

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NOS. 1660 & 1269**  
**93RD GENERAL ASSEMBLY**

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Reported from the Committee on Professional Registration and Licensing March 16, 2006 with recommendation that House Committee Substitute for House Bill Nos. 1660 & 1269 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

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**AN ACT**

To repeal sections 41.950, 317.001, 317.006, 317.011, 317.013, 317.014, 317.015, 317.018, 324.245, 324.247, 324.257, 324.262, 324.265, 324.270, 332.071, 334.103, 334.655, 334.660, 335.066, 335.068, 337.510, 337.615, 338.035, 338.220, 339.010, 339.100, 340.222, 340.234, 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, 344.105, 383.130, 383.133, 537.035, 610.120, 620.010, 621.045, 621.100, 621.110, and 660.315, RSMo, and to enact in lieu thereof eighty-six new sections relating to licensing and registration of certain professionals, with penalty provisions.

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

Section A. Sections 41.950, 317.001, 317.006, 317.011, 317.013, 317.014, 317.015,  
2 317.018, 324.245, 324.247, 324.257, 324.262, 324.265, 324.270, 332.071, 334.103, 334.655,  
3 334.660, 335.066, 335.068, 337.510, 337.615, 338.035, 338.220, 339.010, 339.100, 340.222,  
4 340.234, 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, 344.105, 383.130,  
5 383.133, 537.035, 610.120, 620.010, 621.045, 621.100, 621.110, and 660.315, RSMo, are  
6 repealed and eighty-six new sections enacted in lieu thereof, to be known as sections 41.950,  
7 167.195, 317.001, 317.006, 317.011, 317.013, 317.014, 317.015, 317.018, 317.019, 324.245,  
8 324.247, 324.257, 324.262, 324.265, 324.270, 324.1150, 324.1152, 324.1154, 324.1156,  
9 324.1158, 324.1160, 324.1162, 324.1164, 324.1166, 324.1168, 324.1170, 324.1172, 324.1174,  
10 324.1176, 324.1178, 324.1180, 324.1182, 324.1184, 324.1186, 324.1188, 324.1190, 324.1192,  
11 324.1194, 324.1196, 324.1198, 332.052, 332.071, 334.103, 334.655, 334.660, 334.1000,

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

12 334.1003, 334.1006, 334.1009, 334.1012, 334.1015, 334.1018, 334.1021, 334.1024, 334.1050,  
13 335.066, 335.068, 337.510, 337.615, 338.035, 338.147, 338.149, 338.220, 339.010, 339.100,  
14 340.222, 340.234, 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, 344.105,  
15 344.108, 383.130, 383.133, 537.035, 610.120, 620.010, 621.045, 621.100, 621.110, and 660.315,  
16 RSMo, to read as follows:

41.950. 1. Any resident of this state who is a member of the national guard or of any  
2 reserve component of the armed forces of the United States or who is a member of the United  
3 States Army, the United States Navy, the United States Air Force, the United States Marine  
4 Corps, the United States Coast Guard or an officer of the United States Public Health Service  
5 detailed by proper authority for duty with any branch of the United States armed forces described  
6 in this section and who is engaged in the performance of active duty in the military service of the  
7 United States in a military conflict in which reserve components have been called to active duty  
8 under the authority of 10 U.S.C. 672(d) or 10 U.S.C. 673b or any such subsequent call or order  
9 by the President or Congress for any period of thirty days or more shall be relieved from certain  
10 provisions of state law, as follows:

11 (1) No person performing such military service who owns a motor vehicle shall be  
12 required to maintain financial responsibility on such motor vehicle as required under section  
13 303.025, RSMo, until such time as that person completes such military service, unless any  
14 person shall be operating such motor vehicle while the vehicle owner is performing such military  
15 service;

16 (2) No person failing to renew his driver's license while performing such military service  
17 shall be required to take a complete examination as required under section 302.173, RSMo, when  
18 renewing his license within sixty days after completing such military service;

19 (3) Any motor vehicle registration required under chapter 301, RSMo, that expires for  
20 any person performing such military service may be renewed by such person within sixty days  
21 of completing such military service without being required to pay a delinquent registration fee;  
22 however, such motor vehicle shall not be operated while the person is performing such military  
23 service unless the motor vehicle registration is renewed;

24 (4) Any person enrolled by the supreme court of Missouri or licensed, registered or  
25 certified under chapter 168, 256, 289, 317, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334,  
26 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 375, 640 or 644, RSMo, **and**  
27 **interpreters licensed under sections 209.319 to 209.339, RSMo**, whose license, registration  
28 or certification expires while performing such military service, may renew such license,  
29 registration or certification within sixty days of completing such military service without penalty;

30 (5) In the case of annual reports, franchise tax reports or other reports required to be filed  
31 with the office of secretary of state, where the filing of such report would be delayed because of

32 a person performing such military service, such reports shall be filed without penalty within one  
33 hundred twenty days of the completion of such military service;

34 (6) No person performing such military service who is subject to a criminal summons  
35 for a traffic violation shall be subject to nonappearance sanctions for such violation until after  
36 one hundred eighty days after the completion of such military service;

37 (7) No person performing such military service who is required under state law to file  
38 financial disclosure reports shall be required to file such reports while performing such military  
39 service; however, such reports covering that period of time that such military service is  
40 performed shall be filed within one hundred eighty days after the completion of such military  
41 service;

42 (8) Any person with an indebtedness, liability or obligation for state income tax or  
43 property tax on personal or real property who is performing such military service or a spouse of  
44 such person filing a combined return or owning property jointly shall be granted an extension  
45 to file any papers or to pay any obligation until one hundred eighty days after the completion of  
46 such military service or continuous hospitalization as a result of such military service  
47 notwithstanding the provisions of section 143.991, RSMo, to the contrary and shall be allowed  
48 to pay such tax without penalty or interest if paid within the one-hundred-eighty-day period;

49 (9) Notwithstanding other provisions of the law to the contrary, for the purposes of this  
50 section, interest shall be allowed and paid on any overpayment of tax imposed by sections  
51 143.011 to 143.998, RSMo, at the rate of six percent per annum from the original due date of the  
52 return or the date the tax was paid, whichever is later;

53 (10) No state agency, board, commission or administrative tribunal shall take any  
54 administrative action against any person performing such military service for that person's failure  
55 to take any required action or meet any required obligation not already provided for in  
56 subdivisions (1) to (8) of this subsection until one hundred eighty days after the completion of  
57 such military service, except that any agency, board, commission or administrative tribunal  
58 affected by this subdivision may, in its discretion, extend the time required to take such action  
59 or meet such obligation beyond the one-hundred-eighty-day period;

60 (11) Any disciplinary or administrative action or proceeding before any state agency,  
61 board, commission or administrative tribunal where the person performing such military service  
62 is a necessary party, which occurs during such period of military service, shall be stayed by the  
63 administrative entity before which it is pending until sixty days after the end of such military  
64 service.

65 2. Upon completing such military service, the person shall provide the appropriate  
66 agency, board, commission or administrative tribunal an official order from the appropriate  
67 military authority as evidence of such military service.

68           3. The provisions of this section shall apply to any individual defined in subsection 1 of  
69 this section who performs such military service on or after August 2, 1990.

**167.195. 1. Beginning July 1, 2007, and continuing through the 2009-2010 school  
2 year unless extended by act of the General Assembly, all public school districts shall  
3 conduct an eye screening exam for each student at least once before the completion of first  
4 grade. The screening exam method utilized shall be one approved by the children's vision  
5 commission and shall be performed by an appropriately trained school nurse or other  
6 trained and qualified employee of the school district.**

**2. Results of each screening examination shall be recorded on a form developed and  
8 approved by the children's vision commission.**

**(1) A copy of the screening results, with all individual identifying information  
10 removed, shall be sent to the state department of health and senior services which shall  
11 compile the data contained in the reports for review and analysis by the commission or  
12 other interested parties.**

**(2) When a student fails the screening examination, the school district shall send  
14 a notice developed by the commission to the parent or guardian notifying them of the  
15 results of the screening exam and requiring that the student receive a complete eye  
16 examination from an optometrist or an ophthalmologist. Such notice shall have a place for  
17 the parent to acknowledge receipt along with an indication as to whether the student has  
18 received a complete eye examination and the results of examination. Evidence of an  
19 examination provided by an optometrist or an ophthalmologist within the year preceding  
20 the school eye screening shall be sufficient for meeting the requirements of this section.  
21 The notice completed by the parent or guardian is to be returned to the school and shall  
22 be retained in the student's file.**

**3. The "Children's Vision Commission" is hereby established which shall cease to  
24 exist on December 31, 2010, unless renewed by act of the general assembly.**

**(1) The commission shall be composed of three members appointed by the  
26 governor: one ophthalmologist recommended by the Missouri Society of Eye Physicians  
27 & Surgeons; one optometrist recommended by the Missouri Optometric Association; and  
28 one school nurse recommended by the Missouri School Nurses Association. Each member  
29 of the commission shall serve a one-year term as its chair in rotation, with the  
30 ophthalmologist serving first, followed by the optometrist, and then the school nurse.  
31 Members of the commission shall serve without compensation, but may be reimbursed for  
32 reasonable and necessary expenses associated with carrying out their duties.**

**(2) Duties of the commission shall be as follows:**

34           (a) Analyze and adopt one or more standardized screening tests to carry out the  
35 requirements of this section to be used in all schools beginning with the 2007-2008 school  
36 year which, in the commission's estimation, have a reasonable expectation of identifying  
37 vision problems in children;

38           (b) Develop a standardized reporting form which shall be used by all school  
39 districts in carrying out the requirements of this section;

40           (c) Design and coordinate appropriate training programs for school district staff  
41 who conduct the screening exams. Such training programs may utilize the volunteer  
42 services of nonprofit professional organizations which, in the opinion of the commission,  
43 are qualified to carry out those responsibilities associated with providing the training  
44 required;

45           (d) Conduct a three-year pilot project to track the results of the eye screenings  
46 conducted based on the reports submitted by school districts to the department of health  
47 and senior services;

48           (e) Develop and produce a brochure outlining the benefits of ongoing eye care for  
49 children and summarizing the signs and symptoms of vision disorders. This brochure shall  
50 be made available to school districts for distribution, at a minimum, to the families of  
51 students who fail the eye screening exam;

52           (f) By October 1, 2010, the commission shall submit a report to the general  
53 assembly detailing the results and findings of the three-year study, including but not  
54 limited to the total number of screenings, the number of students who received a follow-up  
55 examination from an optometrist or an ophthalmologist, and the results of those  
56 examinations to determine the level of false positives reported during the screenings. In  
57 preparing the report, the commission also shall review the eye screening study conducted  
58 by the University of Missouri -- Columbia previously funded by the general assembly and  
59 other studies concerning best practices for children's eye care it deems worthy of inclusion  
60 in the report.

61           4. The department of health and senior services shall make a reasonable  
62 accommodation for public review and inspection of the data collected as part of the three-  
63 year eye screening pilot project provided that no information is revealed that could identify  
64 any individual student who was screened.

65           5. In the event that a parent or legal guardian of a child objects to the child's  
66 participation in the eye screening program, the child shall be excused upon receipt by the  
67 appropriate school administrator of a written request.

68           **6. The department of health and senior services shall provide funding and staff**  
69 **support to the commission, including but not limited to producing eye screening forms and**  
70 **brochures, printing, collection of data, and production of the final report.**

317.001. As used in sections 317.001 to 317.021, the following words and terms mean:

2           (1) **"Amateur", a person who engages in a bout, contest, or exhibition as a pastime**  
3 **rather than a professional which is governed or authorized by:**

- 4           (a) **U.S.A. Boxing;**
- 5           (b) **The Missouri State High Schools Activities Association;**
- 6           (c) **The National Collegiate Athletic Association;**
- 7           (d) **Amateur Athletic Union;**
- 8           (e) **Golden Gloves; or**
- 9           (f) **The local affiliate of any organization listed in this subdivision;**

10          (2) **"Bout", one match involving either professional boxing, sparring, professional**  
11 **wrestling, professional kickboxing [or], professional full-contact karate and mixed martial arts;**

12          [(2)] (3) **"Combative fighting", also known as "toughman fighting", "toughwoman**  
13 **fighting", "badman fighting", "ultimate fighting", ["U.F.C." and] "extreme fighting", any boxing**  
14 **or wrestling match, contest or exhibition, between two or more contestants, with or without**  
15 **protective headgear, who use their hands, with or without gloves, or their feet, or both, and who**  
16 **compete for a financial prize or any item of pecuniary value, and which match, contest,**  
17 **tournament championship or exhibition is not recognized by and not sanctioned by any officially**  
18 **recognized state, regional or national boxing or athletic sanctioning authority, or any promoter**  
19 **duly licensed by the division of professional registration;**

20          [(3)] (4) **"Contest", a [bout or a group of bouts involving licensed contestants competing**  
21 **in professional boxing, sparring, professional wrestling, professional kickboxing or professional**  
22 **full-contact karate] boxing, wrestling, kickboxing, full-contact karate, or mixed martial arts**  
23 **match in which persons participating strive earnestly to win using, but not necessarily**  
24 **being limited to, strikes and blows to the head;**

25          [(4)] (5) **"Contestant", a person who competes in any activity covered by sections**  
26 **317.001 to 317.021;**

27          [(5)] (6) **"Division", the division of professional registration;**

28          [(6)] (7) **"Director", the director of the division of professional registration;**

29          [(7)] (8) **"Exhibition", a boxing, wrestling, kickboxing, full-contact karate, or mixed**  
30 **martial arts engagement in which persons participating show or display their skill without**  
31 **necessarily striving to win using, but not necessarily being limited to, strikes, and blows to**  
32 **the head;**

33          (9) **"Fund", the athletic fund established pursuant to sections 317.001 to 317.021;**

- 34 [(8) "Mandatory count of eight", a required count of eight that is given by a referee to  
35 a contestant who has been knocked down;
- 36 (9) "Noncompetitive boxing", boxing or sparring where a decision is not rendered;]
- 37 (10) **"Kickboxing", to compete with the fists, feet, legs, or any combination thereof;**
- 38 **(11) "Martial arts", kickboxing, full-contact karate, or mixed martial arts;**
- 39 **(12) "Mixed martial arts", professional and amateur, involves the use, subject to**  
40 **any applicable limitations set forth in this chapter, of a combination of techniques from**  
41 **different disciplines of the martial arts, including but not limited to, grappling, kicking,**  
42 **and striking;**
- 43 (13) "Office", the division of professional registration, office of athletics;
- 44 **(14) "Professional", a person who has received or competed for any purse or other**  
45 **article of value for participating in any match;**
- 46 [(11)] (15) "Professional boxing", the sport of attack and defense which uses the fist and  
47 where contestants compete for valuable consideration;
- 48 [(12)] (16) "Professional full-contact karate", any form of full-contact martial arts  
49 including but not limited to full-contact kungfu, full-contact taw kwon-do, or any form of martial  
50 arts or self-defense conducted on a full-contact basis in a bout or contest where weapons are not  
51 used and where contestants compete for valuable consideration. Such contests take place in a  
52 rope-enclosed ring and are fought in timed rounds;
- 53 [(13)] (17) "Professional kickboxing", any form of boxing in which blows are delivered  
54 with any part of the arm below the shoulder, including the hand, and any part of the leg below  
55 the hip, including the foot, and where contestants compete for valuable consideration. Such  
56 contests take place in a rope-enclosed ring and are fought in timed rounds;
- 57 [(14)] (18) "Professional wrestling", any performance of wrestling skills and techniques  
58 by two or more professional wrestlers, to which any admission is charged. Participating  
59 wrestlers may not be required to use their best efforts in order to win, the winner may have been  
60 selected before the performance commences and contestants compete for valuable consideration.  
61 Such contests take place in a rope-enclosed ring and are fought in timed rounds[;
- 62 (15) "Sparring", boxing for practice or as an exhibition;
- 63 (16) "Standing mandatory eight count", the count of eight that is given at the discretion  
64 of a referee to a contestant who has been dazed by a blow and is unable to defend himself or  
65 herself. The standing mandatory eight count may be waived in a bout only with special  
66 permission of the office].

317.006. 1. The division [of professional registration] shall have general charge and  
2 supervision of all professional boxing, [sparring,] professional wrestling, professional  
3 kickboxing [and], professional full-contact karate, **and professional and amateur mixed**

4 **martial arts** contests held in the state of Missouri, and it shall have the power, and it shall be  
5 its duty:

6 (1) To make and publish rules governing in every particular professional boxing,  
7 [sparring,] professional wrestling, professional kickboxing [and], professional full-contact karate  
8 **and professional and amateur mixed martial arts** contests;

9 (2) To accept applications for and issue licenses to contestants in professional boxing,  
10 [sparring,] professional wrestling, professional kickboxing [and], professional full-contact karate  
11 **and professional and amateur mixed martial arts** contests held in the state of Missouri, and  
12 referees, judges, matchmakers, managers, promoters, seconds, announcers, timekeepers and  
13 physicians involved in professional boxing, [sparring,] professional wrestling, professional  
14 kickboxing, [and] professional full-contact karate, **and professional and amateur mixed**  
15 **martial arts** contests held in the state of Missouri, as authorized herein. Such licenses shall be  
16 issued in accordance with rules duly adopted by the division;

17 (3) To charge fees to be determined by the director and established by rule for every  
18 license issued and to assess a tax of five percent of the gross receipts of any person, organization,  
19 corporation, partnership, limited liability company, or association holding a promoter's license  
20 and permit under sections 317.001 to 317.021, derived from admission charges connected with  
21 or as an incident to the holding of any professional boxing, [sparring,] professional wrestling,  
22 professional kickboxing [or], professional full-contact karate, **and professional and amateur**  
23 **mixed martial arts** contest in [this] **the state of Missouri**. Such funds shall be paid to the  
24 division of professional registration which shall pay said funds into the **Missouri** state treasury  
25 to be set apart into a fund to be known as the "Athletic Fund" which is hereby established;

26 (4) To assess a tax of five percent of the gross receipts of any person, organization,  
27 corporation, partnership, limited liability company or association holding a promoter's license  
28 [and permit] under sections 317.001 to 317.021, derived from the sale, lease or other exploitation  
29 in this state of broadcasting, television, closed-circuit telecast, and motion picture rights for any  
30 professional boxing, [sparring,] professional wrestling, professional kickboxing [or], professional  
31 full-contact karate, **and professional and amateur mixed martial arts** contest. Such funds  
32 shall be paid to the division [of professional registration] which shall pay said funds into the  
33 **Missouri** state treasury to be set apart into a fund to be known as the "Athletic Fund";

34 [(5) To assess a tax of twenty-five percent of the gross receipts of any person,  
35 organization, corporation, partnership, limited liability company or association derived from the  
36 sale, lease or other exploitation in this state of broadcasting, television, closed-circuit telecast,  
37 and motion picture rights for any combative fighting contest. Such funds shall be paid to the  
38 division of professional registration, which shall pay said funds into the state treasury to be set  
39 apart into a fund to be known as the athletic fund;



40 (6)] Each cable television system operator whose pay-per-view facilities are utilized to  
41 telecast a bout or contest shall, within thirty calendar days following the date of the telecast, file  
42 a report with the office stating the number of orders sold and the price per order.

43 2. All fees established pursuant to sections 317.001 to 317.021 shall be determined by  
44 the director by rule in such amount as to produce sufficient revenue to fund the necessary  
45 expenses and operating costs incurred in the administration of the provisions of sections 317.001  
46 to 317.021. All expenses shall be paid as otherwise provided by law.

47 **3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
48 **that is created under the authority delegated in this chapter shall become effective only if**  
49 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
50 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
51 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
52 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
53 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
54 **adopted after August 28, 2006, shall be invalid and void.**

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

8 2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in  
9 this fund shall not be transferred and placed to the credit of general revenue until the amount in  
10 the fund at the end of the biennium exceeds two times the amount of the appropriation from the  
11 fund for the preceding fiscal year or, if the division requires by rule renewal less frequently than  
12 yearly then three times the appropriation from the fund for the preceding fiscal year. The  
13 amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the  
14 appropriate multiple of the appropriations from the fund for the preceding fiscal year.

