecution under the laws of any state or of the United States for any offense reasonably related to the qualifications, functions, or duties of a marital and family therapist, or for any offense an essential element of which is fraud, dishonesty, or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation, or bribery in securing any license issued pursuant to the provisions of sections 337.400 to 337.440 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 337.400 to 337.440;

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

(5) Incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of a licensed marital and family therapist;

(6) Violation of or assisting or enabling any person to violate any provision of sections 337.400 to 337.440 or of any lawful rule or regulation adopted pursuant to sections 337.400

to 337.440;

(7) Impersonation of any person holding a license or allowing any person to use the person's license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice marital and family therapy granted by another state, territory, federal agency, or country upon grounds for which discipline is authorized in this state;

(9) Final adjudication as incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice marital and family therapy who is not licensed and is not currently eligible to practice under the provisions of sections 337.400 to 337.440;

(11) Obtaining a license based upon a material mistake of fact;

(12) Failure to display a valid license if so required by sections 337.400 to 337.440 or any rule promulgated thereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation that is false, misleading, or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed; or

(15) Violation of the ethical standards for marital and family therapists as defined by board rule.

3. Any person, organization, association, or corporation reporting or providing information to the board pursuant to

the provisions of sections 337.400 to 337.440 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

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

337.433. 1. Violation of any provision of sections 337.400 to 337.440 is a class B misdemeanor.

2. All fees or other compensation received for services that are rendered in violation of sections 337.400 to 337.440 shall be refunded.

3. The division, on behalf of the board, may sue in its own name in any court in this state. The division shall inquire as to any violation of sections 337.400 to 337.440, may institute actions for penalties prescribed, and shall enforce generally the provisions of sections 337.400 to 337.440.

4. Upon application by the board, the attorney general may, on behalf of the board, request a court of competent jurisdiction to grant an injunction, restraining order, or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit, or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit, or license; or

(2) Engaging in any practice of business authorized by a certificate of registration or authority, permit, or license issued pursuant to sections 337.400 to 337.440 upon a showing that the holder presents a substantial probability of serious harm to the health, safety, or welfare of any resident of this state or client or patient of the licensee.

5. Any action brought pursuant to this section shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

6. Any action brought pursuant to this section may be in addition to or in lieu of any penalty pursuant to sections 337.400 to 337.440 and may be brought concurrently with other actions to enforce the provisions of sections 337.400 to 337.440.

337.440. 1. The division, on behalf of the board, may issue subpoenas duces tecum and require production of documents and records. A person authorized to serve subpoenas of courts of record shall serve the subpoenas duces tecum. In lieu of requiring attendance of a person to produce original documents in response to a subpoena duces tecum, the board may require sworn copies of such documents to be filed with it or delivered to its designated representative.

2. The board may enforce its subpoenas duces tecum by applying to the circuit court of Cole County, the county of the investigation, hearing, or proceeding, or any county where the person resides or may be found for an order upon any person who shall fail to obey a subpoena to show cause why such subpoena should not be enforced, which such order and a copy of the application therefore shall be served upon the person in the same manner as a summons in a civil action. If the circuit court shall, after a hearing, determine that the subpoena duces tecum should be sustained and enforced, such court shall proceed to enforce the subpoena in the same manner as though the subpoena had been issued in a civil case in the circuit court.

3. Failure of a licensee to comply with the requirements of a validly enforced subpoena duces tecum shall constitute grounds for disciplinary action as defined in section 338.055.

337.505. No person shall use the title of "professional counselor", "counselor" or "provisional licensed professional counselor" or engage in the practice of professional counseling in this state unless the person is licensed as required by the provisions of sections [337.500] 337.505 to 337.540. Sections [337.500] 337.505 to 337.540 do not apply to:

(1) Any person registered, certificated or licensed by this state, another state, or any recognized national certification agent, acceptable to the [committee] board, to practice any other occupation or profession while rendering counseling service in the performance of the occupation or

profession for which the person is registered, certificated, or licensed, including but not limited to physicians, psychologists and attorneys;

(2) School counselors, school administration personnel, or classroom teachers, so long as they are performing their assigned duties within the scope of their employment by a board of education or private school;

(3) Counselors in postsecondary educational institutions so long as they are practicing within the scope of their employment;

(4) Student interns or trainees in counseling procedures pursuing a course of study in counseling in an institution of higher education or training institution if such activities and services constitute a part of their course of study and provided that such persons are designated as "counselor interns";

(5) Professionals employed by postsecondary educational institutions as counselor educators so long as they are practicing counseling within the scope of their employment;

(6) Duly ordained ministers [or], clergy [or], religious workers, or staff counselors while functioning in their ministerial capacity or in a religious institution or religious counseling ministries program;

(7) Alcoholism counselors so long as they serve only individuals with alcohol related concerns;

(8) Any nonresident temporarily employed in this state to render counseling services for not more than thirty days in any year, if in the opinion of the [committee] board the

person would qualify for a license pursuant to the provisions of sections 337.505 to 337.540, and if the person holds a license required for counselors in the person's home state or country;

(9) Duly accredited Christian Science practitioners, so long as they are practicing within the scope of Christian Science principles;

(10) Counselors employed by the Missouri state department of elementary and secondary education or the Missouri state bureau for the blind while rendering counseling services in the performance of their state assigned duties;

(11) Professionals employed by vocational and medical rehabilitation facilities accredited by the commission on the accreditation of rehabilitation facilities, the joint committee on accreditation of hospitals or other agents acceptable to the [committee] board while rendering counseling services in the performance of their assigned duties, and so long as they do not use the title of "counselor";

(12) Employees or volunteers of sheltered workshops who are providing meaningful employment services for handicapped workers, so long as they do not use the "counselor" title;

(13) [Marital therapists or family therapists or both, certified by the American Association of Marriage and Family Therapists or an agent acceptable to the committee, and their supervisees, so long as they serve only individuals with marital or family systems concerns, and, so long as they do not use the titles of "counselor" or "counseling";

(14) Staff counselors employed by religious institutions

in a religious counseling ministries program;

(15)] Drug abuse counselors certified by the department of mental health as meeting standards in rules promulgated pursuant to section 630.655, RSMo, certified by the Missouri substance abuse counselors certification board, or by an agent acceptable to the committee, so long as such counselors are practicing consistent with such standards, and they are serving only individuals with drug-related concerns;

[(16)] (14) Social workers, certified by the National Association of Social Workers, Inc., or by an agent acceptable to the committee, or workers under their supervision so long as they are doing work consistent with their training and with a code of ethics of the social work profession, and so long as they do not use the title of "professional counselor";

[(17)] (15) Professionals in the employ of a governmental agency while rendering services in the performance of their duties;

[(18)] Any person performing counseling, as defined in sections 337.500 to 337.540, without receiving compensation, monetary or otherwise, and so long as they do not use the title of "professional counselor";

(19)] (16) Employment counselors and interviewers, personnel officers, personnel analysts and consultants and related workers who in the normal course of their duties and responsibilities as employees of this state may engage in the screening, examination, assessment, referral or selection of individuals for employment or for consideration for employment;

[(20)] (17) Counselors and employees of employee assistance programs [which] that are members of the Association of Labor-Management Administrators and Consultants on Alcoholism, Inc., a Wisconsin corporation, or its successors or such other accrediting body for EAP Programs acceptable to the [committee] board who provide evaluation, assessment, information, and referral services so long as they are performing their assigned duties within the scope of their employment; provided, however, that this exemption shall not apply to individuals employed by employee assistance programs who provide direct long-term therapy and counseling services, as may be defined by regulation, so long as they do not use the title of counselor or counseling;

[(21)] (18) Individuals who are duly certified by the employee assistance certification commission as administered by the Association of Labor-Management Administrators and Consultants on Alcoholism, Inc., a Wisconsin corporation, or its successor; so long as the individual is an employee of a generally recognized employee assistance program and so long as such individual is performing services within the scope of such individual's employment and education;

[(22)] (19) Weight loss or weight control consultants or advisors in recognized, legitimate programs or business environments so long as they serve only individuals or groups who have weight related concerns and discuss only weight improvement issues and do not use the titles of "counselor" or "counseling" without using an adjective which describes to the ordinary person that the counseling is limited to weight loss

or weight control;

[(23)] (20) Activity therapists as certified or licensed by their respective professional organizations including, but not limited to art, music, dance, recreation, and occupation, and who have received certification or licensure by their respective professional organizations by January 1, 1994, so long as they do not use the titles of "counselor" or "counseling";

[(24)] (21) Professionals certified by the American Board of Medical Psychotherapists and who have received certification from the American Board of Medical Psychotherapists by January 1, 1994, so long as they do not use the titles of "counselor" or "counseling"; [and

(25) Transactional analysts certified by the International Transactional Analysis Association and who have received certification from the International Transactional Analysis Association as a level one transactional analyst, specializing in clinical application by January 1, 1994, so long as they do not use the titles of "counselor" or "counseling";] or

[(26)] (22) Any person with a doctoral degree in anthropology received on or prior to December 31, 1989, and which was from an educational institution accredited by one of the regional accrediting associations approved by the council on postsecondary accreditation; provided further that said individual has completed at least twenty-four months of supervised clinical experience in psychotherapy under the supervision of a physician.

337.507. 1. Applications for examination and licensure as a professional counselor shall be in writing, submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing ~~[his]~~ the applicant's education, experience and such other information as the division may require. Each application shall contain a statement that it is made under oath or affirmation ~~[and]~~ that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the ~~[committee]~~ board.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the ~~[registration]~~ license renewal date. Notwithstanding this notice requirement, the failure to receive a license renewal notification from the division does not excuse the licensee from renewing his or her license required by law. Failure to provide the division with the information required for ~~[registration]~~ license renewal, or to pay the ~~[registration fee after such notice shall effect a revocation of the license after]~~ license renewal fee within a period of sixty days from the ~~[registration]~~ license renewal date shall cause the license to expire. The license shall be restored if, within two years of the ~~[registration]~~ license renewal date, the applicant ~~[provides]~~ submits written application and the payment of the ~~[registration]~~ licensure fee and a delinquency

fee.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the [committee] board, upon payment of a fee.

4. The [committee] board shall set the amount of the fees [which] authorized by sections [337.500] 337.505 to 337.540 [authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo]. The fees shall be set at a level to produce revenue [which] that shall not substantially exceed the cost and expense of administering the provisions of sections [337.500] 337.505 to 337.540. All fees provided for in sections 337.500 to 337.540 shall be collected by the director who shall deposit the same with the state treasurer in [a fund to be known as the "Committee of Professional Counselors Fund"] the board of counselors and therapists fund.

5. [The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the committee's fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the committee's fund for the preceding fiscal year.

6. The committee shall hold public examinations at least two times per year, at such times and places as may be fixed by the committee, notice of such examinations to be given to

each applicant at least ten days prior thereto.] The board shall designate an examination as defined by rule for applicants seeking licensure as professional counselors or marital and family therapists.

6. If a license has expired for more than two years and the applicant does not hold a valid, unrevoked, unsuspended license as a professional counselor in another state at the time of application to the board, the applicant shall pay the required fee and obtain continuing education relating to the practice of counseling as defined by board rule. Continuing education required pursuant to this subsection shall not exceed twenty hours of continuing education credit.

337.510. 1. Each applicant for licensure as a professional counselor shall furnish evidence to the [committee] board that:

(1) The applicant has met any one of the three following education-experience requirements:

(a) The applicant has received a doctoral degree with a major in counseling, or its equivalent, from an acceptable educational institution, as defined by division rules, and has completed at least one year of acceptable supervised counseling experience subsequent to receipt of the doctoral degree; or

(b) The applicant has received a specialist's degree with a major in counseling, or its equivalent, from an acceptable educational institution, as defined by division rules, and has completed at least one year of acceptable supervised counseling experience subsequent to receipt of the

specialist's degree; or

(c) The applicant has received at least a master's degree with a major in counseling, or its equivalent, from an acceptable educational institution as defined by division rules, and has completed two years of acceptable supervised counseling experience subsequent to receipt of the master's degree. An applicant may substitute thirty semester hours of post-master's graduate study, or [their] the equivalent, for one of the two required years of acceptable supervised counseling experience, if such hours are clearly related to the field of professional counseling and are earned from an acceptable educational institution.

(2) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications, research and its interpretation, and professional affairs and ethics.

2. Any person holding a [valid] current unrevoked[,] and unsuspended [and unexpired] license, certificate, or registration as a professional counselor issued by a state or territory of the United States having substantially the same or greater licensing requirements as this state shall be granted a license to [engage in the person's] practice the occupation of a professional counselor in this state upon application to the [committee] board accompanied by the appropriate fee as established by the [committee] board pursuant to section 337.507.

