

SENATE COMMITTEE SUBSTITUTE

FOR

HOUSE SUBSTITUTE

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FOR

HOUSE BILL NO. 1195

AN ACT

To repeal sections 209.292, 209.309, 209.321, 209.322, 209.323, 317.011, 320.094, 320.106, 320.111, 320.116, 320.126, 320.131, 320.136, 320.146, 320.151, 320.161, 324.200, 324.203, 324.205, 324.210, 324.215, 324.400, 324.403, 324.409, 324.415, 324.418, 324.421, 324.427, 324.430, 324.433, 328.080, 332.086, 334.100, 334.506, 334.530, 334.540, 334.550, 334.655, 334.660, 334.665, 335.212, 335.245, 337.085, 337.507, 337.615, 337.665, 337.712, 338.013, 338.055, 338.065, 338.220, 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, 339.600, 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, 345.015, 346.135, 374.700, 374.705, 374.710, 374.715, 374.725, 374.730, 374.735, 374.740, 374.755, 374.757, 374.763, 376.1230, 436.200, 436.205, 436.209, 436.212, 620.127, and 620.145, RSMo, and to enact in lieu thereof one hundred thirty-six new sections relating to professional registration, with penalty provisions.

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

Section A. Sections 209.292, 209.309, 209.321, 209.322, 209.323, 317.011, 320.094, 320.106, 320.111, 320.116, 320.126, 320.131, 320.136, 320.146, 320.151, 320.161, 324.200, 324.203, 324.205, 324.210, 324.215, 324.400, 324.403, 324.409, 324.415, 324.418, 324.421, 324.427, 324.430, 324.433, 328.080, 332.086,

334.100, 334.506, 334.530, 334.540, 334.550, 334.655, 334.660,
334.665, 335.212, 335.245, 337.085, 337.507, 337.615, 337.665,
337.712, 338.013, 338.055, 338.065, 338.220, 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, 339.600, 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, 345.015, 346.135, 374.700,
374.705, 374.710, 374.715, 374.725, 374.730, 374.735, 374.740,
374.755, 374.757, 374.763, 376.1230, 436.200, 436.205, 436.209,
436.212, 620.127, and 620.145, RSMo, are repealed and one hundred
thirty-six new sections enacted in lieu thereof, to be known as
sections 209.292, 209.309, 209.321, 209.322, 209.323, 317.011,
320.094, 320.106, 320.111, 320.116, 320.126, 320.131, 320.136,
320.146, 320.151, 320.161, 324.200, 324.203, 324.205, 324.206,
324.210, 324.215, 324.216, 324.400, 324.402, 324.403, 324.409,
324.415, 324.418, 324.421, 324.427, 324.430, 324.433, 324.526,
324.930, 324.933, 324.936, 324.939, 324.942, 324.945, 324.948,
324.951, 324.954, 324.957, 324.960, 324.965, 328.075, 328.080,
332.086, 334.100, 334.506, 334.530, 334.540, 334.550, 334.655,
334.660, 334.665, 335.212, 335.245, 337.085, 337.507, 337.615,
337.665, 337.712, 338.013, 338.055, 338.065, 338.145, 338.155,
338.220, 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, 339.800, 345.015, 346.135, 374.695,
374.700, 374.702, 374.705, 374.710, 374.715, 374.716, 374.717,
374.719, 374.730, 374.735, 374.740, 374.755, 374.757, 374.759,
374.763, 374.764, 374.783, 374.784, 374.785, 374.786, 374.787,
374.788, 374.789, 376.1230, 436.215, 436.218, 436.221, 436.224,

436.227, 436.230, 436.233, 436.236, 436.239, 436.242, 436.245, 436.248, 436.251, 436.254, 436.257, 436.260, 436.263, 436.266, 436.269, 436.272, 620.127, and 620.145, to read as follows:

209.292. 1. The board shall, with the approval of the commission:

(1) Prescribe qualifications for each of the several levels of certification based on proficiency and shall evaluate and certify interpreters using such qualifications;

(2) Issue the certificates, bearing the signature of the executive director, necessary to qualify for a license to interpret;

(3) Develop a fee scale for interpreting services, pursuant to section 161.405, RSMo;

(4) Maintain the quality of interpreting services, pursuant to section 161.405, RSMo, by:

(a) Generating ideas for conducting interpreter training workshops to update knowledge and skills; and

(b) Suggesting institutions of higher education to provide interpreter training programs;

(5) Develop specific guidelines for the use of interpreters according to their level of certification and submit the guidelines to the division and copies to be distributed to state departments, agencies, commissions, courts, interpreters and to the public;

(6) Develop ethical rules of conduct to be recommended for adoption by the division;

(7) Develop fees for application, administration of an evaluation, conversion and certificate renewal, to cover the cost

of the certification system and administration;

(8) Compile a statewide registry of interpreters by skill level and include recommendations relating to the appropriate selection and utilization of interpreters for the deaf. The registry shall be made available to and recommended for adoption by state commissions, departments and agencies;

(9) Develop a conversion system and policy for accepting other certification systems into the certification offered by the Missouri commission for the deaf and hard of hearing;

(10) Develop acceptable professional development activities to maintain certification;

(11) Investigate and implement the most appropriate testing model for interpreter certification;

(12) When necessary, develop an evaluation team, appointed by the commission, to assist in evaluating interpreters;

(13) Provide opportunity to hear grievances against the certification process or one of its members using the guidelines established in chapter 621, RSMo.

2. An evaluation team appointed pursuant to subdivision (12) of subsection 1 of this section shall have similar backgrounds to the members of the board. The evaluation team shall serve at the pleasure of the commission. The commission shall reimburse evaluators for actual and necessary expenses incurred in the performance of their official duties and may fairly compensate them. A member of an evaluation team may be removed from the team by the executive director, after notice and an opportunity to be heard, for the following reasons: misconduct, inefficiency, incompetence or neglect of official

duties.

3. On or before August 28, 2006, the board shall conduct a comprehensive review of all guidelines and rules relating to the certification of interpreters and shall establish, by rule, guidelines that address the certification of interpreters providing services in public schools and hospitals in this state.

209.309. 1. The board may offer provisional certification to interpreters achieving a minimal level of certification established by the board. A provisional certification is limited to one year; during such year the interpreter must be reevaluated and achieve the next higher level of certification. If an evaluation slot is not available during the term of the provisional license, the interpreter may be granted an extension. A holder of a provisional certification may only be granted one extension. A person nominated by a local public school district in Missouri shall be granted a provisional public school certificate when all of the following conditions are met:

(1) The local school district certifies that it was unable to locate an interpreter certified and licensed under sections 209.319 to 209.339 and otherwise acceptable to the local school district for employment, to accept the position;

(2) The local school district certifies that the person has demonstrated the skills necessary for the assignment to the satisfaction of the local school district;

(3) The local school district certifies that failure to employ the person would to the best of their knowledge result in noncompliance with applicable state or federal statutes or regulations; and

(4) The person nominated certifies that he or she shall begin the application process for the certification and licensure requisite under sections 209.319 to 209.339 within ninety days.

2. Provisional public school certificates shall be issued within seventy-two hours of application containing the above certifications and shall remain valid for eighteen months or until the person obtains the certification and licensure otherwise required under sections 209.319 to 209.339.

3. Provisional public school certificates may be revoked when the person ends his or her employment with the school district or if the person commits any of the actions listed in subsections 1 to 5 of section 209.317.

209.321. 1. No person shall represent himself or herself as an interpreter or engage in the practice of interpreting as defined in section 209.285 as provided in subsection 6 of this section in the state of Missouri unless such person is licensed as required by the provisions of sections 209.319 to 209.339.

2. A person registered, certified or licensed by this state, another state or any recognized national certification agent, acceptable to the committee that allows that person to practice any other occupation or profession in this state, is not considered to be interpreting if he or she is in performance of the occupation or profession for which he or she is registered, certified or licensed. The professions referred to in this subsection include, but are not limited to, physicians, psychologists, nurses, certified public accountants, architects and attorneys.

3. A licensed interpreter shall limit his or her practice

to demonstrated areas of competence as documented by relevant professional education, training, experience and certification. An interpreter not trained in an area shall not practice in that area without obtaining additional relevant professional education, training and experience through an acceptable program as defined by rule by the Missouri commission for the deaf and hard of hearing.

4. A person is not considered to be interpreting pursuant to the provisions of this section if, in a casual setting and as defined by rule, a person is acting as an interpreter gratuitously or is engaged in interpreting incidental to traveling.

5. A person is not considered to be interpreting pursuant to the provisions of this section if a person is engaged as a telecommunications operator providing deaf relay service or operator services for the deaf.

6. A person is not considered to be interpreting under the provisions of this section if the person is currently enrolled in an interpreter training program which has been accredited by a certifying agency and approved by the committee. The training program shall offer a degree in interpreting from an accredited institution of higher education. Persons exempted under this provision shall engage only in activities and services that constitute part of a supervised course of study and shall clearly designate themselves by a title of student, practicum student, student interpreter, trainee, or intern.

7. A person holding a current certification of license from another state or a recognized national certification system

deemed acceptable by the committee is not considered to be interpreting as defined in this chapter when temporarily present in the state for the purpose of providing interpreting services for a convention, conference, meeting, professional group, or educational field trip.

8. A person who is an employee or independent contractor of a Missouri public school district and is providing interpreting as part of special education, related services, or supplementary aids and services for students with disabilities, subject to the requirements of state and federal law, shall be exempt from the provisions of sections 209.321 to 209.339. The provisions of this subsection shall expire, and be of no effect, on August 28, 2006.

9. A person who is providing interpreting in a hospital, as defined in section 197.020, RSMo, subject to the requirements of state and federal law, shall be exempt from the provisions of sections 209.321 to 209.339. The provisions of this subsection shall expire, and be of no effect, on August 28, 2006.

209.322. The board shall recognize the following certificates:

(1) National Registry of Interpreters for the Deaf (NRID) certificates, which include Comprehensive Skills Certificate (CSC), Certificate of Interpreting/Certificate of Transliteration (CI/CT) and Certified Deaf Interpreter (CDI); [and]

(2) National Association of the Deaf (NAD) certificate levels 3, 4 and 5; and

(3) A provisional public school certificate.

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 or 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] renewal date, if the applicant applies for reinstatement and pays the

required [registration] license renewal fee plus a delinquency fee as established by the committee and provides evidence of current certification.

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 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.

317.011. 1. The division of professional registration shall have the power, and it shall be its duty, to accept application for and issue permits to hold professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contests in the state of Missouri, and to charge a fee for the issuance of same in an amount established by rule; such funds to be paid to the division of professional registration which shall pay such funds into the state treasury to be set apart into the athletic fund.

2. 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 fund for the preceding fiscal year or, if the division requires by rule renewal less frequently than yearly then three times the appropriation from the 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 fund for the preceding fiscal year.

3. The division of professional registration shall not grant any permit to hold professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contests in the state of Missouri except:

(1) Where such professional boxing, sparring, professional wrestling, professional kickboxing or professional full-contact karate contest is to be held under the auspices of a promoter duly licensed by the division;

(2) Where such contest shall be of not more than fifteen rounds of three minutes each duration per bout; and

(3) Where a fee has been paid for such permit, in an amount established by rule.

4. In such contests a decision shall be rendered by three judges licensed by the division.

5. Specifically exempted from the provisions of chapter 317, are contests or exhibitions for amateur boxing, amateur kick-boxing, amateur wrestling and amateur full-contact karate. However, all amateur boxing, amateur kickboxing, amateur wrestling and amateur full-contact karate must be sanctioned by a nationally recognized amateur sanctioning body approved by the office.

320.094. 1. The state treasurer shall annually transfer an amount prescribed in subsection 2 of this section out of the state revenues derived from premium taxes levied on insurance

companies pursuant to sections 148.310 to 148.461, RSMo, which are deposited by the director of revenue in the general revenue fund pursuant to section 148.330, RSMo, in a fund hereby created in the state treasury, to be known as the "Fire Education Fund". Any interest earned from investment of moneys in the fund, and all moneys received from gifts, grants, or other moneys appropriated by the general assembly, shall be credited to the fund. The state treasurer shall administer the fund, and the moneys in such fund shall be used solely as prescribed in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fire education fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

2. Beginning July 1, 1998, three percent of the amount of premium taxes collected in the immediately preceding fiscal year pursuant to sections 148.310 to 148.461, RSMo, which are deposited in the general revenue fund that exceeds the amount of premium taxes which were deposited in the general revenue fund in the 1997 fiscal year shall be transferred from the general revenue fund to the credit of the fire education fund. At the end of each fiscal year, the commissioner of administration shall determine the amount transferred to the credit of the fire education fund in each fiscal year by computing the premium taxes deposited in the general revenue fund in the prior fiscal year and comparing such amount to the amount of premium taxes deposited in the general revenue fund in the 1997 fiscal year. An amount equal to three percent of the increase computed pursuant to this section shall be transferred by the state

treasurer to the credit of the fire education fund; however, such transfer in any fiscal year shall not exceed one million five hundred thousand dollars.

3. There is hereby established a special trust fund, to be known as the "Missouri Fire Education Trust Fund", which shall consist of [all] moneys transferred to the fund from the fire education fund pursuant to this subsection, any earnings resulting from the investment of moneys in the fund collected per subsection 2 of this section, and all moneys received from gifts, grants, or other moneys appropriated by the general assembly collected per subsection 2 of this section. Each fiscal year, an amount equal to forty percent of the moneys transferred to the fire education fund collected per subsection 2 of this section shall be transferred by the state treasurer to the credit of the Missouri fire education trust fund. The fund shall be administered by a board of trustees, consisting of the state treasurer, two members of the senate appointed by the president pro tem of the senate, two members of the house of representatives appointed by the speaker of the house, and two members appointed by the governor with the advice and consent of the senate. Any member appointed due to such person's membership in the senate or house of representatives shall serve only as long as such person holds the office referenced in this section. The state treasurer shall invest moneys in the fund in a manner as provided by law. Subject to appropriations, moneys in the fund shall be used solely for the purposes described in this section, but such appropriations shall be made only if the board recommends to the general assembly that such moneys are needed in

that fiscal year to adequately fund the activities described in this section. Moneys shall accumulate in the trust fund until the earnings from investment of moneys in the fund can adequately support the activities described in this section, as determined by the board. At such time, the board may recommend that the general assembly adjust or eliminate the funding mechanism described in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri fire education trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

4. The moneys in the fire education fund, after any distribution pursuant to subsection 3 of this section, [shall be distributed to the University of Missouri Fire & Rescue Training Institute and the institute shall use the moneys received under this subsection] shall be appropriated to the division of fire safety to coordinate education needs in cooperation with fire and emergency services training vendors, community colleges, colleges, regional training facilities, and universities of this state and shall provide training and continuing education to firefighters in this state relating to fire department operations and the personal safety of firefighters while performing fire department activities. Programs and activities funded under this subsection must be approved by the Missouri fire education commission established in subsection 5 of this section. These funds shall primarily be used to provide field education throughout the state, with not more than two percent of funds under this subsection expended on administrative costs.