15 3. The division [of professional registration] shall not grant any permit to hold  
16 professional boxing, [sparring,] professional wrestling, professional kickboxing [or], professional  
17 full-contact karate, **and professional and amateur mixed martial arts** contests in the state of  
18 Missouri except:

19 (1) Where such professional boxing, [sparring,] professional wrestling, professional  
20 kickboxing, or professional full-contact karate, **and professional and amateur mixed martial**  
21 **arts** contest is to be held under the auspices of a promoter duly licensed by the division;

22 (2) Where such contest shall be of not more than [fifteen] **twelve** rounds of three minutes  
23 each duration per bout; and

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

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

26 5. Specifically exempted from the provisions of this chapter are contests or exhibitions  
27 for amateur boxing, amateur kickboxing, amateur wrestling and amateur full-contact karate.  
28 However, all amateur boxing, amateur kickboxing, amateur wrestling and amateur full-contact  
29 karate must be [sanctioned by a nationally recognized amateur sanctioning body approved by the  
30 office.] **governed or authorized by:**

31 (1) **U.S.A. Boxing;**

32 (2) **The Missouri State High Schools Activities Association;**

33 (3) **The National Collegiate Athletic Association;**

34 (4) **Amateur Athletic Union;**

35 (5) **Golden Gloves; or**

36 (6) **The local affiliates of any organization listed in this subsection.**

317.013. 1. In order to protect the health and welfare of the contestants, there shall be  
2 a mandatory medical suspension of any contestant, not to exceed one hundred [twenty] **eighty**  
3 days, who loses consciousness or who has been injured as a result of blows received to the head  
4 or body during a [boxing bout or semiprofessional elimination contest] **professional boxing,**  
5 **professional wrestling, professional kickboxing, professional full-contact karate, and**  
6 **professional and amateur mixed martial arts contest.** The determination of consciousness  
7 is to be made only by a physician licensed by the board of healing arts and the division. Medical  
8 suspensions issued in accordance with this section shall not be reviewable by any tribunal.

9 2. No license shall be issued to any person who has been injured in such a manner that  
10 they may not continue **to participate in boxing, wrestling, kickboxing, full-contact karate,**  
11 **or mixed martial arts contests** in the future. Such a person shall be deemed medically retired.  
12 No person with a status of medically retired shall compete in any events governed by this  
13 chapter. Medical retirements issued in accordance with this section shall not be reviewable by  
14 any tribunal.

317.014. 1. Upon proper application by the director, or the director of the office, a court  
2 of competent jurisdiction may grant an injunction, restraining order or any other order as may  
3 be appropriate to enjoin a person, partnership, organization, corporation, limited liability  
4 company or association from:

5 (1) Promoting or offering to promote any professional boxing, [sparring,] professional  
6 wrestling, professional kickboxing [and], professional full-contact karate, **and professional and**  
7 **amateur mixed martial arts** contests in Missouri;

8 (2) Advertising or offering to advertise any professional boxing, [sparring,] professional  
9 wrestling, professional kickboxing [and], professional full-contact karate, **and professional and**  
10 **amateur mixed martial arts** contests in Missouri;

11 (3) Conducting or offering to conduct any professional boxing, [sparring,] professional  
12 wrestling, professional kickboxing [and], professional full-contact karate, **and professional and**  
13 **amateur mixed martial arts** contests in Missouri; or

14 (4) Competing or offering to compete in any professional boxing, [sparring,] professional  
15 wrestling, professional kickboxing [and], professional full-contact karate, **and professional and**  
16 **amateur mixed martial arts** contests in Missouri.

17 2. Any such actions shall be commenced either in the county in which such conduct  
18 occurred or in the county in which the defendant resides.

19 3. Any action brought under this section shall be in addition to, and not in lieu of, any  
20 penalty provided by law and may be brought concurrently with other actions to enforce this  
21 chapter.

317.015. 1. Any person wishing to make a complaint against a licensee under sections  
2 317.001 to 317.014 shall file the written complaint with the division setting forth supporting  
3 details. If the division determines that the charges warrant a hearing to ascertain whether the  
4 licensee shall be disciplined, it shall file a complaint with the administrative hearing commission  
5 as provided in chapter 621, RSMo. Any person holding more than one license issued by the  
6 division and disciplined under one license will automatically be disciplined under all licenses.

7 2. (1) The division may refuse to issue any permit or license pursuant to this chapter for  
8 one or any combination of reasons stated in paragraphs (a) through (m) of subdivision (2) of this  
9 subsection. The division shall notify the applicant in writing of the reasons for the refusal and  
10 shall advise the applicant of their rights to file a complaint or an appeal with the administrative  
11 hearing commission as provided in chapter 621, RSMo.

12 (2) The division may file a complaint with the administrative hearing commission, as  
13 provided in chapter 621, RSMo, against any holder of any permit or license issued pursuant to  
14 this chapter, or against any person who has failed to renew or has surrendered their permit or  
15 license, for any one or more of the following reasons:

16 (a) Use of an alcoholic beverage or any controlled substance, as defined in chapter 195,  
17 RSMo, before or during a bout;

18 (b) The person has been found guilty or has entered a plea of guilty or nolo contendere  
19 in a criminal prosecution under any state or federal law for any offense reasonably related to the  
20 qualifications, functions or duties of any profession licensed or regulated under this chapter, for  
21 any offense an essential element of which is fraud, dishonesty or an act of violence, or for any  
22 offense involving moral turpitude, whether or not a sentence is imposed;

- 23 (c) Use of fraud, deception, misrepresentation or bribery in securing any permit or  
24 license issued pursuant to this chapter;
- 25 (d) Providing false information on applications or medical forms;
- 26 (e) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty  
27 in the performing of the functions or duties of any profession licensed or regulated by this  
28 chapter;
- 29 (f) Violating or enabling any person to violate any provision of this chapter or any rule  
30 adopted pursuant to this chapter;
- 31 (g) Impersonating any permit or license holder or allowing any person to use their permit  
32 or license;
- 33 (h) Contestants failing to put forth their best effort during a bout;
- 34 (i) Disciplinary action against the holder of a license or other right to practice any  
35 profession regulated by this chapter and issued by another state, territory, federal agency or  
36 country upon grounds for which revocation or suspension is authorized in this state;
- 37 (j) A person adjudged mentally incompetent by a court of competent jurisdiction;
- 38 (k) Use of any advertisement or solicitation which is false, misleading or deceptive to  
39 the general public or persons to whom the advertisement or solicitation is primarily directed;
- 40 (l) Use of foul or abusive language or mannerisms or threats of physical harm by any  
41 person associated with any bout or contest licensed pursuant to this chapter; or
- 42 (m) Issuance of a permit or license based upon a mistake of fact.
- 43 (3) [After the complaint is filed, the proceeding shall be conducted in accordance with  
44 the provisions of chapter 621, RSMo. If the administrative hearing commission finds that a  
45 person has violated one or more of the grounds as provided in paragraphs (a) through (m) of  
46 subdivision (2) of this subsection, the division may censure or place the person named in the  
47 complaint on probation on appropriate terms and conditions for a period not to exceed five years,  
48 may suspend the person's license for a period not to exceed three years, or may revoke the  
49 person's license.]
- 50 **Upon a finding that the grounds provided in subsection 2 of this section for disciplinary**  
51 **action are met, the office may, singly or in combination, assess an administrative penalty**  
52 **not to exceed two thousand dollars per violation, censure or place on probation on such**  
53 **terms and conditions as the office deems appropriate for a period not to exceed five years,**  
54 **or may suspend for a period not to exceed three years or revoke the certificate, license, or**  
55 **permit. In any order of revocation, the office may provide that the person shall not apply**  
56 **for a new license for a maximum of three years and one day following the date of the order**  
57 **of revocation. All stay orders shall toll this time period. In lieu of or in addition to any**

58 **remedy specifically provided in subsection 1 of this section, the office may require of a**  
59 **licensee:**

60 (a) **A review conducted as the office may specify; and/or**

61 (b) **Satisfactory completion of medical testing and rehabilitation programs or**  
62 **medical testing or rehabilitation programs as the office may specify; and/or**

63 (c) **A review conducted as the office may specify and satisfactory completion of**  
64 **medical testing programs and rehabilitation programs or medical testing programs or**  
65 **rehabilitation programs as the office may specify.**

317.018. 1. Combative fighting is prohibited in the state of Missouri.

2 2. Anyone who promotes or participates in combative fighting, or anyone who serves as  
3 an agent, principal partner, publicist, vendor, producer, referee, or contractor of or for combative  
4 fighting is guilty of a class D felony.

5 3. Any medical personnel who administers to, treats or assists any participants of  
6 combative fighting shall not be subject to the provisions of this section.

7 [4. Nothing in section 317.001 or this section shall be construed to give authority to the  
8 Missouri state athletic commission to regulate boxing, sparring, wrestling or contact karate  
9 conducted by entities which are not regulated on July 10, 1996, including but not limited to  
10 events conducted by the:

11 (1) Military;

12 (2) Private schools;

13 (3) Church schools;

14 (4) Home schools;

15 (5) Martial arts academies;

16 (6) Private gyms;

17 (7) YWCAs and YMCAs;

18 (8) Elementary and secondary schools;

19 (9) College and university inter- and intra-mural;

20 (10) Fraternal organizations;

21 (11) Camps, conducted by church or not for profit organizations;

22 (12) Olympic committees; or

23 (13) Correctional facilities.

24 5. Nothing in section 317.001 or this section is intended to regulate, or interfere with or  
25 make illegal, traditional, sanctioned boxing, including professional, amateur, scholastic,  
26 championship boxing, amateur wrestling or scholastic wrestling.]

**317.019. 1. The promoter of an event shall sign written bout contracts with each**  
2 **contestant in boxing, kickboxing, full-contact karate, and professional and amateur mixed**

3 **martial arts contests. Original bout contracts shall be filed with the division at least five**  
4 **days prior to the event. The bout contract shall be on a form supplied by the division and**  
5 **contain at least the following:**

- 6 (1) **The weight of the boxer at weigh-in;**
- 7 (2) **The amount of the purse to be paid for the contest;**
- 8 (3) **The date and location of the contest;**
- 9 (4) **Any other payment or consideration provided to the boxer;**
- 10 (5) **List of all fees, charges, and expenses including training expenses that will be**  
11 **assessed to the boxer or deducted from the boxer's purse;**
- 12 (6) **Any reduction in a boxer's purse contrary to a previous agreement between the**  
13 **promoter and the boxer;**
- 14 (7) **The signature of the promoter and boxer; and**
- 15 (8) **The date signed by both the promoter and boxer.**

16 **2. If a bout contract between a boxer and promoter is renegotiated, the promoter**  
17 **shall provide the division with the contract at least two hours prior to the event's scheduled**  
18 **start time.**

19 **3. A promoter of an event shall not be a manager for a boxer who is contracted for**  
20 **ten rounds or more of boxing at that event or have direct or indirect financial interest in**  
21 **a boxer in the event.**

22 **4. The promoter of an event shall provide payments for the boxers' purses and**  
23 **event official's fees in the form of checks or money orders to the office prior to an event.**  
24 **The office may allow other form of payments if arranged in advance. The office shall pay**  
25 **the boxers and officials immediately after the event, but not later than seventy-two hours**  
26 **from the conclusion of the event.**

324.245. 1. The board is authorized to promulgate rules and regulations regarding:

- 2 (1) **The content of license applications and the procedures for filing an application for**  
3 **an initial or renewal license in this state;**
- 4 (2) **The content, conduct and administration of the licensing examination required by**  
5 **section 324.265;**
- 6 (3) **Educational requirements for licensure, including, but not limited to, provisions that**  
7 **allow clock hours of supervised instruction at a vocational-technical school;**
- 8 (4) **The standards and methods to be used in assessing competency as a massage**  
9 **therapist;**
- 10 (5) **All applicable fees, set at an amount which shall not substantially exceed the cost and**  
11 **expense of administering sections 324.240 to 324.275; [and]**

12 (6) Establishment of procedures for granting reciprocity with other states, including  
13 states which do not have massage therapy licensing laws or states whose licensing laws are not  
14 substantially the same as those of this state; and

15 (7) **Establishment of requirements for granting a license, as defined by rule, to a**  
16 **person who has completed an approved massage therapy program in another state that is**  
17 **less than five hundred hours.**

18 2. All funds received by the board pursuant to the provisions of sections 324.240 to  
19 324.275 shall be collected by the director who shall transmit the funds to the department of  
20 revenue for deposit in the state treasury to the credit of the "Massage Therapy Fund" which is  
21 hereby created. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money  
22 in this fund shall not be transferred and placed to the credit of general revenue until the amount  
23 in the fund at the end of the biennium exceeds three times the amount of the appropriation from  
24 the fund for the preceding fiscal year.

25 3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
26 is promulgated to administer and enforce sections 324.240 to 324.275, shall become effective  
27 only if the agency has fully complied with all of the requirements of chapter 536, RSMo,  
28 including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. If the  
29 provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and  
30 if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to  
31 review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held  
32 unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed  
33 and contained in the order of rulemaking shall be invalid and void, except that nothing in this  
34 section shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

324.247. A person desiring to receive a license to operate a massage business in the state  
2 of Missouri shall file a written application with the board on a form prescribed by the division  
3 and pay the appropriate required fee. **It shall be unlawful for a business to employ or contract**  
4 **with any person in this state to provide massage therapy as defined in subdivision (7) of**  
5 **section 324.240 unless such person has obtained a license as provided by this chapter.**  
6 **Failure to comply with the provisions of this section shall be cause to discipline the licensee.**

324.257. After completion of each board survey inspection, a written report of the  
2 findings with respect to the massage business' compliance or noncompliance with the provisions  
3 of sections 324.240 to 324.275 and the standards established hereunder as well as a list of  
4 deficiencies found shall be prepared. A copy of the report and the list of deficiencies found shall  
5 be sent to the massage business within [fifteen] **thirty** business days following the survey  
6 inspection. The list of deficiencies shall specifically state the statute or rule which the massage  
7 business is alleged to have violated. If the massage business acknowledges the deficiencies

8 found by the survey inspection, the massage business shall inform the board of the time  
9 necessary for compliance and shall file a plan of correction with the board. If the massage  
10 business does not acknowledge the deficiencies, or file an acceptable plan of correction with the  
11 board or timely complete an acceptable plan of correction, the board may file a complaint with  
12 the administrative hearing commission as set forth and as provided in sections 324.240 to  
13 324.275.

324.262. 1. The board may refuse to issue, renew or reinstate any license required by  
2 sections 324.240 to 324.275 for one or any combination of causes stated in subsection 2 of this  
3 section. The board shall notify the applicant in writing of the reasons for the refusal and shall  
4 advise the applicant of his or her right to file a complaint with the administrative hearing  
5 commission as provided by chapter 621, RSMo.

6 2. The board may cause a complaint to be filed with the administrative hearing  
7 commission as provided by chapter 621, RSMo, against any holder of any license issued  
8 pursuant to sections 324.240 to 324.275 or any person who has failed to renew or has  
9 surrendered his or her license for any one or any combination of the following causes:

10 (1) The person has been finally adjudicated and found guilty, or entered a plea of guilty  
11 or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United  
12 States, for any offense reasonably related to the qualifications, functions or duties of the  
13 profession regulated pursuant to sections 324.240 to 324.275, for any offense an essential  
14 element of which is fraud, dishonesty or an act of violence, or for any offense involving moral  
15 turpitude, whether or not sentence is imposed;

16 (2) Use of fraud, deception, misrepresentation or bribery in securing any license issued  
17 pursuant to sections 324.240 to 324.275 or in obtaining permission to take any examination  
18 given or required pursuant to sections 324.240 to 324.275;

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

21 (4) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty  
22 in the performance of the functions or duties of the profession regulated by sections 324.240 to  
23 324.275;

24 (5) Violation of, or assisting or enabling any person to violate, any provision of sections  
25 324.240 to 324.275, or of any lawful rule or regulation adopted pursuant to sections 324.240 to  
26 324.275, **including providing massage therapy under subdivision (7) of section 324.240 at**  
27 **a massage business as defined in subdivision (5) of section 324.240 that is not licensed**  
28 **under this chapter;**

29 (6) Impersonation of any person holding a license or allowing any other person to use  
30 his or her certificate or diploma from any school;



31 (7) Disciplinary action against the holder of a license or other right to practice the  
32 profession regulated by sections 324.240 to 324.275 granted by another state, territory, federal  
33 agency or country upon grounds for which revocation or suspension is authorized in this state;

34 (8) A person is finally adjudged insane or incompetent by a court of competent  
35 jurisdiction;

36 (9) Issuance of a license based upon a material mistake of fact;

37 (10) Use of any advertisement or solicitation which is false, misleading or deceptive to  
38 the general public or persons to whom the advertisement or solicitation is primarily directed.

39 3. Any person, organization, association or corporation who reports or provides  
40 information to the division pursuant to the provisions of sections 324.240 to 324.275 and who  
41 does so in good faith and without negligence shall not be subject to an action for civil damages  
42 as a result thereof.

43 4. After the filing of a complaint pursuant to subsection 2 of this section, the proceedings  
44 shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by  
45 the administrative hearing commission that one or more of the grounds for disciplinary action  
46 provided in subsection 2 of this section are met, the board may, singly or in combination, censure  
47 or place the person named in the complaint on probation or suspension or revoke the license of  
48 the person on such terms and conditions as the division deems appropriate.

324.265. 1. A person desiring a license to practice massage therapy shall be at least  
2 eighteen years of age, shall pay the appropriate required application fee, and shall submit  
3 satisfactory evidence to the board of meeting at least one of the following requirements:

4 (1) Has passed a statistically valid examination on therapeutic massage and body work  
5 which is approved by the board, prior to August 28, 1999, and applies for such license by  
6 December 31, 2000; or

7 (2) Completing massage therapy studies consisting of at least five hundred hours of  
8 supervised instruction and subsequently passing an examination approved by the board. The  
9 examination may consist of school examinations. The course of instruction shall be approved  
10 by the board. The five hundred hours shall consist of three hundred hours dedicated to massage  
11 theory and practice techniques, one hundred hours dedicated to the study of anatomy and  
12 physiology, fifty hours dedicated to business practice, professional ethics, hygiene and massage  
13 law in the state of Missouri, and fifty hours dedicated to ancillary therapies, including  
14 cardiopulmonary resuscitation (CPR) and first aid; or

15 (3) Has completed five hundred hours in an apprenticeship with a certified mentor and  
16 has successfully passed an examination approved by the board; or

17 (4) Has been licensed or registered as a massage therapist in another state, territory or  
18 commonwealth or the District of Columbia, which maintains standards of practice and licensure  
19 which substantially conform to the requirements in force in this state;

20 (5) Has been engaged in the practice of massage therapy for at least ten years prior to  
21 August 28, 1999, and applies for such license by December 31, 2000; or

22 (6) Has been in the practice of massage therapy for at least three years prior to August  
23 28, 1999, has completed at least one hundred hours of formal training in massage approved by  
24 the board and applies for such license by December 31, 2000.

25 2. A person who has practiced less than three years or has less than one hundred hours  
26 of training may request a waiver of the requirements of subsection 1 of this section and apply for  
27 a temporary two-year license which shall not be renewable. By the end of such two-year period,  
28 such person shall complete at least one hundred additional hours of formal training, including  
29 at least twenty-five hours in anatomy and physiology, in a school approved by the board. Such  
30 person shall have until December 31, 2000, to apply for a temporary license pursuant to this  
31 subsection.

32 3. Each license issued pursuant to the provisions of this section shall [be valid for two  
33 years and shall] expire on its renewal date. The board shall renew any license upon:

34 (1) Application for renewal;

35 (2) Proof, **as provided by rule**, that the therapist has completed twelve hours of  
36 continuing education; and

37 (3) Payment of the appropriate renewal fee.

38

39 **Failure to obtain the required continuing education hours, submit satisfactory evidence,**  
40 **or maintain required documentation is a violation of this subsection. As provided by rule,**  
41 **the board may waive or extend the time requirements for completion of continuing**  
42 **education for reasons related to health, military service, foreign residency, or other good**  
43 **cause. All requests for waivers or extensions of time shall be made in writing and**  
44 **submitted to the board before the renewal date.**

45 4. An applicant who possesses the qualifications specified in subsection 2 of this section  
46 to take the examination approved by the board may be granted a provisional license to engage  
47 in the practice of massage therapy until the date of the next examination, and thereafter until the  
48 results of the examination are known.

49 5. As determined by the board, students making substantial progress toward completion  
50 of their training in an approved curriculum shall be granted a student license for the purpose of  
51 practicing massage therapy on the public while under the supervision of a massage therapy  
52 instructor.

53           6. A provisional license may, at the discretion of the board, be renewed once, and a  
54 student license may be renewed until the student completes such student's training.

55           7. The following practitioners are exempt from the provisions of this section upon filing  
56 written proof with the board that they meet one or more of the following:

57           (1) Persons who act under a Missouri state license, registration, or certification and  
58 perform soft tissue manipulation within their scope of practice;

59           (2) Persons who restrict their manipulation of the soft tissues of the human body to the  
60 hands, feet or ears;

61           (3) Persons who use touch and words to deepen awareness of existing patterns of  
62 movement in the human body as well as to suggest new possibilities of movement;

63           (4) Persons who manipulate the human body above the neck, below the elbow, and  
64 below the knee and do not disrobe the client in performing such manipulation.