3. Any person who previously held a valid unrevoked, unsuspended license as a professional counselor in this state

and who held a valid license as a professional counselor in another state at the time of application to the [committee] board shall be granted a license to engage in professional counseling in this state upon application to the [committee] board accompanied by the appropriate fee as established by the [committee] board pursuant to section 337.507.

4. The [committee] board shall issue a license to each person who files an application and fee as required by the provisions of sections [337.500] 337.505 to 337.540 and who furnishes evidence satisfactory to the [committee] board that the applicant has complied with the provisions of subdivisions (1) and (2) of subsection 1 of this section or with the provisions of subsection 2 or 3 of this section. The division shall issue a provisional professional counselor license to any applicant who meets all requirements of subdivisions (1) and (2) of subsection 1 of this section, but who has not completed the required one or two years of acceptable supervised counseling experience required by paragraphs (a) to (c) of subdivision (1) of subsection 1 of this section, and such applicant may reapply for licensure as a professional counselor upon completion of such acceptable supervised counseling experience.

337.515. Each license issued pursuant to the provisions of sections [337.500] 337.505 to 337.540 shall expire on the renewal date. The division shall renew any license upon application for renewal and upon payment of the fee established by the [committee] board pursuant to the provisions of section 337.507.

337.525. 1. The [committee] board may refuse to issue or renew any license required by the provisions of sections [337.500] 337.505 to 337.540 for one or any combination of causes stated in subsection 2 of this section. The [committee] board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of [his] their right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The [committee] board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections [337.500] 337.505 to 337.540 or any person who has failed to renew or has surrendered [his] their license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of professional counselor; except the fact that a person has undergone treatment for past substance abuse or alcohol abuse or has participated in a recovery program shall not by itself be cause for refusal to issue or renew a license;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a professional

counselor; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections [337.500] 337.505 to 337.540 or in obtaining permission to take any examination given or required pursuant to the provisions of sections [337.500] 337.505 to 337.540;

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

(5) [~~Incompetency~~] Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a professional counselor;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections [337.500] 337.505 to 337.540, or of any lawful rule or regulation adopted pursuant to sections [337.500] 337.505 to 337.540;

(7) Impersonation of any person holding a license or allowing any person to use his or her license or diploma from any school;

(8) [~~Revocation or suspension~~] Disciplinary action against the holder of a license or other right to practice counseling granted by another state, territory, federal agency or country upon grounds for which [~~revocation or suspension~~] discipline is authorized in this state;

(9) [A person is finally adjudged] Final adjudication as incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice professional counseling who is not licensed and currently eligible to practice under the provisions of sections [337.500] 337.505 to 337.540;

(11) [Issuance of] Obtaining a license based upon a material mistake of fact;

(12) Failure to display a valid license if so required by sections [337.500] 337.505 to 337.540 or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation [which] that is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;

(15) [Being guilty of unethical conduct as defined in] Violating the ethical standards for professional counselors [adopted by the division and filed with the secretary of state] as defined by board rule.

3. Any person, organization, association or corporation [who reports or provides] reporting or providing information to the [committee] board pursuant to the provisions of [this chapter] sections 337.505 to 337.540 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of

chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the [committee] board may censure or place the person named in the complaint on probation on such terms and conditions as the [committee] board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.

337.530. 1. Violation of any provision of sections [337.500] 337.505 to 337.540 shall be a class B misdemeanor.

2. All fees or other compensation received for services rendered in violation of sections [337.500] 337.505 to 337.540 shall be refunded.

3. The [department] division, on behalf of the board, may sue in its own name in any court in this state. The [department] division shall inquire diligently as to any violation of sections [337.500] 337.505 to 337.540, [shall] may institute actions for penalties herein prescribed, and shall enforce generally the provisions of sections [337.500] 337.505 to 337.540.

4. Upon application by the [committee] board, the attorney general may on behalf of the [committee] board request that a court of competent jurisdiction grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required pursuant to

sections 337.505 to 337.540, upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice or business authorized by a certificate of registration or authority, permit or license issued pursuant to [this chapter] sections 337.505 to 337.540 upon a showing that the holder presents a substantial probability of serious harm to the health, safety or welfare of any resident of this state or client or patient of the licensee.

5. Any action brought pursuant to [the provisions of] this section shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

6. Any action brought [under] pursuant to this section may be in addition to or in lieu of any penalty provided by [this chapter] sections 337.505 to 337.540, and may be brought concurrently with other actions to enforce [this chapter] sections 337.505 to 337.540.

337.600. As used in sections 337.600 to [337.639] 337.689, the following terms mean:

(1) "Clinical social work", the application of methods, principles, and techniques of case work, group work, client-centered advocacy, community organization, administration, planning, evaluation, consultation, research, psychotherapy and counseling methods and techniques to persons, families and groups in assessment, diagnosis,

treatment, prevention and amelioration of mental and emotional conditions;

(2) "Department", the Missouri department of economic development;

(3) "Director", the director of the division of professional registration in the department of economic development;

(4) "Division", the division of professional registration;

(5) "Licensed clinical social worker", any person who offers to render services to individuals, groups, organizations, institutions, corporations, government agencies or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed as a clinical social worker, and who holds a current, valid license to practice as a clinical social worker;

(6) "Practice of clinical social work", rendering, offering to render, or supervising those who render to individuals, couples, groups, organizations, institutions, corporations, or the general public any service involving the application of methods, principles, and techniques of clinical social work;

(7) "Provisional licensed clinical social worker", any person who is a graduate of an accredited school of social work and meets all requirements of a licensed clinical social worker, other than the supervised clinical social work experience prescribed by subdivision (2) of subsection 1 of section 337.615, and who is supervised by a person who is

qualified to practice clinical social work, as defined by rule[.];

(8) "Social worker", any individual that has:

(a) Received a baccalaureate or master's degree in social work from an accredited social work program approved by the council on social work education;

(b) Received a doctorate or Ph.D. in social work; or

(c) A current baccalaureate or clinical social worker license as set forth in sections 337.600 to 337.689.

337.604. 1. No person shall hold himself or herself out to be a "social worker" unless such person has:

(1) Received a baccalaureate or master's degree in social work from an accredited social work program approved by the council on social work education;

(2) Received a doctorate or Ph.D. in social work; or

(3) A current baccalaureate or clinical social worker license as set forth in sections 337.600 to 337.689.

2. No government entities, public or private agencies or organizations in the state shall use the title "social worker" or any form of the title for volunteer or employment positions or within contracts for services, documents, manuals, or reference material effective January 1, 2004, unless the volunteers or employees in those positions meet the criteria set forth in subdivision (8) of section 337.600 or subsection 1 of section 337.604.

337.633. 1. Violation of any provision of sections 337.600 to [337.639] 337.689 shall be a class B misdemeanor.

2. All fees or other compensation received for services

which are rendered in violation of sections 337.600 to [337.639] 337.689 shall be refunded.

3. The department on behalf of the committee may sue in its own name in any court in this state. The department shall inquire as to any violations of sections 337.600 to [337.639] 337.689, may institute actions for penalties herein prescribed, and shall enforce generally the provisions of sections 337.600 to [337.639] 337.689.

4. Upon application by the committee, the attorney general may on behalf of the committee request that a court of competent jurisdiction grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license; or

(2) Engaging in any practice of business authorized by a certificate of registration or authority, permit or license issued pursuant to sections 337.600 to [337.639] 337.689 upon a showing that the holder presents a substantial probability of serious harm to the health, safety or welfare of any resident of this state or client or patient of the licensee.

5. Any action brought pursuant to the provisions of this section shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

6. Any action brought pursuant to this section may be in addition to or in lieu of any penalty provided by this act and may be brought concurrently with other actions to enforce the provisions of sections 337.600 to ~~[337.639]~~ 337.689.

339.010. 1. A "real estate broker" is any person, partnership, association, or corporation, foreign or domestic who, for another, and for a compensation or valuable consideration, [as a whole or partial vocation,] does, or attempts to do, any or all of the following:

(1) Sells, exchanges, purchases, rents, or leases real estate;

(2) Offers to sell, exchange, purchase, rent or lease real estate;

(3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or leasing of real estate;

(4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;

(5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or improvements thereon;

(6) Advertises or holds himself or herself out as a licensed real estate broker while engaged in the business of buying, selling, exchanging, renting, or leasing real estate;

(7) Assists or directs in the procuring of prospects, calculated to result in the sale, exchange, leasing or rental of real estate;

(8) Assists or directs in the negotiation of any transaction calculated or intended to result in the sale, exchange, leasing or rental of real estate;

(9) Engages in the business of charging to an unlicensed person an advance fee in connection with any contract whereby the real estate broker undertakes to promote the sale of that person's real estate through its listing in a publication issued for such purpose intended to be circulated to the general public;

(10) Performs any of the foregoing acts as an employee of, or on behalf of, the owner of real estate, or interest therein, or improvements affixed thereon, for compensation.

2. A "real estate salesperson" is any person, who for a compensation or valuable consideration becomes associated, either as an independent contractor or employee, either directly or indirectly, with a real estate broker to do any of the things above mentioned[, as a whole or partial vocation]. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed to deny a real estate salesperson who is compensated solely by commission the right to be associated with a broker as an independent contractor.

3. The term "commission" as used in sections 339.010 to 339.180 and sections 339.710 to 339.860 means the Missouri real estate commission.

4. "Real estate" for the purposes of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall mean, and include, leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or nonfreehold, and [whether] the real estate is situated in this state [or elsewhere].

5. The provisions of sections 339.010 to 339.180 and
sections 339.710 to 339.860 shall not apply to:

(1) Any person, partnership, association, or corporation who as owner [~~or~~], lessor, or lessee shall perform any of the acts described in subsection 1 of this section with reference to property owned or leased by them, or to the regular employees thereof, provided such owner [~~or~~], lessor, or lessee is not engaged in the real estate business [as a vocation];

(2) Any licensed attorney-at-law;

(3) An auctioneer employed by the owner of the property;

(4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will, trust instrument or deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;

(5) Any person employed or retained to manage real property by, for, or on behalf of, the agent or the owner, of any real estate shall be exempt from holding a license, if the person is limited to one or more of the following activities:

(a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

(b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental payment, or any related payment, for delivery to, and made payable to, a broker or owner;

(c) Showing a rental unit to any person, as long as the employee is acting under the direct instructions of the broker

or owner, including the execution of leases or rental agreements;

(d) Conveying information prepared by a broker or owner about a rental unit, a lease, an application for lease, or the status of a security deposit, or the payment of rent, by any person;

(e) Assisting in the performance of brokers' or owners' functions, administrative, clerical or maintenance tasks;

(f) If the person described in this section is employed or retained by, for, or on behalf of a real estate broker, the real estate broker shall be subject to discipline under this chapter for any conduct of the person that violates this chapter or the regulations promulgated thereunder;

(6) Any officer or employee of a federal agency or the state government or any political subdivision thereof performing official duties;

(7) Railroads and other public utilities regulated by the state of Missouri, or their subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless performance of any of the acts described in subsection 1 of this section is in connection with the sale, purchase, lease or other disposition of real estate or investment therein unrelated to the principal business activity of such railroad or other public utility or affiliated or subsidiary corporation thereof;

(8) Any bank, trust company, savings and loan association, credit union, insurance company, mortgage banker, or farm loan association organized under the laws of this

state or of the United States when engaged in the transaction of business on its own behalf and not for others;

(9) Any newspaper [or], magazine [or], periodical [of general circulation], or Internet site whereby the advertising of real estate is incidental to [the] its operation [of that publication] or to any form of communications regulated or licensed by the Federal Communications Commission or any successor agency or commission;

(10) Any developer selling Missouri land owned by the developer [if such developer has on file with the commission a certified copy of a currently effective statement of record on file with the Office of Interstate Land Sales pursuant to Sections 1704 through 1706 of Title 15 of the United States Code or a current statement from the Office of Interstate Land Sales of the United States Department of Housing and Urban Development approving the documentation (together with a copy of such documentation) submitted to that office with respect to real estate falling within the scope of subsection 1702(a)(10) of Title 15 of the United States Code];

(11) Any employee acting on behalf of a nonprofit community, or regional economic development association, agency or corporation which has as its principal purpose the general promotion and economic advancement of the community at large, provided that such entity:

(a) Does not offer such property for sale, lease, rental or exchange on behalf of another person or entity;

(b) Does not list or offer or agree to list such property for sale, lease, rental or exchange; or

(c) Receives no fee, commission or compensation, either monetary or in kind, that is directly related to sale or disposal of such properties. An economic developer's normal annual compensation shall be excluded from consideration as commission or compensation related to sale or disposal of such properties; or

(12) Any neighborhood association, as that term is defined in section 441.500, RSMo, that without compensation, either monetary or in kind, provides to prospective purchasers or lessors of property the asking price, location, and contact information regarding properties in and near the association's neighborhood, including any publication of such information in a newsletter, [web] Internet site, or other medium.