5. There is established the "Missouri Fire Education

Commission", to be domiciled in the division of fire safety within the department of public safety. The commission shall be composed of five members appointed by the governor with the advice and consent of the senate, consisting of one firefighter serving as a volunteer of a volunteer fire protection association, one full-time firefighter employed by a recognized fire department or fire protection district, one firefighter training officer, one person serving as the chief of a volunteer fire protection association, and one chief fire officer from a recognized fire department or fire protection district. No more than three members appointed by the governor shall be of the same political party. The terms of office for the members appointed by the governor shall be four years and until their successors are selected and qualified, except that, of those first appointed, two shall have a term of four years, two shall have a term of three years and one shall have a term of two years. There is no limitation on the number of terms an appointed member may serve. The governor may appoint a member for the remaining portion of the unexpired term created by a vacancy. The governor may remove any appointed member for cause. The members shall at their initial meeting select a chair. All members of the commission shall serve without compensation for their duties, but shall be reimbursed for necessary travel and other expenses incurred in the performance of their official duties. The commission shall meet at least quarterly at the call of the chair and shall review and determine appropriate programs and activities for which funds may be expended under subsection 4 of this section.

320.106. As used in sections 320.106 to 320.161, unless clearly indicated otherwise, the following terms mean:

(1) ["Distributor", any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, including any person that imports any fireworks of any kind in any manner into the state of Missouri;] "American Pyrotechnics Association (APA), Standard 87-1"; or subsequent standard which may amend or supersede this standard for manufacturers, importers and distributors of fireworks;

(2) "Chemical composition", all pyrotechnic and explosive composition contained in fireworks devices as defined in American Pyrotechnics Association (APA), Standard 87-1;

[(2)] (3) "Consumer fireworks", explosive devices designed primarily to produce visible or audible effects by combustion[. This term] and includes aerial devices and ground devices, all of which are classified as fireworks, UN0336, 1.4G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as class C common fireworks by regulation of the United States Department of Transportation;

(4) "Discharge site", the area immediately surrounding the fireworks mortars used for an outdoor fireworks display;

(5) "Display site", the immediate area where a fireworks display is conducted, including the discharge site, the fallout area, and the required separation distance from mortars to spectator viewing areas, but not spectator viewing areas or

vehicle parking areas;

(6) "Display fireworks", explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UN0335, 1.3G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as class B display fireworks by regulation of the United States Department of Transportation;

(7) "Distributor", any person engaged in the business of selling fireworks to wholesalers, jobbers, seasonal retailers, other persons, or governmental bodies that possess the necessary permits as specified in sections 320.106 to 320.161, including any person that imports any fireworks of any kind in any manner into the state of Missouri;

(8) "Fireworks", any composition or device for producing a visible, audible, or both visible and audible effect by combustion, deflagration, or detonation and that meets the definition of consumer, proximate, or display fireworks as set forth by 49 CFR Part 171 to end, United States Department of Transportation hazardous materials regulations, and American Pyrotechnics Association 87-1 standards;

[(3)] (9) "Fireworks season", the period beginning on the twentieth day of June and continuing through the tenth day of July of the same year and the period beginning on the twentieth day of December and continuing through the second day of January of the next year, which shall be the only periods of time that

seasonal retailers may be permitted to sell consumer fireworks;

[(4)] (10) "Jobber", any person engaged in the business of making sales of consumer fireworks at wholesale or retail, within the state of Missouri to nonlicensed buyers for use and distribution outside the state of Missouri during a calendar year from the first day of January through the thirty-first day of December;

(11) "Licensed operator", any person who supervises, manages, or directs the discharge of outdoor display fireworks, either by manual or electrical means; who has met additional requirements established by promulgated rule and has successfully completed a display fireworks training course recognized and approved by the state fire marshal;

[(5)] (12) "Manufacturer", any person engaged in the making, manufacture, assembly or construction of fireworks of any kind within the state of Missouri;

(13) "NFPA", National Fire Protection Association; an international codes and standards organization;

[(6)] (14) "Permanent structure", buildings and structures with permanent foundations other than tents, mobile homes, and trailers;

[(7)] (15) "Permit", the written authority of the state fire marshal issued pursuant to sections 320.106 to 320.161 to sell, possess, manufacture, discharge, or distribute fireworks;

[(8)] (16) "Person", any corporation, association, partnership or individual or group thereof;

(17) "Proximate fireworks", a chemical mixture used in the entertainment industry to produce visible or audible effects by

combustion, deflagration, or detonation, as defined by the most current edition of the American Pyrotechnics Association (APA), Standard 87-1, section 3.8, specific requirements for theatrical pyrotechnics;

(18) "Pyrotechnic operator" or "special effects operator", an individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects for proximate fireworks and who has met additional requirements established by promulgated rules and has successfully completed a proximate fireworks training course recognized and approved by the state fire marshal;

[(9)] (19) "Sale", an exchange of articles of fireworks for money, including barter, exchange, gift or offer thereof, and each such transaction made by any person, whether as a principal proprietor, salesman, agent, association, copartnership or one or more individuals;

[(10)] (20) "Seasonal retailer", any person within the state of Missouri engaged in the business of making sales of consumer fireworks in Missouri only during a fireworks season as defined by subdivision [(3)] (9) of this section;

[(11)] "Special fireworks", explosive devices designed primarily to produce visible or audible effects by combustion, deflagration or detonation. This term includes devices containing more than two grains (130 mg) of explosive composition intended for public display. These devices are classified as fireworks, UN0335, 1.3G by regulation of the United States Department of Transportation, as amended from time to time, and which were formerly classified as class B display fireworks by

regulation of the United States Department of Transportation;

(12)] (21) "Wholesaler", any person engaged in the business of making sales of consumer fireworks to any other person engaged in the business of making sales of consumer fireworks at retail within the state of Missouri.

320.111. 1. It is unlawful for any person to manufacture, sell, offer for sale, ship or cause to be shipped into or within the state of Missouri except as herein provided, any item of fireworks, without first having secured the required applicable permit as a manufacturer, distributor, wholesaler, jobber or seasonal retailer from the state fire marshal and applicable federal permit or license. Possession of said permit is a condition precedent to manufacturing, selling or offering for sale, shipping or causing to be shipped any fireworks into the state of Missouri, except as herein provided. This provision applies to nonresidents as well as residents of the state of Missouri.

2. The state fire marshal has the authority and is authorized and directed to issue permits for the sale of fireworks. No permit shall be issued to a person under the age of eighteen years. All permits except for seasonal retailers shall be for the calendar year or any fraction thereof and shall expire on the thirty-first day of December of each year.

3. Permits issued must be displayed in the permit holder's place of business. No permit provided for herein shall be transferable nor shall a person operate under a permit issued to another person or under a permit issued for another location. Manufacturer, wholesaler, jobber, and distributor permit holders

operating out of multiple locations shall obtain a permit for each location.

4. Failure to make application for a permit by May thirty-first of the calendar year may result in the fire marshal's refusal to issue a license to the licensee or applicant for such calendar year.

5. Any false statement or declaration made on a permit application may result in the state fire marshal's refusal to issue such permit to the requesting person for a period of time not to exceed three years.

6. The state fire marshal is authorized and directed to charge the following fees for permits:

(1) Manufacturer, a fee of seven hundred [fifty] seventy-five dollars per calendar year;

(2) Distributor, a fee of seven hundred [fifty] seventy-five dollars per calendar year;

(3) Wholesaler, a fee of two hundred [fifty] seventy-five dollars per calendar year;

(4) Jobber, a fee of five hundred twenty-five dollars per calendar year per sales location;

(5) Seasonal retailer, a fee of [twenty-five] fifty dollars per calendar year per sales location;

(6) [Special] Display fireworks [(displays)], a fee of [twenty-five] one hundred dollars per calendar year per location;

(7) Proximate fireworks display permit, a fee of one hundred dollars per calendar year per location;

(8) Licensed operator, a fee of one hundred dollars for a three-year license;

(9) Pyrotechnic operator, a fee of one hundred dollars for a three-year license.

[6.] 7. A holder of a manufacturer's permit shall not be required to have any additional permits in order to sell to distributors, wholesalers, jobbers or seasonal retailers, or to sell [special] display, or proximate fireworks.

[7.] 8. A holder of a distributor's permit shall not be required to have any additional permits in order to sell to wholesalers, jobbers, seasonal retailers or to sell [special] display, or proximate fireworks.

[8.] 9. A holder of a jobber's permit shall not be required to have any additional permit in order to sell consumer fireworks at retail during the fireworks season from such jobber's permanent structure.

[9.] 10. All fees collected for permits issued pursuant to this section shall be [paid to the Missouri department of revenue and deposited in the general revenue fund] deposited to the credit of the fire education fund created pursuant to section 320.094. Any person engaged in more than one permit classification shall pay one permit fee based upon the permit classification yielding the highest amount of revenue.

[10.] 11. The state fire marshal is charged with the enforcement of the provisions of sections 320.106 to 320.161 and may call upon any state, county or city peace officer for assistance in the enforcement of the provisions of sections 320.106 to 320.161. The state fire marshal may promulgate rules pursuant to the requirements of this section and chapter 536, RSMo, necessary to carry out his or her responsibilities under

this act including rules requiring training, examination, and licensing of licensed operators and pyrotechnic operators engaging in or responsible for the handling and use of display and proximate fireworks. The test shall incorporate the rules of the state fire marshal, which shall be based upon nationally recognized standards. No rule or portion of a rule promulgated pursuant to this chapter shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

[11.] 12. The state fire marshal, upon notification by the department of revenue, may withhold permits from applicants upon evidence that all state sales taxes for the preceding year or years have not been paid; except, this subsection shall not apply if an applicant is pursuing any proper remedy at law challenging the amount, collection, or assessment of any sales tax.

[12.] 13. A holder of a distributor, wholesaler, or jobber's permit shall be required to operate out of a permanent structure in compliance with all applicable building and fire regulations in the city or county in which said person is [selling consumer] operating a fireworks business. Seasonal retail permit locations shall be in compliance with all applicable building and fire regulations, the applicant may be subject to a fire safety inspection by the state fire marshal based upon promulgated rules and regulations adopted by the state fire marshal.

[13.] 14. It is unlawful for any manufacturer, distributor, wholesaler, or jobber to sell consumer fireworks to a seasonal retailer who has not acquired an appropriate permit from the state fire marshal for the current permit period. A seasonal

retailer shall acquire and present the appropriate permit from the state fire marshal before any manufacturer, distributor, wholesaler or jobber is allowed to sell consumer fireworks to such seasonal retailer, provided that such seasonal retailer is purchasing the consumer fireworks for resale in this state.

[14.] 15. The state fire marshal and the marshal's deputies may conduct inspections of any premises and all portions of buildings where fireworks are stored, manufactured, kept or being offered for sale. [Licensees] All persons selling, offering for sale, barter, gift, exchange, or offer thereof any fireworks shall cooperate fully with the state fire marshal and the marshal's deputies during any such inspection. This inspection shall be performed during normal business hours.

16. In addition to any other penalty, any person who manufactures, sells, offers for sale, ships or causes to be shipped into or caused to be shipped into the state of Missouri, for use in Missouri, any items of fireworks without first having the required applicable permit, shall be assessed a civil penalty of up to a one thousand dollar fine for each day of operation up to a maximum of ten thousand dollars.

320.116. 1. The state fire marshal may revoke any permit issued pursuant to sections 320.106 to 320.161 upon evidence that the holder has violated any of the provisions of sections 320.106 to 320.161.

2. The state fire marshal, in his or her discretion, may refuse to issue a permit, for a period not to exceed three years, to a person whose permit has been revoked [as the result of a conviction] for the possession or sale of illegal fireworks, as

referred to in section 320.136.

3. The state fire marshal, the marshal's deputies, the marshal's designees or any authorized police or peace officer shall seize as contraband any illegal fireworks as defined pursuant to sections 320.106 to 320.161. Such illegal fireworks seized in the enforcement of sections 320.106 to 320.161 shall be held in custody of the state fire marshal in proper storage facilities. The person surrendering the fireworks may bring an in rem proceeding in the circuit court of the county where the fireworks were seized. Upon hearing, the circuit court may authorize the return of all or part of the confiscated fireworks or the court may authorize and direct that such contraband fireworks be destroyed. If a proceeding is not brought within thirty days, the fireworks shall be destroyed by the state fire marshal. The state fire marshal shall seize, take, remove or cause to be removed, at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored or held in violation of the provisions of sections 320.106 to 320.161. All costs, including any expenses incurred with the seizure, shall be the responsibility of the adjudicated party if case disposition is in the favor of the state fire marshal.

4. Any person aggrieved by any official action of the state fire marshal affecting their [licensed] permit status including revocation, suspension, failure to renew a [license] permit, or refusal to grant a [license] permit may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 621.045, RSMo.

320.126. 1. Any person [possessing or], entity,

partnership, corporation, or association transporting [special] display or proximate fireworks or display and proximate fireworks into the state of Missouri for the purpose of resale or to conduct a [special firework] display shall be [licensed] permitted by the state fire marshal as a distributor or manufacturer and have obtained applicable federal license or permit.

2. [Possession and] Sale of [special] display or proximate fireworks shall be limited to a holder of a federal license or permit and a distributor or manufacturer permit issued [for special fireworks displays] by the state fire marshal.

3. Possession of [special] display or proximate fireworks for resale to holders of a permit for [public] display or proximate fireworks shall be confined to holders of a state manufacturer or distributor permit and applicable federal license or permit.

4. Permits for [public displays for special] display or proximate fireworks may be granted to municipalities, fair associations, amusement parks, organizations, persons, firms or corporations. Such permits may be granted upon application and approval by the state fire marshal or local fire service authorities of the community where the display is proposed to be held. All applications submitted for display or proximate fireworks permits, must be submitted to the office of the state fire marshal a minimum of ten working days prior to the date of the event. The application shall be made on a form provided or approved by the state fire marshal. Every such display shall be supervised, managed, or directed by a Missouri licensed operator,

or pyrotechnic operator on site pursuant to subsections 11 and 18 of section 320.106 and shall be located, discharged, or fired so as in the opinion of the [chief of the fire department, after proper inspection] permitting authority, after proper inspection based on the most current edition of the National Fire Protection Association standards, NFPA 1123, 1124, and 1126, to not be hazardous to any person or property. After a permit has been granted, the sale, possession, use and distribution of fireworks for such display shall be lawful for that purpose only. A copy of all permits issued for [special] display or proximate fireworks [displays] shall be forwarded by the permit holder to the state fire marshal's office. No permit granted hereunder shall be transferable and shall apply to only one location. No holder of a manufacturer or distributor permit shall sell, barter, or transfer display or proximate fireworks to anyone not possessing an applicable permit or license.

5. Possession of display or proximate fireworks shall be limited to a holder of a display or proximate fireworks permit issued by the authority having jurisdiction where the display or proximate fireworks is proposed to be held or the state fire marshal or holder of a state manufacturer or distributor permit and applicable federal license or permit.