65           **8. Any nonresident person licensed, registered, or certified by another state or**  
66 **territory of the United States, the District of Columbia, or foreign territory or recognized**  
67 **certification system determined as acceptable by the board shall be exempt from licensure**  
68 **as defined in this chapter, if such persons are incidentally called into the state to teach a**  
69 **course related to massage or bodywork therapy or to provide massage therapy services as**  
70 **part of an emergency response team working in conjunction with disaster relief officials.**

71           **9. Any nonresident person holding a current license, registration, or certification**  
72 **in massage therapy from another state or recognized national certification system**  
73 **determined as acceptable by the board shall be exempt from licensure as defined in this**  
74 **chapter when temporarily present in this state for the purpose of providing massage**  
75 **therapy services at special events such as conventions, sporting events, educational field**  
76 **trips, conferences, and traveling shows or exhibitions.**

324.270. A person who does not hold a license to practice massage therapy or a license  
2 to operate a massage business or is not exempted from obtaining a license pursuant to subsection  
3 7 of section 324.265 shall not use the words "massage", "body work", or any of their synonyms  
4 on any sign or in any other form of advertising, unless specifically exempted by the board. [Any  
5 advertisement by a massage therapist or a massage business shall contain the license or  
6 registration number of such therapist or business.]

**324.1150. As used in sections 324.1150 to 324.1198, the following terms mean:**

2           (1) "Board", the board of private investigator examiners established in section  
3 **324.1152;**

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

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

6           (4) "Law enforcement officer", a law enforcement officer as defined in section  
7 **556.061, RSMo;**

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

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

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

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

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

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

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

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

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

26           (e) Sale of personal identification information to the public; or

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

**324.1152. 1. The "Board of Private Investigator Examiners" is hereby created**  
2 **within the division of professional registration. The board shall be a body corporate and**  
3 **may sue and be sued.**

4           **2. The board shall be composed of five members appointed by the governor with**  
5 **the advice and consent of the senate. Each member of the board shall be a citizen of the**  
6 **United States, a resident of Missouri, at least thirty years of age, and shall have been**  
7 **actively engaged in the private investigator business for the previous five years. No more**  
8 **than one board member may be employed by, or affiliated with, the same private**  
9 **investigator agency. The initial board members shall not be required to be licensed but**  
10 **shall obtain a license within one hundred eighty days after the effective date of the rules**  
11 **promulgated pursuant to sections 324.1150 to 324.1198 regarding licensure.**

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

14 appointed for terms of four years, two members shall be appointed for terms of three years  
15 and one member shall be appointed for a one-year term. Any vacancy on the board shall  
16 be filled for the unexpired term of the member and in the manner as the first appointment.  
17 No member may serve consecutive terms.

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

21 5. There is hereby created in the state treasury the "Board of Private Investigator  
22 Examiners Fund", hereafter the fund, which shall consist of money collected pursuant to  
23 sections 324.1150 to 324.1198. The fund shall be administered by the board of private  
24 investigator examiners, which shall collect the fees authorized by sections 324.1150 to  
25 324.1198 and transmit them to the director of revenue for deposit to the state treasury to  
26 the credit of the fund. Money in the fund shall be used solely for the purposes of the board  
27 of private investigator examiners, as authorized by sections 324.1150 to 324.1198.

28 6. Notwithstanding the provisions of section 33.080, RSMo, no portion of the fund  
29 shall be transferred to the general revenue fund, and any appropriation made to the fund  
30 shall not lapse. The state treasurer shall invest moneys in the fund in the same manner as  
31 other funds are invested. Interest and moneys earned on such investments shall be credited  
32 to the fund.

324.1154. Unless expressly exempted from the provisions of sections 324.1150 to  
2 324.1198:

3 (1) It shall be unlawful for any person to engage in the private investigator business  
4 in this state unless such person is licensed as a private investigator pursuant to sections  
5 324.1150 to 324.1198;

6 (2) It shall be unlawful for any person to engage in business in this state as a private  
7 investigator agency unless such person is licensed pursuant to sections 324.1150 to  
8 324.1198.

324.1156. The following persons shall not be deemed to be engaging in the private  
2 investigator business:

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

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

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

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

14           (5) A collection agency or an employee thereof while acting within the scope of  
15 employment, while making an investigation incidental to the business of the agency,  
16 including an investigation of the location of a debtor or a debtor's property where the  
17 contract with an assignor creditor is for the collection of claims owed or due, or asserted  
18 to be owed or due, or the equivalent thereof;

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

21           (7) Any bank subject to the jurisdiction of the director of the division of finance of  
22 the state of Missouri or the comptroller of currency of the United States;

23           (8) An insurance adjuster. For the purposes of sections 324.1150 to 324.1198, an  
24 "insurance adjuster" means any person who receives any consideration, either directly or  
25 indirectly, for adjusting in the disposal of any claim under or in connection with a policy  
26 of insurance or engaging in soliciting insurance adjustment business;

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

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

32           (11) Any real estate broker, real estate salesperson, or real estate appraiser acting  
33 within the scope of his or her license.

          324.1158. 1. Every person desiring to be licensed in this state as a private  
2 investigator or private investigator agency shall make application therefor to the board of  
3 private investigator examiners. An application for a license pursuant to the provisions of  
4 sections 324.1150 to 324.1198 shall be on a form prescribed by the board of private  
5 investigator examiners and accompanied by the required application fee. An application  
6 shall be verified and shall include:

7           (1) The full name and business address of the applicant;

8           (2) The name under which the applicant intends to do business;

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

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

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

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

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

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

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

20           (2) Be a citizen of the United States;

21           (3) Provide proof of insurance with amount to be no less than one million in  
22 coverage for liability and proof of workers' compensation insurance if required in chapter  
23 287, RSMo. The board shall have the authority to raise the requirements as deemed  
24 necessary; and

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

          324.1160. 1. The board of private investigator examiners shall require as a  
2 condition of licensure as a private investigator that the applicant pass a written  
3 examination as evidence of knowledge of investigator rules and regulations.

4           2. The department shall conduct a complete investigation of the background of each  
5 applicant for licensure as a private investigator to determine whether the applicant is  
6 qualified for licensure pursuant to sections 324.1150 to 324.1198. The board will outline  
7 basic qualification requirements for licensing as a private investigator and agency.

8           3. In the event requirements have been met so that testing has been waived,  
9 qualification is dependent on a showing of, for the two previous years:

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

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

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

          324.1162. The board of private investigator examiners may deny a request for a  
2 license if the applicant:

3           (1) Has committed any act which, if committed by a licensee, would be grounds for  
4 the suspension or revocation of a license pursuant to the provisions of sections 324.1150 to  
5 324.1198;

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

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

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

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

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

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

16           (3) Been refused a license pursuant to the provisions of sections 324.1150 to  
17 324.1198 or had a license revoked in this state or in any other state;

18           (4) While unlicensed, committed or aided and abetted the commission of any act  
19 for which a license is required by sections 324.1150 to 324.1198 after the effective date of  
20 this section; or

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

          324.1164. 1. Every application submitted pursuant to the provisions of sections  
2 324.1150 to 324.1198 shall be accompanied by a fee as determined by the board as follows:

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

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

7           2. The board shall set fees as authorized by sections 324.1150 to 324.1198 at a level  
8 to produce revenue which will not substantially exceed the cost and expense of  
9 administering sections 324.1150 to 324.1198.

10           3. The fees prescribed by sections 324.1150 to 324.1198 shall be exclusive and  
11 notwithstanding any other provision of law. No municipality may require any person  
12 licensed pursuant to sections 324.1150 to 324.1198 to furnish any bond, pass any  
13 examination, or pay any license fee or occupational tax relative to practicing the person's  
14 profession.

15           4. A private investigator license shall allow only the individual licensed by the state  
16 to conduct investigations. An agency license shall be applied for separately and held by an  
17 individual who is licensed as a private investigator. The agency may hire individuals to  
18 work for the agency conducting investigations for the agency only. Persons hired shall  
19 make application as determined by the board and meet all requirements set forth by the  
20 board except that they shall not be required to meet any experience requirements and shall  
21 be allowed to begin working immediately upon the agency submitting their applications.



324.1166. A private investigator agency shall not hire any individual as an  
2 employee unless the individual:

- 3 (1) Is at least twenty-one years of age;
- 4 (2) Provides two recent photographs of themselves, of a type prescribed by the  
5 board of private investigator examiners, and two classifiable sets of their fingerprints; and
- 6 (3) Complies with any other qualifications and requirements the board adopts by  
7 rule.

324.1168. A private investigator agency shall not hire an individual, who is not  
2 licensed as a private investigator, as an employee if the individual:

- 3 (1) Has been convicted of a felony or aggravated misdemeanor;
- 4 (2) Is addicted to the use of alcohol or a controlled substance;
- 5 (3) Has a history of repeated acts of violence;
- 6 (4) Is not of good moral character or has been adjudged guilty of a crime involving  
7 moral turpitude;
- 8 (5) Has been convicted of illegally using, carrying, or possessing a dangerous  
9 weapon.

324.1170. An individual, who is not licensed as a private investigator, hired as an  
2 employee by a private investigator agency shall work only under the direction of the  
3 agency whose identification number appears on their application and shall only work for  
4 one agency at any one time.

324.1172. A licensee shall successfully complete sixteen hours of continuing  
2 education units biennially and an individual, who is not licensed as a private investigator,  
3 who is hired as an employee by a private investigator agency shall successfully complete  
4 eight hours of continuing education units biennially.

324.1174. 1. The board of private investigator examiners shall determine the form  
2 of the license which shall include the:

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

6 2. The license shall be posted at all times in a conspicuous place in the principal  
7 place of business of the licensee. Upon the issuance of a license, a pocket card of such size,  
8 design, and content as determined by the division shall be issued without charge to each  
9 licensee. Such card shall be evidence that the licensee is licensed pursuant to the provisions  
10 of sections 324.1150 to 324.1198. When any person to whom a card is issued terminates  
11 such person's position, office, or association with the licensee, the card shall be surrendered  
12 to the licensee and within five days thereafter shall be mailed or delivered by the licensee

13 to the board of private investigator examiners for cancellation. Within thirty days after  
14 any change of address, a licensee shall notify the board of the address change. The  
15 principal place of business may be at a residence or at a business address, but it shall be  
16 the place at which the licensee maintains a permanent office.

324.1176. 1. Any license issued pursuant to sections 324.1150 to 324.1198 shall  
2 expire two years after the date of its issuance. Renewal of any such license shall be made  
3 in the manner prescribed for obtaining an original license, including payment of the  
4 appropriate fee, except that:

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

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

10 (3) The applicant does not have to be tested again but must instead provide proof  
11 that the applicant successfully completed sixteen hours of continuing education credits;  
12 and

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

15 2. A licensee shall at all times be legally responsible for the good conduct of each  
16 of the licensee's employees or agents while engaged in the business of the licensee and the  
17 licensee is legally responsible for any acts committed by such licensee's employees or agents  
18 which are in violation of sections 324.1150 to 324.1198. A person receiving an agency  
19 license shall directly manage the agency and employees.

20 3. A license issued pursuant to the provisions of sections 324.1150 to 324.1198 shall  
21 not be assignable.

324.1178. 1. Any licensee may divulge to the board, any law enforcement officer,  
2 or prosecuting attorney, or such person's representative, any information such person may  
3 acquire as to any criminal offense, or instruct his or her client to do so if the client is the  
4 victim but such person shall not divulge to any other person, except as he or she may be  
5 required by law to do, any information acquired by such person at the direction of the  
6 employer or client for whom the information was obtained.

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

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

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

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

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

20           (5) Manufacture false evidence; or

21           (6) Create any video recording of an individual in their domicile without the  
22 individual's permission. Furthermore, if such video recording is made, it shall not be  
23 admissible as evidence in any civil proceeding.

          324.1180. Each licensee shall maintain a record containing such information  
2 relative to the licensee's employees as may be prescribed by the board of private  
3 investigator examiners. Such licensee shall file with the board the complete address of the  
4 licensee's principal place of business including the name and number of the street. The  
5 board may require the filing of other information for the purpose of identifying such  
6 principal place of business.

          324.1182. Every advertisement by a licensee soliciting or advertising business shall  
2 contain the licensee's name, city, and state as it appears in the records of the board of  
3 private investigator examiners. A licensee shall not advertise or conduct business from any  
4 Missouri address other than that shown on the records of the board as the licensee's  
5 principal place of business unless the licensee has received an additional agency license for  
6 such location after compliance with the provisions of sections 324.1150 to 324.1198 and  
7 such additional requirements necessary for the protection of the public as the board may  
8 prescribe by regulation. A licensee shall notify the board in writing within ten days after  
9 closing or changing the location of a branch office. The fee for the additional license shall  
10 be one-half the cost of the fee for the agency's original license.

          324.1184. 1. The board of private investigator examiners may suspend or revoke  
2 a license issued pursuant to sections 324.1150 to 324.1198 if, after notice and opportunity  
3 for hearing in accordance with the provisions of chapter 621, RSMo, the administrative  
4 hearing commission determines that the licensee has:

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

7           (2) Violated any provision of sections 324.1100 to 324.1148;

8           (3) Violated any rule of the board of private investigator examiners adopted  
9 pursuant to the authority contained in sections 324.1150 to 324.1198;

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

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

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

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

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

23          (9) Committed any act which is grounds for denial of an application for a license  
24 pursuant to the provisions of section 324.1112.

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

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

32          4. After the filing of a complaint before the administrative hearing commission, the  
33 proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo.  
34 Upon a finding by the administrative hearing commission that the grounds in subsection  
35 1 of this section for disciplinary action are met, the board may singly or in combination  
36 censure or place the person named in the complaint on probation pursuant to such terms  
37 and conditions as the board deems appropriate for a period not to exceed five years, may  
38 suspend for a period not to exceed three years, or revoke the license.

          324.1186. 1. Each private investigator or investigator agency operating pursuant  
2 to the provisions of sections 324.1150 to 324.1198 shall be required to keep a complete  
3 record of the business transactions of such investigator or investigator agency for a period  
4 of seven years. Upon the service of a court order issued by a court of competent

5 jurisdiction or upon the service of a subpoena issued by the board which is based on a  
6 complaint supported by oath or affirmation, and particularly describing the records and  
7 reports, any licensed private investigator who is the owner, partner, director, corporate  
8 officer, or custodian of business records shall provide an opportunity for the inspection of  
9 the same and to inspect reports made; but any information obtained by the board shall be  
10 kept confidential, except as may be necessary to commence and prosecute any legal  
11 proceedings. The board shall not personally enter a licensee's place of business to inspect  
12 records, but shall utilize an employee of the division of professional registration to act as  
13 a gatherer of information and facts to present to the board regarding any complaint or  
14 inspection they are looking into.

15       2. For the purpose of enforcing the provisions of sections 324.1150 to 324.1198, and  
16 in making investigations relating to any violation thereof, the board shall have the power  
17 to subpoena and bring before the board any person in this state and require the production  
18 of any books, records, or papers which the board deems relevant to the inquiry. The board  
19 also may administer an oath to and take the testimony of any person, or cause such  
20 person's deposition to be taken, except that any applicant or licensee or officer, director,  
21 partner, or associate thereof shall not be entitled to any fees or mileage. A subpoena issued  
22 pursuant to this section shall be governed by the Missouri rules of civil procedure and shall  
23 comply with any confidentiality standards or legal limitations imposed by privacy or open  
24 records acts, fair credit reporting acts, polygraph acts, driver privacy protection acts,  
25 judicially recognized privileged communications, and the bill of rights of both the United  
26 States and Missouri Constitutions. Any person duly subpoenaed, who fails to obey such  
27 subpoena without reasonable cause or without such cause refuses to be examined or to  
28 answer any legal or pertinent question as to the character or qualification of such applicant  
29 or licensee or such applicant's alleged unlawful or deceptive practices and methods or such  
30 violations, shall be guilty of a class A misdemeanor. The testimony of witnesses in any  
31 investigative proceeding shall be under oath.

324.1188. 1. The board shall adopt such rules and regulations as may be necessary  
2 to carry out the provisions of sections 324.1150 to 324.1198.

3       2. No rule or portion of a rule promulgated pursuant to the authority of sections  
4 324.1150 to 324.1198 shall become effective unless it has been promulgated pursuant to the  
5 provisions of chapter 536, RSMo.

324.1190. 1. The board of private investigator examiners shall certify persons who  
2 are qualified to train private investigators.

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

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

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

7           (3) Be personally licensed as a private investigator pursuant to sections 324.1150  
8 to 324.1198 and qualified to train private investigators.

9           3. Persons wishing to become certified trainers shall make application to the board  
10 of private investigator examiners on a form prescribed by the board and accompanied by  
11 a fee determined by the board. The application shall contain a statement of the plan of  
12 operation of the training offered by the applicant and the materials and aids to be used and  
13 any other information required by the board.

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

15           (1) Meets the requirements of subsection 2 of this section;

16           (2) Has sufficient knowledge of private investigator business to be a suitable person  
17 to train private investigators;

18           (3) Has supplied all required information to the board; and

19           (4) Has paid the required fee.

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

          324.1192. Any person who knowingly falsifies the fingerprints or photographs or  
2 other information required to be submitted pursuant to sections 324.1150 to 324.1198 is  
3 guilty of a class D felony; and any person who violates any of the other provisions of  
4 sections 324.1150 to 324.1198 is guilty of a class A misdemeanor.

          324.1194. The board may negotiate and enter into reciprocal agreements with  
2 appropriate officials in other states to permit licensed private investigator agencies and  
3 licensed private investigators who meet or exceed the qualifications established in sections  
4 324.1150 to 324.1198 to operate across state lines under mutually acceptable terms.

          324.1196. Law enforcement officers who perform private investigations shall be  
2 licensed pursuant to this chapter subject to the following qualifications and limitations:

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

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

7           (3) Law enforcement officers shall assume individual liability for their actions while  
8 performing private investigations, complying with any insurance or bonding requirements  
9 imposed pursuant to sections 324.1150 to 324.1198;

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

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

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

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

20           (5) Law enforcement officers shall produce evidence of training and experience  
21 concerning the legal limits imposed on private investigations or pass a test on such subject  
22 produced by the board; and

23           (6) The provisions of sections 324.1150 to 324.1198 shall not apply to law  
24 enforcement officers who provide only private security services and not private  
25 investigator services.

          324.1198. Any person who violates sections 324.1150 to 324.1198 is guilty of a class  
2 A misdemeanor. Any second or subsequent violation of sections 324.1150 to 324.1198 is  
3 a class D felony.

          332.052. 1. Dentists shall maintain an adequate and complete patient record for  
2 each patient and may maintain electronic records provided the record-keeping format is  
3 capable of being printed for review by the board.

4           2. Patient records remaining under the care, custody and control of the licensees  
5 shall be maintained by the licensee, or the licensee's designee, for the longer of a minimum  
6 of seven years from the date of when the last professional service was provided or in the  
7 case of a minor, five years from the age of majority.

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

13           4. Dentists and nondentists shall maintain copies of laboratory work orders for  
14 seven years.

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

- 3           (1) Undertakes to do or perform dental work or dental services or dental operations or  
4 oral surgery, by any means or methods, including the use of lasers, gratuitously or for a salary  
5 or fee or other reward, paid directly or indirectly to the person or to any other person or entity;
- 6           (2) Diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats  
7 or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition of  
8 human teeth or adjacent structures or treats or professes to treat any disease or disorder or lesions  
9 of the oral regions;
- 10          (3) Attempts to or does replace or restore a part or portion of a human tooth;
- 11          (4) Attempts to or does extract human teeth or attempts to or does correct malformations  
12 of human teeth or jaws;
- 13          (5) Attempts to or does adjust an appliance or appliances for use in or used in connection  
14 with malposed teeth in the human mouth;
- 15          (6) Interprets or professes to interpret or read dental radiographs;
- 16          (7) Administers an anesthetic in connection with dental services or dental operations or  
17 dental surgery;
- 18          (8) Undertakes to or does remove hard and soft deposits from or polishes natural and  
19 restored surfaces of teeth;
- 20          (9) Uses or permits to be used for the person's benefit or for the benefit of any other  
21 person or other entity the following titles or words in connection with the person's name:  
22 "Doctor", "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters, titles, degrees or  
23 descriptive matter which directly or indirectly indicate or imply that the person is willing or able  
24 to perform any type of dental service for any person or persons, or uses or permits the use of for  
25 the person's benefit or for the benefit of any other person or other entity any card, directory,  
26 poster, sign or any other means by which the person indicates or implies or represents that the  
27 person is willing or able to perform any type of dental services or operation for any person;
- 28          (10) Directly or indirectly owns, leases, operates, maintains, manages or conducts an  
29 office or establishment of any kind in which dental services or dental operations of any kind are  
30 performed for any purpose; but this section shall not be construed to prevent owners or lessees  
31 of real estate from lawfully leasing premises to those who are qualified to practice dentistry  
32 within the meaning of this chapter;
- 33          (11) Controls, influences, attempts to control or influence, or otherwise interferes with  
34 the dentist's independent professional judgment regarding the diagnosis or treatment of a dental  
35 disease, disorder, or physical condition except that any opinion rendered by any health care  
36 professional licensed under this chapter or chapter 330, 331, 334, 335, 336, 337, or 338, RSMo,  
37 regarding the diagnosis, treatment, disorder, or physical condition of any patient shall not be



38 construed to control, influence, attempt to control or influence or otherwise interfere with a  
39 dentist's independent professional judgment;

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

48 (13) Attempts to or does place any substitute described in subdivision (12) of this section  
49 in a human mouth or attempts to or professes to adjust any substitute or delivers any substitute  
50 to any person other than the dentist upon whose order the work in producing the substitute was  
51 performed;

52 (14) Advertises, solicits, or offers to or does sell or deliver any substitute described in  
53 subdivision (12) of this section or offers to or does sell the person's services in constructing,  
54 reproducing, supplying or repairing the substitute to any person other than a registered and  
55 licensed dentist in Missouri;

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

59 (16) Reviews examination findings, x-rays, or other patient data to make judgments or  
60 decisions about the dental care rendered to a patient in this state.

