

SECOND REGULAR SESSION

HOUSE BILL NO. 1044

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BEHNEN.

Read 1st time January 13, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3561L.011

AN ACT

To repeal sections 338.013, 338.055, 338.065, 338.220, and 338.353, RSMo, and to enact in lieu thereof ten new sections relating to licensure and regulation of pharmacists, pharmacies, drug distributors, and related pharmaceutical services and personnel, with penalty provisions.

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

Section A. Sections 338.013, 338.055, 338.065, 338.220, and 338.353, RSMo, are
2 repealed and ten new sections enacted in lieu thereof, to be known as sections 338.013, 338.055,
3 338.065, 338.075, 338.145, 338.155, 338.220, 338.353, 338.380, and 338.390, to read as
4 follows:

338.013. 1. Any person desiring to assist a pharmacist in the practice of pharmacy as
2 defined in this chapter shall apply to the board of pharmacy for registration as a pharmacy
3 technician. [Such applicant shall not have engaged in conduct or behavior determined to be
4 grounds for discipline pursuant to this chapter.] Such applicant shall **be, at a minimum, legal**
5 **working age and shall** forward to the board the appropriate fee and written application on a
6 form provided by the board. Such registration shall be the sole authorization permitted to allow
7 persons to assist licensed pharmacists in the practice of pharmacy as defined in this chapter.
8 2. **The board may refuse to issue a certificate of registration as a pharmacy**
9 **technician to an applicant who has been found guilty, or has pled guilty or nolo contendere**
10 **to a violation of any state, territory, or federal drug law or any felony, or has violated any**
11 **provision of subsection 2 of section 338.055. Alternatively, the board may issue such**
12 **person a registration, but may authorize the person to work as a pharmacy technician**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

13 **provided such person adheres to certain terms and conditions imposed by the board. The**
14 **board shall place on the employment disqualification list the name of an applicant who the**
15 **board has refused to issue a certificate of registration as a pharmacy technician, or the**
16 **name of a person who the board has issued a certificate of registration as a pharmacy**
17 **technician but has authorized work under certain terms and conditions. The board shall**
18 **notify the applicant of the applicant's right to file a complaint with the administrative**
19 **hearing commission under chapter 621, RSMo.**

20 **3.** If an applicant has submitted the required fee and an application for registration to the
21 board of pharmacy, the applicant for registration as a pharmacy technician may assist a licensed
22 pharmacist in the practice of pharmacy as defined in this chapter for a period of up to ninety days
23 prior to the issuance of a certificate of registration. The applicant shall keep a copy of the
24 submitted application on the premises where the applicant is employed. **If the board refuses**
25 **to issue a certificate of registration as a pharmacy technician to an applicant, the applicant**
26 **shall immediately cease assisting a licensed pharmacist in the practice of pharmacy.**

27 [3.] **4.** A certificate of registration issued by the board shall be conspicuously displayed
28 in the pharmacy or place of business where the registrant is employed.

29 [4.] **5.** Every pharmacy technician who desires to continue to be registered as provided
30 in this section shall, within thirty days before the registration expiration date, file an application
31 for the renewal, accompanied by the fee prescribed by the board. No registration as provided in
32 this section shall be valid if the registration has expired and has not been renewed as provided
33 in this subsection.

34 [5.] **6.** The board shall maintain an employment disqualification list [of the names of all
35 pharmacy technicians who have been adjudicated and found guilty, or have entered a plea of
36 guilty or nolo contendere to violation of any state, territory or federal drug law, been found
37 guilty, pled guilty or nolo contendere to any felony or have violated any provision of subdivision
38 (2), (3), (4), (6), (7), (11), (12) or (15) of subsection 2 of section 338.055]. **No person whose**
39 **name appears on the employment disqualification list shall work as a pharmacy technician**
40 **except as otherwise authorized by the board. The board may authorize a person whose**
41 **name appears on the employment disqualification list to work or continue to work as a**
42 **pharmacy technician provided that person adheres to certain terms and conditions**
43 **imposed by the board.**