[5.] 6. Before issuing any permit for a [special] display or proximate fireworks [display shall be issued,] the municipality, fair association, amusement park, organization, firm, persons, or corporation making application therefor shall furnish proof of financial responsibility in an amount established by promulgated rule to the permitting authority in

order to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such person, firm or corporation or any agent or employee thereof.

7. Any establishment where proximate fireworks are to be discharged shall be inspected by the state fire marshal or local fire department having jurisdiction for compliance with NFPA 101 Life Safety Code or equivalent nationally recognized code in relation to means of egress, occupancy load, and automatic sprinkler and fire alarm systems. All permits issued will be forwarded to the state fire marshal by the permit holder. Permits will be issued in the same manner as those required in section 320.126.

320.131. 1. It is unlawful for any person to possess, sell or use within the state of Missouri, or ship into the state of Missouri, except as provided in section 320.126, any pyrotechnics commonly known as "fireworks" and defined as consumer fireworks in subdivision [(2)] (3) of section 320.106 other than items now or hereafter classified as fireworks UN0336, 1.4G by the United States Department of Transportation that comply with the construction, chemical composition, labeling and other regulations relative to consumer fireworks regulations promulgated by the United States Consumer Product Safety Commission and permitted for use by the general public pursuant to such commission's regulations.

2. No [retailer, dealer] wholesaler, jobber, or seasonal retailer, or any other person shall sell, offer for sale, store, display, or have in their possession any consumer fireworks that have not been approved as fireworks UN0336, 1.4G by the United

States Department of Transportation.

3. No jobber, wholesaler, manufacturer, or distributor shall sell to seasonal retailer dealers, or any other person, in this state for the purpose of resale, or use, in this state, any consumer fireworks which do not have the numbers and letter "1.4G" printed within an orange, diamond-shaped label printed on or attached to the fireworks shipping carton.

4. This section does not prohibit a manufacturer, distributor or any other person from storing, selling, shipping or otherwise transporting [special] display or proximate fireworks, defined as fireworks UN0335, 1.3G/UN0431, 1.4G or UN0432, 1.4S by the United States Department of Transportation, provided they possess the proper [licensing] permits as specified by state and federal law.

5. Matches, toy pistols, toy canes, toy guns, party poppers, or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound, provided that they are so constructed that the hand cannot come into contact with the cap when in place for use, and toy pistol paper caps which contain less than twenty-five hundredths grains of explosive mixture shall be permitted for sale and use at all times and shall not be regulated by the provisions of sections 320.106 to 320.161.

320.136. Ground salutes commonly known as "cherry bombs", "M-80's", "M-100's", "M-1000's", and [various] any other tubular salutes or any items described as prohibited chemical components or forbidden devices as listed in the American Pyrotechnics Association Standard 87-1 or which exceed the federal limits set

for fireworks UN0336, 1.4G formerly known as class C common fireworks, display fireworks UN0335, 1.3F, and proximate fireworks UN0431, 1.4F/UN 0432, 1.4S by the United States Department of Transportation for explosive composition are expressly prohibited from shipment into, manufacture, possession, sale, [and] or use within the state of Missouri for [any purpose] consumer use. Possession, sale, manufacture, or transport of this type of illegal explosive shall be punished as provided by the provisions of section 571.020, RSMo.

320.146. 1. It shall be unlawful to expose fireworks to direct sunlight through glass to the merchandise displayed, except where the fireworks are in the original package. All fireworks which the public may examine shall be kept for sale in original packages, except where an attendant is on duty at all times where fireworks are offered for sale. Fireworks shall be kept in showcases out of the reach of the public when an attendant is not on duty. One or more signs reading, "FIREWORKS--NO SMOKING" shall be displayed at all places where fireworks are stored or sold in letters not less than four inches in height.

2. Fireworks shall not be stored, kept or sold within fifty feet of any gasoline pump, gasoline filling station, gasoline bulk station, or any building in which gasoline or volatile liquids are sold in quantities in excess of one gallon. The provisions of this subsection shall not apply to stores where cleaners, paints, and oils are sold in the original containers to consumers.

3. It shall be unlawful to permit the presence of lighted

cigars, cigarettes, pipes, or any other open flame within [ten] twenty-five feet of where fireworks are manufactured, stored, kept, or offered for sale.

4. Fireworks shall not be manufactured, stored, kept or sold within [fifty] one hundred feet of any [area in which] dispensing unit for ignitable liquids or gases [are stored above the surface of the ground].

320.151. 1. It is unlawful to attempt to sell or to sell at retail any fireworks to children under the age of fourteen years except when such child is in the presence of a parent or guardian.

2. It is unlawful for any person under the age of sixteen to sell fireworks or work in a facility where fireworks are stored, sold, or offered for sale unless supervised by an adult.

3. It is unlawful to explode or ignite consumer fireworks within six hundred feet of any church, hospital, mental health facility, school, or within one hundred feet of [a permanent structure] any location where fireworks are stored, sold, or offered for sale.

4. No person shall ignite or discharge any permissible articles of consumer fireworks within or throw the same from a [motor] motorized vehicle including watercraft or any other means of transportation, except where display permit has been issued for a floating vessel or floating platform, nor shall any person place or throw any ignited article of fireworks into or at a [motor] motorized vehicle including watercraft or any other means of transportation, or at or near any person or group of people.

5. No person shall ignite or discharge consumer fireworks

within three hundred feet of any permanent storage of ignitable liquid, gases, gasoline pump, gasoline filling station, or any nonpermanent structure where fireworks are stored, sold or offered for sale.

6. No items of explosive or pyrotechnic composition other than fireworks as defined by subsections (3), (6), and (17) of section 320.106 shall be displayed, sold, or offered for sale within the applicable permit location as identified on such permit granted by the state fire marshal.

7. Proximate fireworks shall not be allowed to be stored with consumer fireworks.

8. All storage and transportation of fireworks shall be in accordance with all federal and state rules and regulations.

9. Nothing in sections 320.106 to 320.161 shall be construed to prevent permittees from demonstrating or testing fireworks. Any such demonstration or test shall require the notification and approval of the local fire service or the state fire marshal.

320.161. [1.] Any person violating any provision of sections 320.106 to 320.161 [except section 320.136] is guilty of a class [B] A misdemeanor, except that a person violating section 320.136 is guilty of a class C felony.

[2. Any person violating the provisions of section 320.136 is guilty of a class A misdemeanor.]

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) ["Committee", the state committee of dietitians;
- (2) "Dietitian", a health care professional engaged in the practice of medical nutrition therapy;
- (3) "Director", the director of the division of professional registration in the department of economic development;
- (4) "Division", the division of professional registration of the department of economic development;
- (5) "Licensed dietitian", a person who is licensed pursuant to the provisions of sections 324.200 to 324.225 to engage in the practice of medical nutrition therapy;
- (6) "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.] "Commission on Accreditation for Dietetics Education (CADE)", 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 or 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) Engaged in medical nutritional therapy as defined in subsection 8 of this section;

(4) "Dietitian", one engaged in dietetic practice as defined in subsection 3 of this section;

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

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

(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 or medical nutrition therapy;

(8) "Medical nutrition therapy", nutritional diagnostic, therapy, and counseling services which are furnished by a registered dietitian;

(9) "Registered dietitian", a person who:

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

(b) Completed the academic requirements of a didactic program in dietetics, as approved by CADE;

(c) Successfully completed the registration examination for dietitians; and

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

as determined by the committee on dietetic registration.

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, 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.

2. Any person who violates the provisions of subsection 1 of this section is guilty of an infraction.] Any person who holds a license to practice dietetics in this state may use the title "Dietitian" or 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. 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 subsection 1 of this section is guilty of a class A misdemeanor.

324.206. As long as the person involved 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 from 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 are 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 as long as 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 as dietitians marketing or distributing food products including dietary supplements as defined by the Food and Drug Administration or engaging in the explanation and education of customers regarding the use of such products;

(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 call himself or herself a dietitian unless he or she is licensed under 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 education] 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 or 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 his or her license and thereby allow such 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 pursuant to 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 desires to maintain such 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 considered an illegal practitioner and shall be subject to the penalties for violation of the dietitian practice act.

324.400. As used in sections 324.400 to 324.439, the following terms mean:

- (1) "Council", the interior design council created in section 324.406;
- (2) "Department", the department of economic development;
- (3) "Division", the division of professional registration of the department of economic development;
- (4) "Registered [commercial] interior designer", a design professional who provides services including preparation of

documents and specifications relative to nonload bearing interior construction, furniture, finishes, fixtures and equipment and who meets the criteria of education, experience and examination as provided in sections 324.400 to 324.439.

324.402. The state or any county, municipality, or other political subdivision shall not require the use of a registered interior designer for any residential building, residential remodeling, residential rehabilitation, or residential construction purposes.

324.403. No person may use the name or title, registered [commercial] interior designer, in this state unless that person is registered as required by sections 324.400 to 324.439. Nothing in sections 324.400 to 324.439 shall be construed as limiting or preventing the practice of a person's profession or restricting a person from providing interior design services, provided such person does not indicate to the public that such person is registered as an interior designer pursuant to the provisions of sections 324.400 to 324.439.

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) 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.

324.415. Applications for registration as a registered [commercial] interior designer shall be typewritten 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, results of previous interior design certification, registration or licensing examinations, if any, and such other pertinent information as the council may require, or architect's registration number and such other pertinent information as the council may require. Each application shall contain a statement that is made under oath or affirmation and that the representations are true and correct to the best knowledge and belief of the person signing the application. The person shall be subject to the penalties for making a false affidavit or declaration and shall be accompanied by the required fee.

324.418. 1. The certificate of registration issued biennially to a registered [commercial] interior designer pursuant to sections 324.400 to 324.439 shall be renewed on or before the certificate renewal date accompanied by the required fee. The certificate of registration of a registered [commercial] interior designer which is not renewed within three months after the certificate renewal date shall be suspended automatically, subject to the right of the holder to have the suspended certificate of registration reinstated within nine months of the date of suspension if the person pays the required reinstatement fee. Any certificate of registration suspended and not reinstated within nine months of the suspension date shall expire and be void and the holder of such certificate shall have no rights or privileges provided to holders of valid certificates. Any person whose certificate of registration has

expired may, upon demonstration of current qualifications and payment of required fees, be reregistered or reauthorized under the person's original certificate of registration number.

2. Each application for the renewal or reinstatement of a registration shall be on a form furnished to the applicant and shall be accompanied by the required fees and proof of current completion of at least one unit every two years of approved or verifiable continuing education in interior design or architecture, immediately prior to such renewal or reinstatement. Ten contact hours constitutes one continuing education unit. Five contact hours of teaching in interior design or architecture constitutes one continuing education unit. One college course credit in interior design or architecture constitutes one continuing education unit.

324.421. The council shall register without examination, any interior designer certified, licensed or registered in another state or territory of the United States or foreign country if the applicant has qualifications which are at least equivalent to the requirements for registration as a registered [commercial] interior designer in this state and such applicant pays the required fees.

324.427. It is unlawful for any person to advertise or indicate to the public that the person is a registered [commercial] interior designer in this state, unless such person is registered as a registered [commercial] interior designer by the council and is in good standing pursuant to sections 324.400 to 324.439.

324.430. No person may use the designation registered

[commercial] interior designer in Missouri, unless the council has issued a current certificate of registration certifying that the person has been duly registered as a registered [commercial] interior designer in Missouri and unless such registration has been renewed or reinstated as provided in section 324.418.

324.433. The right to use the title of registered [commercial] interior designer shall be deemed a personal right, based upon the qualifications of the individual, evidenced by the person's current certificate of registration and such certificate is not transferable; except that, a registered [commercial] interior designer may perform the interior designer's profession through, or as a member of, or as an employee of, a partnership or corporation.

324.526. 1. Notwithstanding any other 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 for the sole purpose of participating in a state or national convention at which 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 fifty dollars; and

(3) The applicant is otherwise qualified for licensure under sections 324.520 to 324.526 and the rule promulgated under the authority of this statute.

2. A temporary license to practice tattooing, body

piercing, or branding issued under 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 under 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 yet been issued a Social Security number and who previously has not been licensed by any other state, United States territory, or federal agency. A citizen of a foreign country who applies for a temporary permit under this section shall provide the division of professional registration with his or her visa or passport identification number in lieu of the Social Security number.

324.930. For the purposes of sections 324.930 to 324.965, the following terms mean:

(1) "Board", the board of licensed private fire investigator examiners;

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

(3) "Division", the division of fire safety within the department of public safety;

(4) "Insurance adjuster", 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;

(5) "License", a private fire investigator license;

(6) "Licensed private fire investigator", any person who receives any consideration, either directly or indirectly, for engaging in the investigation of the origin, cause, or responsibility of fires;

(7) "Licensed private fire investigator agency", a person or firm that employs any person to engage in the investigation of fires to determine the origin, cause, and responsibility of such fires;

(8) "Licensed private fire investigation", the furnishing of, making of, or agreeing to make any investigation of a fire for the origin, cause, or responsibility of such fire;

(9) "Organization", a corporation, trust, estate, partnership, cooperation, or association;

(10) "Person", an individual;

(11) "Principal place of business", the place where the licensee maintains a permanent office which may be a residence or business address.

324.933. 1. The "Board of Licensed Private Fire Investigator Examiners" is hereby created within the division of fire safety. The board shall be composed of six members appointed by the governor, with the advice and consent of the senate. The board shall consist of:

(1) The state fire marshal, or his or her designee;

(2) A representative of a private fire investigation agency;

(3) A representative of the insurance industry;

(4) A representative of the Missouri chapter of the International Association of Arson Investigators;

(5) A representative of the Professional Fire and Fraud Investigators Association;

(6) A representative of the Kansas City Arson Task Force;
and

(7) One person who is an independent private fire investigator.

2. Each member of the board shall be a citizen of the United States, a resident of this state, at least thirty years of age, and shall have been actively engaged in fire investigation for the previous five years. No more than one board member shall be employed by or affiliated with the same licensed private fire investigation agency. The initial board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after appointment to the board.

3. The members of the board shall be appointed for terms of three years, except those first appointed, in which case two members shall be appointed for terms of three years, two members shall be appointed for terms of two years, and two members shall be appointed for a one-year term. Any vacancy on the board shall be filled for the remainder of the unexpired term of that member. The members of the board shall serve without pay, but they shall receive per diem expenses in an equivalent amount as allowed for members of the general assembly.

324.936. The following persons or organizations shall not be deemed to be engaging in licensed private fire investigation:

(1) Any officer or employee of the United States, this state, or a political subdivision of this state, or an entity organized under section 320.300, RSMo, while engaged in the

performance of the officer's or employee's official duties;

(2) An attorney performing duties as an attorney;

(3) An investigator who is an employee of an insurance company;

(4) Insurers, agents, and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them;

(5) An insurance adjuster; or

(6) An investigator employed by and under the supervision of a licensed attorney while acting within the scope of employment, who does not represent himself or herself to be a licensed private fire investigator.