334.103. 1. [The license of a physician] **A license issued under this chapter by the**  
2 **Missouri State Board of Registration for the Healing Arts** shall be automatically revoked at  
3 such time as the final trial proceedings are concluded whereby a [physician] **licensee** has been  
4 adjudicated and found guilty, or has entered a plea of guilty or nolo contendere, in a felony  
5 criminal prosecution under the laws of the state of Missouri, the laws of any other state, or the  
6 laws of the United States of America for any offense reasonably related to the qualifications,  
7 functions or duties of [a physician] **their profession**, or for any felony offense, an essential  
8 element of which is fraud, dishonesty or an act of violence, or for any felony offense involving  
9 moral turpitude, whether or not sentence is imposed, or, upon the final and unconditional  
10 revocation of the license [of a physician] to practice [the healing arts] **their profession** in another  
11 state or territory upon grounds for which revocation is authorized in this state following a review  
12 of the record of the proceedings and upon a formal motion of the state board of registration for  
13 the healing arts. The license of any such [physician] **licensee** shall be automatically reinstated

14 if the conviction or the revocation is ultimately set aside upon final appeal in any court of  
15 competent jurisdiction.

16 2. Anyone who has been denied a license, permit or certificate to practice in another state  
17 shall automatically be denied a license to practice in this state. However, the board of healing  
18 arts may set up other qualifications by which such person may ultimately be qualified and  
19 licensed to practice in Missouri.

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

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

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

8 2. Persons desiring to practice as a physical therapist assistant in this state shall appear  
9 before the board at such time and place as the board may direct and be examined as to the  
10 person's fitness to engage in such practice. Applications for examination shall be in writing, on  
11 a form furnished by the board and shall include evidence satisfactory to the board that the  
12 applicant possesses the qualifications provided in subsection 1 of this section. Each application  
13 shall contain a statement that the statement is made under oath of affirmation and that its  
14 representations are true and correct to the best knowledge and belief of the person signing the  
15 statement, subject to the penalties of making a false affidavit or declaration.

16 3. The examination of qualified candidates for licensure to practice as physical therapist  
17 assistants shall embrace a written examination and which shall cover the curriculum taught in  
18 accredited associate degree programs of physical therapy assistant education. Such examination  
19 shall be sufficient to test the qualification of the candidates as practitioners.

20 4. The board shall not issue a license to practice as a physical therapist assistant or allow  
21 any person to sit for the Missouri state board examination for physical therapist assistants who  
22 has failed three or more times any physical therapist **assistant** licensing examination  
23 administered in one or more states or territories of the United States or the District of Columbia.

24 5. The board may waive the provisions of subsection 4 if the applicant has met [one of]  
25 the following provisions: the applicant is licensed and has maintained an active clinical practice  
26 for the previous three years in another state of the United States, the District of Columbia or  
27 Canada and the applicant has achieved a passing score on a licensing examination administered  
28 in a state or territory of the United States, the District of Columbia and no license issued to the  
29 applicant has been disciplined or limited in any state or territory of the United States, the District  
30 of Columbia or Canada.

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

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

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

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

9           2. The board shall not issue a license to any applicant who has failed three or more times  
10 any physical therapist assistant licensing examination administered in one or more states or  
11 territories of the United States or the District of Columbia.

12           3. The board may waive the provisions of subsection [1] 2 if the applicant has met [one  
13 of] the following provisions: the applicant is licensed and has maintained an active clinical  
14 practice for the previous three years in another state of the United States, the District of  
15 Columbia or Canada and the applicant has achieved a passing score on a licensing examination  
16 administered in a state or territory of the United States, the District of Columbia and no license  
17 issued to the applicant has been disciplined or limited in any state or territory of the United  
18 States, the District of Columbia or Canada.

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

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

2 **334.1000. Sections 334.1000 to 334.1024 shall be known and may be cited as the**  
**"Medical Imaging and Radiation Therapy Quality Assurance Act of 2006".**

**334.1003. As used in sections 334.1000 to 334.1024, the following terms mean:**

2 (1) "Board", the medical imaging and radiation therapy board of examiners  
3 created in section 334.1009;

4 (2) "Chiropractic radiologist", a physician certified by the American Chiropractic  
5 Board of Radiology;

6 (3) "Director", the director of the division of professional registration within the  
7 department of economic development;

8 (4) "License", a certificate issued by the board authorizing the licensee to use  
9 radioactive materials, medical imaging, or radiation therapy equipment on humans for  
10 diagnostic or therapeutic purposes in accordance with sections 334.1000 to 334.1024;

11 (5) "Licensed practitioner", a person licensed to practice medicine, dentistry,  
12 podiatry, chiropractic, osteopathy, veterinary medicine, or as a nurse or dental hygienist  
13 in this state;

14 (6) "Limited permit", a certificate issued by the board authorizing a person to  
15 conduct diagnostic radiology examinations that is limited to the performance of specific  
16 medical imaging procedures on specific parts of the human body, such as chest, spine, or  
17 extremity radiography;

18 (7) "Medical imaging", any procedures or article intended for use in the diagnosis  
19 of disease or other medical or dental conditions, including but not limited to diagnostic X-  
20 rays and nuclear medicine;

21 (8) "Nuclear medicine technologist", a person, other than a licensed practitioner,  
22 who uses radiopharmaceutical agents on humans for diagnostic or therapeutic purposes;

23 (9) "Persons who administer medical imaging or radiation therapy procedures",  
24 any person, other than a licensed practitioner, who intentionally administers medical  
25 imaging or radiation therapy procedures to other persons for medical purposes, and  
26 including, but not limited to, radiographers, radiation therapists, and nuclear medicine  
27 technologists, licensed under sections 334.1000 to 334.1024;

28 (10) "Public member", a person who is a resident of this state but who is not a  
29 licensed practitioner, person who administers medical imaging and radiation therapy  
30 procedures, or dental radiographer under sections 334.1000 to 334.1024;

31       (11) "Radiation therapist", a person, other than a licensed practitioner, who  
32 applies radiation to humans for therapeutic purposes;

33       (12) "Radiation therapy", any radiation procedure or article intended for the cure,  
34 mitigation, or prevention of disease in humans;

35       (13) "Radiologic physicist", a person who is certified by the American Board of  
36 Radiology in radiological physics or one of the subspecialties of radiological physics, or is  
37 eligible for such certification;

38       (14) "Radiographer", a person, other than a licensed practitioner, who applies  
39 radiation to humans for diagnostic purposes;

40       (15) "Radiologist", a physician certified by the American Board of Radiology or  
41 the American Osteopathic Board of Radiology, the American Chiropractic Board of  
42 Radiology, the British Royal College of Radiology, or the Canadian College of Physicians  
43 and Surgeons;

44       (16) "Temporary license", a certificate issued by the board authorizing an  
45 applicant to perform medical imaging and radiation therapy procedures when his or her  
46 licensure or relicensure is pending before the board and when issuance may be justified  
47 by special circumstances as determined by the board.

      334.1006. 1. No person, other than a licensed practitioner who administers medical  
2 imaging and radiation therapy procedures, shall perform medical imaging or radiation  
3 therapy procedures on humans for diagnostic or therapeutic purposes.

4       2. The board shall establish licensure standards consistent with national  
5 accreditation standards for the radiographer (R), radiation therapist (T), nuclear medicine  
6 technologist (N), limited permit holder, and temporary license holder. Persons holding  
7 such licenses shall be recognized by this nomenclature.

8       3. A person holding a license under sections 334.1000 to 334.1024 shall use  
9 radioactive substances or equipment for medical imaging and radiation therapy  
10 procedures on humans only for diagnostic or therapeutic purposes at the direction of a  
11 licensed practitioner, and only if the application of a substance or the use of equipment is  
12 limited in a manner specified in sections 334.1000 to 334.1024.

13       4. Nothing in sections 334.1000 to 334.1024 relating to medical imaging or radiation  
14 therapy shall limit, enlarge, or affect the practice of licensed practitioners as defined in  
15 section 334.1003.

16       5. The requirement of a license shall not apply to a resident physician or a student  
17 enrolled in and attending a school or college of medicine, osteopathy, chiropractic,  
18 podiatry, dentistry, dental hygiene, medical imaging, or radiation therapy who performs  
19 medical imaging or radiation therapy procedures on humans while under the supervision

20 of a licensed practitioner or direct supervision of a radiographer, radiation therapist, or  
21 nuclear medicine technologist holding a license under sections 334.1000 to 334.1024.

22 6. The provisions of sections 334.1000 to 334.1024 shall not apply to persons  
23 performing sonography services or bone density studies.

24 7. Nothing in sections 334.1000 to 334.1024 shall be construed as regulating persons  
25 regulated under chapter 332, RSMo.

334.1009. 1. There is hereby established the "Medical Imaging and Radiation  
2 Therapy Board of Examiners" which shall consist of twelve members appointed by the  
3 governor with the advice and consent of the senate. All members of the board shall be  
4 residents of this state. Of the seven board members, two shall be persons who administer  
5 medical imaging and radiation therapy procedures, two shall be radiologists, one of whom  
6 shall be a chiropractic radiologist, one shall be a radiologic physicist, and one shall be a  
7 public member.

8 2. The term of office for each member of the board shall be four years; except that,  
9 of the members first appointed two shall be appointed to a term of two years, two shall be  
10 appointed to a term of three years, and three shall be appointed to a term of four years.  
11 Vacancies shall be filled for an unexpired term only in the manner provided by original  
12 appointment.

13 3. Persons who administer medical imaging or radiation therapy procedures  
14 appointed to the board for terms beginning thirty-six months following issuance of a  
15 license in any category by the board shall hold a valid license in any category issued by the  
16 board.

17 4. Members of the board shall not receive compensation for their service on the  
18 board, but may be reimbursed for reasonable and necessary expenses incurred in the  
19 performance of their official duties as members of the board.

20 5. The director of the division of professional registration shall designate an officer  
21 or employee of the state to act as a secretary of the board who shall not be a member of the  
22 board. The director shall furnish staff, logistics, budget, and other support to the board  
23 as appropriate.

24 6. No public member shall have any association or relationship with a licensed  
25 practitioner or person who administers medical imaging or radiation therapy procedures,  
26 that would prevent or in any way hinder the public member in representing the interest  
27 of the public.

28 7. For administrative purposes, the board shall meet at least once every three  
29 months at times and places of its choosing. The first meeting of the board shall be for  
30 organization only, in which the board will set forth its responsibilities and rules.

31           **8. A majority of the voting members shall constitute a quorum. No action shall be**  
32 **taken by the board except by an affirmative vote of the majority of those members present**  
33 **and voting.**

34           **9. The board shall be responsible for setting and implementing policies for licensing**  
35 **individuals, accrediting programs, imposing discipline, and hearing appeals.**

**334.1012. 1. The board shall admit to examination for licensure any applicant who**  
2 **pays a nonrefundable fee established by rule of the board and submits satisfactory**  
3 **evidence, verified by oath or affirmation, that the applicant:**

4           **(1) At the time of application, the applicant is at least eighteen years of age; and**  
5           **(2) Has successfully completed a four-year course of study in a secondary school**  
6 **approved by the state board of education, or passed an approved equivalency test.**

7           **2. In addition to the requirements in subsection 1 of this section, any person seeking**  
8 **to obtain a license in a specific area of medical imaging and radiation therapy shall comply**  
9 **with the following requirements:**

10           **(1) Each applicant for a license as a radiographer, radiation therapist, nuclear**  
11 **medicine technologist, or dental radiographer shall have satisfactorily completed a course**  
12 **of study in radiography, radiation therapy, or nuclear medicine, respectively, or an**  
13 **equivalent to be determined by the board;**

14           **(2) The curriculum for each course of study shall be based on the standards**  
15 **approved by the Joint Review Committee on Education in Radiologic Technology, the**  
16 **Joint Review Committee on Nuclear Medicine Technology, or other appropriate**  
17 **accreditation agencies approved by the board.**

18           **3. The board shall establish criteria and standards within the state for educational**  
19 **programs in medical imaging and radiation therapy consistent with national accreditation**  
20 **standards, and approve such programs upon finding that the criteria and standards have**  
21 **been met.**

22           **4. In addition to the requirements of subsection 1 of this section, the scope of each**  
23 **limited permit is restricted as follows:**

24           **(1) Chest radiography permit: radiography of the thorax, heart, and lungs;**

25           **(2) Skeletal radiography permit: radiography of the upper and lower extremities,**  
26 **or the vertebral column.**

27           **5. The board shall waive the examination and education requirements for licensure**  
28 **of a person who has been employed on a full-time basis for a minimum of three of the**  
29 **immediately preceding five years as a radiographer, radiation therapist, or nuclear**  
30 **medicine technologist. Such person shall have a minimum of two years to meet the**  
31 **continuing education requirements set by the board for renewal of licensure.**

32           **6. (1) There is hereby created in the state treasury the "Medical Imaging and**  
33 **Radiation Therapy Licensure Fund", which shall consist of money collected pursuant to**  
34 **sections 334.1000 to 334.1024. The state treasurer shall be custodian of the fund and shall**  
35 **disburse moneys from the fund in accordance with sections 30.170 and 30.180, RSMo.**  
36 **Upon appropriation, money in the fund shall be used solely for the administration of**  
37 **sections 334.1000 to 334.1024.**

38           **(2) Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any**  
39 **moneys remaining in the fund at the end of the biennium shall not revert to the credit of**  
40 **the general revenue fund.**

41           **(3) The state treasurer shall invest moneys in the fund in the same manner as other**  
42 **funds are invested. Any interest and moneys earned on such investments shall be credited**  
43 **to the fund.**

**334.1015. 1. An approved program of medical imaging and radiation therapy may**  
2 **be offered by a medical, chiropractic, or dental facility, educational institution,**  
3 **chiropractic college, or other public or private agency or institution. The program shall**  
4 **be affiliated with one or more hospitals or dental schools or chiropractic colleges that, in**  
5 **the opinion of the board and the appropriate accrediting agency, shall provide the requisite**  
6 **clinical education.**

7           **2. The board shall by rule:**

8           **(1) Adopt procedures for an educational program to follow in making application**  
9 **for accreditation;**

10          **(2) Provide a process for review of such accreditation by an existing accreditation**  
11 **agency and approval by a recognized national voluntary accrediting organization.**

**334.1018. 1. Each applicant for licensure shall be required to pass a license**  
2 **examination designed and approved by the board.**

3           **2. The board shall hold an examination at least every six months at times and places**  
4 **as the board may determine.**

5           **3. An applicant who fails to pass the examination may reapply for the examination**  
6 **provided the applicant complies with the rules established by the board.**

7           **4. The board shall accept in lieu of its own examination:**

8           **(1) A current certificate by the American Registry of Radiologic Technologists or**  
9 **Nuclear Medicine Technologist Certification Board;**

10          **(2) A limited scope radiography examination administered by the American**  
11 **Registry of Radiologic Technologists or the American Chiropractic Radiology Registry of**  
12 **Technologists for persons applying for a limited permit in chest, extremity, or spine**  
13 **radiography.**



14           **5. The board may accept in lieu of its own examination:**

15           **(1) A current certificate from a recognized national voluntary credentialing body**  
16 **not described in subsection 4 of this section that is issued on the basis of an examination**  
17 **satisfactory to the board; provided that the standards of such credentialing body are at**  
18 **least as stringent as those established by the board;**

19           **(2) A current certificate, registration, or license as a person who administers**  
20 **medical imaging and radiation therapy procedures issued by another state; provided that**  
21 **the standards in the other state are at least as stringent as those established by the board;**

22           **(3) A current certificate from a recognized national voluntary credentialing body**  
23 **not described in subsection 4 of this section for persons applying for a limited permit in**  
24 **chest, extremity, or spine radiography; provided that the standards of such credentialing**  
25 **body are at least as stringent as those established by the board.**

**334.1021. 1. The board may issue a license to each applicant who has either**  
2 **successfully passed the examination or qualified under subsection 4 or 5 of section 334.1018**  
3 **and has paid the prescribed fees.**

4           **2. The board may at its discretion issue a temporary license to any person whose**  
5 **licensure or relicensure may be pending and when issuance may be justified by special**  
6 **circumstances. A temporary license shall be issued only if the board finds that it will not**  
7 **violate the purpose of sections 334.1000 to 334.1024 or endanger the public health and**  
8 **safety. A temporary license shall expire ninety days after the date of the next examination**  
9 **if the applicant is required to take the examination, or if the applicant does not take the**  
10 **examination, then on the date of the examination. In all cases, a temporary license shall**  
11 **expire when the determination is made either to issue or deny the applicant a regular**  
12 **license and in no event shall a temporary license be issued for a period longer than one**  
13 **hundred eighty days.**

14           **3. Holders of a license under sections 334.1000 to 334.1024 shall display the official**  
15 **license document or a verified copy in each place of regular employment.**

16           **4. The board shall renew a license for a period of two years upon payment of the**  
17 **renewal fee set by the board. Continuing education requirements may also be set by rule**  
18 **of the board.**

19           **5. A licensee holding a license or permit under sections 334.1000 to 334.1024 whose**  
20 **license has lapsed and who has ceased activities as such for more than five years may apply**  
21 **for relicensure upon payment of a fee set by the board. Continuing education**  
22 **requirements may also be set by the board.**

23           **6. A licensee holding a license or permit under sections 334.1000 to 334.1024 shall**  
24 **notify the board in writing within thirty days of any name or address change.**

**334.1024. 1. The license of a licensee or permittee holding a license or permit under sections 334.1000 to 334.1024 may, at the discretion of the board, be suspended or revoked, or the individual may, at the discretion of the board, be censured, reprimanded, or otherwise sanctioned by the board in accordance with the provisions and procedures of sections 334.1000 to 334.1024 if, after due process, it is found that the individual:**

**(1) Is guilty of fraud or deceit in the procurement or holding of the license or permit;**

**(2) Has been convicted of a dangerous felony in a court of competent jurisdiction, either within or outside of this state, unless the conviction has been reversed and the holder of the license or permit is discharged or acquitted, or if the holder has been pardoned with full restoration of civil rights in which case the license or permit shall be restored;**

**(3) Is or has been afflicted with any medical problem, disability, or addiction which in the opinion of the board would impair professional competence;**

**(4) Has aided and abetted a person who is not a licensee or permittee holding a license under sections 334.1000 to 334.1024 or otherwise authorized by subsection 3 of section 334.1009 to perform the duties of a license or permit holder;**

**(5) Has undertaken or engaged in any practice beyond the scope of duties permitted a license or permit holder under sections 334.1000 to 334.1024;**

**(6) Has impersonated a licensee or permittee or former licensee or former permittee, or a person who administers medical imaging or radiation therapy procedures under an assumed name;**

**(7) Has been found guilty of violations of a code of ethics that the board may establish by rule;**

**(8) Has performed medical imaging or radiation therapy procedures without supervision of a licensed practitioner, or radiographer, radiation therapist, nuclear medicine technologist holding a license under sections 334.1000 to 334.1024;**

**(9) Has interpreted a diagnostic image for a physician, a patient, the patient's family, or the public;**

**(10) Is or has been found guilty of incompetence or negligence in his or her performance as a license or permit holder.**

**Any person aggrieved by an official action of the board affecting the licensed status of a person under the provisions of sections 334.1000 to 334.1024, including the refusal to grant, the granting, the revocation, the suspension, or the failure to renew a license, may seek a determination thereon by the administrative hearing commission pursuant to the provisions of section 621.045, RSMo, and it shall not be a condition to such determination**

37 that the person aggrieved seek a reconsideration, a rehearing, or exhaust any other  
38 procedure with the board.