44 **7.** The board may place on the employment disqualification list the name of a
45 **pharmacy technician who has been found guilty, or has pled guilty or nolo contendere to**
46 **a violation of any state, territory, or federal drug law or any felony, or has violated any**
47 **provision of subsection 2 of section 338.055.**

48 [6.] **8.** After an investigation and a determination has been made to place a person's name

49 on the employment disqualification list, the board shall notify such person in writing mailed to
50 the person's last known address that:

51 (1) An allegation has been made against the person, the substance of the allegation and
52 that an investigation has been conducted which tends to substantiate the allegation;

53 (2) Such person's name [will be] **has been** included in the employment disqualification
54 list of the board;

55 (3) The consequences to the person of being listed and the length of time the person's
56 name will be on the list; and

57 (4) The person's [rights and the procedure to challenge the inclusion of the person's name
58 on the disqualification list.

59 7. If no reply has been received by the board within thirty days after the board mailed the
60 notice, the board may include the name of such person on such disqualification list] **right to file**
61 **a complaint with the administrative hearing commission under chapter 621, RSMo.**

62 9. The length of time a person's name shall remain on the disqualification list shall be
63 determined by the board. [The board may, also, provide for alternative sanctions, including, but
64 not limited to, conditional employment based on a requirement that the person submit certain
65 documentation within a certain period of time. Any person who receives notice that the board
66 intends to place the person's name on the employment disqualification list may file an appeal
67 with the administrative hearing commission as provided in chapter 621, RSMo.

68 8.] **10.** No hospital or licensed pharmacy shall knowingly employ any person whose
69 name appears on the employee disqualification list; **except that a hospital or licensed**
70 **pharmacy may employ a person whose name appears on the employment disqualification**
71 **list but the board has authorized to work under certain terms and conditions. Any hospital**
72 **or licensed pharmacy shall report to the board any final disciplinary action taken against**
73 **a pharmacy technician or the voluntary resignation of a pharmacy technician against**
74 **whom any complaints or reports have been made which might have led to final disciplinary**
75 **action that can be a cause of action for discipline by the board under subsection 2 of section**
76 **338.055.** Compliance with the foregoing sentence may be interposed as an affirmative defense
77 by the employer.

338.055. 1. The board may refuse to issue any certificate of registration or authority,
2 permit or license required pursuant to this chapter for one or any combination of causes stated
3 in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for
4 the refusal and shall advise the applicant of his right to file a complaint with the administrative
5 hearing commission as provided by chapter 621, RSMo.

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

8 registration or authority, permit or license required by this chapter or any person who has failed
9 to renew or has surrendered his certificate of registration or authority, permit or license for any
10 one or any combination of the following causes:

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

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

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

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

25 (5) [Incompetency] **Incompetence**, misconduct, gross negligence, fraud,
26 misrepresentation or dishonesty in the performance of the functions or duties of any profession
27 licensed or regulated by this chapter;

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

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

33 (8) **Denial of licensure to an applicant or** disciplinary action against **an applicant or**
34 the holder of a license or other right to practice any profession regulated by this chapter granted
35 by another state, territory, federal agency or country, **whether or not voluntarily agreed to by**
36 **the licensee or applicant, including but not limited to surrender of the license** upon grounds
37 for which [revocation or suspension] **denial or discipline** is authorized in this state;

38 (9) A person is finally adjudged incapacitated by a court of competent jurisdiction;

39 (10) Assisting or enabling any person to practice or offer to practice any profession
40 licensed or regulated by this chapter who is not registered and currently eligible to practice under
41 this chapter;

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

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

46 (13) Violation of any professional trust or confidence;

47 (14) Use of any advertisement or solicitation which is false, misleading or deceptive to
48 the general public or persons to whom the advertisement or solicitation is primarily directed;

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

51 (16) The intentional act of substituting or otherwise changing the content, formula or
52 brand of any drug prescribed by written or oral prescription without prior written or oral approval
53 from the prescriber for the respective change in each prescription; provided, however, that
54 nothing contained herein shall prohibit a pharmacist from substituting or changing the brand of
55 any drug as provided under section 338.056, and any such substituting or changing of the brand
56 of any drug as provided for in section 338.056 shall not be deemed unprofessional or
57 dishonorable conduct unless a violation of section 338.056 occurs;

58 (17) Personal use or consumption of any controlled substance unless it is prescribed,
59 dispensed or administered by a health care provider who is authorized by law to do so.