339.020. It shall be unlawful for any person, partnership, association, or corporation, foreign or domestic, to act as a real estate broker or real estate salesperson, or to advertise or assume to act as such without a license first procured from the commission.

339.030. A corporation, partnership, or association shall be granted a license when individual licenses have been issued to every member, partner or officer of such partnership, association, or corporation who actively participates in its brokerage business and to every person who acts as a salesperson for such partnership, association, or corporation and when the required fee is paid.

339.040. 1. Licenses shall be granted only to persons who present, and corporations, associations, or partnerships whose officers, associates, or partners present, satisfactory

proof to the commission that they:

- (1) Are persons of good moral character; and
- (2) Bear a good reputation for honesty, integrity, and fair dealing; and
- (3) Are competent to transact the business of a broker or salesperson in such a manner as to safeguard the interest of the public.

2. In order to determine an applicant's qualifications to receive a license under sections 339.010 to 339.180 and sections 339.710 to 339.860, the commission shall hold oral or written examinations at such times and places as the commission may determine.

3. Each applicant for a broker or salesperson license shall be at least eighteen years of age and shall pay the broker examination fee or the salesperson examination fee.

4. Each applicant for a broker license shall be required to have satisfactorily completed the salesperson license examination prescribed by the commission. For the purposes of this section only, the commission may permit a person who is not associated with a licensed broker to take the salesperson examination.

5. Each application for a broker license shall include a certificate from the applicant's broker or brokers that the applicant has been actively engaged in the real estate business as a licensed salesperson for at least one year immediately preceding the date of application, or, in lieu thereof, shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that

the applicant has, within six months prior to the date of application, successfully completed the prescribed broker curriculum or broker correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.

6. Each application for a salesperson license shall include a certificate from a school accredited by the commission under the provisions of section 339.045 that the applicant has, within six months prior to the date of application, successfully completed the prescribed salesperson curriculum or salesperson correspondence course offered by such school, except that the commission may waive all or part of the educational requirements set forth in this subsection when an applicant presents proof of other educational background or experience acceptable to the commission.

7. ~~【The commission shall require】~~ The commission may issue a temporary work permit pending final review and printing of the license to an applicant who appears to have satisfied the requirements for licenses. The commission may, at its discretion, withdraw the work permit at any time.

8. Every active broker, salesperson, officer [or], partner [to present upon license renewal], or associate shall provide upon request to the commission evidence that during the two years preceding he or she has completed twelve hours of real estate instruction in courses approved by the commission. The commission may, by rule and regulation,

provide for individual waiver of this requirement.

[8.] 9. Each entity that provides continuing education required under the provisions of subsection [7] 8 of this section may make available [videotapes and audiotapes of] instruction courses that the entity conducts through means of distance delivery. The commission shall by rule set standards for [the production of] such [taped] courses[, which may include the requirement that individuals purchasing such tapes also purchase an accompanying written study document. The commission shall authorize individuals required to complete instruction under the provisions of this subsection to fulfill such continuing education requirements by utilizing such videotape and audiotape courses]. The commission may by regulation require the individual completing such [videotape or audiotape] distance delivered course to complete an examination on the contents of the course. Such examination shall be designed to ensure that the licensee displays adequate knowledge of the subject matter of the course, and shall be designed by the entity producing the [taped] course and approved by the commission.

[9.] 10. In the event of the death or incapacity of a licensed broker, or of one or more of the licensed partners [or], officers, or associates of a real estate partnership [or], corporation, or association whereby the affairs of the broker, partnership, or corporation cannot be carried on, the commission may issue, without examination or fee, to the legal representative or representatives of the deceased or incapacitated individual, or to another individual approved by

the commission, a temporary broker license which shall authorize such individual to continue for a period to be designated by the commission to transact business for the sole purpose of winding up the affairs of the broker, partnership or corporation under the supervision of the commission.

339.060. 1. The commission shall set the amount of the fees which sections 339.010 to 339.180 and sections 339.710 to 339.860 authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 339.010 to 339.180 and sections 339.710 to 339.860.

2. Every license granted under sections 339.010 to 339.180 and sections 339.710 to 339.860 shall be renewed each licensing period and the commission shall issue a new license upon receipt of the [written] properly completed application of the applicant and the required renewal fee.

339.100. 1. The commission may, upon its own motion, and shall upon receipt of a written complaint filed by any person, investigate any [business transaction] real estate-related activity of a [person, partnership or corporation] licensee licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860 or an individual or entity acting as or representing themselves as a real estate licensee. In conducting such investigation, if the questioned activity or written complaint involves an affiliated licensee, the commission may forward a copy of the information received to the affiliated licensee's designated broker. The commission

shall have the power to hold an investigatory hearing to determine whether there is a probability [that the licensee has performed or attempted to perform any act or practice declared unlawful pursuant to] of a violation of sections 339.010 to 339.180 and sections 339.710 to 339.860. [In conducting such a hearing,] The commission shall have the power to issue a subpoena to compel the production of records and papers bearing on the complaint. The commission shall have the power to issue a subpoena and to compel any person in this state to come before the commission to offer testimony or any material specified in the subpoena. Subpoenas and subpoenas duces tecum issued pursuant to this section shall be served in the same manner as subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that allowed in the circuit court in civil cases.

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by [law when the commission believes there is a probability that a licensee has performed or attempted to perform any] the provisions of chapter 621, RSMo, against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

(1) Failure to maintain and deposit in a special account, separate and apart from his or her personal or other business accounts, all moneys belonging to others entrusted to him or her while acting as a real estate broker[, or as escrow agent,] or as the temporary custodian of the funds of others,

until the transaction involved is consummated or terminated, unless all parties having an interest in the funds have agreed otherwise in writing;

(2) Making substantial misrepresentations or false promises or suppression, concealment or omission of material facts in the conduct of his or her business or pursuing a flagrant and continued course of misrepresentation through agents, salespersons, advertising or otherwise in any transaction;

(3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his or her possession, which belongs to others;

(4) Representing to any lender, guaranteeing agency, or any other interested party, either verbally or through the preparation of false documents, an amount in excess of the true and actual sale price of the real estate or terms differing from those actually agreed upon;

(5) Failure to timely deliver[, immediately at the time of signing,] a duplicate original of any and all instruments to any party or parties executing the same where the instruments have been prepared by the licensee or under his or her supervision or are within his or her control, including, but not limited to, the instruments relating to the employment of the licensee or to any matter pertaining to the consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property, or any type of real estate transaction in which he or she may participate as a licensee;

(6) Acting for more than one party in a transaction without the knowledge of all parties for whom he or she acts, or accepting a commission or valuable consideration for services from more than one party in a real estate transaction without the knowledge of all parties to the transaction;

(7) Paying a commission or valuable consideration to any person for acts or services performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

(8) Guaranteeing or having authorized or permitted any licensee to guarantee future profits which may result from the resale of real property;

(9) Having been finally adjudicated and been found guilty of the violation of any state or federal statute which governs the sale or rental of real property or the conduct of the real estate business as defined in subsection 1 of section 339.010;

(10) Obtaining a certificate or registration of authority, permit or license for himself or herself or anyone else by false or fraudulent representation, fraud or deceit;

(11) Representing a real estate broker other than the broker with whom associated without the express [knowledge and] written consent of [that] the broker[, or] with whom associated;

(12) Accepting a commission or valuable consideration for the performance of any of the acts referred to in section 339.010 from any person except the broker with whom associated at the time the commission or valuable consideration was earned;

[(12)] (13) Using prizes, money, gifts or other valuable consideration as inducement to secure customers or clients to purchase, lease, sell or list property when the awarding of such prizes, money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real property;

[(13)] (14) Placing a sign on or advertising any property offering it for sale or rent without the written consent of the owner or his or her duly authorized agent;

[(14)] (15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860;

[(15)] (16) Committing any act which would otherwise be grounds for the commission to refuse to issue a license under section 339.040;

[(16)] (17) Failure to ~~submit~~ timely inform seller of all written ~~bona fide~~ offers ~~to a seller when such offers are received prior to the seller accepting an offer in writing and until the licensee has knowledge of such acceptance~~ unless otherwise instructed in writing by the seller;

[(17)] (18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal

prosecution under the laws of this state or any other state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

[(18)] (19) Any other conduct which constitutes untrustworthy, improper or fraudulent business dealings, [or] demonstrates bad faith or [gross] incompetence, misconduct, or gross negligence;

[(19)] (20) Disciplinary action against the holder of a license or other right to practice any profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 granted by another state, territory, federal agency, or country upon grounds for which revocation, suspension, or probation is authorized in this state;

[(20)] (21) Been found by a court of competent jurisdiction of having used any controlled substance, as defined in chapter 195, RSMo, to the extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860;

[(21)] (22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

[(22)] (23) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to

339.860 who is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections 339.710 to 339.860;

[(23)] (24) Use of any advertisement or solicitation which is knowingly false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

3. After the filing of such complaint, the proceedings will be conducted in accordance with the provisions of law relating to the administrative hearing commission. A finding of the administrative hearing commissioner that the licensee has performed or attempted to perform one or more of the foregoing acts shall be grounds for the suspension or revocation of his license by the commission, or the placing of the licensee on probation on such terms and conditions as the real estate commission shall deem appropriate.

4. The commission may prepare a digest of the decisions of the administrative hearing commission which concern complaints against licensed brokers or salespersons and cause such digests to be mailed to all licensees periodically. Such digests may also contain reports as to new or changed rules adopted by the commission and other information of significance to licensees.

339.105. 1. Each broker who holds funds belonging to another shall maintain such funds in a separate bank [checking] account in a financial institution[, either a bank, savings and loan association or a credit union in this state, or in an adjoining state with written permission of the

commission,] which shall be designated an escrow or trust account [in which all money not his own coming into his possession, including]. This requirement includes funds in which he or she may have some future interest or claim[,]. Such funds shall be deposited promptly unless all parties having an interest in the funds have agreed otherwise in writing. No broker shall commingle his or her personal funds or other funds in this account with the exception that a broker may deposit and keep a sum not to exceed [five hundred] one thousand dollars in the account from his or her personal funds, which sum shall be specifically identified and deposited to cover service charges related to the account. [The commission may, by written waiver issued for good cause as defined by rule and regulation, relieve a broker from the obligation to maintain a separate escrow or trust account.]

2. [Before issuance of a broker license,] Each broker shall notify the commission of his or her intent not to maintain an escrow account, or the name of the financial institution in which each escrow or trust account is maintained, the name and number of each such account, and shall file written authorization directed to each financial institution to allow the commission or its authorized representative to examine each such account; such notification and authorization shall be submitted on forms provided therefor by the commission [but shall not be required in any case where maintenance of an escrow or trust account has been waived pursuant to subsection 1 of this section]. A broker shall notify the commission within [fifteen] ten business days

of any change of his or her intent to maintain an escrow account, the financial institution [or], account numbers, or change in account status.

3. In conjunction with each escrow or trust account a broker shall maintain [at his usual place of business,] books, records, contracts and other necessary documents so that the adequacy of said account may be determined at any time. The account and other records shall be [open] provided to [inspection by] the commission and its duly authorized agents for inspection at all times during regular business hours at the broker's usual place of business.

4. Whenever the ownership of any escrow moneys received by a broker pursuant to this section is in dispute by the parties to a real estate sales transaction, the broker shall report and deliver the moneys to the state treasurer within three hundred sixty-five days of the date of the initial projected closing date in compliance with sections 447.500 to 447.595, RSMo. The parties to a real estate sales transaction may agree in writing that the funds are not in dispute and shall notify the broker who is holding the funds.

5. A broker shall not be entitled to any [part of the earnest] money or other money paid to him or her in connection with any real estate sales transaction as part or all of his or her commission or fee until the transaction has been consummated or terminated, unless agreed in writing by all parties to the transaction.

[5.] 6. When, through investigations or otherwise, the commission has reasonable cause to believe that a licensee has

acted, is acting or is about to act in violation of this section, the commission may, through the attorney general or any [of his] assistants designated by [him] the attorney general, proceed in the name of the commission to institute suit to enjoin any act or acts in violation of this section.

[6.] 7. Any such suit shall be commenced in either the county in which the defendant resides or in the county in which the defendant has acted, is acting or is about to act in violation of this section.