324.939. 1. Every person desiring to be licensed in this state as a licensed private fire investigator or licensed private fire investigator agency shall make an application to the board. An application for a license pursuant to the provisions of sections 324.930 to 324.965 shall be on a form prescribed by the board 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 that the applicant intends to do business under;

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

(4) Two recent passport photographs of the applicant and two classifiable sets of the applicant's fingerprints;

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

(6) Such other information, evidence, statements, or documents as may be required by the state fire marshal.

2. To be eligible for licensure, the applicant shall:

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

(2) Be a citizen of the United States;

(3) Not have a felony conviction or a conviction of a crime involving moral turpitude;

(4) Provide proof of liability insurance with amount to be no less than one million dollars in coverage; and

(5) Comply with such other qualifications as the board shall require.

For the purposes of sections 324.930 to 324.965, 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 board shall require as a condition of licensure that the applicant:

(1) Successfully complete a course of training approved by the state fire marshal's office;

(2) Pass a written examination as evidence of knowledge of fire investigation. Certification as a fire investigator by the state fire marshal or other agencies approved by the state fire marshal shall constitute passing a written examination;

(3) Provide a background check from an authorized state law enforcement agency. The board shall conduct a complete investigation of the background of each applicant for licensure as a licensed private fire investigator or agency to determine

whether the applicant is qualified for licensure pursuant to sections 324.930 to 324.965; and

(4) Pass any other basic qualification requirements as the board shall outline.

4. The board may deny a request for a license if the applicant has:

(1) Committed any act that, if committed by a licensee, would be grounds for the suspension or revocation of a license pursuant to the provisions of sections 324.930 to 324.965;

(2) 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 the United States for any offense reasonably related to the qualifications, functions, or duties of any profession licensed or regulated under this chapter 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 a sentence is imposed;

(3) Been refused a license pursuant to the provisions of sections 324.930 to 324.965 or had a license revoked in this state or in any other state;

(4) Prior to being licensed, committed, aided, or abetted the commission of any act that requires a license pursuant to sections 324.930 to 324.965; and

(5) Knowingly made any false statement in the application.

5. Every application submitted pursuant to the provisions of sections 324.930 to 324.965 shall be accompanied by a fee as determined by the board as follows:

(1) A separate fee shall be paid for an individual license,

agency license, and employees being licensed to work under an agency license; and

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

6. All fees required pursuant to this section shall be paid to and collected by the division of fire safety and transmitted to the department of revenue for deposit in the state general revenue fund. The board shall set fees at a level to produce revenue that will not substantially exceed or fail to cover the costs and expenses of administering sections 324.930 to 324.965. These fees shall be exclusive and no municipality may require any person licensed pursuant to sections 324.930 to 324.965 to furnish any bond or pass any examination to practice as a licensed private fire investigator.

7. Renewal of a license shall be made in the manner prescribed by the board, including the payment of a renewal fee.

324.942. 1. The board shall determine the form of the license which shall include:

- (1) The name of the licensee;
- (2) The name under which the licensee is to operate; and
- (3) The 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.

3. Upon the issuance of the license, a pocket card of such size, design, and content as determined by the board shall be issued to each licensee. Such card shall be evidence that the

licensee is licensed pursuant to the provisions of sections 324.930 to 324.965. 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 for cancellation.

324.945. 1. The owner of a company seeking any agency license must first be licensed as a private fire investigator. The agency may hire individuals to work for the agency whom shall conduct investigations for such agency only. Persons hired shall make application as determined by the board and shall meet all requirements set forth by the board. They shall not be required to meet any experience requirements and shall be allowed to begin work immediately. Employees shall attend an approved training program within a time to be determined by the board and will be under the direct supervision of a licensed private fire investigator until all requirements are met.

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. A licensee is legally responsible for any acts committed by the licensee's employees or agents which are in violation of sections 324.930 to 324.965. A person receiving an agency license shall directly manage the agency and employees.

3. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board. 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.

324.948. No licensee or officer, director, partner, associate, or employee of the licensee 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 identification card, or make any statement with the intent to give an impression that such person is connected in any way with the federal or state government or any political subdivision of the federal or 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;

(6) Allow anyone other than the individual licensed by the state to conduct an investigation; or

(7) Assign or transfer a license issued pursuant to sections 324.930 to 324.965.

324.951. 1. Every advertisement by a licensee soliciting or advertising business shall contain the licensee's name and address as they appear in the records of the board.

2. A licensee shall not advertise or conduct business from any address in this state 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 324.930 to 324.965 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.

324.954. 1. The board may deny a request for a license, or may suspend or revoke a license issued pursuant to sections 324.930 to 324.965, or censure or place a license on probation if, after notice and opportunity for hearing in accordance with the provisions of chapter 621, RSMo, the board determines 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 provisions of sections 324.930 to 324.965;

(3) Violated any rule of the board adopted pursuant to the authority contained in sections 324.930 to 324.965;

(4) Been convicted of a felony or been convicted of a crime involving moral turpitude;

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

(6) Committed or permitted any employee to commit any act

while the license was expired that could be cause for the suspension or revocation of any license, or grounds for the denial of an application for a license;

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

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

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

(10) Committed any act that is grounds for denial of an application for a license pursuant to the provisions of sections 324.930 to 324.965.

2. Any person whose license status is affected by any official action of the state fire marshal or board of licensed private fire investigator examiners, including, but not limited to, revocation, suspension, failure to renew a license, or refusal to grant a license, may seek a determination by the administrative hearing commission pursuant to the provisions of section 621.045, RSMo. 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, provided 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 on such terms and conditions as the 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.

3. A licensed private fire investigator 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 from within which the licensed private fire investigator agency shall identify an acceptable person who is qualified to assume control of the agency as required by the board.

324.957. 1. For the purpose of enforcing the provisions of sections 324.930 to 324.965, or in making investigations relating to any violation thereof or to the character, competency, or integrity of the applicants or licensees, or for the purpose of investigating the business, business practices, or business methods of any applicant or licensee, or of the officers, directors, partners, or associates 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 that the board deems relative to the inquiry. A subpoena issued pursuant to this section shall be governed by this state's rules of civil procedure.

2. Any person subpoenaed who fails to obey such subpoena without reasonable cause or who without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualifications of such applicant or licensee or such applicant's or licensee's business, business practices, or

methods or such violations shall be guilty of a class A misdemeanor.

3. The board may administer an oath 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. The testimony of witnesses in any investigative proceeding shall be under oath and willful. False swearing in such proceeding shall be perjury.

324.960. 1. The board shall adopt such rules and regulations as may be necessary to carry out the provisions of sections 324.930 to 324.965.

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, 2004, shall be invalid and void.

324.965. Any person who knowingly falsifies the fingerprints or photographs or other information requested to be submitted pursuant to sections 324.930 to 324.965 is guilty of a class D felony. Any person who violates any other provisions of sections 324.930 to 324.965 is guilty of a class A misdemeanor.

328.075. 1. Any person desiring to practice as an apprentice for barbering in this state shall apply to the board, registered as an apprentice 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 seventeen years of age.

2. Any person desiring to act as an apprentice supervisor for barbering in this state shall first possess a license to practice the occupation of barbering, apply to the board, pay the appropriate fees, complete an eight-hour apprentice supervision instruction course certified by the board, and be issued a certificate of registration as a barber apprentice supervisor prior to supervising barber apprentices.

3. The board may promulgate rules establishing the criteria for the supervision and training of barber apprentices.

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, 2004, shall be invalid and void.

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 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, the barber apprenticeship, 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.

332.086. 1. There is hereby established a five-member "Advisory Commission for Dental Hygienists", composed of dental hygienists appointed by the governor as provided in subsection 2 of this section and the dental hygienist member of the Missouri dental board, which shall guide, advise and make recommendations to the Missouri dental board. The commission shall:

(1) Recommend the educational requirements to be registered as a dental hygienist;

(2) Annually review the practice act of dental hygiene;

(3) Make recommendations to the Missouri dental board regarding the practice, licensure, examination and discipline of dental hygienists; and

(4) Assist the board in any other way necessary to carry out the provisions of this chapter as they relate to dental hygienists.

2. The members of the commission shall be appointed by the governor with the advice and consent of the senate. Each member of the commission shall be a citizen of the United States and a resident of Missouri for one year and shall be a dental hygienist registered and currently licensed pursuant to this chapter.

Members of the commission who are not also members of the

Missouri dental board shall be appointed for terms of five years, except for the members first appointed, one of which shall be appointed for a term of two years, one shall be appointed for a term of three years, one shall be appointed for a term of four years and one shall be appointed for a term of five years. The dental hygienist member of the Missouri dental board shall become a member of the commission and shall serve a term concurrent with the member's term on the dental board. All members of the initial commission shall be appointed by April 1, 2002. Members shall be chosen from lists submitted by the director of the division of professional registration. Lists of dental hygienists submitted to the governor may include names submitted to the director of the division of professional registration by the president of the Missouri Dental Hygienists Association.

3. The commission shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The commission shall meet in conjunction with the dental board meetings or no more than fourteen days prior to regularly scheduled dental board meetings. Additional meetings shall require a majority vote of the commission. A quorum of the commission shall consist of a majority of its members.

4. Members of the commission shall ~~[serve without]~~ receive as compensation [but] an amount set by the Missouri dental board not to exceed fifty dollars for each day devoted to the duties of the commission and shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties on the commission and in attending meetings of the Missouri dental board. The Missouri dental board shall provide

all necessary staff and support services as required by the commission to hold commission meetings, to maintain records of official acts, and to conduct all other business of the commission.

334.100. 1. The board may refuse to issue or renew any certificate of registration or authority, permit or license required pursuant to this chapter 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. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefore, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period,

the right to seek review of the board's decision shall be considered as waived.

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 certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, 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 under 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 for any offense involving moral turpitude, whether or not sentence is imposed;

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

(4) Misconduct, fraud, misrepresentation, dishonesty,

unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or 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; willfully and continually overcharging or overtreating patients; or charging for visits to the physician's office which did not occur unless the services were contracted for in advance, or for services which were not rendered or documented in the patient's records;

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

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

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

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

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

(g) Final disciplinary action by any professional medical or osteopathic association or society or licensed hospital or

medical staff of such hospital in this or any other state or territory, whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension, limitation, or restriction of the person's license or staff or hospital privileges, failure to renew such privileges or license for cause, or other final disciplinary action, if the action was in any way related to unprofessional conduct, professional incompetence, malpractice or any other violation of any provision of this chapter;

(h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as authorized in section 334.104;

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

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

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

(l) Failure of any applicant or licensee, other than the licensee subject to the investigation, to cooperate with the board during any investigation;

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

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

(o) Violating a probation agreement with this board or any other licensing agency;

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

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

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

member of the applicant's or licensee's profession;

(6) 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;

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

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

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

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

to this chapter; or knowingly performing any act which in any way aids, assists, procures, advises, or encourages any person to practice medicine who is not registered and currently eligible to practice pursuant to this chapter. A physician who works in accordance with standing orders or protocols or in accordance with the provisions of section 334.104 shall not be in violation of this subdivision;

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

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

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

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

(15) 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 as to the need or necessity for or appropriateness of health care services for all patients, or the qualifications of an individual person or persons to diagnose, render, or perform health care services;

(16) Using, or permitting the use of, the person's name

under the designation of "Doctor", "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial exploitation of any goods, wares or merchandise;

(17) Knowingly making or causing to be made a false statement or misrepresentation of a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208, RSMo, or chapter 630, RSMo, or for payment from Title XVIII or Title XIX of the federal Medicare program;

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

(19) Any candidate for licensure or person licensed to practice as a physical therapist, paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary, practicing or offering to practice professional physical therapy independent of the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a dentist pursuant to chapter 332, RSMo, [or] as a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing;

(20) Any candidate for licensure or person licensed to practice as a physical therapist, treating or attempting to treat ailments or other health conditions of human beings other than by

professional physical therapy and as authorized by sections 334.500 to 334.620;

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

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

(23) Revocation, suspension, limitation or restriction of any kind whatsoever of any controlled substance authority, whether agreed to voluntarily or not;

(24) For a physician to operate, conduct, manage, or

establish an abortion facility, or for a physician to perform an abortion in an abortion facility, if such facility comes under the definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, RSMo, and such facility has failed to obtain or renew a license as an ambulatory surgical center;

(25) Being unable to practice as a physician and surgeon or with a specialty with reasonable skill and safety to patients by reasons of medical or osteopathic incompetency, or because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical condition. The following shall apply to this subdivision:

(a) In enforcing this subdivision the board shall, after a hearing by the board, upon a finding of probable cause, require a physician to submit to a reexamination for the purpose of establishing his or her competency to practice as a physician or surgeon or with a specialty conducted in accordance with rules adopted for this purpose by the board, including rules to allow the examination of the pattern and practice of such physician's or surgeon's professional conduct, or to submit to a mental or physical examination or combination thereof by at least three physicians, one selected by the physician compelled to take the examination, one selected by the board, and one selected by the two physicians so selected who are graduates of a professional school approved and accredited as reputable by the association which has approved and accredited as reputable the professional school from which the licentiate graduated. However, if the physician is a graduate of a medical school not accredited by the American Medical Association or American Osteopathic Association,

then each party shall choose any physician who is a graduate of a medical school accredited by the American Medical Association or the American Osteopathic Association;

(b) For the purpose of this subdivision, every physician licensed pursuant to this chapter is deemed to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physician's testimony or examination reports on the ground that the examining physician's testimony or examination is privileged;

(c) In addition to ordering a physical or mental examination to determine competency, the board may, notwithstanding any other law limiting access to medical or other health data, obtain medical data and health records relating to a physician or applicant without the physician's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the physician, by registered mail, addressed to the physician at the physician's last known address. Failure of a physician to designate an examining physician to the board or failure to submit to the examination when directed shall constitute an admission of the allegations against the physician, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond the physician's control. A physician whose right to practice has been affected under this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that the physician can resume the

competent practice as a physician and surgeon with reasonable skill and safety to patients;

(e) In any proceeding pursuant to this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding. Proceedings under this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) 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 disciplinary measures set forth in subsection 4 of this section.

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

4. 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 board may, singly or in combination, warn, 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 ten years, or may suspend the person's license, certificate or permit for a period not to exceed three years, or restrict or limit the person's license, certificate or permit for an indefinite period of time, or revoke the person's license, certificate, or permit, or

administer a public or private reprimand, or deny the person's application for a license, or permanently withhold issuance of a license or require the person to submit to the care, counseling or treatment of physicians designated by the board at the expense of the individual to be examined, or require the person to attend such continuing educational courses and pass such examinations as the board may direct.

5. In any order of revocation, the board may provide that the person may not apply for reinstatement of the person's license 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.

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

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

and a patient.

334.506. 1. Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from providing educational resources and training, developing fitness or wellness programs for asymptomatic persons, or providing screening or consultative services within the scope of physical therapy practice without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, except that no physical therapist shall initiate treatment for a new injury or illness without the prescription or direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing.