60 3. After the filing of such complaint, the proceedings shall be conducted in accordance
61 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
62 commission that the grounds, provided in subsection 2, for disciplinary action are met, the board
63 may, singly or in combination, censure or place the person named in the complaint on probation
64 on such terms and conditions as the board deems appropriate for a period not to exceed five
65 years, or may suspend, for a period not to exceed three years, or revoke the license, certificate,
66 or permit. The board may impose additional discipline on a licensee, registrant or permittee
67 found to have violated any disciplinary terms previously imposed under this section or by
68 agreement. The additional discipline may include, singly or in combination, censure, placing the
69 licensee, registrant or permittee named in the complaint on additional probation on such terms
70 and conditions as the board deems appropriate, which additional probation shall not exceed five
71 years, or suspension for a period not to exceed three years, or revocation of the license, certificate
72 or permit.

73 4. If the board concludes that a [pharmacist] **licensee or registrant** has committed an
74 act or is engaging in a course of conduct which would be grounds for disciplinary action which
75 constitutes a clear and present danger to the public health and safety, the board may file a
76 complaint before the administrative hearing commission requesting an expedited hearing and
77 specifying the activities which give rise to the danger and the nature of the proposed restriction
78 or suspension of the [pharmacist's] **license or registration**. Within fifteen days after service of
79 the complaint on the [pharmacist] **licensee or registrant**, the administrative hearing commission

80 shall conduct a preliminary hearing to determine whether the alleged activities of the
81 [pharmacist] **licensee or registrant** appear to constitute a clear and present danger to the public
82 health and safety which justify that the [pharmacist's] license **or registration** be immediately
83 restricted or suspended. The burden of proving that [a pharmacist is] **the actions a licensee or**
84 **registrant constitutes** a clear and present danger to the public health and safety shall be upon
85 the state board of pharmacy. The administrative hearing commission shall issue its decision
86 immediately after the hearing and shall either grant to the board the authority to suspend or
87 restrict the license or dismiss the action.

88 5. If the administrative hearing commission grants temporary authority to the board to
89 restrict or suspend the [pharmacist's] license **or registration**, such temporary authority of the
90 board shall become final authority if there is no request by the [pharmacist] **licensee or**
91 **registrant** for a full hearing within thirty days of the preliminary hearing. The administrative
92 hearing commission shall, if requested by the [pharmacist] **licensee or registrant** named in the
93 complaint, set a date to hold a full hearing under the provisions of chapter 621, RSMo, regarding
94 the activities alleged in the initial complaint filed by the board.

95 6. If the administrative hearing commission dismisses the action filed by the board
96 pursuant to subsection 4 of this section, such dismissal shall not bar the board from initiating a
97 subsequent action on the same grounds.

98 **7. If the board determines that a licensee or registrant has committed an act or is**
99 **engaging in a course of conduct which would be grounds for disciplinary action and which**
100 **constitutes a clear and present danger to the public health and safety, the board may**
101 **restrict or suspend the license, registration, or permit of the licensee, registrant, or**
102 **permittee pending action of the administrative hearing commission. Within five business**
103 **days of such restriction or suspension, the board shall file a complaint before the**
104 **administrative hearing commission requesting an expedited hearing and decision under**
105 **subsection 4 of this section. A minimum number of five board members must vote in the**
106 **affirmative to initiate any action provided for in this section.**

338.065. 1. [After August 28, 1990,] At such time as the final trial proceedings are
2 concluded whereby a licensee or registrant **or any person who has failed to renew or has**
3 **surrendered his or her certificate of registration or authority, permit or license** has been
4 adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony
5 prosecution pursuant to the laws of the state of Missouri, the laws of any other state, territory or
6 the laws of the United States of America for any offense reasonably related to the qualifications,
7 functions or duties of a licensee, **permittee**, or registrant pursuant to this chapter or any felony
8 offense, an essential element of which is fraud, dishonesty or an act of violence, or for any felony
9 offense involving moral turpitude, whether or not sentence is imposed, the board of pharmacy

10 may hold a disciplinary hearing to singly or in combination censure or place the licensee,
11 **permittee**, or registrant named in the complaint on probation on such terms and conditions as
12 the board deems appropriate for a period not to exceed five years, or may suspend, for a period
13 not to exceed three years, or revoke the license, certificate, registration or permit.