[7.] 8. In such proceeding, the court shall have power to issue such temporary restraining or injunction orders, without bond, which are necessary to protect the public interest. Any action brought under this section shall be in addition to and not in lieu of any other provisions of this chapter. In such action, the commission or the state need not allege or prove that there is no adequate remedy at law or that any individual has suffered any economic injury as a result of the activity sought to be enjoined.

339.120. 1. There is hereby created the "Missouri Real Estate Commission", to consist of seven persons, citizens of the United States and residents of this state for at least one year prior to their appointment, for the purpose of carrying out and enforcing the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860. The commission shall be appointed by the governor with the advice and consent of the senate. All members, except one voting public member, of the commission must have had at least ten years' experience as a real estate broker prior to their appointment. The terms of

the members of the commission shall be for five years, and until their successors are appointed and qualified. Members to fill vacancies shall be appointed by the governor for the unexpired term. The president of the Missouri Association of Realtors in office at the time shall, at least ninety days prior to the expiration of the term of the board member, other than the public member, or as soon as feasible after the vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five Realtors qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Association of Realtors shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. The commission shall organize annually by selecting from its members a chairman. The commission may do all things necessary and convenient for carrying into effect the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860, and may promulgate necessary rules compatible with the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860. Each member of the commission shall receive as compensation an amount set by the commission not to exceed [fifty] seventy-five dollars for each day devoted to the affairs of the commission, and shall be entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or her official duties. The governor may remove any commissioner

for cause.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 339.010 to 339.180 and sections 339.710 to 339.860, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The commission shall employ such board personnel, as defined in subdivision (4) of subsection 15 of section 620.010, RSMo, as it shall deem necessary to discharge the duties imposed by the provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the

authority delegated in sections 339.010 to 339.180 and
sections 339.710 to 339.860 shall become effective only if it
complies with and is subject to all of the provisions of
chapter 536, RSMo, and, if applicable, section 536.028, RSMo.
All rulemaking authority delegated prior to August 28, 1999,
is of no force and effect and repealed. Nothing in this
section shall be interpreted to repeal or affect the validity
of any rule filed or adopted prior to August 28, 1999, if it
fully complied with all applicable provisions of law. This
section and chapter 536, RSMo, are nonseverable and if any of
the powers vested with the general assembly pursuant to
chapter 536, RSMo, to review, to delay the effective date or
to disapprove and annul a rule are subsequently held
unconstitutional, then the grant of rulemaking authority and
any rule proposed or adopted after August 28, 1999, shall be
invalid and void.

339.130. The commission may sue and be sued in its
official name, and shall have a seal which shall be affixed to
[all licenses,] certified copies of records and papers on
file, and to such other instruments as the commission may
direct, and all courts shall take judicial notice of such
seal. Copies of records and proceedings of the commission,
and of all papers on file in its office, certified under the
said seal shall be received as evidence in all courts of
record. The office of the commission shall be at Jefferson
City.

339.150. 1. No real estate broker shall knowingly
employ or engage any person to perform any service to the

broker for which licensure as a real estate broker or a real estate sales person is required pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860, unless such a person is a licensed real estate salesperson or a licensed real estate broker as required by section 339.020, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri. Any such action shall be unlawful as provided by section 339.100 and shall be grounds for investigation, complaint, proceedings and discipline as provided by section 339.100.

2. No real estate licensee shall pay any part of a fee, commission or other compensation received by the licensee to any person for any service rendered by such person to the licensee in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate, unless such a person is a licensed real estate salesperson regularly associated with such a broker, or a licensed real estate broker, or a person regularly engaged in the real estate brokerage business outside of the state of Missouri.

3. Notwithstanding the provisions of subsections 1 and 2 of this section, any real estate broker who shall refuse to pay any person for services rendered by such person to the broker, with the consent, knowledge and acquiescence of the broker that such person was not licensed as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate for which services a license is required, and who is employed or engaged by such broker to perform such services, shall be liable to

such person for the reasonable value of the same or similar services rendered to the broker, regardless of whether or not the person possesses or holds any particular license, permit or certification at the time the service was performed. Any such person may bring a civil action for the reasonable value of his services rendered to a broker notwithstanding the provisions of section 339.160.

339.160. No person, partnership, corporation, or association engaged within this state in the business or acting in the capacity of a real estate broker or real estate salesperson shall bring or maintain an action in any court in this state for the recovery of compensation for services rendered in the buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate without alleging and proving that such person, partnership, corporation, or association was a licensed real estate broker or salesperson at the time when the alleged cause of action arose.

339.170. Any person or corporation knowingly violating any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall be guilty of a class B misdemeanor. Any officer or agent of a corporation, or member or agent of a partnership or association, who shall knowingly and personally participate in or be an accessory to any violation of sections 339.010 to 339.180 and sections 339.710 to 339.860, shall be guilty of a class B misdemeanor. This section shall not be construed to release any person from civil liability or criminal prosecution under any other law of this state. The commission may cause complaint to be filed for violation of

section 339.020 in any court of competent jurisdiction, and perform such other acts as may be necessary to enforce the provisions hereof.

339.180. 1. It shall be unlawful for any person or entity not licensed under this chapter to perform any act for which a real estate [broker or salesperson] license is required. Upon application by the [board] commission, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person or entity from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a [certificate of registration or authority,] permit or license is required by this chapter upon a showing that such acts or practices were performed or offered to be performed without a [certificate of registration or authority,] permit or license; or

(2) Engaging in any practice or business authorized by a [certificate of registration or authority,] permit or license issued pursuant to this chapter upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any [resident of this state or client or patient of the licensee] person with, or who is considering obtaining, a legal interest in real property in this state.

2. Any such action shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

3. Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this chapter and may be brought concurrently with other actions to enforce this chapter.

339.517. 1. Any person who files with the commission an application for state licensure or certification as a real estate appraiser shall be required to pass an examination to demonstrate his or her competence. The commission shall, also, make such investigation as is required to verify such qualifications. If the results of the investigation are satisfactory to the commission and the applicant is otherwise qualified, then the commission shall issue to the applicant a license or certificate authorizing the applicant to act as a state-licensed real estate appraiser or a state-certified real estate appraiser in Missouri. If the results of the investigation are unsatisfactory, action on the application may be deferred pending a hearing before the real estate appraisal commission.

2. The commission shall promulgate and adopt regulations which prescribe and define the subjects related to real estate appraisal and the experience in real estate appraisal that will satisfy the qualification requirements for licensure or certification. The commission may approve courses of instruction in an accredited college or university relating to the appraisal of real estate and related disciplines including, but not limited to, economics, finance, statistics, principles of capitalization, real estate and such other areas deemed relevant by the commission. The commission may also

approve similar courses of instruction offered by recognized professional appraisal organizations and real estate organizations and agencies of the state and federal government, and other qualified providers which may be approved by the commission. The commission may require by rule that some or all of an applicant's qualifying experience in real estate appraising be obtained on appraisals of real estate located in this state.

3. Each applicant for certification or licensure shall furnish under oath a detailed statement of the real estate appraisal assignments or file memoranda for each year in which real estate appraisal experience is claimed by the applicant. Upon request, the applicant shall furnish to the commission a sample of appraisal reports or file memoranda which the applicant has prepared in the course of his or her appraisal practice.

4. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

339.537. State certified real estate appraisers and state licensed real estate appraisers shall retain originals or true copies of contracts engaging an appraiser's services for appraisal assignments, specialized appraisal services, appraisal reports, and supporting data assembled and formulated in preparing appraisal reports, for five years. The period for retention of the records applicable to each engagement of the services of the state certified real estate appraiser or state licensed real estate appraiser shall run from the date of the submission of the appraisal report to the client. Upon requests by the commission, these records shall be made available by the state certified real estate appraiser or state licensed real estate appraiser for inspection and copying at his or her expense, by the commission on reasonable notice to the state certified real estate appraiser or state licensed real estate appraiser. When litigation is contemplated at any time, reports and records shall be retained for [three] two years after the [trial date] final disposition.

339.710. For purposes of sections 339.710 to 339.860, the following terms mean:

(1) "Adverse material fact", a fact related to the [physical condition of the] property not reasonably ascertainable or known to a party which negatively affects the value of the property. Adverse material facts may include matters pertaining to:

- (a) Environmental hazards affecting the property;
- (b) Physical condition of the property which adversely

affects the value of the property;

(c) Material defects in the property;

(d) Material defects in the title to the property;

(e) Material limitation of the party's ability to perform under the terms of the contract;

(2) "Affiliated licensee", any broker or salesperson who works under the supervision of a designated broker;

(3) "Agent", a person or entity acting pursuant to the provisions of this chapter;

(4) "Broker disclosure form", the current form prescribed by the commission for presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement for brokerage services;

(5) "Brokerage relationship", the relationship created between a designated broker, the broker's affiliated licensees, and a client relating to the performance of services of a broker as defined in section 339.010, and sections 339.710 to 339.860. If a designated broker makes an appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such brokerage relationships are created between the appointed licensee or licensees and the client. Nothing in this subdivision shall:

(a) Alleviate the designated broker from duties of supervision of the appointed licensee or licensees; or

(b) Alter the designated broker's underlying contractual agreement with the client;

(6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage relationship with a licensee

pursuant to sections 339.710 to 339.860;

(7) "Commercial real estate", any real estate other than real estate containing one to four residential units, real estate on which no buildings or structures are located, or real estate classified as agricultural and horticultural property for assessment purposes pursuant to section 137.016, RSMo. Commercial real estate does not include single family residential units including condominiums, townhouses, or homes in a subdivision when that real estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though the units may be part of a larger building or parcel of real estate containing more than four units;

(8) "Commission", the Missouri real estate commission;

(9) "Confidential information", information obtained by the licensee from the client and designated as confidential by the client, information made confidential by sections 339.710 to 339.860 or any other statute or regulation, or written instructions from the client unless the information is made public or becomes public by the words or conduct of the client to whom the information pertains or by a source other than the licensee;

(10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate transaction in which a licensee is involved but who has not entered into a brokerage relationship with [a] the licensee;

(11) "Designated agent", a licensee named by a designated broker as the limited agent of a client as provided for in section 339.820;

(12) "Designated broker", any individual licensed as a broker who is operating pursuant to the definition of "real estate broker" as defined in section 339.010, or any individual licensed as a broker who is appointed by a partnership, association, limited liability corporation, or a corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, association, limited liability corporation, or corporation. Every real estate partnership, association, or limited liability corporation, or corporation shall appoint a designated broker;

(13) "Designated transaction broker", a licensee named by a designated broker or deemed appointed by a designated broker as the transaction broker for a client pursuant to section 339.820;

(14) "Dual agency", a form of agency which may result when an agent licensee or someone affiliated with the agent licensee represents another party to the same transaction;

(15) "Dual agent", a limited agent who, with the written consent of all parties to a contemplated real estate transaction, has entered into an agency brokerage relationship, and not a transaction brokerage relationship, with and therefore represents both the seller and buyer or both the landlord and tenant;

(16) "Licensee", a real estate broker or salesperson as defined in section 339.010;

(17) "Limited agent", a licensee whose duties and obligations to a client are those set forth in sections 339.730 to 339.750;

(18) "Ministerial acts", those acts that a licensee may perform for a person or entity that are informative in nature and do not rise to the level which requires the creation of a brokerage relationship. Examples of these acts include, but are not limited to:

(a) Responding to telephone inquiries by consumers as to the availability and pricing of brokerage services;

(b) Responding to telephone inquiries from a person concerning the price or location of property;

(c) Attending an open house and responding to questions about the property from a consumer;

(d) Setting an appointment to view property;

(e) Responding to questions of consumers walking into a licensee's office concerning brokerage services offered on particular properties;

(f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property;

(g) Describing a property or the property's condition in response to a person's inquiry;

(h) Showing a customer through a property being sold by an owner on his or her own behalf; or

(i) Referral to another broker or service provider;

(19) "Residential real estate", all real property improved by a structure that is used or intended to be used primarily for residential living by human occupants and that contains not more than four dwelling units or that contains single dwelling units owned as a condominium or in a cooperative housing association, and vacant land classified as

residential property. The term "cooperative housing association" means an association, whether incorporated or unincorporated, organized for the purpose of owning and operating residential real property in Missouri, the shareholders or members of which, by reason of their ownership of a stock or membership certificate, a proprietary lease, or other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;

(20) "Single agent", a licensee who has entered into a brokerage relationship with and therefore represents only one party in a real estate transaction. A single agent may be one of the following:

(a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate transaction;

(b) "Seller's agent", which shall mean a licensee who represents the seller in a real estate transaction; and

(c) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing transaction;

(d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing transaction;

(21) "Subagent", a designated broker, together with the broker's affiliated licensees, engaged by another designated broker, together with the broker's affiliated or appointed affiliated licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated licensees engaged by the designated broker, together with the broker's appointed affiliated licensees, to act as a limited agent for

a client. A subagent owes the same obligations and responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's designated broker;

(22) "Transaction broker", any licensee acting pursuant to sections 339.710 to 339.860, who:

(a) Assists the parties to a transaction without an agency or fiduciary relationship to either party and is, therefore, neutral, serving neither as an advocate or advisor for either party to the transaction;

(b) Assists one or more parties to a transaction and who has not entered into a specific written agency agreement to represent one or more of the parties; or

(c) Assists another party to the same transaction either solely or through licensee affiliates.