39       2. Proceedings against the holder of a license or permit under sections 334.1000 to  
40 334.1024 shall be commenced by filing a written charge or charges with the board. A  
41 person, corporation, association, public officer, or the board may bring the charge or  
42 charges. The board may refuse to issue or renew any license or permit required under  
43 sections 334.1000 to 334.1024 for one or any combination of causes stated in subsection 1  
44 of this section. The board shall notify the licensee or permittee in writing of the reasons  
45 for the refusal and shall advise the licensee or permittee of his or her right to file a  
46 complaint with the administrative hearing commission as provided by chapter 621, RSMo.

47       3. When the license or permit of any person has been revoked, reapplication to the  
48 board may be made no sooner than two years after the date of the board's order revoking  
49 the license or permit.

50       4. No person shall knowingly employ as a radiographer, radiation therapist,  
51 nuclear medicine technologist, or any person to perform medical imaging or radiation  
52 therapy procedures who does not hold a license under sections 334.1000 to 334.1024.

53       5. Any person who violates the provisions of sections 334.1000 to 334.1024, or any  
54 rule or order made under sections 334.1000 to 334.1024, is guilty of a class A misdemeanor  
55 and shall be subject to the sanctions of subsection 2 of this section, or other appropriate  
56 punishment.

57       6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,  
58 that is created under the authority delegated in sections 334.1000 to 334.1024 shall become  
59 effective only if it complies with and is subject to all of the provisions of chapter 536,  
60 RSMo, and, if applicable, section 536.028, RSMo. Sections 334.1000 to 334.1024 and  
61 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general  
62 assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to  
63 disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
64 rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be  
65 invalid and void.

66       7. Any person licensed to practice veterinary medicine under chapter 340, RSMo,  
67 is exempt from the provisions of sections 334.1000 to 334.1024, except for section 334.1018,  
68 when acting within such person's scope of practice.

334.1050. 1. Beginning August 28, 2009, any sonographer or vascular technologist  
2 who, as a Medicaid provider, provides the technical component of a diagnostic ultrasound  
3 service shall be credentialed in the appropriate modality by the American Registry for  
4 Diagnostic Medical Sonography (ARDMS) or by Cardiovascular Credentialing

5 **International (CCI), or shall practice in a laboratory accredited by the American Institute**  
6 **on Ultrasound in Medicine (AIUM), the American Society for the Inter-Societal**  
7 **Accreditation of Vascular Laboratories (ASICAVL), or the Inter-Societal Commission or**  
8 **the Accreditation of Echocardiography Laboratories (ICAEL).**

9 **2. For purposes of this section, "sonographer or vascular technologist" means any**  
10 **nonphysician who is qualified by national credentialing to perform diagnostic medical**  
11 **ultrasound. A sonographer or vascular technologist may also be known as an ultrasound**  
12 **technologist or sonologist.**

13 **3. Any sonographer or vascular technologist who is credentialed as required in**  
14 **subsection 1 of this section shall, in performing a diagnostic ultrasound, perform the work**  
15 **under the supervision of a physician or surgeon licensed under chapter 334, RSMo.**

16 **4. A health care facility or provider wishing to secure coverage and payment under**  
17 **the Medicaid program for diagnostic ultrasound services shall develop policies and**  
18 **procedures to implement the requirements of this section.**

19 **5. This section and policies and procedures adopted under this section shall not**  
20 **prohibit any physician or surgeon licensed in this state from performing the technical**  
21 **component of a diagnostic ultrasound.**

335.066. 1. The board may refuse to issue any certificate of registration or authority,  
2 permit or license required pursuant to sections 335.011 to 335.096 for one or any combination  
3 of causes stated in subsection 2 of this section. The board shall notify the applicant in writing  
4 of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint  
5 with the administrative hearing commission as provided by chapter 621, RSMo.

6 2. The board may cause a complaint to be filed with the administrative hearing  
7 commission as provided by chapter 621, RSMo, against any holder of any certificate of  
8 registration or authority, permit or license required by sections 335.011 to 335.096 or any person  
9 who has failed to renew or has surrendered his or her certificate of registration or authority,  
10 permit or license for any one or any combination of the following causes:

11 (1) Use or unlawful possession of any controlled substance, as defined in chapter 195,  
12 RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the  
13 work of any profession licensed or regulated by sections 335.011 to 335.096;

14 (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty  
15 or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United  
16 States, for any offense reasonably related to the qualifications, functions or duties of any  
17 profession licensed or regulated pursuant to sections 335.011 to 335.096, for any offense an  
18 essential element of which is fraud, dishonesty or an act of violence, or for any offense involving  
19 moral turpitude, whether or not sentence is imposed;

20 (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of  
21 registration or authority, permit or license issued pursuant to sections 335.011 to 335.096 or in  
22 obtaining permission to take any examination given or required pursuant to sections 335.011 to  
23 335.096;

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

26 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty  
27 in the performance of the functions or duties of any profession licensed or regulated by sections  
28 335.011 to 335.096;

29 (6) Violation of, or assisting or enabling any person to violate, any provision of sections  
30 335.011 to 335.096, or of any lawful rule or regulation adopted pursuant to sections 335.011 to  
31 335.096;

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

35 (8) Disciplinary action against the holder of a license or other right to practice any  
36 profession regulated by sections 335.011 to 335.096 granted by another state, territory, federal  
37 agency or country upon grounds for which revocation or suspension is authorized in this state;

38 (9) A person is finally adjudged insane or incompetent by a court of competent  
39 jurisdiction;

40 (10) Assisting or enabling any person to practice or offer to practice any profession  
41 licensed or regulated by sections 335.011 to 335.096 who is not registered and currently eligible  
42 to practice pursuant to sections 335.011 to 335.096;

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

45 (12) Violation of any professional trust or confidence;

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

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

50 (15) Placement on an employee disqualification list or other related restriction or finding  
51 pertaining to employment within a health-related profession issued by any state or federal  
52 government or agency following final disposition by such state or federal government or agency.

53 3. After the filing of such complaint, the proceedings shall be conducted in accordance  
54 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing  
55 commission that the grounds, provided in subsection 2 of this section, for disciplinary action are

56 met, the board may, singly or in combination, censure or place the person named in the complaint  
57 on probation on such terms and conditions as the board deems appropriate for a period not to  
58 exceed five years, or may suspend, for a period not to exceed three years, or revoke the license,  
59 certificate, or permit.

60       4. An individual whose license has been revoked shall wait one year from the date of  
61 revocation to apply for relicensure. Relicensure shall be at the discretion of the board after  
62 compliance with all the requirements of sections 335.011 to 335.096 relative to the licensing of  
63 an applicant for the first time.

64       5. The board may notify the proper licensing authority of any other state concerning the  
65 final disciplinary action determined by the board on a license in which the person whose license  
66 was suspended or revoked was also licensed of the suspension or revocation.

67       6. Any person, organization, association or corporation who reports or provides  
68 information to the board of nursing pursuant to the provisions of sections 335.011 to 335.259 and  
69 who does so in good faith shall not be subject to an action for civil damages as a result thereof.

70       **7. If the board concludes that a nurse has committed an act or is engaging in a**  
71 **course of conduct which would be grounds for disciplinary action which constitutes a clear**  
72 **and present danger to the public health and safety, the board may file a complaint before**  
73 **the administrative hearing commission requesting an expedited hearing and specifying the**  
74 **activities which give rise to the danger and the nature of the proposed restriction or**  
75 **suspension of the nurse's license. Within fifteen days after service of the complaint on the**  
76 **nurse, the administrative hearing commission shall conduct a preliminary hearing to**  
77 **determine whether the alleged activities of the nurse appear to constitute a clear and**  
78 **present danger to the public health and safety which justify that the nurse's license be**  
79 **immediately restricted or suspended. The burden of proving that a nurse is a clear and**  
80 **present danger to the public health and safety shall be upon the state board of nursing.**  
81 **The administrative hearing commission shall issue its decision immediately after the**  
82 **hearing and shall either grant to the board the authority to suspend or restrict the license**  
83 **or dismiss the action.**

84       **8. If the administrative hearing commission grants temporary authority to the**  
85 **board to restrict or suspend the nurse's license, such temporary authority of the board**  
86 **shall become final authority if there is no request by the nurse for a full hearing within**  
87 **thirty days of the preliminary hearing. The administrative hearing commission shall, if**  
88 **requested by the nurse named in the complaint, set a date to hold a full hearing under the**  
89 **provisions of chapter 621, RSMo, regarding the activities alleged in the initial complaint**  
90 **filed by the board.**

91           **9. If the administrative hearing commission dismisses the action filed by the board**  
92 **under subsection 4 of this section, such dismissal shall not bar the board from initiating a**  
93 **subsequent action on the same grounds.**

94           **10. If at any time after disciplinary sanctions have been imposed upon the license**  
95 **of any person who holds a professional license, permit, certificate, or registration of**  
96 **authority under this chapter, the board finds that the licensee, registrant, or permittee has**  
97 **violated any disciplinary term previously imposed or agreed to under settlement and the**  
98 **licensee has failed to keep the Missouri state board of nursing advised of his or her current**  
99 **place of business and residence, then the matter will be considered as a default case and**  
100 **the board shall inform the licensee in writing that if he or she fails to file an answer such**  
101 **default will be taken against the licensee and the board may impose such additional**  
102 **discipline as it would be authorized to impose in an initial disciplinary hearing. In a case**  
103 **of default, the respondent will be deemed to have admitted all the factual allegations in the**  
104 **formal charges. The board of nursing must serve notice of the hearing by certified, return**  
105 **receipt requested mail and by regular mail to the licensee at the licensee's last known**  
106 **address as listed with the board and publish notice of the hearing in a local newspaper of**  
107 **general circulation available in the area of the licensee's last known address at least ten**  
108 **days prior to the hearing.**

          335.068. 1. If the board finds merit to a complaint [by an individual incarcerated or  
2 under the care and control of the department of corrections] and takes further investigative  
3 action, no documentation may appear on file or disciplinary action may be taken in regards to  
4 the licensee's license unless the provisions of subsection 2 of section 335.066 have been violated.  
5 Any case file documentation that does not result in the board filing an action pursuant to  
6 subsection 2 of section 335.066 shall be destroyed within three months after the final case  
7 disposition by the board. No notification to any other licensing board in another state or any  
8 national registry regarding any investigative action shall be made unless the provisions of  
9 subsection 2 of section 335.066 have been violated.

10           2. Upon written request of the nurse subject to a complaint[, prior to] **after** August 28,  
11 1999, [by an individual incarcerated or under the care and control of the department of  
12 corrections] that did not result in the board filing an action pursuant to subsection 2 of section  
13 335.066, the board and the division of professional registration shall in a timely fashion:

14           (1) Destroy all documentation regarding the complaint;

15           (2) Notify any other licensing board in another state or any national registry regarding  
16 the board's action if they have been previously notified of the complaint; and

17 (3) Send a letter to the licensee that clearly states that the board found the complaint to  
18 be unsubstantiated, that the board has taken the requested action, and notify the licensee of the  
19 provisions of subsection 3 of this section.

20 3. Any person who has been the subject of an unsubstantiated complaint as provided in  
21 subsection 1 or 2 of this section shall not be required to disclose the existence of such complaint  
22 in subsequent applications or representations relating to their nursing professions.

337.510. 1. Each applicant for licensure as a professional counselor shall furnish  
2 evidence to the committee that[:

3 (1) The applicant has met any one of the three following education-experience  
4 requirements:

5 (a) The applicant has received a doctoral degree with a major in counseling, or its  
6 equivalent, from an acceptable educational institution, as defined by division rules, and has  
7 completed at least one year of acceptable supervised counseling experience subsequent to receipt  
8 of the doctoral degree; or

9 (b) The applicant has received a specialist's degree with a major in counseling, or its  
10 equivalent, from an acceptable educational institution, as defined by division rules, and has  
11 completed at least one year of acceptable supervised counseling experience subsequent to receipt  
12 of the specialist's degree; or

13 (c) The applicant has received at least a master's degree with a major in counseling, or  
14 its equivalent, from an acceptable educational institution as defined by division rules, and has  
15 completed two years of acceptable supervised counseling experience subsequent to receipt of the  
16 master's degree. An applicant may substitute thirty semester hours of post-master's graduate  
17 study, or their equivalent, for one of the two required years of acceptable supervised counseling  
18 experience, if such hours are clearly related to the field of professional counseling and are earned  
19 from an acceptable educational institution;

20 (2)] the applicant is at least eighteen years of age, is of good moral character, is a  
21 United States citizen or is legally present in the United States; and

22 (1) The applicant has completed a course of study as defined by the board rule  
23 leading to a master's, specialist's, or doctoral degree with a major in counseling; and

24 (2) The applicant has completed acceptable supervised counseling experience as  
25 defined by board rule. If the applicant has a master's degree with a major in counseling  
26 experience subsequent to the receipt of the master's degree. The composition and number  
27 of hours comprising the acceptable supervised counseling experience shall be defined by  
28 board rule. An applicant may substitute thirty semester hours of post master's graduate  
29 study for one of the two required years of acceptable supervised counseling experience if  
30 such hours are clearly related to counseling.



31           (3) After August 28, 2007, each applicant shall have completed a minimum of three  
32 hours of graduate level coursework in diagnostic systems **either** in the curriculum leading to [his  
33 or her] **a degree or as post master's graduate level course work;**

34           [(3)] (4) Upon examination, the applicant is possessed of requisite knowledge of the  
35 profession, including techniques and applications, research and its interpretation, and  
36 professional affairs and ethics.

37           2. [A licensed professional counselor who has had no violations and no suspensions and  
38 no revocation of a license to practice professional counseling in any jurisdiction may receive a  
39 license in Missouri provided said licensed professional counselor passes a written examination  
40 on Missouri laws and regulations governing the practice of professional counseling as defined  
41 in section 337.500, and meets one of the following criteria:

42           (1) Is a member in good standing and holds a certification from the National Board for  
43 Certified Counselors;

44           (2) Is currently licensed or certified as a licensed professional counselor in another state,  
45 territory of the United States, or the District of Columbia; and

46           (a) Meets one of the educational standards set forth in paragraphs (a) and (b) of  
47 subdivision (1) of subsection 1 of this section;

48           (b) Has been licensed for the preceding five years; and

49           (c) Has had no disciplinary action taken against the license for the preceding five years;  
50 or

51           (3) Is currently licensed or certified as a professional counselor in another state, territory  
52 of the United States, or the District of Columbia that extends like privileges for reciprocal  
53 licensing or certification to persons licensed by this state with similar qualifications.

54           3.] Any person who previously held a valid unrevoked, unsuspended license as a  
55 professional counselor in this state and who held a valid license **as a professional counselor** in  
56 another state at the time of application to the committee shall be granted a license to engage in  
57 professional counseling in this state upon application to the committee accompanied by the  
58 appropriate fee as established by the committee pursuant to section 337.507.

59           **3. Any person holding a current license, certificate of registration, or permit from**  
60 **another state or territory of the United States to practice as a professional counselor may**  
61 **be granted a license without examination to engage in the practice of professional**  
62 **counseling in this state upon the application to the board, payment of the required fee as**  
63 **established by the board, and satisfying one of the following requirements;**

64           (1) Approval by the American Association of State Counseling Boards (AASCB)  
65 or its successor organization according to the eligibility criteria established by AASCB.  
66 The successor organization shall be defined by board rule; or

67           (2) **In good standing and currently certified by the National Board for Certified**  
68 **Counselors or its successor organization and has completed acceptable supervised**  
69 **counseling experience as defined by board rule. The successor organization shall be**  
70 **defined by board rule; or**

71           (3) **Determination by the board that the requirements of the other state or territory**  
72 **are substantially the same as Missouri and certified by the applicant's current licensing**  
73 **entity that the applicant has a current license. The applicant shall also consent to**  
74 **examination of any disciplinary history.**

75           4. The committee shall issue a license to each person who files an application and fee  
76 [as required by the provisions of sections 337.500 to 337.540] and who furnishes evidence  
77 satisfactory to the committee that the applicant has complied with the provisions [of subdivisions  
78 (1) and (2) of subsection 1 of this section or with the provisions of subsection 2 or 3] of this  
79 [section] **act and has taken and passed a written, open-book examination on Missouri laws**  
80 **and regulations governing the practice of professional counseling as defined in section**  
81 **337.500.** The division shall issue a provisional professional counselor license to any applicant  
82 who meets all requirements [of subdivisions (1) and (2) of subsection 1] of this section, but who  
83 has not completed the required [one or two years of] acceptable supervised counseling  
84 experience [required by paragraphs (a) to (c) of subdivision (1) of subsection 1 of this section,]  
85 and such applicant may reapply for licensure as a professional counselor upon completion of  
86 such acceptable supervised counseling experience.

87           5. All persons licensed to practice professional counseling in this state shall pay on or  
88 before the license renewal date a renewal license fee and shall furnish to the committee  
89 satisfactory evidence of the completion of the requisite number of hours of continuing education  
90 **as required by rule**, which shall be no more than forty hours biennially. The continuing  
91 education requirements may be waived by the committee upon presentation to the committee of  
92 satisfactory evidence of the illness of the licensee or for other good cause.

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

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

6           (2) The applicant has completed three thousand hours of supervised clinical experience  
7 with a licensed clinical social worker acceptable to the committee, as defined by rule, in no less  
8 than twenty-four months and no more than forty-eight consecutive calendar months;

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

12           (4) The applicant is at least eighteen years of age, is of good moral character, is a United  
13 States citizen or has status as a legal resident alien, and has not been convicted of a felony during  
14 the ten years immediately prior to application for licensure.

15           2. [A licensed clinical social worker who has had no violations and no suspensions and  
16 no revocation of a license to practice clinical social work in any jurisdiction may receive a  
17 license in Missouri provided said clinical social worker passes a written examination and] **Any**  
18 **person holding a current license, certificate of registration, or permit from another state**  
19 **or territory of the United States or the District of Columbia to practice clinical social work**  
20 **who has had no disciplinary action taken against the license, certificate of registration, or**  
21 **permit for the preceding five years may be granted a license to practice clinical social work**  
22 **in this state if the person** meets one of the following criteria:

23           (1) [Is currently licensed or certified as a licensed clinical social worker in another state,  
24 territory of the United States, or the District of Columbia; and

25           (a) Who] Has received a masters or doctoral degree from a college or university program  
26 of social work accredited by the council of social work education[;

27           (b)] **and has been licensed to practice clinical social work** for the preceding five years;  
28 [and

29           (c) Has had no disciplinary action taken against the license for the preceding five years;]  
30 or

31           (2) Is currently licensed or certified as a clinical social worker in another state, territory  
32 of the United States, or the District of Columbia [that extends like privileges for reciprocal  
33 licensing or certification to persons licensed by this state with similar qualifications] **having**  
34 **substantially the same requirements as this state for clinical social workers.**

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

338.035. 1. Every person who desires to be licensed as an intern pharmacist shall file  
2 with the board of pharmacy an application, on a form to be provided by the board of pharmacy.

3 2. If an applicant for an intern pharmacist license has complied with the requirements  
4 of this section and with the rules and regulations of the board of pharmacy and is not denied a  
5 license on any of the grounds listed in section 338.055, the board of pharmacy may issue to him  
6 a license to practice as an intern pharmacist [for a period not to exceed one year].

7 3. Any intern pharmacist who wishes to renew his license shall within thirty days before  
8 the license expiration date file an application for a renewal.

9 4. A licensed intern pharmacist may practice pharmacy only under the direct supervision  
10 of a pharmacist licensed by the board.

11 5. The board of pharmacy shall promulgate rules and regulations which shall further  
12 regulate the duties [and restrictions] of intern pharmacists and shall set the amount of the fees  
13 which shall accompany the license and renewal applications for intern pharmacists.

14 6. No rule or portion of a rule promulgated under the authority of this chapter shall  
15 become effective unless it has been promulgated pursuant to the provisions of section 536.024,  
16 RSMo.