14 2. Anyone who has been revoked or denied a license, permit or certificate to practice in
15 another state may automatically be denied a license or permit to practice in this state. However,
16 the board of pharmacy may establish other qualifications by which a person may ultimately be
17 qualified and licensed to practice in Missouri.

**338.075. 1. When any person offers to engage in or engages in any acts or practices
2 for which a certificate of registration or authority, permit, or license is required and upon
3 a showing that such acts or practices were performed or offered to be performed without
4 a certificate, permit, or license, the board may impose civil penalties in an amount not to
5 exceed one thousand dollars for each violation and for each day that the violation occurs.**

6 2. Any person who receives notice concerning the imposition of a civil penalty by
7 the board may file an appeal with the administrative hearing commission as provided in
8 chapter 621, RSMo. Any action brought under this section shall be in addition to and not
9 in lieu of any penalty provided by law and may be brought concurrently with other actions
10 to enforce this chapter.

11 3. The board may enforce its imposition of a civil penalty by applying to the circuit
12 court of Cole County, the county of the investigation, hearing, or proceeding, or any county
13 where the person resides or may be found for an order upon any person who fails to pay
14 the civil penalty imposed. A show cause order and a copy of the application shall be
15 serviced upon the person in the same manner as a summons in a civil action and if the
16 circuit court determines after a hearing that the civil penalty should be sustained and
17 enforced, the court shall proceed to enforce the civil penalty. Any person who fails to
18 comply with a circuit court order that sustains the action of the board shall be considered
19 in contempt and subject to penalties as provided by law.

**338.145. 1. The president of the board may administer oaths, issue subpoenas
2 duces tecum, and require production of documents and records from any person or entity
3 not licensed by the board if such documents and records are not otherwise available to the
4 board under the board's inspection authority granted in sections 338.100 and 338.150.
5 Subpoenas duces tecum shall be served by a person authorized to serve subpoenas of courts
6 of record. In lieu of requiring attendance of a person to produce original documents in
7 response to a subpoena duces tecum, the board may require sworn copies of such
8 documents to be filed with the board or delivered to the board's designated representative.**

9 2. The board may enforce its subpoena duces tecum by applying to the circuit court

10 of Cole County, the county of the investigation, hearing, or proceeding, or any county
11 where the records reside or may be found for an order upon any person who fails to obey
12 a subpoena duces tecum to show cause why such subpoena duces tecum should not be
13 enforced, which such order and a copy of the application shall be served upon the person
14 in the same manner as a summons in a civil action. If the circuit court determines after a
15 hearing that the subpoena duces tecum should be sustained and enforced, the court shall
16 proceed to enforce the subpoena duces tecum in the same manner as though the subpoena
17 had been issued in a civil case in the circuit court.

338.155. 1. Any person who in good faith and without malice reports, provides
2 information, or cooperates in any manner with the board, or assists the board in any
3 manner, including but not limited to applicants or licensees, whether or not the applicant
4 or licensee is the subject of an investigation, record custodians, consultants, attorneys,
5 board members, agents, employees, staff, or expert witnesses, in the course of any
6 investigation, hearing, or other proceeding conducted by or before the board under this
7 chapter shall not be subject to civil liability for damages as a result of providing such
8 information or cooperating with the board.

9 2. No physician or other authorized prescriber who in good faith cooperates with
10 the board by writing a prescription or drug order at the request of the board pursuant to
11 a routine inspection or a lawful investigation shall by virtue of such cooperation be in
12 violation of this chapter or any drug laws of this state. Such person shall be acting as an
13 agent of the state and as such, shall have sovereign immunity for such actions.

14 3. No licensee, registrant, permittee, or other individual or entity subject to the
15 board's jurisdiction who in good faith fills a prescription presented by the board as part
16 of an inspection or investigation shall by virtue of that act be in violation of this chapter
17 or the drug laws of this state, provided the prescription is otherwise prepared and
18 dispensed in a lawful manner.