Such licensee shall be deemed to be a transaction broker and not a dual agent, provided that, notice of assumption of transaction broker status is provided to the buyer and seller immediately upon such default to transaction broker status, to be confirmed in writing prior to execution of the contract.

339.760. [1.] Every designated broker who has affiliated licensees shall adopt a written policy which identifies and describes the relationships in which the designated broker and affiliated licensees may engage with any seller, landlord, buyer, or tenant as part of any real estate brokerage activities.

[2. A designated broker shall not be required to offer or engage in more than one of the brokerage relationships

enumerated in section 339.720.]

339.780. 1. All written agreements for brokerage services on behalf of a seller, landlord, buyer, or tenant shall be entered into by the designated broker on behalf of that broker and affiliated licensees, except that the designated broker may authorize affiliated licensees in writing to enter into the written agreements on behalf of the designated broker.

2. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to establish a limited agency relationship with a seller or landlord shall enter into a written agency agreement with the party to be represented. The agreement shall include a licensee's duties and responsibilities specified in section 339.730 and the terms of compensation and shall specify whether an offer of subagency may be made to any other designated broker.

3. Before or while engaging in any acts enumerated in section 339.010, except ministerial acts defined in section 339.710, a designated broker acting as a single agent for a buyer or tenant shall enter into a written agency agreement with the buyer or tenant. The agreement shall include a licensee's duties and responsibilities specified in section 339.740 and the terms of compensation [and shall specify whether an offer of subagency may be made to any other designated broker].

4. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to act as a dual agent shall enter into a written agreement with the

seller and buyer or landlord and tenant permitting the designated broker to serve as a dual agent. The agreement shall include a licensee's duties and responsibilities specified in section 339.750 and the terms of compensation.

5. Before engaging in any of the activities enumerated in section 339.010, a designated broker intending to act as a subagent shall enter into a written agreement with the designated broker for the client. If a designated broker has made a unilateral offer of subagency, another designated broker can enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client. If a designated broker has made an appointment pursuant to section 339.820, an affiliated licensee that has been excluded by such appointment may enter into the subagency relationship by the act of disclosing to the customer that he or she is a subagent of the client.

6. A designated broker who intends to act as a transaction broker and who expects to receive compensation from the party he or she assists shall enter into a written transaction brokerage agreement with such party or parties contracting for the broker's service. The transaction brokerage agreement shall include a licensee's duties and responsibilities specified in section 339.755 and the terms of compensation.

7. Nothing contained in this section shall prohibit the public from entering into written contracts with any broker which contain duties, obligations, or responsibilities which are in addition to those specified in this section.

339.800. 1. In any real estate transaction, the designated broker's compensation may be paid by the seller, the landlord, the buyer, the tenant, or a third party or by sharing the compensation between designated brokers.

2. Payment of compensation by itself shall not establish an agency relationship or transaction brokerage relationship between the party who paid the compensation and the designated broker or any affiliated licensee.

3. A seller or landlord may agree that a designated broker may share with another designated broker the compensation paid by the seller or landlord.

4. A buyer or tenant may agree that a designated broker may share with another designated broker the compensation paid by the buyer or tenant.

5. A designated broker may be compensated by more than one party for services in a transaction with the knowledge of all the parties at or before the time of entering into a written contract to buy, sell, or lease.

6. Nothing contained in this section shall relieve the licensee from the requirement of obtaining a written agreement for brokerage services or other written agreement addressing compensation.

621.045. 1. The administrative hearing commission shall conduct hearings and make findings of fact and conclusions of law in those cases when, under the law, a license issued by any of the following agencies may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his

qualifications or refuses to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination:

Missouri State Board of Accountancy

Missouri Board [of Registration] for Architects,
[Professional] Engineers [and], Land Surveyors and Landscape Architects

Board of Barber Examiners

Board of Cosmetology

Board of Chiropody and Podiatry

Board of Chiropractic Examiners

Missouri Dental Board

Board of Embalmers and Funeral Directors

Board of Registration for the Healing Arts

Board of Nursing

Missouri Board of Occupational Therapy

Board of Optometry

Board of Pharmacy

Missouri Real Estate Commission

Missouri Veterinary Medical Board

Supervisor of Liquor Control

Department of Health and Senior Services

Department of Insurance

Department of Mental Health

Board of Private Investigator Examiners

2. If in the future there are created by law any new or additional administrative agencies which have the power to

issue, revoke, suspend, or place on probation any license, then those agencies are under the provisions of this law.

3. Notwithstanding any other provision of this section to the contrary, after August 28, 1995, in order to encourage settlement of disputes between any agency described in subsection 1 of this section and its licensees, any such agency shall:

(1) Provide the licensee with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of any documents which are the basis thereof, or file a contested case against the licensee, at least thirty days prior to offering the licensee a settlement proposal, and provide the licensee with an opportunity to respond to the allegations;

(2) If no contested case has been filed against the licensee, allow the licensee at least sixty days, from the date of mailing, during which to consider the agency's initial settlement offer and discuss the terms of such settlement offer with the agency;

(3) If no contested case has been filed against the licensee, advise the licensee that the licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the administrative hearing commission for determination that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee; and

(4) In any contact pursuant to this subsection by the agency or its counsel with a licensee who is not represented by counsel, advise the licensee that the licensee has the right to consult an attorney at the licensee's own expense.

4. If the licensee desires review by the administrative hearing commission pursuant to subdivision (3) of subsection 3 of this section at any time prior to the settlement becoming final, the licensee may rescind and withdraw from the settlement and any admissions of fact or law in the agreement shall be deemed withdrawn and not admissible for any purposes under the law against the licensee. Any settlement submitted to the administrative hearing commission shall not be effective and final unless and until findings of fact and conclusions of law are entered by the administrative hearing commission that the facts agreed to by the parties to the settlement constitute grounds for denying or disciplining the license of the licensee.

5. As to a matter settled prior to August 28, 1995, by consent agreement or agreed settlement, any party to a consent agreement or agreed settlement, other than a state agency, after having received written notice at their last known address known to the agency from the respective licensing agency of a person's rights under this section, shall have six months to file an action in the circuit court of Cole County contesting the authority of any agency described in subsection 1 of this section to enter into such consent agreement or agreed settlement. Any consent agreement or agreed settlement which is not invalidated by the court pursuant to this

subsection shall be given full force and effect by all courts and agencies.

700.250. As used in sections 700.250 to 700.284, the following terms shall mean:

(1) "Applicant", any person who seeks to become licensed as a setup contractor or independent setup contractor;

(2) "Commission", the public service commission;

(3) "Contractor", an independent setup contractor and setup contractor as defined by this section;

(4) "Independent setup contractor", a person who engages in the business of performing setup or installation operations and is not an agent of a dealer or manufacturer as defined in this chapter;

(5) "Person", any individual, partnership, corporation, or other legal entity;

(6) "Setup" or "installation", the operations performed at the occupancy site which renders a manufactured home as defined in section 700.010 fit for habitation, which operations include, but are not limited to, moving, blocking, leveling, supporting, and assembling multiple or expandable units;

(7) "Setup contractor", a person who engages in the business of performing setup or installation operations as defined in subdivision (6) of this section in this state and is an agent of a manufacturer or dealer.

700.252. No person shall act as a setup contractor or engage in the business of setup or installation of a manufactured home as defined in this chapter without first

obtaining a license pursuant to sections 700.250 to 700.284.
Such license of a setup contractor shall be effective for one
year beginning July first of each year.

700.254. The commission shall provide all necessary
personnel to carry out the provisions of sections 700.250 to
700.284. The commission shall:

(1) Establish, by rule, application and licensure fees
and shall collect such fees;

(2) Deposit all fees collected pursuant to section
700.262, by transmitting such funds to the department of
revenue for deposit to the state treasury to the credit of the
manufactured housing fund as provided in section 700.262; and

(3) Process applications and notify licensees when the
licensee's license is to expire.

700.256. An applicant applying for a license as a
contractor shall file a written application provided by the
commission, showing to the satisfaction of the commission that
the applicant meets the following requirements:

(1) An applicant shall be of good moral character;

(2) An applicant shall present evidence satisfactory to
the public service commission of having successfully completed
the academic requirements of an education program in
manufactured home setup as recognized by the commission;

(3) An applicant for licensure as a contractor shall
pass an examination as provided in sections 700.250 to
700.284;

(4) An applicant for licensure as a contractor must be
at least eighteen years of age;

(5) An applicant for licensure as an independent setup contractor will be required to obtain or show proof of a certificate of insurance for workers' compensation coverage;

(6) An applicant for licensure as a contractor must continue to carry general liability insurance in an amount determined by commission rule, in a minimum amount of three hundred thousand dollars and provide proof of such upon application for licensure;

(7) An applicant for licensure as a contractor must complete a minimum eight hour training course approved by the commission and shall pass an approved examination designed to test the skills necessary to properly perform as a contractor and to ascertain that the applicant has adequate knowledge of federal, state and local laws applicable to manufactured home setup or installation; and

(8) The commission shall establish what constitutes a passing score for examinations.

700.258. 1. A direct agent of a licensed contractor working under the supervision of the licensee and within the job scope of the licensee is not required to be licensed as a contractor. The licensed contractor is responsible for supervising all such agents and for the proper and competent performance of all employees working under his or her supervision.

2. In the case of a corporation, partnership or other legal entity, at least one supervising agent shall be required to be licensed as a contractor and shall follow the provisions as stated in subsection 1 of this section.

3. Manufactured home dealers and manufactured home manufacturers, as defined in section 700.010, that do not subcontract with a licensed contractor and that perform their own setup, either themselves or through direct agents/employees, shall have at least one agent/employee who has completed the requirements as provided in sections 700.250 to 700.284 and shall follow the provisions as stated in subsection 1 of this section.

700.260. The commission may waive the examination, education or experience requirements and grant a license upon payment of fees to any applicant who presents proof of current licensure, registration or certification as a contractor in another state, the District of Columbia or territory of the United States which requires standards for licensure, registration, or certification considered by the commission to be equivalent to or exceed the requirements for licensure in sections 700.250 to 700.284. The applicant shall not have any violations, suspensions, or revocation of such license, registration or certification. Within the limits of this section, the commission may negotiate reciprocal contracts with licensing boards of other states for the admission of licensed practitioners from Missouri in other states.

700.262. 1. All fees authorized pursuant to sections 700.250 to 700.284 shall be collected by the commission and shall be transmitted to the department of revenue for the deposit in the state treasury to the credit of the "Manufactured Housing Fund" which is created pursuant to section 700.040.

2. The commission shall establish, by rule, fees to be charged for applications, examination, licensure, licensure renewal, limited permits, and inactive status. The fees shall be set at an amount not to exceed seventy-five dollars and which shall not substantially exceed the cost of administering sections 700.250 to 700.284.

700.264. 1. The commission may issue a limited permit, upon the payment of a fee, to a person who has completed the experience requirements of subdivision (3) of section 700.256 and who has not taken the examination. The permit shall be effective for a period of time not to exceed the time when the results of the next examination are announced. The limited permit shall allow the person to practice manufactured home setup or installation under the supervision of a person currently licensed pursuant to sections 700.250 to 700.284. A permit issued pursuant to this section shall expire when the person is issued a license pursuant to section 700.256. The commission may renew a limited permit issued pursuant to this section one time.

2. Notwithstanding the provisions of section 700.256, any person who submits evidence that he or she has been engaged in the business of manufactured home setup or installation on August 28, 2003, shall be exempt until December 31, 2004, from the requirements for completing training and for passing an examination in order to be licensed by the commission as a manufactured home setup contractor. Such person shall be licensed upon application, provided he or she has complied with all other requirements of

section 700.256, except the training and examination requirements. No person shall be licensed or remain licensed as a manufactured home setup contractor after December 31, 2004, who has not taken and passed the commission approved manufactured home contractor's examination unless such person is exempted from taking such examination pursuant to section 700.260.