**338.147. 1. The board may issue a cease and desist order to stop a person from  
2 engaging or offering to engage in an unauthorized practice. The order shall state the  
3 reason for its issuance and give notice of the person's right to request a hearing under  
4 chapter 621, RSMo. If, within fifteen days after service of the order, the subject of the  
5 order fails to request a hearing in writing, the cease and desist order becomes final.**

6 **2. The board may enforce its cease and desist order by applying to the circuit court  
7 of Cole County, the county in which the conduct occurred, or the county in which the  
8 defendant resides, for an order upon any person who fails to obey a cease and desist order  
9 to show cause why such cease and desist order should not be enforced. Such order and a  
10 copy of the application therefor shall be served upon the person in the same manner as  
11 summons in a civil action. If the circuit court shall, after a hearing, determine that the  
12 cease and desist order should be sustained and enforced, such court shall proceed to  
13 enforce the cease and desist order in the same manner as though the order had been issued  
14 by the court.**

**338.149. In any state of emergency declared by proclamation by the governor, or  
2 by resolution of the legislature under sections 44.010 to 44.130, RSMo, upon the actual  
3 occurrence of a natural or man-made disaster of major proportions within this state when  
4 the safety and welfare of the inhabitants of this state are jeopardized, the board of  
5 pharmacy may waive licensure, registration, and requirements for the operation of a**

6 **pharmacy set forth in this chapter and its attendant regulations if the board determines**  
7 **such a waiver would be in the best interest of the public health.**

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

- 5 (1) Class A: Community/ambulatory;
- 6 (2) Class B: Hospital outpatient pharmacy;
- 7 (3) Class C: Long-term care;
- 8 (4) Class D: Nonsterile compounding;
- 9 (5) Class E: Radio pharmaceutical;
- 10 (6) Class F: Renal dialysis;
- 11 (7) Class G: Medical gas;
- 12 (8) Class H: Sterile product compounding;
- 13 (9) Class I: Consultant services;
- 14 (10) Class J: Shared service;
- 15 (11) Class K: Internet;
- 16 **(12) Class L: Veterinary.**

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

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

29 **4. Class L: Veterinary permit shall not be construed to prohibit or interfere with**  
30 **any legally registered practitioner of veterinary medicine in the compounding or**  
31 **dispensing of his own prescriptions.**

339.010. 1. A "real estate broker" is any person, partnership, association, or corporation,  
2 foreign or domestic who, for another, and for a compensation or valuable consideration, does,  
3 or attempts to do, any or all of the following:

- 4 (1) Sells, exchanges, purchases, rents, or leases real estate;
- 5 (2) Offers to sell, exchange, purchase, rent or lease real estate;
- 6 (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or
- 7 leasing of real estate;
- 8 (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
- 9 (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or
- 10 improvements thereon;
- 11 (6) Advertises or holds himself or herself out as a licensed real estate broker while
- 12 engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
- 13 (7) Assists or directs in the procuring of prospects, calculated to result in the sale,
- 14 exchange, leasing or rental of real estate;
- 15 (8) Assists or directs in the negotiation of any transaction calculated or intended to result
- 16 in the sale, exchange, leasing or rental of real estate;
- 17 (9) Engages in the business of charging to an unlicensed person an advance fee in
- 18 connection with any contract whereby the real estate broker undertakes to promote the sale of
- 19 that person's real estate through its listing in a publication issued for such purpose intended to
- 20 be circulated to the general public;
- 21 (10) Performs any of the foregoing acts as an employee of, or on behalf of, the owner of
- 22 real estate, or interest therein, or improvements affixed thereon, for compensation.
- 23 2. A "real estate salesperson" is any person who for a compensation or valuable
- 24 consideration becomes associated, either as an independent contractor or employee, either
- 25 directly or indirectly, with a real estate broker to do any of the things above mentioned. The
- 26 provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall not be construed
- 27 to deny a real estate salesperson who is compensated solely by commission the right to be
- 28 associated with a broker as an independent contractor.
- 29 3. The term "commission" as used in sections 339.010 to 339.180 and sections 339.710
- 30 to 339.860 means the Missouri real estate commission.
- 31 4. "Real estate" for the purposes of sections 339.010 to 339.180 and sections 339.710
- 32 to 339.860 shall mean, and include, leaseholds, as well as any other interest or estate in land,
- 33 whether corporeal, incorporeal, freehold or nonfreehold, and the real estate is situated in this
- 34 state.
- 35 5. **"Advertising" shall mean any communication, whether oral or written, between**
- 36 **a licensee or other entity acting on behalf of one or more licensees and the public; it shall**
- 37 **include, but not be limited to, business cards, signs, insignias, letterheads, radio, television,**
- 38 **newspaper and magazine ads, Internet advertising, web sites, display or group ads in**
- 39 **telephone directories, and billboards.**

40           **6.** The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860 shall  
41 not apply to:

42           (1) Any person, partnership, association, or corporation who as owner, lessor, or lessee  
43 shall perform any of the acts described in subsection 1 of this section with reference to property  
44 owned or leased by them, or to the regular employees thereof, provided such owner, lessor, or  
45 lessee is not engaged in the real estate business;

46           (2) Any licensed attorney-at-law;

47           (3) An auctioneer employed by the owner of the property;

48           (4) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or  
49 guardian or while acting under a court order or under the authority of a will, trust instrument or  
50 deed of trust or as a witness in any judicial proceeding or other proceeding conducted by the state  
51 or any governmental subdivision or agency;

52           (5) Any person employed or retained to manage real property by, for, or on behalf of, the  
53 agent or the owner, of any real estate shall be exempt from holding a license, if the person is  
54 limited to one or more of the following activities:

55           (a) Delivery of a lease application, a lease, or any amendment thereof, to any person;

56           (b) Receiving a lease application, lease, or amendment thereof, a security deposit, rental  
57 payment, or any related payment, for delivery to, and made payable to, a broker or owner;

58           (c) Showing a rental unit to any person, as long as the employee is acting under the direct  
59 instructions of the broker or owner, including the execution of leases or rental agreements;

60           (d) Conveying information prepared by a broker or owner about a rental unit, a lease, an  
61 application for lease, or the status of a security deposit, or the payment of rent, by any person;

62           (e) Assisting in the performance of brokers' or owners' functions, administrative, clerical  
63 or maintenance tasks;

64           (f) If the person described in this section is employed or retained by, for, or on behalf of  
65 a real estate broker, the real estate broker shall be subject to discipline under this chapter for any  
66 conduct of the person that violates this chapter or the regulations promulgated thereunder;

67           (6) Any officer or employee of a federal agency or the state government or any political  
68 subdivision thereof performing official duties;

69           (7) Railroads and other public utilities regulated by the state of Missouri, or their  
70 subsidiaries or affiliated corporations, or to the officers or regular employees thereof, unless  
71 performance of any of the acts described in subsection 1 of this section is in connection with the  
72 sale, purchase, lease or other disposition of real estate or investment therein unrelated to the  
73 principal business activity of such railroad or other public utility or affiliated or subsidiary  
74 corporation thereof;

75 (8) Any bank, trust company, savings and loan association, credit union, insurance  
76 company, mortgage banker, or farm loan association organized under the laws of this state or of  
77 the United States when engaged in the transaction of business on its own behalf and not for  
78 others;

79 (9) Any newspaper, magazine, periodical, [or] Internet site [whereby the advertising of  
80 real estate is incidental to its operation], **Internet communications**, or [to] any form of  
81 communications regulated or licensed by the Federal Communications Commission or any  
82 successor agency or commission **whereby the advertising of real estate is incidental to its**  
83 **operation;**

84 (10) Any developer selling Missouri land owned by the developer;

85 (11) Any employee acting on behalf of a nonprofit community, or regional economic  
86 development association, agency or corporation which has as its principal purpose the general  
87 promotion and economic advancement of the community at large, provided that such entity:

88 (a) Does not offer such property for sale, lease, rental or exchange on behalf of another  
89 person or entity;

90 (b) Does not list or offer or agree to list such property for sale, lease, rental or exchange;  
91 or

92 (c) Receives no fee, commission or compensation, either monetary or in kind, that is  
93 directly related to sale or disposal of such properties. An economic developer's normal annual  
94 compensation shall be excluded from consideration as commission or compensation related to  
95 sale or disposal of such properties; or

96 (12) Any neighborhood association, as that term is defined in section 441.500, RSMo,  
97 that without compensation, either monetary or in kind, provides to prospective purchasers or  
98 lessors of property the asking price, location, and contact information regarding properties in and  
99 near the association's neighborhood, including any publication of such information in a  
100 newsletter, Internet site, or other medium.

339.100. 1. The commission may, upon its own motion, and shall upon receipt of a  
2 written complaint filed by any person, investigate any real estate-related activity of a licensee  
3 licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860 or an individual or  
4 entity acting as or representing themselves as a real estate licensee. In conducting such  
5 investigation, if the questioned activity or written complaint involves an affiliated licensee, the  
6 commission may forward a copy of the information received to the affiliated licensee's  
7 designated broker. The commission shall have the power to hold an investigatory hearing to  
8 determine whether there is a probability of a violation of sections 339.010 to 339.180 and  
9 sections 339.710 to 339.860. The commission shall have the power to issue a subpoena to  
10 compel the production of records and papers bearing on the complaint. The commission shall



11 have the power to issue a subpoena and to compel any person in this state to come before the  
12 commission to offer testimony or any material specified in the subpoena. Subpoenas and  
13 subpoenas duces tecum issued pursuant to this section shall be served in the same manner as  
14 subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that  
15 allowed in the circuit court in civil cases.

16 2. The commission may cause a complaint to be filed with the administrative hearing  
17 commission as provided by the provisions of chapter 621, RSMo, against any person or entity  
18 licensed under this chapter or any licensee who has failed to renew or has surrendered his or her  
19 individual or entity license for any one or any combination of the following acts:

20 (1) Failure to maintain and deposit in a special account, separate and apart from his or  
21 her personal or other business accounts, all moneys belonging to others entrusted to him or her  
22 while acting as a real estate broker or as the temporary custodian of the funds of others, until the  
23 transaction involved is consummated or terminated, unless all parties having an interest in the  
24 funds have agreed otherwise in writing;

25 (2) Making substantial misrepresentations or false promises or suppression, concealment  
26 or omission of material facts in the conduct of his or her business or pursuing a flagrant and  
27 continued course of misrepresentation through agents, salespersons, advertising or otherwise in  
28 any transaction;

29 (3) Failing within a reasonable time to account for or to remit any moneys, valuable  
30 documents or other property, coming into his or her possession, which belongs to others;

31 (4) Representing to any lender, guaranteeing agency, or any other interested party, either  
32 verbally or through the preparation of false documents, an amount in excess of the true and  
33 actual sale price of the real estate or terms differing from those actually agreed upon;

34 (5) Failure to timely deliver a duplicate original of any and all instruments to any party  
35 or parties executing the same where the instruments have been prepared by the licensee or under  
36 his or her supervision or are within his or her control, including, but not limited to, the  
37 instruments relating to the employment of the licensee or to any matter pertaining to the  
38 consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property,  
39 or any type of real estate transaction in which he or she may participate as a licensee;

40 (6) Acting for more than one party in a transaction without the knowledge of all parties  
41 for whom he or she acts, or accepting a commission or valuable consideration for services from  
42 more than one party in a real estate transaction without the knowledge of all parties to the  
43 transaction;

44 (7) Paying a commission or valuable consideration to any person for acts or services  
45 performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;

- 46           (8) Guaranteeing or having authorized or permitted any licensee to guarantee future  
47 profits which may result from the resale of real property;
- 48           (9) Having been finally adjudicated and been found guilty of the violation of any state  
49 or federal statute which governs the sale or rental of real property or the conduct of the real estate  
50 business as defined in subsection 1 of section 339.010;
- 51           (10) Obtaining a certificate or registration of authority, permit or license for himself or  
52 herself or anyone else by false or fraudulent representation, fraud or deceit;
- 53           (11) Representing a real estate broker other than the broker with whom associated  
54 without the express written consent of the broker with whom associated;
- 55           (12) Accepting a commission or valuable consideration for the performance of any of  
56 the acts referred to in section 339.010 from any person except the broker with whom associated  
57 at the time the commission or valuable consideration was earned;
- 58           (13) Using prizes, money, gifts or other valuable consideration as inducement to secure  
59 customers or clients to purchase, lease, sell or list property when the awarding of such prizes,  
60 money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or  
61 listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting  
62 lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective  
63 purchaser of real property;
- 64           (14) Placing a sign on or advertising any property offering it for sale or rent without the  
65 written consent of the owner or his or her duly authorized agent;
- 66           (15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling  
67 any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to  
68 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections  
69 339.710 to 339.860;
- 70           (16) Committing any act which would otherwise be grounds for the commission to  
71 refuse to issue a license under section 339.040;
- 72           (17) Failure to timely inform seller of all written offers unless otherwise instructed in  
73 writing by the seller;
- 74           (18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo  
75 contendere, in a criminal prosecution under the laws of this state or any other state or of the  
76 United States, for any offense reasonably related to the qualifications, functions or duties of any  
77 profession licensed or regulated under this chapter, for any offense an essential element of which  
78 is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether  
79 or not sentence is imposed;
- 80           (19) Any other conduct which constitutes untrustworthy, improper or fraudulent business  
81 dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

82           (20) Disciplinary action against the holder of a license or other right to practice any  
83 profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 granted  
84 by another state, territory, federal agency, or country upon grounds for which revocation,  
85 suspension, or probation is authorized in this state;

86           (21) Been found by a court of competent jurisdiction of having used any controlled  
87 substance, as defined in chapter 195, RSMo, to the extent that such use impairs a person's ability  
88 to perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and  
89 sections 339.710 to 339.860;

90           (22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

91           (23) Assisting or enabling any person to practice or offer to practice any profession  
92 licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 who  
93 is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections  
94 339.710 to 339.860;

95           (24) Use of any advertisement or solicitation which is knowingly false, misleading or  
96 deceptive to the general public or persons to whom the advertisement or solicitation is primarily  
97 directed.

98           3. After the filing of such complaint, the proceedings will be conducted in accordance  
99 with the provisions of law relating to the administrative hearing commission. A finding of the  
100 administrative hearing commissioner that the licensee has performed or attempted to perform one  
101 or more of the foregoing acts shall be grounds for the suspension or revocation of his license by  
102 the commission, or the placing of the licensee on probation on such terms and conditions as the  
103 real estate commission shall deem appropriate.

104           4. The commission may prepare a digest of the decisions of the administrative hearing  
105 commission which concern complaints against licensed brokers or salespersons and cause such  
106 digests to be mailed to all licensees periodically. Such digests may also contain reports as to new  
107 or changed rules adopted by the commission and other information of significance to licensees.

108           5. Notwithstanding other provisions of this section, a broker or salesperson's license shall  
109 be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has  
110 pleaded guilty to or been found guilty of any of the following offenses or offenses of a similar  
111 nature established under the laws of this, any other state, the United States, or any other country,  
112 notwithstanding whether sentence is imposed:

113           (1) Any dangerous felony as defined under section 556.061, RSMo, or murder in the first  
114 degree;

115           (2) Any of the following sexual offenses: rape, statutory rape in the first degree,  
116 statutory rape in the second degree, sexual assault, forcible sodomy, statutory sodomy in the first  
117 degree, statutory sodomy in the second degree, child molestation in the first degree, child

118 molestation in the second degree, deviate sexual assault, sexual misconduct involving a child,  
119 sexual misconduct in the first degree, sexual abuse, enticement of a child, or attempting to entice  
120 a child;

121 (3) Any of the following offenses against the family and related offenses: incest,  
122 abandonment of a child in the first degree, abandonment of a child in the second degree,  
123 endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual  
124 performance, promoting sexual performance by a child, or trafficking in children; and

125 (4) Any of the following offenses involving child pornography and related offenses:  
126 promoting obscenity in the first degree, promoting obscenity in the second degree when the  
127 penalty is enhanced to a class D felony, promoting child pornography in the first degree,  
128 promoting child pornography in the second degree, possession of child pornography in the first  
129 degree, possession of child pornography in the second degree, furnishing child pornography to  
130 a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene  
131 material.

132 6. A person whose license was revoked under subsection 5 of this section may appeal  
133 such revocation to the **administrative hearing** commission. Notice of such appeal must be  
134 received by the administrative hearing commission within ninety days of **mailing, by certified**  
135 **mail, the** notice of revocation. Failure of a person whose license was revoked to notify the  
136 **administrative hearing** commission of his or her intent to appeal waives all rights to appeal the  
137 revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the  
138 administrative hearing commissioner.

340.222. A supervisor, as defined in subdivision [(17)] **(19)** of section 340.200, is  
2 individually and separately responsible and liable for the performance of the acts delegated to  
3 and the omissions of the veterinary technician, veterinary medical candidate, temporary licensee,  
4 veterinary medical preceptee, unregistered assistant or any other individual working under his  
5 or her supervision. Nothing in this section shall be construed to relieve veterinary technicians,  
6 veterinary medical candidates, provisional licensees, temporary licensees, veterinary medical  
7 preceptees or unregistered assistants of any responsibility or liability for any of their own acts  
8 or omissions.

340.234. 1. If the board determines that the applicant possesses the proper qualifications  
2 as set forth in subsection 3 of section 340.228, it shall admit the applicant to the next scheduled  
3 examination.

4 2. Applicants shall submit an application and the registration and examination fees [at  
5 least sixty days prior to taking the examination] **as required by rule of the board.**

6 3. The board shall establish the requirements for a passing score on the examination. In  
7 order for a previous examination score to be transferred for a current licensing period, the score

8 must have been received within five years prior to the application. If that passing score was not  
9 received within three attempts, the board may require the applicant to appear before the board  
10 or submit evidence that the applicant has completed at least thirty hours of board-approved  
11 continuing education. The board shall have sole discretion on whether to accept for transfer a  
12 score from another state's licensing authority.

13 4. If all the other requirements of sections 340.200 to 340.330 have been met, the board  
14 shall issue licenses to the persons who successfully completed the examination. The executive  
15 director shall record the new licenses.

16 5. If the board determines that the applicant is eligible for licensure without examination  
17 through the reciprocity provision of section 340.238, the board may grant the applicant a license  
18 without examination.

19 **6. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**  
20 **that is created under the authority delegated in this section shall become effective only if**  
21 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**  
22 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**  
23 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**  
24 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**  
25 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**  
26 **adopted after August 28, 2006, shall be invalid and void.**

344.020. No person shall act or serve in the capacity of a nursing home administrator  
2 without first procuring a license from the Missouri board of nursing home administrators as  
3 provided in sections 344.010 to [344.100] **344.108**. The board may issue a separate license to  
4 administrators of residential care facilities II, as defined in section 198.006, RSMo. Any  
5 individual who receives a license to operate a residential care facility II is not thereby authorized  
6 to operate any intermediate care facility or skilled nursing facility as those terms are defined in  
7 section 198.006, RSMo.

344.030. 1. An applicant for an initial license shall file a completed application with the  
2 board on a form provided by the board, accompanied by an application fee of one hundred  
3 dollars payable to the [director of revenue] **department of health and senior services**.  
4 Information provided in the application shall be given under oath subject to the penalties for  
5 making a false affidavit.

6 2. No initial license shall be issued to a person as a nursing home administrator unless:

7 (1) The applicant provides the board satisfactory proof that the applicant is twenty-one  
8 years of age or over, of good moral character and a high school graduate or equivalent;

9 (2) The applicant provides the board satisfactory proof that the applicant has had a  
10 minimum of three years' experience in health care administration or two years of postsecondary

11 education in health care administration or has satisfactorily completed a course of instruction and  
12 training prescribed by the board, which includes instruction in the needs properly to be served  
13 by nursing homes, the protection of the interests of residents therein, and the elements of good  
14 nursing home administration, or has presented evidence satisfactory to the board of sufficient  
15 education, training, or experience in the foregoing fields to administer, supervise and manage  
16 a nursing home; and

17 (3) The applicant passes the [written examination] **examinations** administered by the  
18 board. If an applicant fails to make a passing grade on [the examination] **either of the**  
19 **examinations** such applicant may make application for reexamination on a form furnished by  
20 the board and may be retested [at the next regularly scheduled examination]. If an applicant fails  
21 [the examination] **either of the examinations** a third time, the applicant shall be required to  
22 complete a course of instruction prescribed and approved by the board [before the applicant may  
23 reapply for examination]. **After completion of the board-prescribed course of instruction,**  
24 **the applicant may reapply for board-administered examination. No applicant shall be**  
25 **licensed by the board after the applicant's third licensure examination failure unless the**  
26 **applicant successfully completes the board-prescribed course of instruction and passes**  
27 **board-administered examinations. With regard to any nationally certified examination**  
28 **required for licensure, no examination scores from other states shall be recognized by the**  
29 **board after the applicant has failed his or her third attempt at examination.** There shall be  
30 a separate, nonrefundable fee for each examination. The board shall set the amount of the fee  
31 for examination by rules and regulations promulgated pursuant to section 536.021, RSMo. The  
32 fee shall be set at a level to produce revenue which shall not substantially exceed the cost and  
33 expense of administering the examination.