338.220. 1. It shall be unlawful for any person, copartnership, association, corporation
2 or any other business entity to open, establish, operate or maintain any pharmacy, as defined by
3 statute without first obtaining a permit or license to do so from the Missouri board of pharmacy.
4 The following classes of pharmacy permits or licenses are hereby established:

- 5 (1) Class A: Community/ambulatory;
- 6 (2) Class B: Hospital outpatient pharmacy;
- 7 (3) Class C: Long-term care;
- 8 (4) Class D: [Home health care] **Nonsterile compounding**;
- 9 (5) Class E: Radio pharmaceutical;
- 10 (6) Class F: Renal dialysis;

- 11 (7) Class G: Medical gas;
12 (8) Class H: Sterile product compounding;
13 (9) Class I: Consultant services;
14 (10) Class J: Shared service;
15 **(11) Class K: Internet.**

16 2. Application for such permit or license shall be made upon a form furnished to the
17 applicant; shall contain a statement that it is made under oath or affirmation and that its
18 representations are true and correct to the best knowledge and belief of the person signing same,
19 subject to the penalties of making a false affidavit or declaration; and shall be accompanied by
20 a permit or license fee. The permit or license issued shall be renewable upon payment of a
21 renewal fee. Separate applications shall be made and separate permits or licenses required for
22 each pharmacy opened, established, operated or maintained by the same owner.

23 3. All permits, licenses or renewal fees collected pursuant to the provisions of sections
24 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of
25 pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the
26 provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general
27 assembly.

338.353. 1. The board of pharmacy is hereby authorized and empowered, when
2 complaints, examinations or inspection of a wholesale drug distributor or pharmacy distributor
3 disclose to the board that a wholesale drug distributorship or pharmacy distributorship is not
4 being operated or conducted according to such legal rules and regulations and the laws of
5 Missouri or any other state or the federal government with respect thereto, to cause a complaint
6 to be filed before the administrative hearing commission pursuant to chapter 621, RSMo,
7 charging the holder of a license to operate a drug distributorship or pharmacy wholesale
8 operation constituting grounds for discipline in accordance with section 338.055.

9 2. If the board concludes that a wholesale drug distributor or pharmacy distributor has
10 committed an act or is engaging in a course of conduct which constitutes a clear and present
11 danger to the public health and safety in Missouri, the board may file a complaint before the
12 administrative hearing commission requesting an expedited hearing [and specifying the activities
13 which give rise to the danger and the nature of the proposed restriction or suspension of the
14 wholesale drug distributor's or pharmacy distributor's license. Within fifteen days after service
15 of the complaint on a wholesale drug distributor or pharmacy distributor, the administrative
16 hearing commission shall conduct a preliminary hearing to determine whether the alleged
17 activities of the wholesale drug distributor or pharmacy distributor appear to constitute a clear
18 and present danger to the public health and safety which justify that the wholesale drug
19 distributor's or pharmacy distributor's license be immediately restricted or suspended. The

20 burden of proving that a wholesale drug distributor or pharmacy distributor is a clear and present
21 danger to the public health and safety shall be upon the state board of pharmacy. The
22 administrative hearing commission shall issue its decision immediately after the hearing and
23 shall either grant to the board the authority to suspend or restrict the license or dismiss the action.

24 3. If the administrative hearing commission grants temporary authority to the board to
25 restrict or suspend the wholesale drug distributor's or pharmacy distributor's license, such
26 temporary authority of the board shall become final authority if there is no request by the
27 wholesale drug distributor or pharmacy distributor for a full hearing within thirty days of the
28 preliminary hearing. The administrative hearing commission shall, if requested by the wholesale
29 drug distributor or pharmacy distributor named in the complaint, set a date to hold a full hearing
30 under the provisions of chapter 621, RSMo, regarding the activities alleged in the initial
31 complaint filed by the board.