2. Nothing in this chapter shall prevent a physical therapist, whose license is in good standing, from examining and treating, without the prescription and direction of a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician,

dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, any person with a recurring, self-limited injury within one year of diagnosis by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, or any person with a chronic illness that has been previously diagnosed by a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, except that a physical therapist shall contact the patient's current physician, chiropractor, dentist, or podiatrist, within seven days of initiating physical therapy services, pursuant to this subsection, shall not change an existing physical therapy referral available to the physical therapist without approval of the patient's current physician, chiropractor, dentist, or podiatrist, and shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, any patient whose medical condition

should, at the time of examination or treatment, be determined to be beyond the scope of practice of physical therapy. A physical therapist shall refer to a person licensed and registered as a physician and surgeon pursuant to this chapter, as a chiropractor pursuant to chapter 331, RSMo, as a dentist pursuant to chapter 332, RSMo, or as a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, any person whose condition, for which physical therapy services are rendered pursuant to this subsection, has not been documented to be progressing toward documented treatment goals after six visits or fourteen days, whichever shall come first. If the person's condition for which physical therapy services are rendered under this subsection shall be documented to be progressing toward documented treatment goals, a physical therapist may continue treatment without referral from a physician, chiropractor, dentist or podiatrist, whose license is in good standing. If treatment rendered under this subsection is to continue beyond thirty days, a physical therapist shall notify the patient's current physician, chiropractor, dentist, or podiatrist before continuing treatment beyond the thirty-day limitation. A physical therapist shall also perform such notification before continuing treatment rendered under this subsection for each successive period of thirty days.

3. The provision of physical therapy services of evaluation and screening pursuant to this section, shall be limited to a physical therapist, and any authority for evaluation and screening granted within this section, may not be delegated.

Upon each reinitiation of physical therapy services, a physical therapist shall provide a full physical therapy evaluation prior to the reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the provisions of subsection 2 of this section, may be delegated by physical therapists to physical therapist assistants only if the patient's current physician, chiropractor, dentist, or podiatrist has been so informed as part of the physical therapist's seven-day notification upon reinitiation of physical therapy services as required in subsection 2 of this section. Nothing in this subsection shall be construed as to limit the ability of physical therapists or physical therapist assistants to provide physical therapy services in accordance with the provisions of this chapter, and upon the referral of a physician and surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing. Nothing in this subsection shall prohibit a person licensed or registered as a physician or surgeon licensed pursuant to this chapter, a chiropractor pursuant to chapter 331, RSMo, a dentist pursuant to chapter 332, RSMo, or a podiatrist pursuant to chapter 330, RSMo, or any licensed and registered physician, dentist, or podiatrist practicing in another jurisdiction, whose license is in good standing, from acting within the scope of their practice as defined by the applicable chapters of RSMo.

4. No person licensed to practice, or applicant for

licensure, as a physical therapist or physical therapist assistant shall make a medical diagnosis.

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.]

3. 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.

4. The board may waive the provisions of subsection 3 if the applicant has met one of the following provisions:

(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, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada;

(2) The applicant has failed the licensure examination three times or more and then obtains a professional degree in physical therapy at a level higher than previously completed, the applicant can sit for the licensure examination three additional times.

5. 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.] 6. 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.]

334.540. 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.

4. The board may waive the provisions of subsection 3 if the applicant has met one of the following provisions:

(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, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia or Canada;

(2) The applicant has failed the licensure examination three times or more and then obtains a professional degree in

physical therapy at a level higher 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 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; 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 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.

3. The board may issue a temporary license to any first-time applicant for licensure by examination if such person submits an agreement-to-supervise form which is signed by the applicant's supervising physical therapist.] An applicant who has not been previously examined in another jurisdiction and meets the qualifications of subsection 1 of section 334.530, may pay a temporary license fee and submit an agreement-to-supervise

form, which is signed by the applicant's supervising physical therapist, to the board and obtain without examination a nonrenewable temporary license. Such 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. The temporary license shall expire on either the date the applicant receives the results of the applicant's initial examination or within ninety days of its issuance, whichever occurs first.

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 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 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.

5. The board may waive the provisions of subsection 4 if

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, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia, or Canada.

6. 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.] 7. 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.] 8. 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. 1. 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.]

2. 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.

3. The board may waive the provisions of subsection 1 if

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, the District of Columbia and no license issued to the applicant has been disciplined or limited in any state or territory of the United States, the District of Columbia, or Canada.

4. 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. [Upon the applicant paying a temporary fee, the board shall issue, without examination, a 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. The temporary license may be renewed at the discretion of the board and upon payment of a temporary license fee.] An applicant who has not been previously examined in another jurisdiction and meets the qualifications of subsection 1 of section 334.655 may pay a temporary license fee and submit an agreement-to-supervise form which is signed by the applicant's supervising physical therapist to the board and

obtain without examination a nonrenewable temporary license. Such temporary licensee may only practice under the supervision of a licensed physical therapist. A licensed physical therapist shall supervise no more than one temporary licensee. The board shall define the scope of such supervision by rules and regulations. The temporary license shall expire on either the date the applicant receives the results of the applicant's initial examination or within ninety days of its issuance, whichever occurs first.

335.212. As used in sections 335.212 to 335.242, the following terms mean:

- (1) "Board", the Missouri state board of nursing;
- (2) "Department", the Missouri department of health and senior services;
- (3) "Director", director of the Missouri department of health and senior services;
- (4) "Eligible student", a resident who has made application to be a full-time student in a formal course of instruction leading to an associate degree, a diploma, a bachelor of science, or a master of science in nursing or leading to the completion of educational requirements for a licensed practical nurse;
- (5) "Participating school", an institution within this state which is approved by the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242, having a nursing department and offering a course of instruction based on nursing theory and clinical nursing experience;
- (6) "Qualified applicant", an eligible student approved by

the board for participation in the professional and practical nursing student loan program established by sections 335.212 to 335.242;

(7) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any hospital as defined in section 197.020, RSMo, or public or nonprofit agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section;

(8) "Resident", any person who has lived in this state for one or more years for any purpose other than the attending of an educational institution located within this state.

335.245. As used in sections 335.245 to 335.259, the following terms mean:

(1) "Department", the Missouri department of health and senior services;

(2) "Eligible applicant", a Missouri licensed nurse who has attained either an associate degree, a diploma, a bachelor of science, or graduate degree in nursing from an accredited institution approved by the board of nursing or a student nurse in the final year of a full-time baccalaureate school of nursing leading to a baccalaureate degree or graduate nursing program leading to a master's degree in nursing and has agreed to serve in an area of defined need as established by the department;

(3) "Participating school", an institution within this state which grants an associate degree in nursing, grants a bachelor or master of science degree in nursing or provides a diploma nursing program which is accredited by the state board of nursing, or a regionally accredited institution in this state which provides a bachelor of science completion program for registered professional nurses;

(4) "Qualified employment", employment on a full-time basis in Missouri in a position requiring licensure as a licensed practical nurse or registered professional nurse in any hospital as defined in section 197.020, RSMo, or public or nonprofit agency, institution, or organization located in an area of need as determined by the department of health and senior services. Any forgiveness of such principal and interest for any qualified applicant engaged in qualified employment on a less than full-time basis may be prorated to reflect the amounts provided in this section.

337.085. 1. There is hereby established in the state treasury a fund to be known as the "State Committee of Psychologists Fund". All fees of any kind and character authorized under sections 337.010 to 337.090 to be charged by the committee or division shall be collected by the director of the division of professional registration and shall be transmitted to the department of revenue for deposit in the state treasury for credit to this fund. Such funds, upon appropriation, shall be disbursed only in payment of expenses of maintaining the committee and for the enforcement of the provisions of law concerning professions regulated by the committee. No other

money shall be paid out of the state treasury for carrying out these provisions. Warrants shall be issued on the state treasurer for payment out of the fund.

2. 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 or, if the committee requires by rule renewal less frequently than yearly then three times 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.

3. All funds pertaining to the Missouri state committee of psychologists deposited in the state treasury to the credit of the committee of registration for the healing arts fund shall be transferred from that fund to the state committee of psychologists fund by the division director.

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 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.

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 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 date, the applicant provides written application and the payment of the registration 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, upon payment of a fee.

4. The committee shall set the amount of the fees which sections 337.500 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 shall not substantially exceed the cost and expense of administering the provisions of sections 337.500 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".

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 or, if the committee requires by rule renewal less frequently than yearly then three times 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.

337.615. 1. Each applicant for licensure as a clinical social worker shall furnish evidence to the committee that:

(1) The applicant has a master's degree from a college or university program of social work accredited by the council of social work education or a doctorate degree from a school of social work acceptable to the committee;

(2) The applicant has twenty-four months of supervised clinical experience acceptable to the committee, as defined by rule;

(3) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be promulgated by rule of the committee;

(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 requirements as this state for clinical social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.612.

3. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to 337.639 and who furnishes evidence satisfactory to the committee 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. The committee shall issue a provisional clinical social worker license to any applicant who meets all requirements of subdivisions (1), (3) and (4) of subsection 1 of this section, but who has not completed the twenty-four months of supervised clinical experience required by subdivision (2) of subsection 1 of this section, and such applicant may reapply for licensure as a clinical social worker upon completion of the twenty-four months of supervised clinical experience.

337.665. 1. Each applicant for licensure as a baccalaureate social worker shall furnish evidence to the committee that:

(1) The applicant has a baccalaureate degree in social work from an accredited social work degree program approved by the

council of social work education;

(2) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be determined by the state committee for social work;

(3) The applicant has completed three thousand hours of supervised baccalaureate experience with a licensed clinical social worker or licensed baccalaureate social worker in no less than twenty-four and no more than forty-eight consecutive calendar months;

(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;

(5) The applicant has submitted a written application on forms prescribed by the state board;

(6) The applicant has submitted the required licensing fee, as determined by the division.

2. Any applicant who answers in the affirmative to any question on the application that relates to possible grounds for denial of licensure pursuant to section 337.680 shall submit a sworn affidavit setting forth in detail the facts which explain such answer and copies of appropriate documents related to such answer.

3. 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 requirements as this state for baccalaureate social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.662.

4. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.650 to 337.689 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a one-time provisional baccalaureate social worker license to any applicant who meets all requirements of subdivisions (1), (2), (4), (5) and (6) of subsection 1 of this section, but who has not completed the supervised baccalaureate experience required by subdivision (3) of subsection 1 of this section, and such applicant may apply for licensure as a baccalaureate social worker upon completion of the supervised baccalaureate experience.

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 or, if the division requires by rule renewal less frequently than yearly then three times the appropriation from the 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.

338.013. 1. Any person desiring to assist a pharmacist in the practice of pharmacy as defined in this chapter shall apply to the board of pharmacy for registration as a pharmacy technician. [Such applicant shall not have engaged in conduct or behavior determined to be grounds for discipline pursuant to this chapter.] Such applicant shall be, at a minimum, legal working age and shall forward to the board the appropriate fee and written application on a form provided by the board. Such registration shall be the sole authorization permitted to allow persons to assist licensed pharmacists in the practice of pharmacy as defined in this chapter.

2. The board may refuse to issue a certificate of registration as a pharmacy technician to an applicant that has been adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, to a violation of any state, territory or federal drug law, or to any felony or has violated any provision of subsection 2 of section 338.055. Alternately, the board may issue such person a registration, but may authorize the person to work as a pharmacy technician provided that person adheres to certain terms and conditions imposed by the board. The board shall place on the employment disqualification list the

name of an applicant who the board has refused to issue a certificate of registration as a pharmacy technician, or the name of a person who the board has issued a certificate of registration as a pharmacy technician but has authorized to work under certain terms and conditions. The board shall notify the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

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

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

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

this subsection.

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

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

[6.] 8. After an investigation and a determination has been made to place a person's name on the employment disqualification list, the board shall notify such person in writing mailed to the person's last known address that:

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

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

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

(4) The person's right[s and the procedure to challenge the inclusion of the person's name on the disqualification list] to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.

[7.] 9. [If no reply has been received by the board within thirty days after the board mailed the notice, the board may include the name of such person on such disqualification list.] The length of time a person's name shall remain on the disqualification list shall be determined by the board. [The board may, also, provide for alternative sanctions, including, but not limited to, conditional employment based on a requirement that the person submit certain documentation within a certain period of time. Any person who receives notice that the board intends to place the person's name on the employment disqualification list may file an appeal with the administrative hearing commission as provided in chapter 621, RSMo.]

[8.] 10. No hospital or licensed pharmacy shall knowingly employ any person whose name appears on the employee disqualification list, except that a hospital or licensed pharmacy may employ a person whose name appears on the employment disqualification list but the board has authorized to work under certain terms and conditions. Any hospital or licensed pharmacy shall report to the board any final disciplinary action taken against a pharmacy technician or the voluntary resignation of a

pharmacy technician against whom any complaints or reports have been made which might have led to final disciplinary action that can be a cause of action for discipline by the board as provided for in subsection 2 of section 338.055, RSMo. Compliance with the foregoing sentence may be interposed as an affirmative defense by the employer. Any hospital or licensed pharmacy which reports to the board in good faith shall not be liable for civil damages.

338.055. 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter 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 his 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 certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, 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 under 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 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;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, 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;

(5) ~~[Incompetency]~~ Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of 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 of any lawful rule or regulation adopted pursuant to this chapter;

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

(8) Denial of licensure to an applicant or disciplinary action against an applicant or the holder of a license or other

right to practice any profession regulated by this chapter granted by another state, territory, federal agency, or country whether or not voluntarily agreed to by the licensee or applicant, including but not limited to, surrender of the license upon grounds for which [revocation or suspension] denial or discipline is authorized in this state;

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

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

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

(12) Failure to display a valid certificate or license if so required by this chapter 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) Violation of the drug laws or rules and regulations of this state, any other state or the federal government;

(16) The intentional act of substituting or otherwise changing the content, formula or brand of any drug prescribed by written or oral prescription without prior written or oral approval from the prescriber for the respective change in each prescription; provided, however, that nothing contained herein

shall prohibit a pharmacist from substituting or changing the brand of any drug as provided under section 338.056, and any such substituting or changing of the brand of any drug as provided for in section 338.056 shall not be deemed unprofessional or dishonorable conduct unless a violation of section 338.056 occurs;

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

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, 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, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit. The board may impose additional discipline on a licensee, registrant, or permittee found to have violated any disciplinary terms previously imposed under this section or by agreement. The additional discipline may include, singly or in combination, censure, placing the licensee, registrant, or permittee named in the complaint on additional probation on such terms and conditions as the board deems appropriate, which additional probation shall not exceed five years, or suspension for a period not to exceed three years, or revocation of the license, certificate, or permit.

4. If the board concludes that a [pharmacist] licensee or registrant has committed an act or is engaging in a course of conduct which would be grounds for disciplinary action which 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 activities which give rise to the danger and the nature of the proposed restriction or suspension of the [pharmacist's] licensee's or registrant's license. Within fifteen days after service of the complaint on the [pharmacist] licensee or registrant, the administrative hearing commission shall conduct a preliminary hearing to determine whether the alleged activities of the [pharmacist] licensee or registrant appear to constitute a clear and present danger to the public health and safety which justify that the [pharmacist's] licensee's or registrant's license or registration be immediately restricted or suspended. The burden of proving that the actions of a [pharmacist is] licensee or registrant constitute a clear and present danger to the public health and safety shall be upon the state board of pharmacy. 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 the [pharmacist's] licensee's or registrant's license, such temporary authority of the board shall become final authority if there is no request by the [pharmacist] licensee or registrant for a full

hearing within thirty days of the preliminary hearing. The administrative hearing commission shall, if requested by the [pharmacist] licensee or registrant 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.