700.266. 1. A license issued pursuant to sections 700.250 to 700.284 shall be renewed annually, except as provided in section 700.264. The commission may establish additional requirements for license renewal which provide evidence of continued competence. The commission, by rule, may establish requirements for renewal of licensure and conditions and fees for the reissuing of licenses which have lapsed, expired or have been suspended, revoked, or placed on inactive status; except that no such late renewal of a license may be granted more than two years after its expiration. The commission shall reissue a license to any licensee who, before the expiration date of the license and within a period of time and pursuant to procedures established by the commission, submits the required renewal application and fee.

2. Upon request in writing, the commission may grant inactive status to a licensee who meets the requirements for licensure pursuant to sections 700.250 to 700.284, if the person:

- (1) Does not practice as a contractor;
- (2) Does not hold himself or herself out as a contractor;

(3) Maintains any continuing competency requirements established by the commission; and

(4) Remits any fee that may be required by the commission.

3. The commission shall deny renewal of a license if the person does not meet the requirements for renewal.

4. A licensee shall notify the commission in writing of the cancellation, termination, or nonrenewal of any workers compensation coverage or general liability insurance required by section 700.256 at which time the commission may suspend such license until such time as the applicant provides proof of compliance with subdivisions (5) and (6) of section 700.256.

700.268. 1. The commission may refuse to issue or renew, suspend or revoke a license or permit, or place a licensee or permit holder on probation or otherwise reprimand a licensee or permit holder, when the licensee, permit holder or applicant has been found guilty of unprofessional conduct which has endangered, or is likely to endanger, the health, welfare, or safety of any person, as provided in sections 700.250 to 700.284 or by any rule or regulation promulgated by the commission.

2. If the commission refuses to issue or renew a license or permit, the commission shall notify the person in writing of the reasons for refusal and of the person's right to resolve the matter through the commission's alternative dispute resolution process before filing a complaint with the administrative hearing commission as provided in chapter 621,

RSMo, notwithstanding the provisions of 386.500 and 386.510, RSMo.

3. Any complaint received by the commission concerning a person who is the holder of a license or permit issued pursuant to sections 700.250 to 700.284 or any complaint regarding any professional practice regulated by sections 700.250 to 700.284 shall be recorded as received and the date received. The commission:

(1) Shall investigate all complaints concerning alleged violations of the provisions of sections 700.250 to 700.284 or if there are grounds for the suspension, revocation, or refusal to issue any license or permit;

(2) May issue subpoena duces tecum in order to cause any licensee, permit holder or any other person to produce records or to appear as a witness pursuant to any investigation or proceeding conducted pursuant to the provisions of sections 700.250 to 700.284;

(3) May, in lieu of or in addition to any remedy provided in this section, file a petition in the name of the state asking a court to issue a restraining order, an injunction or a writ of mandamus against any person who is, or had been violating any of the provisions of sections 700.250 to 700.284 or any rule, order, or subpoena of the public service commission.

700.270. Notwithstanding any provision of law to the contrary, the commission may discipline or sanction any holder of a license or permit or unlicensed person pursuant to sections 700.250 to 700.284 for any one or any combination of

violations pursuant to sections 700.272 to 700.282.

700.272. 1. No person shall:

(1) Falsely hold himself or herself or a business organization out as a licensed contractor;

(2) Falsely impersonate a licensed contractor;

(3) Present as his or her own the contractor's license of another;

(4) Knowingly give false or forged evidence to the commission;

(5) Use or attempt to use a contractor's license which has been suspended or revoked; or

(6) Engage in the business or act in the capacity of a licensed contractor or advertise himself or herself or a business organization as available to engage in the business or act in the capacity of a contractor without being duly licensed.

2. Any person who violates any provision of this section is guilty of a misdemeanor.

700.274. No licensed person nor licensed applicant shall:

(1) Obtain a contractor's license by fraud or misrepresentation;

(2) Be convicted or found guilty of, or enter a plea of nolo contendere, regardless of adjudication, to a crime in any jurisdiction which directly relates to the practice of contractor or the ability to practice;

(3) Violate any lawful order of the commission;

(4) Commit fraud or deceit in the practice of

contracting;

(5) Commit incompetence or misconduct in the practice of contracting;

(6) Commit gross negligence, repeated negligence, or negligence resulting in a significant danger to life or property;

(7) Commit violations of the setup standards for manufactured homes contained in sections 700.010 to 700.500.

700.276. The commission may discipline any person licensed pursuant to sections 700.250 to 700.284 or any person applying for a license pursuant to sections 700.250 to 700.284 who violates any provision of section 700.274 as follows:

(1) Revoke the person's license;

(2) Suspend the person's license;

(3) Require the person to take and pass, or retake and pass, the approved examination;

(4) Place the person on probation;

(5) Send a notice of noncompliance; or

(6) Refuse to issue a license.

700.278. The regulation of contractors by local authorities is preempted and no person may perform setup unless licensed pursuant to sections 700.250 to 700.284, regardless of whether that person holds a local setup license.

700.280. No political subdivision of this state may require additional manufactured home setup licensing of a person licensed pursuant to sections 700.250 to 700.284 who performs setup of a manufactured home.

700.282. All setup contractors shall purchase setup

decals from the commission for a fee established by the commission. A setup decal shall be affixed to the manufactured home upon setup. This decal shall denote the date of setup, the name of the setup contractor, and the number of the setup contractor's license or the dealer or manufacturer license number. Such decal shall be positioned and permanently affixed next to the manufactured home data plate and such setup contractor shall provide notification that such setup was performed in accordance with appropriate standards.

700.284. 1. The commission may promulgate any rules necessary and convenient to effectuate the purposes of sections 700.250 to 700.284 and may promulgate necessary rules compatible with the provisions of sections 700.250 to 700.284, including, but not limited to, rules relating to professional conduct, continuing education requirements for renewal of licenses, approval or sanction of continuing education programs, the amount of continuing education hours required and to the establishment of ethical standards of practice for persons holding a license to practice manufactured home setup in this state.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general

assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2003, shall be invalid and void.

Section 1. 1. The speaker of the house of representatives and the president pro tem of the senate shall appoint a joint interim study committee to review the business of auctioneers. The committee shall be comprised of ten members, five from the house of representatives and five from the senate. No more than three members from each body shall be from one major political party. The committee shall study and report to the general assembly on the issues of statewide licensing, reciprocal agreements with other states, continuing education for the auctioneer industry, ethical and legal issues related to real property sales, and any other issues deemed appropriate by the committee.

2. The committee shall report back to the general assembly with any findings and recommendations no later than December 31, 2004.

3. This section shall expire on January 1, 2005.

[332.341. 1. Any person or other entity who believes that a registered and licensed dentist or a registered and licensed dental hygienist has so acted or failed to act that his certificate of registration or license or both should, under the provisions of this chapter, be suspended or revoked, or who believes that any applicant for a certificate of registration or license to practice dentistry or to practice as a dental hygienist is not entitled thereto under the provisions of this chapter, may file a complaint with the secretary-treasurer of the board.

2. If the complaint so filed does not contain

statements of fact which if true would authorize, under the provisions of this chapter, suspension or revocation of the accused's certificate or license, or does not contain statements of fact which if true would authorize, under the provisions of this chapter, the refusal to issue a certificate or license to an applicant, the board shall either forthwith dismiss the charge or the charges or, within its discretion, cause an investigation to be made of the charges contained in the complaint; after which investigation the board shall either dismiss the charge or charges or proceed against the accused by written complaint as hereinafter provided.

3. If the complaint so filed contains statements of fact which if true would authorize, under the provisions of this chapter, the revocation or suspension of an accused's certificate or license, or both, the board shall cause an investigation to be made of the charge or charges contained in the complaint and unless the investigation discloses the falsity of the facts upon which the charge or charges in the complaint are based, the board shall file with and in the administrative hearing commission a written complaint against the accused setting forth the cause or causes for which his certificate of registration or license or both should be suspended or revoked. Thereafter the board shall be governed by and shall proceed in accordance with the provisions of chapter 621, RSMo.

4. If the charges contained in the complaint filed with the board (after the investigation as aforesaid), if true, would constitute a cause or causes for which, under the provisions of this chapter, an accused's license should not be issued or renewed or a cause or causes for which under the provisions of this chapter a certificate of registration should not be issued, the board shall cause an investigation to be made of the charge or charges and unless the investigation discloses the falsity of the facts upon which the charge or charges contained in the complaint are based, the board shall refuse to permit an applicant to be examined upon his qualifications for licensure or shall refuse to issue a certificate or license or to renew a license, as the case may require.

5. The provisions of this section shall not be so construed as to prevent the board on its own initiative from instituting and conducting investigations and based thereon to make written

complaints in and to the hearing commission.

6. If for any reason the provisions of chapter 621, RSMo, become inapplicable to the board, then, and in that event, the board shall proceed to charge, adjudicate and otherwise act in accordance with the provisions of chapter 536, RSMo.]

[337.500. As used in sections 337.500 to 337.540, unless the context clearly requires otherwise, the following words and phrases mean:

(1) "Committee", the committee for professional counselors;

(2) "Department", the Missouri department of economic development;

(3) "Director", the director of the division of professional registration in the department of economic development;

(4) "Division", the division of professional registration;

(5) "Licensed professional counselor", any person who offers to render professional counseling services to individuals, groups, organizations, institutions, corporations, government agencies or the general public for a fee, monetary or otherwise, implying that the person is trained, experienced, and licensed in counseling, and who holds a current, valid license to practice counseling;

(6) "Practice of professional counseling", rendering, offering to render, or supervising those who render to individuals, couples, groups, organizations, institutions, corporations, schools, government agencies, or the general public any counseling service involving the application of counseling procedures, and the principles and methods thereof, to assist in achieving more effective intrapersonal or interpersonal, marital, decisional, social, educational, vocational, developmental, or rehabilitative adjustments;

(7) "Professional counseling", includes, but is not limited to:

(a) The use of verbal or nonverbal counseling or both techniques, methods, or procedures based on principles for assessing, understanding, or influencing behavior (such as principles of learning, conditioning, perception, motivation, thinking, emotions, or social systems);

(b) Appraisal or assessment, which means selecting, administering, scoring, or interpreting instruments designed to assess a person's or group's aptitudes, intelligence, attitudes, abilities, achievement, interests, and personal

characteristics;

(c) The use of referral or placement techniques or both which serve to further the goals of counseling;

(d) Therapeutic vocational or personal or both rehabilitation in relation to coping with or adapting to physical disability, emotional disability, or intellectual disability or any combination of the three;

(e) Designing, conducting, and interpreting research;

(f) The use of group methods or techniques to promote the goals of counseling;

(g) The use of informational and community resources for career, personal, or social development;

(h) Consultation on any item in paragraphs (a) through (g) above; and

(i) No provision of sections 337.500 to 337.540, or of chapter 354 or 375, RSMo, shall be construed to mandate benefits or third-party reimbursement for services of professional counselors in the policies or contracts of any insurance company, health services corporation or other third-party payer;

(8) "Provisional licensed professional counselor", any person who is a graduate of an acceptable educational institution, as defined by division rules, with at least a master's degree with a major in counseling, or its equivalent, and meets all requirements of a licensed professional counselor, other than the supervised counseling experience prescribed by subdivision (1) of section 337.510, and who is supervised by a person who is qualified for the practice of professional counseling.]

[337.520. 1. The division shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.500 to 337.540 and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.500 to 337.540;

(3) The content, conduct and administration of the licensing examination required by section 337.510;

(4) The characteristics of "acceptable supervised counseling experience" as that term is

used in section 337.510;

(5) The equivalent of the basic educational requirements set forth in section 337.510;

(6) The standards and methods to be used in assessing competency as a professional counselor;

(7) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring under the provisions of sections 337.500 to 337.540;

(8) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing under the constitution or laws of this state;

(9) Establishment of a policy and procedure for reciprocity with other states, including states which do not have counselor licensing laws or states whose licensing laws are not substantially the same as those of this state;

(10) The characteristics of "an acceptable educational institution" as that term is used in section 337.510;

(11) The characteristics of an acceptable agent for the certification of an exempted occupation as listed in subdivisions (11) and (13) of section 337.505; and

(12) The form and content of "ethical standards for counselors" as that term is used in subdivision (15) of subsection 2 of section 337.525.

2. No rule or portion of a rule promulgated under the authority of sections 337.500 to 337.545 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[337.535. 1. There is hereby established the "Committee for Professional Counselors" which shall guide, advise, and make recommendations to the division and fulfill other responsibilities designated by this chapter. The committee shall approve the examination required by section 337.510 and shall assist the division in carrying out the provisions of sections 337.500 to 337.540.