34 3. The board may issue a license through reciprocity to any person who is regularly  
35 licensed as a nursing home administrator in any other state, territory, or the District of Columbia,  
36 if the regulations for securing such license are equivalent to those required in the state of  
37 Missouri. However, no license by reciprocity shall be issued until the applicant passes a special  
38 examination approved by the board, which will examine the applicant's knowledge of specific  
39 provisions of Missouri statutes and regulations pertaining to nursing homes. The applicant shall  
40 furnish satisfactory evidence that such applicant is of good moral character and has acted in the  
41 capacity of a nursing home administrator in such state, territory, or the District of Columbia, at  
42 least one year after the securing of the license. The board, in its discretion, may enter into  
43 written reciprocal agreements pursuant to this section with other states which have equivalent  
44 laws and regulations.

45 4. Nothing in sections 344.010 to [344.100] **344.108**, or the rules or regulations  
46 thereunder shall be construed to require an applicant for a license as a nursing home

47 administrator, who is employed by an institution listed and certified by the Commission for  
48 Accreditation of Christian Science Nursing Organizations/Facilities, Inc., to administer  
49 institutions certified by such commission for the care and treatment of the sick in accordance  
50 with the creed or tenets of a recognized church or religious denomination, to demonstrate  
51 proficiency in any techniques or to meet any educational qualifications or standards not in accord  
52 with the remedial care and treatment provided in such institutions. The applicant's license shall  
53 be endorsed to confine the applicant's practice to such institutions.

54         5. The board may issue a temporary emergency license for a period not to exceed ninety  
55 days to a person twenty-one years of age or over, of good moral character and a high school  
56 graduate or equivalent to serve as an acting nursing home administrator, provided such person  
57 is replacing a licensed nursing home administrator who has died, has been removed or has  
58 vacated the nursing home administrator's position. No temporary emergency license may be  
59 issued to a person who has had a nursing home administrator's license denied, suspended or  
60 revoked. A temporary emergency license may be renewed for one additional ninety-day period  
61 upon a showing that the person seeking the renewal of a temporary emergency license meets the  
62 qualifications for licensure and has filed an application for a regular license, accompanied by the  
63 application fee, and the examination [has not yet been given] **results have not been received**  
64 **by the board**. No temporary emergency license may be renewed more than one time.

344.040. 1. Every license issued under this chapter shall expire on June thirtieth of the  
2 year following the year of issuance and every other year thereafter, provided that licenses issued  
3 or renewed during the year 2006 may be issued or renewed by the board for a period of either one  
4 or two years, as provided by rule. Licensees seeking renewal shall, during the month of May of  
5 the year of renewal, file an application for renewal on forms furnished by the board, which shall  
6 include evidence satisfactory to the board of completion of the approved continuing education  
7 hours required by the board, and shall be accompanied by a renewal fee as provided by rule  
8 payable to the department of health and senior services.

9         2. Upon receipt of an incomplete application for renewal, the board shall grant the  
10 applicant a temporary permit which shall be in effect for thirty days. The applicant is required  
11 to submit the required documentation or fee within the thirty-day period, or the board may refuse  
12 to renew his application. The thirty-day period can be extended for good cause shown for an  
13 additional thirty days. Upon receipt of the approved continuing education credits or other  
14 required documentation or fee within the appropriate time period, the board shall issue a license.

15         3. The board shall renew the license of an applicant who has met all of the requirements  
16 for renewal.

17         4. As a requirement for renewal of license, the board may require not more than  
18 forty-eight clock hours of continuing education a year. The continuing education provided for

19 under this section shall be approved by the board. There shall be a separate, nonrefundable fee  
20 for each single offering provider. The board shall set the amount of fee for any single offering  
21 provided by rules and regulations promulgated pursuant to section 536.021, RSMo. The fee shall  
22 be set at a level to produce revenue which shall not substantially exceed the cost and expense in  
23 administering and reviewing any single offering.

24 5. By April first of each year, the board shall mail an application for renewal of license  
25 to every person whose license shall be renewed during the current year. The applicant must  
26 submit such information as will enable the board to determine if the applicant's license should  
27 be renewed. Information provided in the application shall be given under oath.

28 6. Any licensee who fails to apply to renew his license by June thirtieth of the licensee's  
29 year of renewal may be relicensed by the board if he meets the requirements set forth by the  
30 board pursuant to sections 344.010 to [344.100] **344.108** and pays the renewal fee required by  
31 rule, plus a penalty of twenty-five dollars. No action shall be taken by the board in addition to  
32 a penalty of twenty-five dollars imposed by this section against any such licensee whose license  
33 has not expired for a period of more than two months, and who has had no action in the  
34 preceding five years taken against them by the board, and who has met all other licensure  
35 requirements by June thirtieth of the year of renewal; provided, however, that nothing in this  
36 section shall prevent the board from taking any other disciplinary action against a licensee if  
37 there shall exist a cause for discipline pursuant to section 344.050. A person whose license has  
38 expired for a period of more than twelve months must meet the requirements set out in section  
39 344.030 for initial licensure.

344.050. 1. The board may refuse to issue or renew any certificate of registration or  
2 authority, permit or license required pursuant to this chapter for one or any combination of  
3 causes stated in subsection 2 of this section. The board shall notify the applicant in writing of  
4 the reasons for the refusal and shall advise the applicant of [his] **the applicant's** right to file a  
5 complaint with the administrative hearing commission as provided by chapter 621, RSMo. **As**  
6 **an alternative to refusal to issue or renew any certificate, registration, or authority, permit**  
7 **or license, the board may, at its discretion, issue a license which is subject to probation for**  
8 **any one or any combination of causes stated in subsection 2 of this section. The board's**  
9 **order of probation shall contain a statement of the terms and conditions of the probation**  
10 **imposed, the basis therefore, the date such action shall become effective, and a statement**  
11 **that the applicant has thirty days to request in writing a hearing before the administrative**  
12 **hearing commission. If no written request for a hearing is received by the administrative**  
13 **hearing commission within the thirty-day period, the right to seek review of the board's**  
14 **decision shall be considered waived.**



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

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

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

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

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

34           (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty  
35 in the performance of the functions or duties of any profession licensed or regulated by this  
36 chapter;

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

39           (7) **Violation of, or assisting or enabling any person to violate, any provision of**  
40 **chapter 198, RSMo, or any lawful rule or regulation promulgated thereunder;**

41           (8) Impersonation of any person holding a certificate of registration or authority, permit  
42 or license, or allowing any person to use [his] **such person's** certificate of registration or  
43 authority, permit, license or diploma from any school;

44           [(8)] (9) Disciplinary action against the holder of a license or other right to practice any  
45 profession regulated by this chapter granted by another state, territory, federal agency or country  
46 upon grounds for which revocation or suspension is authorized in this state;

47           [(9)] (10) A person is finally adjudged incapacitated or disabled by a court of competent  
48 jurisdiction;

49 [(10)] (11) Assisting or enabling any person to practice or offer to practice any  
50 profession licensed or regulated by this chapter who is not registered and currently eligible to  
51 practice under this chapter;

52 [(11)] (12) Issuance of a certificate of registration or authority, permit or license based  
53 upon a material mistake of fact;

54 [(12)] (13) Violation of the drug laws or rules and regulations of this state, any other  
55 state or the federal government;

56 [(13)] (14) Knowingly failing to report abuse or neglect of a resident in a long-term care  
57 facility, as required by section 198.070, RSMo, of which he **or she** has actual knowledge that it  
58 is abuse or neglect;

59 (15) Violation of any professional trust or confidence;

60 (16) **Having served as the operator, or any principal involved in the operation of**  
61 **a facility licensed under chapter 198, RSMo, during which time the facility has had its**  
62 **license revoked under section 198.036, RSMo, has entered into a consent agreement to**  
63 **obtain a probationary license under subsection 5 of section 198.026, RSMo, has had a**  
64 **license denied under subsection 2 of section 198.022, RSMo, or has surrendered its license**  
65 **while under investigation.**

66 3. The administrative hearing commission shall have no authority to require issuance of  
67 a license, pending a final determination by the commission, in any case in which an applicant is  
68 seeking initial licensure.

69 4. No license may be suspended or revoked and no application for renewal of a license  
70 may be denied under this section until the licensee has been afforded an opportunity for hearing  
71 after due notice as provided in sections 621.015 to 621.205, RSMo.

72 5. Upon a finding by the administrative hearing commission that the grounds, provided  
73 in subsection 2 of this section, for disciplinary action are met, the board may, singly or in  
74 combination, [place upon probation,] **censure or place the person named in the complaint on**  
75 **probation on such terms as the board deems appropriate, or may suspend or revoke [a] the**  
76 **certificate [of registration or authority], permit or license. The board may exclude any**  
77 **application for up to five years for any person who has had his or her license revoked by**  
78 **the board or has surrendered his or her license to the board.**

344.060. 1. The director of the department of health and senior services shall appoint  
2 ten suitable persons who [together with the director of the division of aging of the department  
3 of health and senior services] shall constitute the "Missouri Board of Nursing Home  
4 Administrators" which is hereby created within the department of health and senior services and  
5 which shall have the functions, powers and duties prescribed by sections 344.010 to [344.100]  
6 **344.108.**

7           2. In addition to the director of the [division of aging] **department of health and senior**  
8 **services** or [his] **the director's** designee the membership of the board shall consist of one  
9 licensed physician, two licensed health professionals, one person from the field of health care  
10 education, four persons who have been in general administrative charge of a licensed nursing  
11 home for a period of at least five years immediately preceding their appointment, and two public  
12 members. **In addition to these qualifications, the physician, the two licensed health care**  
13 **professionals, and the health care educator shall be citizens of the United States and tax-**  
14 **paying residents of the state of Missouri for one year preceding their appointments. The**  
15 **four appointees who have been in general administrative charge of a licensed nursing home**  
16 **shall be citizens of the United States and either residents of the state of Missouri for one**  
17 **year preceding their appointments or persons who have been licensed by the board and**  
18 **whose five years of employment in a licensed nursing home immediately preceding their**  
19 **appointment have occurred in the state of Missouri. The public members shall be citizens**  
20 **of the United States, residents of the state of Missouri for one year preceding their**  
21 **appointment, and registered voters.** The public members shall be persons who are not, or  
22 never were, licensed nursing home administrators or the spouse of such persons, or persons who  
23 do not have or never have had a material, financial interest in either the providing of licensed  
24 nursing home services or in an activity or organization directly related to licensed nursing home  
25 administration. Neither the one licensed physician, the two licensed health professionals, nor  
26 the person from the health care education field shall have any financial interest in a licensed  
27 nursing home.

28           3. The members of the board shall be appointed for three-year terms or until their  
29 successors are appointed and qualified provided that no more than four members' terms shall  
30 expire in the same year. All members appointed prior to September 28, 1979, shall serve the  
31 term for which they were appointed. The governor shall fill any vacancies on the board as  
32 necessary. Appointment to fill an unexpired term shall not be considered an appointment for a  
33 full term. Board membership, continued until successors are appointed and qualified, shall not  
34 constitute an extension of the three-year term and the successors shall serve only the remainder  
35 of the term.

36           4. Every member shall receive a certificate of appointment; and every appointee, before  
37 entering upon his or her duties, shall take the oath of office required by article VII, section 11,  
38 of the Constitution of Missouri.

39           5. Any member of the board may be removed by the director of the department of health  
40 and senior services for misconduct, incompetency or neglect to duty after first being given an  
41 opportunity to be heard in his **or her** own behalf.

344.070. 1. The board shall annually elect one of its members as president, another as vice president, and another as secretary. It shall adopt an official seal. It shall file and preserve all written applications, petitions, complaints, charges or requests made or presented to it. It shall cause to be kept accurate records and minutes of its proceedings, and shall maintain a register of the names and addresses of all persons holding licenses as nursing home administrators. A copy of any entry in the register, or of any records or minutes of the board, certified by the president or secretary of the board under its seal, shall be received in evidence, to all intents and purposes as the original. The board may employ such part- or full-time clerical assistance, purchase such equipment and supplies, employ legal counsel, employ a part- or full-time investigator, and incur travel and other expense, within the limits of its appropriations.

2. The board shall adopt, amend and repeal rules and regulations necessary to carry out the provisions of sections 344.030 to [344.100] **344.108**. [Any rule or regulation under the authority of sections 344.030 to 344.100 shall be promulgated in accordance with chapter 536, RSMo. The committee on administrative rules may file a complaint in accordance with the provisions of chapter 536, RSMo, before the commission contesting the validity of any rule purportedly promulgated under the authority of sections 344.030 to 344.100. On filing any complaint in accordance with this section, the administrative hearing commission shall immediately suspend that portion of the rule which is challenged until the commission has determined the matter. The commission shall hold a hearing within ten days of the filing to determine the matter. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **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, 2006, shall be invalid and void.**

3. The board shall examine, license, and renew the license of duly qualified applicants, and shall conduct hearings affording due process of law, upon charges calling for discipline of a licensee. The board shall refer to the appropriate prosecuting attorney information regarding any persons violating the provisions of sections 344.010 to [344.100] **344.108** and may incur necessary expenses therefor.

344.080. The members of the board, other than the director of the [division of aging] **department of health and senior services** or his designee, shall receive as compensation for

3 their services fifty dollars for each day devoted to the affairs of the board, and shall be entitled  
4 to reimbursement for their expenses necessarily incurred in the discharge of their official duties.

344.105. 1. Any nursing home administrator possessing a current license to practice as  
2 a nursing home administrator in this state who has maintained an active license for at least ten  
3 years may retire his or her license by filing an affidavit with the board which states the date on  
4 which the licensee retired from such practice and such other facts as tend to verify the retirement  
5 as the board may deem necessary. The affidavit shall be accompanied by a fee [of twenty-five  
6 dollars] **as provided by rule**, made payable to the [division of aging] **department of health and**  
7 **senior services**. Such request for retired status may also be accomplished by signing the request  
8 for retired status that appears on the nursing home administrator's application for license renewal  
9 and returning such application to the board prior to June thirtieth of the year of renewal of the  
10 administrator's active license, accompanied by a fee [of twenty-five dollars] **as provided by rule**,  
11 made payable to the [division of aging] **department of health and senior services**. Information  
12 provided in the request for retired status shall be given under oath subject to the penalties for the  
13 making of a false affidavit.

14 2. An individual who requests retired license status shall return his or her original wall  
15 license and all other indicia of licensure to the board. Once the board has received the original  
16 wall license from the licensee and the other requirements for requesting retired status have been  
17 met, the board shall issue a new license to the licensee indicating that the licensee is retired.

18 3. A retired license may be reactivated within five years of the granting of the retired  
19 license by filing with the board evidence satisfactory to the board of the completion of twenty  
20 clock hours of continuing education for each calendar year the license was retired **accompanied**  
21 **by a fee as provided by rule made payable to the department of health and senior services**.  
22 All clock hours of continuing education shall be completed prior to the filing of the affidavit or  
23 renewal form requesting reactivation of the retired license. If more than five years have passed  
24 since the issuance of a retired license to a licensee, the licensee shall follow the procedures for  
25 initial licensure stated in section 344.030.

26 4. No person shall practice as a nursing home administrator in this state or hold himself  
27 or herself out as a nursing home administrator if his or her license is retired.

28 5. Retired licensees shall remain subject to disciplinary action for violations of this  
29 chapter and the rules promulgated thereunder.

**344.108. 1. Any nursing home administrator possessing a current license to**  
2 **practice as a nursing home administrator in this state may place such license on inactive**  
3 **status by filing a written signed request for inactive status with the board, accompanied**  
4 **by evidence satisfactory to the board of completion of ten clock hours of continuing**  
5 **education in the area of patient care and a fee as provided by rule made payable to the**

6 department of health and senior services. This request may also be accomplished by  
7 signing the request for inactive status that appears on the nursing home administrator's  
8 application for license renewal and returning such application to the board prior to June  
9 thirtieth of the year of renewal of the administrator's active license, accompanied by  
10 evidence satisfactory to the board of completion of ten clock hours of continuing education  
11 in the area of patient care and a fee as provided by rule made payable to the department  
12 of health and senior services. Information provided in the request for inactive status shall  
13 be given under oath subject to the penalties of making a false affidavit.

14       2. An individual who requests that his or her license be placed on inactive status  
15 shall return all indicia of licensure to the board.

16       3. An inactive license shall expire on June thirtieth of the year following the year  
17 of issuance and every other year thereafter. Licensees seeking to renew shall, during the  
18 month of May of the year of renewal, file an application for renewal on forms furnished  
19 by the board that include evidence satisfactory to the board of completion of ten clock  
20 hours of continuing education in the area of patient care and shall be accompanied by a  
21 renewal fee as provided by rule payable to the department of health and senior services.

22       4. A license may be carried in inactive status for up to six years from the date of  
23 issuance. If the licensee does not reactivate the license during the six-year period, the  
24 license shall expire on the last day of the six-year period.

25       5. A holder of an inactive license may reactivate the license by submitting a written  
26 request to the board, accompanied by evidence satisfactory to the board of the completion  
27 of forty clock hours of continuing education and a fee as provided by rule made payable  
28 to the department of health and senior services. The forty clock hours of continuing  
29 education shall be earned no earlier than six months prior to the request for reactivation  
30 and no later than six months after the inactive license has been reactivated. If the holder  
31 of an inactive license requests reactivation prior to completing the forty clock hours of  
32 continuing education, the board shall issue a six-month interim license to the licensee. The  
33 interim license shall expire six months from the date of issuance or at such earlier time as  
34 the licensee earns the forty clock hours of continuing education and submits evidence  
35 satisfactory to the board of completion of the required hours.

36       6. A request for reactivation of an inactive license shall show, under oath or  
37 affirmation of the nursing home administrator, a statement that the nursing home  
38 administrator has not practiced during the inactive period and is not presently practicing  
39 in this state.

40       7. No person shall practice as a nursing home administrator or hold himself or  
41 herself out as a nursing home administrator in this state while his or her license is inactive.

42       **8. Inactive licenses shall remain subject to discipline for violations of this chapter**  
43 **and the rules promulgated thereunder.**

2       383.130. As used in sections **190.500**, 383.130, and 383.133 [and 383.500], the  
following terms shall mean:

3       (1) "Disciplinary action", any final action taken by the board of trustees or similarly  
4 empowered officials of a hospital, **home health agency**, or ambulatory surgical center **as such**  
5 **terms are defined in chapter 197, RSMo, or any nursing facility, as such term is defined**  
6 **in chapter 198, RSMo, or any entity that employs or contracts with licensed health care**  
7 **professionals to provide services to individuals or to any hospital, home health agency,**  
8 **ambulatory surgical center**, to reprimand, discipline or restrict the practice of a health care  
9 professional. [If the health care professional is a physician or surgeon,] Only such reprimands,  
10 discipline, or restrictions in response to activities which are also grounds for disciplinary actions  
11 [pursuant to section 334.100, RSMo,] **according to the professional licensing law for that**  
12 **health care professional** shall be considered disciplinary actions for the purposes of this  
13 definition[. If the health care professional is a dentist, only such reprimands, discipline, or  
14 restrictions in response to activities which are also grounds for disciplinary actions pursuant to  
15 section 332.321, RSMo, shall be considered disciplinary actions for the purposes of this  
16 definition];

17       (2) "Health care professional", a physician or surgeon licensed under the provisions of  
18 chapter 334, RSMo, a dentist **or dental hygienist** licensed under the provisions of chapter 332,  
19 RSMo, [or] a podiatrist licensed under the provisions of chapter 330, RSMo, [or] a pharmacist  
20 licensed under the provisions of chapter 338, RSMo, a psychologist licensed under the provisions  
21 of chapter 337, RSMo, [or] a nurse licensed under the provisions of chapter 335, RSMo, **while**  
22 **acting within their scope practice; an acupuncturist licensed under chapter 324, RSMo, an**  
23 **anesthesiologist assistant licensed under chapter 334, RSMo, an athletic trainer licensed**  
24 **under chapter 334, RSMo, an audiologist licensed under chapter 345, RSMo, a**  
25 **chiropractor licensed under chapter 331, RSMo, a clinical perfusionist licensed under**  
26 **chapter 324, RSMo, a dietitian licensed under chapter 324, RSMo, a hearing instrument**  
27 **specialist licensed under chapter 346, RSMo, an interpreter licensed under chapter 209,**  
28 **RSMo, a marital and family therapist licensed under chapter 324, RSMo, a massage**  
29 **therapist licensed under chapter 324, RSMo, an occupational therapist or occupational**  
30 **therapy assistant licensed under chapter 324, RSMo, an optometrist licensed under chapter**  
31 **336, RSMo, a physical therapist and physical therapist assistant licensed under chapter**  
32 **334, RSMo, a physician assistant licensed under chapter 334, RSMo, a professional**  
33 **counselor licensed under chapter 337, RSMo, a respiratory therapist licensed under**  
34 **chapter 334, RSMo, a social worker licensed under chapter 337, RSMo, and a speech**

35 **language pathologist licensed under chapter 345, RSMo**, while acting within their scope of  
36 practice;

37 (3) "Hospital", a place devoted primarily to the maintenance and operation of facilities  
38 for the diagnosis, treatment or care for not less than twenty-four hours in any week of three or  
39 more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal  
40 physical conditions; or a place devoted primarily to provide for not less than twenty-four hours  
41 in any week medical or nursing care for three or more nonrelated individuals. The term  
42 "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in  
43 chapter 198, RSMo;

44 (4) "Licensing authority", the appropriate board or authority which is responsible for the  
45 licensing or regulation of the health care professional.