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

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

suspend, for a period not to exceed three years, or revoke the license, certificate, registration or permit.

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

338.145. 1. The president of the board may, upon majority vote of the board, administer oaths, issue subpoenas duces tecum, and require production of documents and records from any person or entity not licensed by the board when such documents and records are not otherwise available to the board pursuant to the board's inspection authority granted in sections 338.100 and 338.150. 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.

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 records reside or may be found, for an order upon any person who shall fail to obey a subpoena duces tecum to show cause why such subpoena duces tecum 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 duces tecum in the same manner as though the subpoena 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 information, or cooperates in any manner with the board, or assists the board in any manner, including, but not limited to, any applicant or licensee, whether or not the applicant or licensee is the subject of an investigation, record custodians, consultants, attorneys, board members, agents, employees, staff or expert witnesses, in the course of any investigation, hearing or other proceeding conducted by or before the board pursuant to the provisions of this chapter shall not be subject to an action for civil damages as a result of providing such information and cooperating with the board.

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

3. No licensee, registrant, permit holder, or other individual or entity subject to the board's jurisdiction who, in good faith, fills a prescription presented by the board as part of an inspection or investigation shall, by virtue of that act, be in violation of this chapter or the drug laws of this state,

provided the prescription is otherwise prepared and dispensed in a lawful manner.

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

- (1) Class A: Community/ambulatory;
- (2) Class B: Hospital outpatient pharmacy;
- (3) Class C: Long-term care;
- (4) Class D: [Home health care] Non-sterile compounding;
- (5) Class E: Radio pharmaceutical;
- (6) Class F: Renal dialysis;
- (7) Class G: Medical gas;
- (8) Class H: Sterile product compounding;
- (9) Class I: Consultant services;
- (10) Class J: Shared service;
- (11) Class K: Internet.

2. Application for such permit or license shall be made upon a form furnished to the applicant; 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 same, subject to the penalties of making a false affidavit or declaration; and shall be accompanied by a permit or license fee. The permit or license issued shall be renewable upon payment of a renewal fee. Separate applications shall be made and separate permits or licenses

required for each pharmacy opened, established, operated, or maintained by the same owner.

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

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 account in a financial institution which shall be designated an escrow or trust account. 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 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.

2. Each broker shall notify the commission [of the name] 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. A broker shall notify the commission within ten business days of any change of his or her intent to maintain an escrow account, the financial institution, account numbers, or change in account status.

3. In conjunction with each escrow or trust account a broker shall maintain 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 provided to 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 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.

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 assistants designated by the attorney general, proceed in the name of the commission to institute suit to enjoin any act or acts in violation of this section.

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.

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.

339.710. 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.

345.015. As used in sections 345.010 to 345.080, the following terms mean:

(1) "Audiologist", a person who is licensed as an audiologist pursuant to sections 345.010 to 345.080 to practice audiology;

(2) "Audiology aide", a person who is registered as an

audiology aide by the board, who does not act independently but works under the direction and supervision of a licensed audiologist. Such person assists the audiologist with activities which require an understanding of audiology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

(a) Be at least eighteen years of age;

(b) Furnish evidence of the person's educational qualifications which shall be at a minimum:

a. Certification of graduation from an accredited high school or its equivalent; and

b. On-the-job training;

(c) Be employed in a setting in which direct and indirect supervision are provided on a regular and systematic basis by a licensed audiologist. However, the aide shall not administer or interpret hearing screening or diagnostic tests, fit or dispense hearing instruments, make ear impressions, make diagnostic statements, determine case selection, present written reports to anyone other than the supervisor without the signature of the supervisor, make referrals to other professionals or agencies, use a title other than speech-language pathology aide or clinical audiology aide, develop or modify treatment plans, discharge clients from treatment or terminate treatment, disclose clinical information, either orally or in writing, to anyone other than the supervising speech-language pathologist/audiologist, or perform any procedure for which he or she is not qualified, has not been adequately trained or both;

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

(4) "Clinical fellowship", the supervised professional employment period following completion of the academic and practicum requirements of an accredited training program as defined in sections 345.010 to 345.080;

(5) "Commission", the advisory commission for speech-language pathologists and audiologists;

(6) "Hearing instrument" or "hearing aid", any wearable device or instrument designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments or accessories, including ear molds, but excluding batteries, cords, receivers and repairs;

(7) "Person", any individual, organization, or corporate body, except that only individuals may be licensed pursuant to sections 345.010 to 345.080;

(8) "Practice of audiology":

(a) The application of accepted audiologic principles, methods and procedures for the measurement, testing, interpretation, appraisal and prediction related to disorders of the auditory system, balance system or related structures and systems;

(b) Provides consultation, counseling to the patient, client, student, their family or interested parties;

(c) Provides academic, social and medical referrals when appropriate;

(d) Provides for establishing goals, implementing strategies, methods and techniques, for habilitation,

rehabilitation or aural rehabilitation, related to disorders of the auditory system, balance system or related structures and systems;

(e) Provides for involvement in related research, teaching or public education;

(f) Provides for rendering of services or participates in the planning, directing or conducting of programs which are designed to modify audition, communicative, balance or cognitive disorder, which may involve speech and language or education issues;

(g) Provides and interprets behavioral and neurophysiologic measurements of auditory balance, cognitive processing and related functions, including intraoperative monitoring;

(h) Provides involvement in any tasks, procedures, acts or practices that are necessary for evaluation of audition, hearing, training in the use of amplification or assistive listening devices;

(i) Provides selection and assessment of hearing instruments;

(j) Provides for taking impressions of the ear, making custom ear molds, ear plugs, swim molds and industrial noise protectors;

(k) Provides assessment of external ear and cerumen management;

(l) Provides advising, fitting, mapping assessment of implantable devices such as cochlear or auditory brain stem devices;

(m) Provides information in noise control and hearing

conservation including education, equipment selection, equipment calibration, site evaluation and employee evaluation;

(n) Provides performing basic speech-language screening test;

(o) Provides involvement in social aspects of communication, including challenging behavior and ineffective social skills, lack of communication opportunities;

(p) Provides support and training of family members and other communication partners for the individual with auditory balance, cognitive and communication disorders;

(q) Provides aural rehabilitation and related services to individuals with hearing loss and their families;

(r) Evaluates, collaborates and manages audition problems in the assessment of the central auditory processing disorders and providing intervention for individuals with central auditory processing disorders;

(s) Develops and manages academic and clinical problems in communication sciences and disorders;

(t) Conducts, disseminates and applies research in communication sciences and disorders;

(9) "Practice of speech-language pathology":

(a) Provides screening, identification, assessment, diagnosis, treatment, intervention, including but not limited to, prevention, restoration, amelioration and compensation, and follow-up services for disorders of:

a. Speech: articulation, fluency, voice, including respiration, phonation and resonance;

b. Language, involving the parameters of phonology,

morphology, syntax, semantics and pragmatic; and including disorders of receptive and expressive communication in oral, written, graphic and manual modalities;

c. Oral, pharyngeal, cervical esophageal and related functions, such as, dysphagia, including disorders of swallowing and oral functions for feeding; orofacial myofunctional disorders;

d. Cognitive aspects of communication, including communication disability and other functional disabilities associated with cognitive impairment;

e. Social aspects of communication, including challenging behavior, ineffective social skills, lack of communication opportunities;

(b) Provides consultation and counseling and makes referrals when appropriate;

(c) Trains and supports family members and other communication partners of individuals with speech, voice, language, communication and swallowing disabilities;

(d) Develops and establishes effective augmentative and alternative communication techniques and strategies, including selecting, prescribing and dispensing of augmentative aids and devices; and the training of individuals, their families and other communication partners in their use;

(e) Selects, fits and establishes effective use of appropriate prosthetic/adaptive devices for speaking and swallowing, such as tracheoesophageal valves, electrolarynges, speaking valves;

(f) Uses instrumental technology to diagnose and treat

disorders of communication and swallowing, such as videofluoroscopy, nasendoscopy, ultrasonography and stroboscopy;

(g) Provides aural rehabilitative and related counseling services to individuals with hearing loss and to their families;

(h) Collaborates in the assessment of central auditory processing disorders in cases in which there is evidence of speech, language or other cognitive communication disorders; provides intervention for individuals with central auditory processing disorders;

(i) Conducts pure-tone air conduction hearing screening and screening tympanometry for the purpose of the initial identification or referral;

(j) Enhances speech and language proficiency and communication effectiveness, including but not limited to, accent reduction, collaboration with teachers of English as a second language and improvement of voice, performance and singing;

(k) Trains and supervises support personnel;

(l) Develops and manages academic and clinical programs in communication sciences and disorders;

(m) Conducts, disseminates and applies research in communication sciences and disorders;

(n) Measures outcomes of treatment and conducts continuous evaluation of the effectiveness of practices and programs to improve and maintain quality of services;

(10) "Speech-language pathologist", a person who is licensed as a speech-language pathologist pursuant to sections 345.010 to 345.080; who engages in the practice of speech-language pathology as defined in sections 345.010 to

345.080;

(11) "Speech-language pathology aide", a person who is registered as a speech-language aide by the board, who does not act independently but works under the direction and supervision of a licensed speech-language pathologist. Such person assists the speech-language pathologist with activities which require an understanding of speech-language pathology but do not require formal training in the relevant academics. To be eligible for registration by the board, each applicant shall submit a registration fee, be of good moral and ethical character; and:

(a) Be at least eighteen years of age;

(b) Furnish evidence of the person's educational qualifications which shall be at a minimum:

a. Certification of graduation from an accredited high school or its equivalent; and

b. On-the-job training;

(c) Be employed in a setting in which direct and indirect supervision is provided on a regular and systematic basis by a licensed speech-language pathologist. However, the aide shall not administer or interpret hearing screening or diagnostic tests, fit or dispense hearing instruments, make ear impressions, make diagnostic statements, determine case selection, present written reports to anyone other than the supervisor without the signature of the supervisor, make referrals to other professionals or agencies, use a title other than speech-language pathology aide or clinical audiology aide, develop or modify treatment plans, discharge clients from treatment or terminate treatment, disclose clinical information, either orally or in

writing, to anyone other than the supervising speech-language pathologist/audiologist, or perform any procedure for which he or she is not qualified, has not been adequately trained or both;

(12) "Speech-language pathology assistant", a person who is registered as a speech-language pathology assistant by the board, who does not act independently but works under the direction and supervision of a licensed speech-language pathologist and whose activities require both academic and practical training in the field of speech-language pathology although less training than those established by sections 345.010 to 345.080 as necessary for licensing as a speech-language pathologist. To be eligible for registration by the board, each applicant shall submit the registration fee, be of good moral character[;] and[:

(a)] furnish evidence of the person's educational qualifications which meet the following:

[a.] (a) Hold a bachelor's level degree in speech-language pathology [or an associate's degree as a speech-language pathology assistant] from an institution accredited or approved by the Council on Academic Accreditation of the American Speech-Language-Hearing Association in the area of speech-language pathology; and

[b.] (b) Submit official transcripts from one or more accredited colleges or universities presenting evidence of the completion of bachelor's [or associate's] level course work and clinical practicum requirements equivalent to that required or approved by the Council on Academic Accreditation of the American Speech-Language-Hearing Association[;]

(b) The requirements of paragraph (a) of this subdivision

shall be the minimum requirements for a speech-language pathology assistant until January 1, 2005. After January 1, 2005, to be eligible for registration by the board, each applicant shall submit the registration fee, be of good moral character and furnish evidence of the person's educational qualifications which meet the following:

a. Hold a minimum of an associate's degree as a speech-language pathology assistant from an institution accredited or approved by the Council on Academic Accreditation of the American Speech-Language-Hearing Association; and

b. Submit official transcripts from one or more accredited colleges or universities presenting evidence of the completion of course work and clinical practicum requirements equivalent to that required or approved by the Council on Academic Accreditation of the American Speech-Language- Hearing Association;

(c) Furnish evidence of successful completion of a uniform, functionally based proficiency evaluation as determined by the board;

(d) The individuals meeting the requirements prior to January 1, 2005, may be granted continued registration from the board provided the individual meets the following:

a. Furnish evidence of employment in which direct and indirect supervision have been provided on a regular and systematic basis by a licensed speech-language pathologist; and

b. The individual is in good standing with the board with regard to practice prior to January 1, 2005].

346.135. 1. All fees and charges payable pursuant to this

chapter shall be collected by the division and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Hearing Instrument Specialist Fund", which is hereby created. Money in the hearing instrument specialist fund shall be available by appropriation to the council to pay its expenses in administering sections 346.010 to 346.250.

2. Money in the hearing instrument specialist 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 council's funds for the preceding fiscal year or, if the division requires by rule renewal less frequently than yearly then three times the appropriation from the 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 appropriation from the council's funds for the preceding year.

374.695. Sections 374.695 to 374.789 may be known and shall be cited as the "Professional Bail Bondsman and Surety Recovery Agent Licensure Act".

374.700. As used in sections [374.700 to 374.775] 374.695 to 374.789, the following terms shall mean:

(1) "Bail bond agent", a surety agent or an agent of a property bail bondsman who is duly licensed [under] pursuant to the provisions of sections [374.700 to 374.775] 374.695 to 374.789, is employed by and is working under the authority of a licensed general bail bond agent;

(2) "Bail bond or appearance bond", a bond for a specified

monetary amount which is executed by the defendant and a qualified licensee pursuant to sections 374.695 to 374.789, and which is issued to a court or authorized officer as security for the subsequent court appearance of the defendant upon the defendant's release from actual custody pending the appearance;

[(2)] (3) "Department", the department of insurance of the state of Missouri;

[(3)] (4) "Director", the director of the department of insurance;

[(4)] (5) "General bail bond agent", a surety agent or a property bail bondsman, as defined in sections 374.700 to 374.775, who is licensed in accordance with sections 374.700 to 374.775 and who devotes at least fifty percent of his working time to the bail bond business in this state;

(6) "Insurer", any surety insurance company which is qualified by the department to transact surety business in Missouri;

(7) "Licensee", a bail bond agent or a general bail bond agent;

[(5)] (8) "Property bail bondsman", a person who pledges United States currency, United States postal money orders or cashier's checks or other property as security for a bail bond in connection with a judicial proceeding, and who receives or is promised therefor money or other things of value;

[(6)] (9) "Surety bail bond agent", any person appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings, and who receives or is promised money or other things of value therefor;

[(7)] (10) "Surety recovery agent", a person not performing the duties of a sworn peace officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a bail bond agreement, excluding a bail bond agent or general bail bond agent;

(11) "Taking a bail" or "take bail", the acceptance by a person authorized to take bail of the undertaking of a sufficient surety for the appearance of the defendant according to the terms of the undertaking or that the surety will pay to the court the sum specified. Taking of bail or take bail does not include the fixing of the amount of bail and no person other than a competent court shall fix the amount of bail.