2. The committee shall consist of six members, including one public member, appointed by the governor with the advice and consent of the senate. Each member of the committee shall be a citizen of the United States and a resident of this state and, except as provided hereinafter, shall be licensed as a professional counselor by this state. Beginning with the appointments made after August 28, 1992, two members shall be appointed for four years, two

members shall be appointed for three years and two members shall be appointed for two years. Thereafter, all members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the committee for a total of eight years. The membership of the committee shall reflect the differences in levels of education and work experience with consideration being given to race, gender and ethnic origins. Not more than two counselor educators shall be members of the committee at the same time. The president of the American Counseling Association of Missouri in office at the time shall, at least ninety days prior to the expiration of the term of the committee member, other than the public member, or as soon as feasible after the vacancy on the committee otherwise occurs, submit to the director of the division of professional registration a list of five professional counselors qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the American Counseling Association of Missouri shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

4. Each member of the committee shall receive as compensation, an amount set by the committee not to exceed fifty dollars for each day devoted to the affairs of the committee, and shall be reimbursed for necessary and actual expenses incurred in the performance of his or her official duties. All staff for the committee shall be provided by the division.

5. The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and secretary. The committee may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting must be given to each member at least three days prior to the date of the meeting. A quorum of the committee shall consist of a majority of its members.

6. The governor may remove a committee member for misconduct, incompetency or neglect of his or her official duties after giving the committee member written notice of the charges against the

committee member and an opportunity to be heard thereon.

7. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 337.500 to 337.540 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 337.500 to 337.540, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 337.500 to 337.540. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.]

[337.540. Any communication made by any person to a licensed professional counselor in the course of professional services rendered by the licensed professional counselor shall be deemed a privileged communication and the licensed professional counselor shall not be examined or be made to testify to any privileged communication without the prior consent of the person who received his professional services, except in violation of the criminal law.]

[337.700. As used in sections 337.700 to 337.739, the following terms mean:

(1) "Committee", the state committee for family and marital therapists;

(2) "Department", the Missouri department of economic development;

(3) "Director", the director of the division of professional registration in the department of economic development;

(4) "Division", the division of professional registration;

(5) "Fund", the marital and family therapists' fund created in section 337.712;

(6) "Licensed marital and family therapist", a person to whom a license has been issued pursuant to the provisions of sections 337.700 to 337.739, whose license is in force and not suspended or revoked;

(7) "Marital and family therapy", the use of

scientific and applied marriage and family theories, methods and procedures for the purpose of describing, evaluating and modifying marital, family and individual behavior within the context of marital and family systems, including the context of marital formation and dissolution. Marriage and family therapy is based on systems theories, marriage and family development, normal and dysfunctional behavior, human sexuality and psychotherapeutic, marital and family therapy theories and techniques and includes the use of marriage and family therapy theories and techniques in the evaluation, assessment and treatment of intrapersonal or interpersonal dysfunctions within the context of marriage and family systems. Marriage and family therapy may also include clinical research into more effective methods for the treatment and prevention of the above-named conditions;

(8) "Practice of marital and family therapy", the rendering of professional marital and family therapy services to individuals, family groups and marital pairs, singly or in groups, whether such services are offered directly to the general public or through organizations, either public or private, for a fee, monetary or otherwise.]

[337.703. No person shall use the title of "licensed marital and family therapist" and engage in the practice of marital and family therapy in this state unless the person is licensed as required by the provisions of sections 337.700 to 337.739. Sections 337.700 to 337.739 shall not apply to:

(1) Any person registered, certificated or licensed by this state, another state or any recognized national certification agent acceptable to the division to practice any other occupation or profession while rendering services similar in nature to marital and family therapy in the performance of the occupation or profession in which the person is registered, certificated or licensed, so long as the person does not use the title of "licensed marital and family therapist";

(2) The practice of any marital and family therapist who is employed by any political subdivision, school district, agency or department of the state of Missouri while discharging the therapist's duties in that capacity; and

(3) Duly ordained ministers or clergy, religious workers and volunteers or Christian Science Practitioners.]

[337.706. 1. For a period of six months from September 1, 1995, a person may apply for licensure without examination and shall be exempt from the academic requirements of sections 337.700 to 337.739 if the division is satisfied that the applicant:

- (1) Has been a resident of the state of Missouri for at least the last six months; and
- (2) Holds a valid license as a marital and family therapist from another state.

2. The division may determine by administrative rule the types of documentation needed to verify that an applicant meets the qualifications provided in subsection 1 of this section.

3. After March 1, 1996, no person may engage in marital and family therapy for compensation or hold himself or herself out as a "licensed marital and family therapist" unless the person complies with all educational and examination requirements and is licensed in accordance with the provisions of sections 337.700 to 337.739.]

[337.709. No provision of sections 337.700 to 337.739 shall be construed to require any agency, corporation or organization, not otherwise required by law, to employ licensed marital and family therapists.]

[337.712. 1. Applications for licensure as a marital and family therapist shall be in writing, submitted to the division on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the division may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the division.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the division with the information required for license, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the licensure renewal date. The license shall be restored if, within two years of

the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee. 3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the division upon payment of a fee.

4. The division shall set the amount of the fees authorized. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.700 to 337.739. All fees provided for in sections 337.700 to 337.739 shall be collected by the director who shall deposit the same with the state treasurer to a fund to be known as the "Marital and Family Therapists' Fund".

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriations from the marital and family therapists' fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the marital and family therapists' fund for the preceding fiscal year.]

[337.715. 1. Each applicant for licensure as a marital and family therapist shall furnish evidence to the division that:

(1) The applicant has a master's degree or a doctoral degree in marital and family therapy, or its equivalent, from an acceptable educational institution accredited by a regional accrediting body or accredited by an accrediting body which has been approved by the United States Department of Education;

(2) The applicant has twenty-four months of postgraduate supervised clinical experience acceptable to the division, as the division determines by rule;

(3) Upon examination, the applicant is possessed of requisite knowledge of the profession, including techniques and applications research and its interpretation and professional affairs and ethics;

(4) The applicant is at least eighteen years of age, is of good moral character, is a United States citizen or has status as a legal resident alien, and has not been convicted of a felony during

the ten years immediately prior to application for licensure.

2. Any person not a resident of this state holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same or higher requirements as this state for marital and family therapists may be granted a license to engage in the person's occupation in this state upon application to the division accompanied by the appropriate fee as established by the division pursuant to section 337.712.

3. The division shall issue a license to each person who files an application and fee as required by the provisions of sections 337.700 to 337.739, and who furnishes evidence satisfactory to the division that the applicant has complied with the provisions of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of this section.]

[337.718. 1. Each license issued pursuant to the provisions of sections 337.700 to 337.739 shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months; however, the director may establish a shorter term for the first licenses issued pursuant to sections 337.700 to 337.739. The division shall renew any license upon application for a renewal and upon payment of the fee established by the division pursuant to the provisions of section 337.712.

2. The division may issue temporary permits to practice under extenuating circumstances as determined by the division and defined by rule.]

[337.727. 1. The division shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.700 to 337.739 and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.700 to 337.739;

(3) The content, conduct and administration of the licensing examination required by section 337.715;

(4) The characteristics of supervised clinical experience as that term is used in section 337.715;

(5) The equivalent of the basic educational

requirements set forth in section 337.715;

(6) The standards and methods to be used in assessing competency as a licensed marital and family therapist;

(7) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring under the provisions of sections 337.700 to 337.739;

(8) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing under the constitution or laws of this state;

(9) Establishment of a policy and procedure for reciprocity with other states, including states which do not have marital and family therapist licensing laws or states whose licensing laws are not substantially the same as those of this state; and

(10) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.700 to 337.739.

2. No rule or portion of a rule promulgated under the authority of sections 337.700 to 337.739 shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided in this section, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided in this section.

3. Upon filing any proposed rule with the secretary of state, the division shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the division may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the

final order of rulemaking only for one or more of the following grounds:

(1) An absence of statutory authority for the proposed rule;

(2) An emergency relating to public health, safety or welfare;

(3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

6. If the committee disapproves any rule or portion thereof, the division shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

8. Upon adoption of a rule as provided in this section, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the Constitution of Missouri, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.】

[337.730. 1. The division may refuse to issue or renew any license required by the provisions of sections 337.700 to 337.739 for one or any combination of causes stated in subsection 2 of this section. The division shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The division may cause a complaint to be filed with the administrative hearing commission as

provided by chapter 621, RSMo, against any holder of any license required by sections 337.700 to 337.739 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of marital and family therapist; except the fact that a person has undergone treatment for past substance or alcohol abuse or has participated in a recovery program, shall not by itself be cause for refusal to issue or renew a license;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a marital and family therapist; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 337.700 to 337.739 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 337.700 to 337.739;

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

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a marital and family therapist;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.700 to 337.739 or of any lawful rule or regulation adopted pursuant to sections 337.700 to 337.739;

(7) Impersonation of any person holding a license or allowing any person to use the person's license or diploma from any school;

(8) Revocation or suspension of a license or other right to practice marital and family therapy granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Final adjudication as incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to

practice or offer to practice marital and family therapy who is not licensed and is not currently eligible to practice under the provisions of sections 337.700 to 337.739;

(11) Obtaining a license based upon a material mistake of fact;

(12) Failure to display a valid license if so required by sections 337.700 to 337.739 or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

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

(15) Being guilty of unethical conduct as defined in the ethical standards for marital and family therapists adopted by the committee by rule and filed with the secretary of state.

3. Any person, organization, association or corporation who reports or provides information to the division pursuant to the provisions of sections 337.700 to 337.739 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the division may censure or place the person named in the complaint on probation on such terms and conditions as the division deems appropriate for a period not to exceed five years, or may suspend for a period not to exceed three years, or revoke the license.]

[337.733. 1. Violation of any provision of sections 337.700 to 337.739 is a class B misdemeanor.

2. All fees or other compensation received for services which are rendered in violation of sections 337.700 to 337.739 shall be refunded.

3. The department on behalf of the division may sue in its own name in any court in this state. The department shall inquire as to any violations of sections 337.700 to 337.739, may institute actions for penalties prescribed, and shall enforce generally the provisions of sections 337.700 to 337.739.

4. Upon application by the division, the

attorney general may on behalf of the division request that a court of competent jurisdiction grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a certificate of registration or authority, permit or license is required upon a showing that such acts or practices were performed or offered to be performed without a certificate of registration or authority, permit or license;

(2) Engaging in any practice of business authorized by a certificate of registration or authority, permit or license issued pursuant to sections 337.700 to 337.739, upon a showing that the holder presents a substantial probability of serious harm to the health, safety or welfare of any resident of this state or client or patient of the licensee.

5. Any action brought pursuant to the provisions of this section shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

6. Any action brought under this section may be in addition to or in lieu of any penalty provided by sections 337.700 to 337.739 and may be brought concurrently with other actions to enforce the provisions of sections 337.700 to 337.739.]

[337.736. Persons licensed under the provisions of sections 337.700 to 337.739 may not disclose any information acquired from persons consulting them in their professional capacity, or be compelled to disclose such information except:

(1) With the written consent of the client, or in the case of the client's death or disability, the client's personal representative or other person authorized to sue or the beneficiary of any insurance policy on the client's life, health or physical condition;

(2) When such information pertains to a criminal act;

(3) When the person is a child under the age of eighteen years and the information acquired by the licensee indicated that the child was the victim of a crime;

(4) When the person waives the privilege by bringing charges against the licensee;

(5) When the licensee is called upon to testify in any court or administrative hearings concerning matters of adoption, adult abuse, child

abuse, child neglect or other matters pertaining to the welfare of clients of the licensee; or

(6) When the licensee is collaborating or consulting with professional colleagues or an administrative superior on behalf of the client.]

[337.739. 1. There is created and established the "State Committee of Marital and Family Therapists" which shall consist of four family and marital therapists and two voting public members. The committee shall be appointed by the governor with the advice and consent of the senate. Committee members shall serve for a term of five years, except for the members first appointed, one public member and one other member shall be appointed for five years, two members shall be appointed for four years, the other public member and one other member appointed for three years. No person shall be eligible for appointment to the committee who has served as a member of the committee for a total of ten years. Members shall be appointed to represent a diversity in gender, race and ethnicity. No more than three members shall be from the same political party.

2. Each nonpublic committee member shall be a resident of the state of Missouri for one year, shall be a United States citizen, and shall meet all the requirements for licensing enumerated in sections 337.700 to 337.739, shall be licensed pursuant to sections 337.700 to 337.739, except the members of the first committee, who shall be licensed within six months of their appointment, and are actively engaged in the practice of marital and family therapy. If a member of the committee shall, during the member's term as a committee member, remove the member's domicile from the state of Missouri, then the committee shall immediately notify the governor, and the seat of that committee member shall be declared vacant. All such vacancies shall be filled by appointment as in the same manner as the first appointment, and the member so appointed shall serve for the unexpired term of the member whose seat has been declared vacant. The public members shall be at the time of each member's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; a person who does not have and never has had a material, financial interest in either the

provision of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter.