32 4. If the administrative hearing commission dismisses the action filed by the board
33 pursuant to subsection 2 of this section, such dismissal shall not bar the board from initiating a
34 subsequent action on the same grounds] **as provided in section 338.055, or the board may**
35 **restrict or suspend the license as provided in subsection 7 of section 338.055.**

338.380. 1. If an authorized representative of the board of pharmacy finds or has
2 **probable cause to believe that any drug or device is adulterated or misbranded within the**
3 **meaning of the Federal Food and Drug Act, or received through means of theft or deceit,**
4 **or drugs which may be in the possession of a suspended, revoked, or nonrenewed licensee,**
5 **such representative may, after consultation with the board president or executive director,**
6 **affix to such drug or device a tag or other appropriate marking giving notice that such**
7 **article is or is suspected of being adulterated, misbranded, or received through means of**
8 **theft or deceit has been detained or embargoed, and warns all persons not to remove or**
9 **dispose of such article by sale or otherwise until provision for removal or disposal is given**
10 **by the board, the board's agent, or a court. No person shall remove or dispose of such**
11 **embargoed drug or device by sale or otherwise without the permission of the board or the**
12 **board's agent or, after summary proceedings have been instituted, without permission of**
13 **the court.**

14 2. If a drug or device detained or embargoed under subsection 1 of this section has
15 been declared by such representative to be adulterated, misbranded, or received by theft
16 or deceit, the board shall within thirty days of the placing of the embargo petition the
17 circuit court in which jurisdiction the article is detained or embargoed for an order for
18 condemnation of such article. If the court determines that the drug or device so detained
19 or embargoed is not adulterated, misbranded, or received by theft or deceit, the board shall
20 direct the immediate removal of the tag or other marking. If the embargo is removed by

21 the board or the court, the board shall not be held liable for damages because of such
22 embargo if the court finds that there was probable cause for the embargo.

23 3. If the court finds that the detained or embargoed drug or device is adulterated,
24 misbranded, or received by theft or deceit, such drug or device shall be destroyed after
25 entry of the court order at the expense of the owner under the supervision of a board
26 representative and all court costs and fees, storage, and other proper expenses shall be
27 borne by the owner of such drug or device. If the adulteration or misbranding can be
28 corrected by proper labeling or processing of the drug or device and upon entry of a court
29 order, payment of costs, fees, and expenses, and the posting of a good and sufficient bond,
30 the court may direct that such drug or device be delivered to the owner for such labeling
31 or processing under the supervision of a board representative. Expense of such
32 supervision shall be paid by the owner. Such bond shall be returned to the owner of the
33 drug or device on representation to the court by the board that the drug or device is no
34 longer in violation of the embargo and the expense of supervision has been paid.

 338.390. 1. In any disciplinary case that results in a complaint filed by the board
2 of pharmacy with the administrative hearing commission as provided in chapter 621,
3 RSMo, and which results in discipline being imposed on a license, permit, or holder of any
4 certificate of registration or authority, the board may request an order from the
5 administrative hearing commission for payment of a sum not to exceed the actual and
6 necessary costs of the investigation and prosecution of the case. When requesting an order
7 for payment of costs, the board shall submit an itemized list of expenditures to the
8 administrative hearing commission for review and upon finding that the requested amount
9 represents the actual and necessary costs of the investigation and prosecution of the case,
10 the administrative hearing commission shall issue an order for payment to the licensee,
11 permittee, or holder of a certificate or registration or authority.

12 2. For a pharmacy or drug distributor, the order may be made as to the corporate
13 owner, if any, and for any pharmacist, officer, owner, or partner of the pharmacy or drug
14 distributor who is found to have knowledge of or having knowingly participated in one or
15 more of the violations set forth in this section.

16 3. If an order for recovery of costs is made and timely payment is not made as
17 directed in the board's decision, the board may enforce the order for payment in the circuit
18 court of Cole County. Such right of enforcement shall be in addition to any other rights
19 the board may have as to any person directed to pay costs.

20 4. In any action for recovery of costs, proof of the administrative hearing
21 commission's decision and order of payment shall be conclusive proof of the validity of the
22 order of payment and the terms for such payment.

23 **5. Failure to provide timely payment shall constitute grounds for additional**
24 **discipline as provided in section 338.055.**