374.702. 1. No person shall engage in the bail bond business as a bail bond agent or a general bail bond agent without being licensed as provided in sections 374.695 to 374.775.

2. No judge, attorney, court official, law enforcement officer, state, county, or municipal employee who is either elected or appointed shall be licensed as a bail bond agent or a general bail bond agent.

3. A licensed bail bond agent shall not execute or issue an appearance bond in this state without holding a valid appointment from a general bail bond agent and without attaching to the appearance bond an executed and prenumbered power of attorney referencing the general bail bond agent or insurer.

4. A person licensed as an active bail bond agent shall hold the license for at least two years prior to owning or being an officer of a licensed general bail bond agent.

5. A general bail bond agent shall not engage in the bail bond business:

(1) Without having been licensed as a general bail bond agent pursuant to sections 374.695 to 374.775; or

(2) Except through an agent licensed as a bail bond agent pursuant to sections 374.695 to 374.775.

6. A general bail bond agent shall not permit any unlicensed person to solicit or engage in the bail bond business on the general bail bond agent's behalf, except for individuals who are employed solely for the performance of clerical, stenographic, investigative, or other administrative duties which do not require a license pursuant to sections 374.695 to 374.789.

7. Any person who is convicted of a violation of this section is guilty of a class A misdemeanor. For any subsequent convictions, a person who is convicted of a violation of this section is guilty of a class D felony.

374.705. 1. The department shall administer and enforce the provisions of sections [374.700 to 374.775] 374.695 to 374.789, prescribe the duties of its officers and employees with respect to sections [374.700 to 374.775] 374.695 to 374.789, and promulgate, pursuant to section 374.045 and chapter 536, RSMo, such rules and regulations within the scope and purview of the provisions of sections [374.700 to 374.775] 374.695 to 374.789 as the director considers necessary and proper for the effective administration and interpretation of the provisions of sections [374.700 to 374.775] 374.695 to 374.789.

2. The director shall set the amount of all fees authorized and required by the provisions of sections [374.700 to 374.775]

374.695 to 374.789 by rules and regulations promulgated pursuant to chapter 536, RSMo. All such fees shall be set at a level designed to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections [374.700 to 374.775] 374.695 to 374.789. However, such fees shall not exceed one hundred fifty dollars every two years for biennial licenses and renewable licenses for general bail bond agents as provided for in section 374.710.

374.710. 1. Except as otherwise provided in sections [374.700 to 374.775] 374.695 to 374.775, no person or other entity shall practice as a bail bond agent or general bail bond agent, as defined in section 374.700, in Missouri unless and until the department has issued to him or her a license, to be renewed [each year] every two years as hereinafter provided, to practice as a bail bond agent or general bail bond agent.

2. An applicant for a bail bond and general bail bond agent license shall submit with the application proof that he or she has received twenty-four hours of initial basic training in areas of instruction in subjects determined by the director deemed appropriate to professionals in the bail bonds profession. Bail bond agents and general bail bond agents who are licensed at the date which this act becomes law shall be exempt from such twenty-four hours of initial basic training.

3. In addition to the twenty-four hours of initial basic training to become a bail bond agent or general bail bond agent, there shall be eight hours of biennial continuing education for all bail bond agents and general bail bond agents to maintain their state license. The director shall determine said

appropriate areas of instruction for said biennial continuing education. The department may provide said courses for the initial basic training and the biennial continuing education instructions. If the department provides said courses, the cost shall not exceed two hundred dollars for the initial basic training and one hundred fifty dollars for the biennial continuing education. The department may, under the director, allow state institutions, organizations, associations, or individuals to provide courses for the initial basic training and the biennial continuing education training at no higher costs to the applicants than the department may charge under said section.

4. Upon completion of said basic training or biennial continuing education and the licensee meeting the other requirements as provided under sections 374.695 to 374.789, the director shall issue a two-year license for the bail bond agent or general bail bond agent for a fee not to exceed one hundred fifty dollars.

5. Nothing in sections [374.700 to 374.775] 374.695 to 374.775 shall be construed to prohibit any person from posting or otherwise providing a bail bond in connection with any legal proceeding, provided that such person receives no fee, remuneration or consideration therefor.

374.715. 1. Applications for examination and licensure as a bail bond agent or general bail bond agent shall be in writing and on forms prescribed and furnished by the department, and shall contain such information as the department requires. Each application shall be accompanied by proof satisfactory to the department that the applicant is a citizen of the United States,

is at least twenty-one years of age, has a high school diploma or general education development certificate (GED), is of good moral character, and meets the qualifications for surety on bail bonds as provided by supreme court rule. Each application shall be accompanied by the examination and application fee set by the department. Individuals currently employed as bail bond agents and general bail bond agents shall not be required to meet the education requirements needed for licensure pursuant to this section.

2. In addition, each applicant for licensure as a general bail bond agent shall furnish proof satisfactory to the department that the applicant[,] or, if the applicant is a corporation [or partnership], that each officer [or partner] thereof has completed at least two years as a bail bond agent[, as defined in sections 374.700 to 374.775], and that the applicant possesses liquid assets of at least ten thousand dollars, along with a duly executed assignment of ten thousand dollars to the state of Missouri[, which]. The assignment shall become effective upon the applicant's violating any provision of sections [374.700 to 374.775] 374.695 to 374.789. The assignment required by this section shall be in the form[,] and executed in the manner[,] prescribed by the department. The director may require by regulation conditions by which additional assignments of assets of the general bail bond agent may occur when the circumstances of the business of the general bail bond agent warrants additional funds. However, such additional funds shall not exceed twenty-five thousand dollars.

374.716. 1. Every bail bond agent shall account for each

power of attorney assigned by the general bail bond agent on a weekly basis, if requested by the general bail bond agent in writing, and remit all sums collected and owed to the general bail bond agent pursuant to his or her written contract. The general bail bond agent shall maintain the weekly accounting and remittance records for a period of three years. Such records shall be subject to inspection by the director or his or her designee during regular business hours or at other reasonable times.

2. For every bond written in this state, the licensee shall provide to the principal a copy of the bail contract.

374.717. No insurer or licensee, court, or law enforcement officer shall:

(1) Pay a fee or rebate or give or promise anything of value in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond to:

(a) A jailer, police officer, peace officer, committing judge, or any other person who has power to arrest or to hold in custody any person; or

(b) Any public official or public employee;

(2) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(3) Pay a fee or rebate or give anything of value to the principal or anyone on the principal's behalf;

(4) Accept anything of value from a principal except the premium and expenses incurred, provided that the licensee shall be permitted to accept collateral security of other indemnity

from the principal in accordance with the provisions of section 374.719.

374.719. 1. A licensee may accept collateral security from the principal in a fiduciary capacity, which collateral shall be returned upon final termination of liability on the bond. When a licensee accepts collateral, the licensee shall provide a prenumbered written receipt, which shall include a detailed account of the collateral received by the licensee. The acceptance of collateral security by a bail bond agent shall be reported to the general bail bond agent.

2. The collateral security required by the licensee shall be reasonable in relation to the amount of the bond.

3. If a failure to appear, absconding or attempting to abscond, or a judgment of forfeiture on the bond has occurred, the collateral security may be used to reimburse the licensee for any costs and expenses incurred associated with the forfeiture.

4. The general bail bond agent shall retain records of the acceptance, return, or judgment of forfeiture resulting in the use of the collateral to reimburse the licensee for a period of three years.

374.730. All licenses issued to bail bond agents and general bail bond agents under the provisions of sections 374.700 to 374.775 shall be renewed [~~annually~~] biennially, which renewal shall be in the form and manner prescribed by the department and shall be accompanied by the renewal fee set by the department.

374.735. 1. The department may, in its discretion, grant a license without requiring an examination to a bail bond agent who has been licensed in another state immediately preceding his or

her applying to the department, if the department is satisfied by proof adduced by the applicant that [his]:

(1) The qualifications of the other state are at least equivalent to the requirements for initial licensure as a bail bond agent in [Missouri under] this state pursuant to the provisions of sections [374.700 to 374.775] 374.695 to 374.775, provided that the other state licenses Missouri residents in the same manner; and

(2) The applicant has no suspensions or revocations of a license to engage in the bail bond or fugitive recovery business in any jurisdiction.

2. Every applicant for a license pursuant to this section, upon showing the necessary qualifications as provided in this section, shall be required to pay the same fee as the fee required to be paid by resident applicants.

3. Within the limits provided in this section, the department may negotiate reciprocal compacts with licensing entities of other states for the admission of licensed bail bond agents from Missouri in other states.

4. All applicants applying for licenses in this state after the enactment of said act shall complete the education requirement as stated in section 374.710. If the bail bond agent or general bail bond agent has been licensed in another state and has a license in Missouri at the time said act becomes law, said individual shall not be required to complete the sixteen hours of initial basic training.

374.740. Any person applying to be licensed as a nonresident [bail bond agent or nonresident] general bail bond

agent who has been licensed in another state shall devote fifty percent of his or her working time in the state of Missouri and shall file proof with the director of insurance as to his or her compliance, and accompany his or her application with the fees set by the [board] director by regulation and, if applying for a nonresident general bail bond agent's license, with a duly executed assignment of twenty-five thousand dollars to the state of Missouri, which assignment shall become effective upon the applicant's violating any provision of sections [374.700 to 374.775] 374.695 to 374.789. Failure to comply with this section will result in revocation of the nonresidence license. The assignment required by this section shall be in the form and executed in the manner prescribed by the department. All licenses issued [under] pursuant to this section shall be subject to the same renewal requirements set for other licenses issued [under] pursuant to sections [374.700 to 374.775] 374.695 to 374.789.

374.755. 1. The department 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 [374.700 to 374.775] 374.695 to 374.775 or any person who has failed to renew or has surrendered his or her 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 the profession licensed under sections [374.700 to 374.775] 374.695 to 374.775;

(2) [Having entered a plea of guilty or having been found

guilty of a felony] Final adjudication or a plea of guilty or nolo contendere within the past fifteen years in a criminal prosecution under any state or federal law for a felony or a crime involving moral turpitude whether or not a sentence is imposed, prior to issuance of license date;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license [issued pursuant to sections 374.700 to 374.775] or in obtaining permission to take any examination [given or] required pursuant to sections [374.700 to 374.775] 374.695 to 374.775;

(4) Obtaining or attempting to obtain any compensation as a member of the profession licensed by sections [374.700 to 374.775] 374.695 to 374.775 by means of fraud, deception or misrepresentation;

(5) Misappropriation of the premium, collateral, or other things of value given to a bail bond agent or a general bail bond agent for the taking of bail, incompetency, misconduct, gross negligence, fraud, or misrepresentation [or dishonesty] in the performance of the functions or duties of the profession licensed or regulated by sections [374.700 to 374.775] 374.695 to 374.775;

(6) Violation of[, or assisting or enabling any other person to violate, any provision of sections 374.700 to 374.775 or of any lawful rule or regulation promulgated pursuant to sections 374.700 to 374.775] any provision of or any obligation imposed by the laws of this state, department of insurance rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules or regulations, or subpoenas;

(7) Transferring a license or permitting another person to

use a license of the licensee;

(8) Disciplinary action against the holder of a license or other right to practice the profession regulated by sections [374.700 to 374.775] 374.695 to 374.789 granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice the profession licensed or regulated by sections [374.700 to 374.775] 374.695 to 374.789 who is not currently licensed and eligible to practice [under] pursuant to sections [374.700 to 374.775] 374.695 to 374.789;

(11) [Paying a fee or rebate, or giving or promising anything of value, to a jailer, policeman, peace officer, judge or any other person who has the power to arrest or to hold another person in custody, or to any public official or employee, in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond or estreatment thereof] Acting in the capacity of an attorney at a trial or hearing of a person for whom the attorney is acting as surety;

(12) [Paying a fee or rebate, or giving anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(13) Paying a fee or rebate, or giving or promising anything of value, to the principal or anyone in his behalf;

(14) Participating in the capacity of an attorney at a trial or hearing of one on whose bond he is surety] Failing to

provide a copy of the bail contract, renumbered written receipt for acceptance of money, or other collateral for the taking of bail to the principal, if requested by any person who is a party to the bail contract, or any person providing funds or collateral for bail on the principal's behalf.

2. 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 one or more of the causes stated in subsection 1 of this section have been met, the [department] director may [do any or all of the following:

(1) Censure the person involved;

(2) Place the person involved on probation on such terms and conditions as the department deems appropriate for a period not to exceed ten years;

(3) Suspend, for a period not to exceed three years, the license of the person involved;

(4) Revoke the license of the person involved] suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.

3. In lieu of filing a complaint at the administrative hearing commission, the director and the bail bond agent or general bail bond agent may enter into an agreement for a monetary or other penalty pursuant to section 374.280.

4. In addition to any other remedies available, the director may issue a cease and desist order or may seek an injunction in a court of competent jurisdiction pursuant to the provisions of section 374.046 whenever it appears that any person

is acting as a bail bond agent or general bail bond agent without a license or violating any other provisions of sections 374.695 to 374.789.

374.757. 1. Any agent licensed by sections [374.700 to 374.775] 374.695 to 374.775 who intends to apprehend any person in this state shall inform law enforcement authorities in the city or county in which such agent intends such apprehension, before attempting such apprehension. Such agent shall present to the local law enforcement authorities a certified copy of the bond and all other appropriate paperwork identifying the principal and the person to be apprehended. Local law enforcement may accompany the agent. Failure of any agent to whom this section applies to comply with the provisions of this section shall be a class A misdemeanor for the first violation and a class D felony for subsequent violations; and shall also be a violation of section 374.755 and may in addition be punished pursuant to that section.

2. The surety recovery agent shall inform the local law enforcement in the county or city where such agent is planning to enter a residence. Such agent shall have a certified copy of the bond and all appropriate paperwork to identify the principal. Local law enforcement, when notified, may accompany the surety recovery agent to that location to keep the peace if an active warrant is effective for a felony or misdemeanor. If a warrant is not active, the local law enforcement officers may accompany the surety recovery agent to such location. Failure to report to the local law enforcement agency is a class A misdemeanor. For any subsequent violations, failure to report to the local law

enforcement agency is a class D felony.

374.759. 1. Any bail bond agent licensed in the state of Missouri shall have access to all publicly available court records of the defendant by available means to make a realistic assessment of defendant's probability of attending all court dates as set in his or her charges relating to bond request.

2. Any defendant shall have free access to any bail bond agent via one phone call so long as the call is made to a local phone number. All other numbers may be available as a collect call to any non-local number.

3. All Missouri licensed bail bond agents or licensed general agents shall be qualified, without further requirements, in all jurisdictions of this state, as provided in rules promulgated by the supreme court of Missouri and not by any circuit court rule.