3. The committee shall hold a regular annual meeting at which it shall select from among its members a chairman and a secretary. A quorum of the committee shall consist of a majority of its members. In the absence of the chairman, the secretary shall conduct the office of the chairman.

4. No member of the committee shall receive any compensation for the performance of the member's official duties but shall be entitled to reimbursement for necessary and actual expenses incurred in the performance of the member's duties. The committee shall share resources and facilities with the office for the committee for professional counselors provided for in sections 337.500 to 337.540. All staff for the committee shall be provided by the director of the division of professional registration.

5. The governor may remove any member of the committee for misconduct, inefficiency, incompetency or neglect of office.]

[339.600. 1. As used in sections 339.600 to 339.610, the following terms mean:

(1) "Commission", the Missouri real estate commission;

(2) "Escrow agent", any person, partnership, association or corporation, foreign or domestic, who performs any of the following functions: closings or settlements or any function related thereto in sales, exchanges or other transfers of real property.

2. A person or entity who meets the definition of escrow agent as provided in subsection 1 of this section is exempt from the provisions of sections 339.600 to 339.610 if such person is:

(1) A person or entity doing business under the laws of this state or the United States as a bank, trust company, savings and loan association, credit union, commercial or consumer finance company, industrial loan company, insurance company or title insurance company or title insurance agency;

(2) An attorney at law;

(3) A person or entity licensed pursuant to this chapter rendering services in the performance of his or her duties as a real estate broker or salesperson;

(4) A mortgage loan company which is subject to licensing, supervision or auditing by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation or the United States Veterans' Administration or the Government National Mortgage Association or the United States Department of Housing and Urban Development or a successor of any of such agencies or entities, as an approved seller or servicer; or

(5) The United States, the state of Missouri or any state, any political subdivision of this state or any agency, division or corporate instrumentality thereof.]

[339.603. 1. It is unlawful for any person, partnership, association or corporation, foreign or domestic, to act as an escrow agent, or to advertise or attempt to act as such without being properly registered with the commission.

2. Upon application by the commission and upon proof by a preponderance of the evidence, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from unlawfully engaging or attempting to engage in the activities identified in sections 339.600 to 339.610.]

[339.605. 1. A person, partnership, association or corporation, incorporated pursuant to the laws of Missouri, may be registered as an escrow agent pursuant to sections 339.600 to 339.610, if such person, partners of the partnership, members of the association or officers of the corporation are at least eighteen years of age, of good moral character and are competent to transact the business of an escrow agent in such manner as to safeguard the interest of the public. The commission shall require proof that such persons meet the qualifications as provided in this subsection.

2. A corporation, partnership or association may be registered if every partner of the partnership, every member of the association, or every officer of the corporation who actively participates in its escrow business has been registered and the corporation, partnership or association has paid all the required fees.

3. Applications for registration shall be submitted in writing on forms furnished by the commission and accompanied by such information and recommendations as the commission may require.

4. The commission may refuse to register any

person, partnership, association or corporation if the person, partner, member or a direct or indirect controlling stockholder has been found guilty of, or pleaded guilty to, stealing, forgery, embezzlement, obtaining money under false pretenses, extortion, criminal conspiracy to defraud or any similar offense.]

[339.606. The commission may promulgate rules and regulations and perform all duties necessary for carrying out the provisions of sections 339.600 to 339.610. The commission shall set the amount of the fees which are authorized pursuant to sections 339.600 to 339.610 by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 339.600 to 339.610.]

[339.607. Each registration granted pursuant to sections 339.600 to 339.610 shall be renewed every two years and the commission shall issue a new registration upon receipt of a proper renewal application and the required renewal fee.]

[339.608. The fees collected pursuant to the provisions of sections 339.600 to 339.610 shall be collected by the Missouri real estate commission and shall be sent to the director of the department of revenue for deposit in the state treasury in the "Escrow Agent Administration Fund" which is hereby created. The commission shall administer the fund and shall use the moneys in the fund solely for the administration and enforcement of sections 339.600 to 339.610. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the fund at the end of the biennium shall not be transferred to the general revenue fund, but shall remain in the escrow agent administration fund.]

[339.610. Any funds received by an escrow agent from any person that are to be used for third-party expenses shall be deposited no later than five banking days after receipt in an escrow account in any federally insured bank, savings and loan association or credit union. The funds in such escrow account shall be expended for the intended use by the escrow agent within ninety days after the obligations of the third party have been completed.]

[339.612. The commission or its designated agent may inspect and audit the escrow accounts or accounting records of any escrow agent at any time during normal business hours to determine if escrow funds are being expended and disbursed in a timely fashion and for the intended use. If the commission determines that such escrow funds have been used for any purpose other than the intended purposes, the escrow agent is liable to the intended payee of the funds for any misappropriated funds and the Missouri real estate commission shall cause legal proceedings to be held in any court of competent jurisdiction to enforce the provisions of this section and sections 339.610, 339.614, and 339.617. The commission's authority to instigate legal proceedings to enforce the provisions of this section is in addition to the authority to file a complaint with the administrative hearing commission.]

[339.614. The records of any inspection or audit made pursuant to the authority in section 339.612 shall be made available to the escrow agent and the parties to the transaction but shall not be considered open to the public unless public money is directly involved or a court of competent jurisdiction orders that such records be opened.]

[339.617. 1. The commission may, upon its own motion or upon a written complaint filed by any person, investigate any business transaction, regulated by the provisions of sections 339.600 to 339.610, of any person, partnership, association or corporation registered pursuant to the provisions of sections 339.600 to 339.610. The commission may use all investigatory and subpoena powers provided in section 339.100 in investigating such business transaction. The commission may file a complaint with the administrative hearing commission and the proceedings shall be conducted as provided in chapter 621, RSMo. If the administrative hearing commission finds that the escrow agent is not in compliance with sections 339.610 to 339.617 or is operating in an unsafe or unsound manner, the commission may cancel the registration of such escrow agent. If the registration of any escrow agent is canceled pursuant to this subsection, such escrow agent may not accept any referral of business which is regulated by the provisions of sections 339.600 to 339.610.

2. No real estate licensee may knowingly refer escrow or real estate closing business to any escrow

agent which does not hold a current registration pursuant to sections 339.600 to 339.610.]

[436.200. As used in this act the following terms shall mean:

(1) "Agent contract", any contract or agreement pursuant to which a student athlete authorizes an athlete agent to represent him in the marketing of his athletic ability or reputation in a sport;

(2) "Athlete agent", a person that, for compensation, directly or indirectly recruits or solicits a student athlete to enter into an agent contract, financial services contract or professional sports services contract;

(3) "Financial services contract", any contract or agreement pursuant to which a student athlete authorizes an athlete agent to provide financial services for the student athlete, including but not limited to the making and execution of investment and other financial decisions by the athlete agent on behalf of the student athlete;

(4) "Person", an individual, company, corporation, association, partnership or other entity;

(5) "Professional sports services contract", any contract or agreement pursuant to which a student athlete authorizes an athlete agent to obtain employment for the student athlete with a professional sports team or as a professional athlete;

(6) "Student athlete", any athlete who practices for or otherwise participates in intercollegiate athletics at any college or university located within this state.]

[436.205. 1. Each athlete agent must register biennially with the secretary of state on forms to be provided by the secretary of state and, at the same time, pay to the secretary of state a registration fee of five hundred dollars for which the secretary of state shall issue a registration certificate entitling the holder to operate as an athlete agent for a period of two years.

2. When the business address of any athlete agent operating in this state is changed, the athlete agent must notify the secretary of state within thirty days after the change of address.

3. It is unlawful for any person to operate as an athlete agent unless he is registered as provided

in this section. Failure of the athlete agent to register is a class B misdemeanor.

4. The secretary of state may suspend or revoke the registration of any athlete agent for failing to comply with the provisions of this section. The suspension or revocation of any registration may be reviewed by a court of competent jurisdiction.]

[436.209. 1. A student athlete who is subject to the rules and regulations of the National Collegiate Athletic Association, the National Association for Intercollegiate Athletics, or the National Junior College Athletic Association, and who enters into an agent contract, financial services contract or professional sports services contract with an athlete agent must provide written notification to the athletic director or the president of the college or university in which he is enrolled that he has entered into such a contract. Written notification must be given prior to practicing for or participating in any athletic event on behalf of any college or university or within seventy-two hours after entering into the contract, whichever occurs first. Failure of the student athlete to provide this notification is an infraction.

2. An athlete agent who enters into an agent contract, financial services contract or professional sports services contract with a student athlete who is subject to the rules and regulations of the National Collegiate Athletic Association, the National Association for Intercollegiate Athletics, or the National Junior College Athletic Association must provide written notification to the athletic director or the president of the college or university in which the student athlete is enrolled that the student athlete has entered into such a contract. Written notification of such a contract must be given prior to the student athlete's practicing for or participating in any athletic event on behalf of any college or university or within seventy-two hours after entering into said contract, whichever occurs first. Failure of the athlete agent to provide this notification is a class B misdemeanor.

3. An agent contract, financial services contract or professional sports services contract between a student athlete and an athlete agent must have a notice printed near the space for the student athlete's signature which must contain the following

statement in ten-point boldfaced type: "WARNING: IF YOU AS A STUDENT ATHLETE SIGN THIS CONTRACT, YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE ATHLETICS. PURSUANT TO MISSOURI LAW, YOU MUST NOTIFY THE ATHLETIC DIRECTOR OR PRESIDENT OF YOUR COLLEGE OR UNIVERSITY IN WRITING PRIOR TO PRACTICING FOR OR PARTICIPATING IN ANY ATHLETIC EVENT ON BEHALF OF ANY COLLEGE OR UNIVERSITY OR WITHIN SEVENTY-TWO HOURS AFTER ENTERING INTO THIS CONTRACT, WHICHEVER OCCURS FIRST. FAILURE TO PROVIDE THIS NOTICE IS A CRIMINAL OFFENSE."

4. An agent contract, financial services contract or professional sports services contract entered into between a student athlete and an athlete agent which fails to provide the notification required by this section is null, void and unenforceable.

5. Any student athlete or athlete agent who enters into an agent contract, financial services contract or professional sports services contract and fails to provide the notification required by this section, is liable to the college or university in which the student athlete is enrolled for damages that result from the student athlete's subsequent ineligibility. In addition to any damages awarded pursuant to this section, additional damages may be assessed in an amount equal to three times the value of the athletic scholarship furnished by the institution to the student athlete during the student athlete's period of eligibility.

6. Within ten days after the date on which the contractual relationship between the athlete agent and the student athlete arises or after notification of such contractual relationship is received by the athletic director or president of the college or university in which the student is enrolled, whichever occurs later, the student athlete shall have the right to rescind the contract or any contractual relationship with the athlete agent by giving notice in writing of his intent to rescind. The student athlete may not under any circumstances effect a waiver of his right to rescind, and any attempt to do so shall be null, void and unenforceable.]

[436.212. 1. An athlete agent shall not publish or cause to be published false or misleading information or advertisements, nor give any false information or make false promises to a student athlete concerning employment.

2. An athlete agent shall not accept as a

client a student athlete referred by an employee of or a coach for a college or university located within this state in exchange for any consideration.

3. An athlete agent shall not enter into any agreement, written or oral, by which the athlete agent offers anything of value to any employee of or a coach for a college or university located within this state in return for the referral of any student athlete clients by that employee or coach.

4. An athlete agent shall not offer anything of value to induce a student athlete to enter into an agent contract, financial services contract, professional sports services contract or other agreement by which the athlete agent will represent the student athlete. Negotiations regarding the athlete agent's fee shall not be considered an inducement.

5. A person shall not conduct business as an athlete agent if he is not registered or if his registration is suspended or revoked.

6. Violation of any provision of this section is a class B misdemeanor.]

Section B. The repeal and reenactment of sections 339.010, 339.020, 339.030, 339.040, 339.060, 339.100, 339.105, 339.120, 339.130, 339.150, 339.160, 339.170, 339.180, 339.710, 339.760, 339.780, and 339.800 of section A of this act shall become effective on January 1, 2004.

Section C. Because immediate action is necessary to increase and preserve state tourism and convention revenue in light of the current fiscal crisis, the enactment of section 324.526 of section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and the enactment of section 324.526 of section A of this act shall be in full force and effect upon its passage and approval.