374.763. 1. If any final judgment ordering forfeiture of a defendant's bond is not paid within [the] a six-month period of time [ordered by the court], the court shall extend the judgment date or notify the department of the failure to satisfy such judgment. The director shall draw upon the assets of the surety, remit the sum to the court, and obtain a receipt of such sum from the court. The director may take action as provided by section 374.755 [or 374.430], regarding the license of the surety and any bail bond agents writing upon the surety's liability.

2. The department shall furnish to the presiding judge of each circuit court of this state, on at least a monthly basis, a list of all duly licensed and qualified bail bond agents and general bail bond agents whose licenses are not subject to

pending suspension or revocation proceedings, and who are not subject to unsatisfied bond forfeiture judgments. In lieu of such list, the department may provide this information to each presiding judge in an electronic format.

3. All duly licensed and qualified bail bond agents and general bail bond agents shall be qualified, without further requirement, to write bail upon a surety's liability in all courts of this state as provided in rules promulgated by the supreme court of Missouri and not by any circuit court rule.

374.764. 1. The director shall examine and inquire into all alleged violations or complaints filed with the department of insurance of the bail bond law of the state, and inquire into and investigate the bail bond business transacted in the state by any bail bond agent, general bail bond agent, or surety recovery agent.

2. The director or any of his or her duly appointed agents may compel the attendance before him or her, and may examine, under oath, the directors, officers, bail bond agents, general bail bond agents, surety recovery agents, employees, or any other person in reference to the condition, affairs, management of the bail bond or surety recovery business, or any matters relating thereto. He or she may administer oaths or affirmations and shall have power to summon and compel the attendance of witnesses and to require and compel the production of records, books, papers, contracts, or other documents if necessary.

3. The director may make and conduct the investigation in person or the director may appoint one or more persons to make and conduct the investigation. If made by a person other than

the director, the person duly appointed by the director shall have the same powers as granted to the director pursuant to this section. A certificate of appointment under the official seal of the director shall be sufficient authority and evidence thereof for the person to act. For the purpose of making the investigations, or having the same made, the director may employ the necessary clerical, actuarial, and other assistance.

374.783. 1. No person shall hold himself or herself out as being a surety recovery agent in this state, unless such person is licensed in accordance with the provisions of sections 374.783 to 374.789. Licensed bail bond agents and general bail bond agents may perform fugitive recovery without being licensed as a surety recovery agent.

2. The director shall have authority to license all surety recovery agents in this state. The director shall have control and supervision over the licensing of such agents and the enforcement of the terms and provisions of sections 374.783 to 374.789.

3. The director shall have the power to:

(1) Set and determine the amount of the fees authorized and required pursuant to sections 374.783 to 374.789. The fees shall be set at a level sufficient to produce revenue which shall not substantially exceed the cost and expense of administering sections 374.783 to 374.789. However, such fees shall not exceed one hundred fifty dollars for a two-year license; and

(2) Determine the sufficient qualifications of applicants for a license.

4. The director shall license for a period of two years all

surety recovery agents in this state who meet the requirements of sections 374.783 to 374.789.

374.784. 1. Applications for examination and licensure as a surety recovery agent shall be submitted on forms prescribed by the department and shall contain such information as the department requires, along with a copy of the front and back of a photographic identification card.

2. Each application shall be accompanied by proof satisfactory to the director that the applicant is a citizen of the United States, is at least twenty-one years of age, and has a high school diploma or a general educational development certificate (GED). An applicant shall furnish evidence of such person's qualifications by completing an approved surety recovery agent course with at least twenty-four hours of initial minimum training. The director shall determine which institutions, organizations, associations, and individuals shall be eligible to provide said training. Said instructions and fees associated therewith shall be identical or similar to those prescribed in section 374.710 for bail bond agents and general bail bond agents.

3. In addition to said twenty-four hours of initial minimum training, licensees shall be required to receive eight hours of biennial continuing education of which said instructions and fees shall be identical or similar to those prescribed in section 374.710 for bail bond agents and general bail bond agents.

4. Applicants for surety recovery agents licensing shall be exempt from said requirements of the twenty-four hours of initial minimum training if applicants provide proof of prior training as

a law enforcement officer with at least two years of such service within the ten years prior to the application being submitted to the department.

5. The director may refuse to issue any license pursuant to sections 374.783 to 374.789, for any one or any combination of causes stated in section 374.787. The director shall notify the applicant in writing of the reason or reasons for refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission to appeal the refusal as provided by chapter 621, RSMo.

374.785. 1. The director shall issue a license for a period of two years to any surety recovery agent who is licensed in another jurisdiction and who:

(1) Has no violations, suspensions, or revocations of a license to engage in fugitive recovery in any jurisdiction; and

(2) Is licensed in a jurisdiction whose requirements are substantially equal to or greater than the requirements for a surety recovery agent license in Missouri at the time the applicant applies for a license.

2. Any surety recovery agent who is licensed in another state shall also be subject to the same training requirements as in-state surety recovery agents prescribe to under section 374.784.

3. For the purpose of surrender of the defendant, a surety recovery agent may apprehend the defendant anywhere within the state of Missouri before or after the forfeiture of the undertaking without personal liability for false imprisonment or may empower any surety recovery agent to make apprehension by

providing written authority endorsed on a certified copy of the undertaking and paying the lawful fees.

4. Every applicant for a license pursuant to this section, upon making application and showing the necessary qualifications as provided in this section, shall be required to pay the same fee as required of resident applicants. Within the limits provided in this section, the director may negotiate reciprocal compacts with licensing entities of other states for the admission of licensed surety recovery agents from Missouri in other states.

374.786. 1. Every person licensed pursuant to sections 374.783 to 374.789 shall, before the license renewal date, apply to the director for renewal for the ensuing licensing period. The application shall be made on a form furnished to the applicant and shall state the applicant's full name, the applicant's business address, the address at which the applicant resides, the date the applicant first received a license, and the applicant's surety recovery agent identification number, if any.

2. A renewal form shall be mailed to each person licensed in this state at the person's last known address. The failure to mail the renewal form or the failure of a person to receive it does not relieve any person of the duty to be licensed and to pay the license fee required nor exempt such person from the penalties provided for failure to be licensed.

3. Each applicant for renewal shall accompany such application with a renewal fee to be paid to the department for the licensing period for which renewal is sought.

4. The director may refuse to renew any license required

pursuant to sections 374.783 to 374.789, for any one or any combination of causes stated in section 374.787. The director shall notify the applicant in writing of the reasons for refusal to renew 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.

374.787. 1. The director may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any surety recovery agent or any person who has failed to renew or has surrendered his or her license for any one or any combination of the following causes:

(1) Violation of any provisions of, or any obligations imposed by, the laws of this state, the department of insurance rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules, or regulations;

(2) Final adjudication or a plea of guilty or nolo contendere in a criminal prosecution under state or federal law for a felony or a crime involving moral turpitude, whether or not a sentence is imposed;

(3) Using fraud, deception, misrepresentation, or bribery in securing a license or in obtaining permission to take any examination required by sections 374.783 to 374.789;

(4) Obtaining or attempting to obtain any compensation as a surety recovery agent by means of fraud, deception, or misrepresentation;

(5) Acting as a surety recovery agent or aiding or abetting another in acting as a surety recovery agent without a license;

(6) Incompetence, misconduct, gross negligence, fraud, or

misrepresentation in the performance of the functions or duties of a surety recovery agent;

(7) Having a license revoked or suspended that was issued by another state.

2. After the filing of the complaint, the proceedings shall be conducted in accordance with the provision of chapter 621, RSMo. Upon a finding by the administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the director may suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.

3. In lieu of filing a complaint with the administrative hearing commission, the director and the surety recovery agent may enter into an agreement for a monetary or other penalty pursuant to section 374.280.

4. In addition to any other remedies available, the director may issue a cease and desist order or may seek an injunction in a court of law pursuant to section 374.046 whenever it appears that any person is acting as a surety recovery agent without a license.

374.788. 1. A bail bond agent having probable grounds to believe a subject free on his or her bond has failed to appear as directed by a court, has breached the terms of the subject's surety agreement, or has taken a substantial step toward absconding, may utilize all lawful means to apprehend the subject. To surrender a subject to a court, a licensed bail bond or surety recovery agent having probable grounds to believe the subject is free on his or her bond may:

(1) Detain the subject in a lawful manner, for a reasonable time, provided that in the event travel from another state is involved, the detention period may include reasonable travel time not to exceed seventy-two hours;

(2) Transport a subject in a lawful manner from state to state and county to county to a place of authorized surrender; and

(3) Enter upon private or public property in a lawful manner to execute apprehension of a subject.

2. A surety recovery agent who apprehends a subject pursuant to the provisions of subsection 1 of this section shall surrender custody of the subject to the court of jurisdiction.

3. When a surety recovery agent is in the process of performing fugitive recovery, a photographic identification card shall be prominently displayed on his or her person.

374.789. 1. A person is guilty of a class D felony if he or she does not hold a valid surety recovery agent license or a bail bond license and commits any of the following acts:

(1) Holds himself or herself out to be a licensed surety recovery agent within this state;

(2) Claims that he or she can render surety recovery agent services; or

(3) Engages in fugitive recovery in this state.

2. Any person who engages in fugitive recovery in this state and wrongfully causes damage to any person or property, including, but not limited to, unlawful apprehension, unlawful detainment, or assault, shall be liable for such damages and may be liable for punitive damages.

376.1230. 1. Every [policy] health benefit plan issued by a health carrier, as those terms are defined in section 376.1350, shall provide coverage for chiropractic care delivered by a licensed chiropractor within the health carrier's network acting within the scope of his or her practice as defined in chapter 331, RSMo. The coverage shall include initial diagnosis and clinically appropriate and medically necessary services and supplies required to treat the diagnosed disorder[, subject to the terms and conditions of the policy. The coverage may be limited to chiropractors within the health carrier's network, and nothing in this section shall be construed to require a health carrier to contract with a chiropractor not in the carrier's network nor shall a carrier be required to reimburse for services rendered by a nonnetwork chiropractor unless prior approval has been obtained from the carrier by the enrollee]. An enrollee [may] shall have direct access to chiropractic care within the network for [a total of] at least twenty-six chiropractic physician office visits per policy period, but may be required to provide the health carrier with notice prior to any additional [visit] visits as a condition of coverage. A health carrier may require prior authorization or notification before any follow-up diagnostic tests are ordered by a chiropractor or for any office visits for treatment in excess of twenty-six in any policy period, except that a health carrier shall not deny medically necessary and clinically appropriate chiropractic care for additional diagnostic tests or treatment provided the attending chiropractic physician submits documentations supporting necessity for additional tests or continued treatment. The

certificate of coverage for any health benefit plan issued by a health carrier shall clearly state the availability of chiropractic coverage under the policy and any limitations, conditions, and exclusions.

2. A health benefit plan shall provide coverage for [treatment of a] chiropractic care [condition] and shall not establish any rate, term, or condition that places a greater financial burden on an insured for access to [treatment for a] chiropractic care [condition] than for access to treatment for [another] any other physical health condition.

3. The provisions of this section shall not apply to [any] a health benefit plan or contract that is individually underwritten unless such individually written coverage is issued by a health maintenance organization.

4. The provisions of this section shall not apply to benefits provided under the Medicaid program.

5. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policy of six months' or less duration, or any other similar supplemental policy.

436.215. Sections 436.215 to 436.272 may be cited as the "Uniform Athlete Agents Act".

436.218. As used in sections 436.215 to 436.272, the following terms 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 direct or indirect communication 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 under sections 436.215 to 436.272;

(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.

436.221. 1. The director shall administer the provisions of sections 436.215 to 436.272.

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 subpoenas 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.

436.224. 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 under section 436.230 or 436.236.

2. An individual with a temporary license under section 436.236 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.

436.227. 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 under 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 a description of the crime;

(9) Whether there has been any administrative or judicial determination that the applicant or any other person named under 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 under 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 under 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 under subdivision (7) of this subsection as an athlete agent in any state.

436.230. 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 436.227.

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 436.254;

(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 under 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 shall 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.

436.233. 1. The director may revoke, suspend, or refuse to renew any certificate of registration required under 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 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;

(2) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration under 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 under 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, by agents, by 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.

436.236. The director may issue a temporary certificate of registration valid for sixty days while an application for registration or renewal is pending.

436.239. 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 under 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. Any rule promulgated under the authority 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 under 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.

436.242. 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 shall 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.

436.245. 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.

436.248. 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.

436.251. 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.

436.254. 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 under sections 436.215 to 436.272;

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

(3) Violate section 436.224 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.

436.257. The commission of any act prohibited by section 436.254 by an athlete agent is a class B misdemeanor.

436.260. 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 436.215 to 436.272. 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 436.215 to 436.272 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 436.215 to 436.272 do not restrict rights, remedies, or defenses of any person under law or equity.

436.263. Any person who violates any provisions of sections 436.215 to 436.269 is guilty of a class A misdemeanor.

436.266. In applying and construing sections 436.215 to 436.272, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of sections 436.215 to 436.272 among states that enact it.

436.269. If any provision of sections 436.215 to 436.272 or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of sections 436.215 to 436.272 which can be given effect without the invalid provision or application, and to this end the provisions of sections 436.215 to 436.272 are severable.

436.272. Any moneys collected by the director under section 436.263 shall immediately be transferred to the department of revenue for deposit in the state treasury to the credit of general revenue.

620.127. Notwithstanding any provision of law to the contrary, every application for a license, certificate, registration, or permit, or renewal of a license, certificate, registration, or permit issued in this state shall contain the Social Security number of the applicant. This provision shall not apply to an original application for a license, certificate, registration, or permit submitted by a citizen of a foreign country who has never been issued a Social Security number and who previously has not been licensed by any other state, United

States territory, or federal agency. A citizen of a foreign country applying for licensure with the division of professional registration shall be required to submit his or her visa or passport identification number in lieu of the Social Security number.

620.145. [1.] The division of professional registration shall maintain, for each board in the division, a registry of each person holding a current license, permit or certificate issued by that board. The registry shall contain the name, Social Security number and address of each person licensed or registered together with other relevant information as determined by the board. The registry for each board shall at all times be available to the board and copies shall be supplied to the board on request. Copies of the registry, except for the registrant's Social Security number, shall be available from the division or the board to any individual who pays the reasonable copying cost. Any individual may copy the registry during regular business hours. The information in the registry shall be furnished upon request to the division of child support enforcement. Questions concerning the currency of license of any individual shall be answered, without charge, by the appropriate board. Each year each board may publish, or cause to be published, a directory containing the name and address of each person licensed or registered for the current year together with any other information the board deems necessary. Any expense incurred by the state relating to such publication shall be charged to the board. An official copy of any such publication shall be filed with the director of the department of economic development.

[2. Notwithstanding any provision of law to the contrary, each board shall require each person applying for a license, permit or certificate, or a renewal of a license, permit or certificate to furnish the board with the applicant's Social Security number.]

_____ [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.]

_____ [374.725. Any person who, on September 28, 1983, is acting in any capacity which would be classified as practicing as a bail bond agent or general bail bond agent under the provisions of sections 374.700 to 374.775 may continue to act in such capacity without being licensed under sections 374.700 to 374.775 for a period of twelve months from September 28, 1983.]

_____ [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.]