383.133. 1. [Beginning on January 1, 1987,] The chief executive officer **or any**  
2 **similarly empowered official** of any hospital, **home health agency**, or ambulatory surgical  
3 center, as such [term is] **terms are** defined in [section 197.200,] **chapter 197, RSMo, or any**  
4 **long-term care facility licensed under chapter 198, RSMo, or any other entity that employs**  
5 **or contracts with licensed health care professionals to provide services to individuals or to**  
6 **any hospital, home health agency, ambulatory surgical center, or long-term care facility,**  
7 **and any other employer of registered nurses and licensed practical nurses, including nurse**  
8 **agencies and subcontractors of agency nurses**, shall report to the appropriate health care  
9 professional licensing authority any disciplinary action against any health care professional,  
10 **including termination of contracted services due to complaints or reports**, or the voluntary  
11 resignation of any health care professional against whom any complaints or reports have been  
12 made which might have led to disciplinary action.

13 2. All reports required by this section shall be submitted within fifteen days of the final  
14 disciplinary action and shall contain, but need not be limited to, the following information:

15 (1) The name, address and telephone number of the person making the report;

16 (2) The name, address and telephone number of the person who is the subject of the  
17 report;

18 (3) A brief description of the facts which gave rise to the issuance of the report, including  
19 the dates of occurrence deemed to necessitate the filing of the report;

20 (4) If court action is involved and known to the reporting agent, the identity of the court,  
21 including the date of filing and the docket number of the action.

22 3. Upon request, the licensing authority may furnish a report of any disciplinary action  
23 received by it under the provisions of this section to any [of the hospitals or ambulatory surgical  
24 centers] **entity** required to report **under this section**. Such licensing authority may also furnish,



25 upon request, a report of disciplinary action taken by the licensing authority to any other  
26 administrative or law enforcement agency acting within the scope of its statutory authority.

27 4. There shall be no liability on the part of, and no cause of action of any nature shall  
28 arise against any health care professional licensing authority or any [hospital or ambulatory  
29 surgical center] **entity** required to report under this section, or any of their agents or employees  
30 for any action taken in good faith and without malice in carrying out the provisions of this  
31 section.

32 5. Neither a report required to be filed under subsection 2 of this section nor the record  
33 of any proceeding shall be used against a health care professional in any other administrative or  
34 judicial proceeding.

35 6. Violation of any provision of this section is an infraction.

537.035. 1. As used in this section, unless the context clearly indicates otherwise, the  
2 following words and terms shall have the meanings indicated:

3 (1) "Health care professional", a physician or surgeon licensed under the provisions of  
4 chapter 334, RSMo, or a dentist licensed under the provisions of chapter 332, RSMo, or a  
5 podiatrist licensed under the provisions of chapter 330, RSMo, or an optometrist licensed under  
6 the provisions of chapter 336, RSMo, or a pharmacist licensed under the provisions of chapter  
7 338, RSMo, or a chiropractor licensed under the provisions of chapter 331, RSMo, **or a physical**  
8 **therapist licensed under the provisions of chapter 334, RSMo**, or a psychologist licensed  
9 under the provisions of chapter 337, RSMo, or a nurse licensed under the provisions of chapter  
10 335, RSMo, or a social worker licensed under the provisions of chapter 337, RSMo, or a  
11 professional counselor licensed under the provisions of chapter 337, RSMo, or a mental health  
12 professional as defined in section 632.005, RSMo, **or an emergency medical technician,**  
13 **including an emergency medical technician-basic, emergency medical technician-**  
14 **intermediate, and an emergency medical technician-paramedic, and an emergency medical**  
15 **dispatcher licensed or authorized under chapter 190, RSMo**, while acting within their scope  
16 of practice;

17 (2) "Peer review committee", a committee of health care professionals with the  
18 responsibility to evaluate, maintain, or monitor the quality and utilization of health care services  
19 or to exercise any combination of such responsibilities.

20 2. A peer review committee may be constituted as follows:

21 (1) Comprised of, and appointed by, a state, county or local society of health care  
22 professionals;

23 (2) Comprised of, and appointed by, the partners, shareholders, or employed health care  
24 professionals of a partnership or professional corporation of health care professionals, or

25 employed health care professionals of a university or an entity affiliated with a university  
26 operating under chapter 172, 174, 352, or 355, RSMo;

27 (3) Appointed by the board of trustees, chief executive officer, or the organized medical  
28 staff of a licensed hospital, or other health facility operating under constitutional or statutory  
29 authority, including long-term care facilities licensed under chapter 198, RSMo, or an  
30 administrative entity of the department of mental health recognized pursuant to the provisions  
31 of subdivision (3) of subsection 1 of section 630.407, RSMo;

32 (4) **Appointed by a board of trustees or chief executive officer of a licensed**  
33 **ambulance service, a licensed emergency medical response agency, or any not-for-profit**  
34 **organization that provides or contracts for ambulance services under authority granted**  
35 **to such not-for-profit organization by a city, county, town, village, or ambulance district**  
36 **and of which a majority of the governing body consists of elected officials and individuals**  
37 **appointed by a mayor, board of aldermen, city council, county commission, county**  
38 **legislature, or ambulance district;**

39 (5) Any other organization formed pursuant to state or federal law authorized to exercise  
40 the responsibilities of a peer review committee and acting within the scope of such authorization;

41 [(5)] (6) Appointed by the board of directors, chief executive officer or the medical  
42 director of the licensed health maintenance organization;

43 (7) **Appointed by a mayor, city council, board of aldermen, county commission,**  
44 **county legislature, or ambulance district.**

45 3. Each member of a peer review committee and each person, hospital governing board,  
46 **ambulance service governing board, emergency medical response agency governing board,**  
47 health maintenance organization board of directors, and chief executive officer of a licensed  
48 hospital or other hospital operating under constitutional or statutory authority, **chief executive**  
49 **officer of an ambulance service or emergency medical response agency,** chief executive  
50 officer or medical director of a licensed health maintenance organization who testifies before,  
51 or provides information to, acts upon the recommendation of, or otherwise participates in the  
52 operation of, such a committee shall be immune from civil liability for such acts so long as the  
53 acts are performed in good faith, without malice and are reasonably related to the scope of  
54 inquiry of the peer review committee.

55 4. Except as otherwise provided in this section, the interviews, memoranda, proceedings,  
56 findings, deliberations, reports, and minutes of peer review committees, or the existence of the  
57 same, concerning the health care provided any patient are privileged and shall not be subject to  
58 discovery, subpoena, or other means of legal compulsion for their release to any person or entity  
59 or be admissible into evidence in any judicial or administrative action for failure to provide  
60 appropriate care. Except as otherwise provided in this section, no person who was in attendance

61 at any peer review committee proceeding shall be permitted or required to disclose any  
62 information acquired in connection with or in the course of such proceeding, or to disclose any  
63 opinion, recommendation, or evaluation of the committee or board, or any member thereof;  
64 provided, however, that information otherwise discoverable or admissible from original sources  
65 is not to be construed as immune from discovery or use in any proceeding merely because it was  
66 presented during proceedings before a peer review committee nor is a member, employee, or  
67 agent of such committee, or other person appearing before it, to be prevented from testifying as  
68 to matters within his **or her** personal knowledge and in accordance with the other provisions of  
69 this section, but such witness cannot be questioned about testimony or other proceedings before  
70 any health care review committee or board or about opinions formed as a result of such  
71 committee hearings. The disclosure of any interview, memoranda, proceedings, findings,  
72 deliberations, reports, or minutes to any person or entity, including but not limited to  
73 governmental agencies, professional accrediting agencies, or other health care providers, whether  
74 proper or improper, shall not waive or have any effect upon its confidentiality,  
75 nondiscoverability, or nonadmissibility.

76 5. The provisions of subsection 4 of this section limiting discovery and admissibility of  
77 testimony as well as the proceedings, findings, records, and minutes of peer review committees  
78 do not apply in any judicial or administrative action brought by a peer review committee or the  
79 legal entity which formed or within which such committee operates to deny, restrict, or revoke  
80 the hospital staff privileges or license to practice of a physician or other health care providers;  
81 or when a member, employee, or agent of the peer review committee or the legal entity which  
82 formed such committee or within which such committee operates is sued for actions taken by  
83 such committee which operate to deny, restrict or revoke the hospital staff privileges or license  
84 to practice of a physician or other health care provider.

85 6. Nothing in this section shall limit authority otherwise provided by law of a health care  
86 licensing board of the state of Missouri to obtain information by subpoena or other authorized  
87 process from peer review committees or to require disclosure of otherwise confidential  
88 information relating to matters and investigations within the jurisdiction of such health care  
89 licensing boards.

610.120. 1. Records required to be closed shall not be destroyed; they shall be  
2 inaccessible to the general public and to all persons other than the defendant except as provided  
3 in this section and section 43.507, RSMo. The closed records shall be available to: criminal  
4 justice agencies for the administration of criminal justice pursuant to section 43.500, RSMo,  
5 criminal justice employment, screening persons with access to criminal justice facilities,  
6 procedures, and sensitive information; to law enforcement agencies for issuance or renewal of  
7 a license, permit, certification, or registration of authority from such agency including but not

8 limited to watchmen, security personnel, private investigators, and persons seeking permits to  
9 purchase or possess a firearm; those agencies authorized by section 43.543, RSMo, to submit and  
10 when submitting fingerprints to the central repository; the sentencing advisory commission  
11 created in section 558.019, RSMo, for the purpose of studying sentencing practices in accordance  
12 with section 43.507, RSMo; to qualified entities for the purpose of screening providers defined  
13 in section 43.540, RSMo; the department of revenue for driver license administration; **the**  
14 **division of professional registration**, the division of workers' compensation for the purposes  
15 of determining eligibility for crime victims' compensation pursuant to sections 595.010 to  
16 595.075, RSMo, department of health and senior services for the purpose of licensing and  
17 regulating facilities and regulating in-home services provider agencies and federal agencies for  
18 purposes of criminal justice administration, criminal justice employment, child, elderly, or  
19 disabled care, and for such investigative purposes as authorized by law or presidential executive  
20 order.

21       2. These records shall be made available only for the purposes and to the entities listed  
22 in this section. A criminal justice agency receiving a request for criminal history information  
23 under its control may require positive identification, to include fingerprints of the subject of the  
24 record search, prior to releasing closed record information. Dissemination of closed and open  
25 records from the Missouri criminal records repository shall be in accordance with section 43.509,  
26 RSMo. All records which are closed records shall be removed from the records of the courts,  
27 administrative agencies, and law enforcement agencies which are available to the public and  
28 shall be kept in separate records which are to be held confidential and, where possible, pages of  
29 the public record shall be retyped or rewritten omitting those portions of the record which deal  
30 with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature  
31 of the record books, such record entries shall be blacked out and recopied in a confidential book.

620.010. 1. There is hereby created a "Department of Economic Development" to be  
2 headed by a director appointed by the governor, by and with the advice and consent of the senate.  
3 All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus  
4 State Reorganization Act of 1974 shall continue to apply to this department and its divisions,  
5 agencies and personnel.

6       2. The office of director of the department of business and administration, chapter 35,  
7 RSMo, and others, is abolished and all powers, duties, personnel and property of that office, not  
8 previously reassigned by executive reorganization plan no. 1 of 1973 as submitted by the  
9 governor pursuant to chapter 26, RSMo, are transferred by type I transfer to the director of the  
10 department of economic development. The department of business and administration is hereby  
11 abolished.

12           3. The duties and responsibilities relating to subsection 2 of section 35.010, RSMo, are  
13 transferred by type I transfer to the personnel division, office of administration.

14           4. The powers, duties and functions vested in the public service commission, chapters  
15 386, 387, 388, 389, 390, 392, and 393, RSMo, and others, and the administrative hearing  
16 commission, sections 621.015 to 621.198, RSMo, and others, are transferred by type III transfers,  
17 and the state banking board, chapter 361, RSMo, and others, and the savings and loan  
18 commission, chapter 369, RSMo, and others, are transferred by type II transfers to the  
19 department of economic development. The director of the department is directed to provide and  
20 coordinate staff and equipment services to these agencies in the interest of facilitating the work  
21 of the bodies and achieving optimum efficiency in staff services common to all the bodies.  
22 Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service  
23 commission from presenting additional budget requests or from explaining or clarifying its  
24 budget requests to the governor or general assembly.

25           5. The powers, duties and functions vested in the office of the public counsel are  
26 transferred by type III transfer to the department of economic development. Funding for the  
27 general counsel's office shall be by general revenue.

28           6. The public service commission is authorized to employ such staff as it deems  
29 necessary for the functions performed by the general counsel other than those powers, duties and  
30 functions relating to representation of the public before the public service commission.

31           7. There is hereby created a "Division of Credit Unions" in the department of economic  
32 development, to be headed by a director, nominated by the department director and appointed  
33 by the governor with the advice and consent of the senate. All the powers, duties and functions  
34 vested in the state supervisor of credit unions in chapter 370, RSMo, and the powers and duties  
35 relating to credit unions vested in the commissioner of finance in chapter 370, RSMo, are  
36 transferred to the division of credit unions of the department of economic development, by a type  
37 II transfer, and the office of the state supervisor of credit unions is abolished. The salary of the  
38 director of the division of credit unions shall be set by the director of the department within the  
39 limits of the appropriations therefor. The director of the division shall assume all the duties and  
40 functions of the state supervisor of credit unions and the commissioner of finance only where the  
41 director has duties and responsibilities relating to credit unions as set out in chapter 370, RSMo.

42           8. The powers, duties and functions vested in the division of finance, chapters 361, 362,  
43 364, 365, 367, and 408, RSMo, and others, are transferred by type II transfer to the department  
44 of economic development. There shall be a director of the division who shall be nominated by  
45 the department director and appointed by the governor with the advice and consent of the senate.

46           9. All the powers, duties and functions vested in the director of the division of savings  
47 and loan supervision in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, or by any other

48 provision of law are transferred to the division of finance of the department of economic  
49 development by a type I transfer. The position of the director of the division of savings and loan  
50 supervision is hereby abolished. The director of the division of finance shall assume all the  
51 duties and functions of the director of the division of savings and loan supervision as provided  
52 in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any other provision of law.  
53 The division of savings and loan is hereby abolished. The powers of the savings and loan  
54 commission are hereby limited to hearing appeals from decisions of the director of the division  
55 of finance approving or denying applications to incorporate savings and loan associations or to  
56 establish branches of savings and loan associations and approving regulations pertaining to  
57 savings and loan associations. Any appeals shall be held in accordance with section 369.319,  
58 RSMo.

59 10. On and after August 28, 1990, the status of the division is modified under a specific  
60 type transfer pursuant to section 1 of the Omnibus Reorganization Act of 1974. The status of  
61 the division is modified from that of a division transferred to the department of economic  
62 development pursuant to a type II transfer, as provided for in this section, to that of an agency  
63 possessing the characteristics of a division transferred pursuant to a type III transfer; provided,  
64 however, that the division will remain within the department of economic development. The  
65 division of insurance shall be assigned to the department of economic development as a type III  
66 division, and the director of the department of economic development shall have no supervision,  
67 authority or control over the actions or decisions of the director of the division. All authority,  
68 records, property, personnel, powers, duties, functions, matter pending and all other pertinent  
69 vestiges pertaining thereto shall be retained by the division except as modified by this section.  
70 If the division of insurance becomes a department by operation of a constitutional amendment,  
71 the department of economic development shall continue until December 31, 1991, to provide at  
72 least the same assistance as was provided in previous fiscal years for personnel, data processing  
73 support and other benefits from appropriations.

74 11. All the powers, duties and functions of the commerce and industrial development  
75 division and the industrial development commission, chapters 184 and 255, RSMo, and others,  
76 not otherwise transferred, are transferred by type I transfer to the department of economic  
77 development, and the industrial development commission is abolished. All powers, duties and  
78 functions of the division of commerce and industrial development and the division of community  
79 development are transferred by a type I transfer to the department of economic development, and  
80 the division of commerce and industrial development and the division of community  
81 development are abolished.

82           12. All the powers, duties and functions vested in the tourism commission, chapter 258,  
83 RSMo, and others, are transferred to the "Division of Tourism", which is hereby created, by type  
84 III transfer.

85           13. All the powers, duties and functions of the department of community affairs, chapter  
86 251, RSMo, and others, not otherwise assigned, are transferred by type I transfer to the  
87 department of economic development, and the department of community affairs is abolished.  
88 The director of the department of economic development may assume all the duties of the  
89 director of community affairs or may establish within the department such subunits and advisory  
90 committees as may be required to administer the programs so transferred. The director of the  
91 department shall appoint all members of such committees and heads of subunits.

92           14. (1) There is hereby established a "Division of Professional Registration" assigned  
93 to the department of economic development as a type III division, headed by a director appointed  
94 by the governor with the advice and consent of the senate.

95           (2) The director of the division of professional registration shall promulgate rules and  
96 regulations which designate for each board or commission assigned to the division the renewal  
97 date for licenses or certificates. After the initial establishment of renewal dates, no director of  
98 the division shall promulgate a rule or regulation which would change the renewal date for  
99 licenses or certificates if such change in renewal date would occur prior to the date on which the  
100 renewal date in effect at the time such new renewal date is specified next occurs. Each board or  
101 commission shall by rule or regulation establish licensing periods of one, two, or three years.  
102 Registration fees set by a board or commission shall be effective for the entire licensing period  
103 involved, and shall not be increased during any current licensing period. Persons who are  
104 required to pay their first registration fees shall be allowed to pay the pro rata share of such fees  
105 for the remainder of the period remaining at the time the fees are paid. Each board or  
106 commission shall provide the necessary forms for initial registration, and thereafter the director  
107 may prescribe standard forms for renewal of licenses and certificates. Each board or commission  
108 shall by rule and regulation require each applicant to provide the information which is required  
109 to keep the board's records current. Each board or commission shall issue the original license  
110 or certificate.

111           (3) The division shall provide clerical and other staff services relating to the issuance and  
112 renewal of licenses for all the professional licensing and regulating boards and commissions  
113 assigned to the division. The division shall perform the financial management and clerical  
114 functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and  
115 renewal of licenses and certificates" means the ministerial function of preparing and delivering  
116 licenses or certificates, and obtaining material and information for the board or commission in  
117 connection with the renewal thereof. It does not include any discretionary authority with regard

118 to the original review of an applicant's qualifications for licensure or certification, or the  
119 subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action  
120 contemplated against the licensee or certificate holder. The division may develop and implement  
121 microfilming systems and automated or manual management information systems.

122 (4) The director of the division shall establish a system of accounting and budgeting, in  
123 cooperation with the director of the department, the office of administration, and the state  
124 auditor's office, to ensure proper charges are made to the various boards for services rendered  
125 to them. The general assembly shall appropriate to the division and other state agencies from  
126 each board's funds, moneys sufficient to reimburse the division and other state agencies for all  
127 services rendered and all facilities and supplies furnished to that board.

128 (5) For accounting purposes, the appropriation to the division and to the office of  
129 administration for the payment of rent for quarters provided for the division shall be made from  
130 the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for  
131 the purpose defined in subdivision (4) of subsection 14 of this section. The fund shall consist  
132 of moneys deposited into it from each board's fund. Each board shall contribute a prorated  
133 amount necessary to fund the division for services rendered and rent based upon the system of  
134 accounting and budgeting established by the director of the division as provided in subdivision  
135 (4) of this subsection. Transfers of funds to the professional registration fees fund shall be made  
136 by each board on July first of each year; provided, however, that the director of the division may  
137 establish an alternative date or dates of transfers at the request of any board. Such transfers shall  
138 be made until they equal the prorated amount for services rendered and rent by the division. The  
139 provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall  
140 not be transferred and placed to the credit of general revenue.

141 (6) The director of the division shall be responsible for collecting and accounting for all  
142 moneys received by the division or its component agencies. Any money received by a board or  
143 commission shall be promptly given, identified by type and source, to the director. The director  
144 shall keep a record by board and state accounting system classification of the amount of revenue  
145 the director receives. The director shall promptly transmit all receipts to the department of  
146 revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall  
147 provide each board with all relevant financial information in a timely fashion. Each board shall  
148 cooperate with the director by providing necessary information.

149 (7) All educational transcripts, test scores, complaints, investigatory reports, and  
150 information pertaining to any person who is an applicant or licensee of any agency assigned to  
151 the division of professional registration by statute or by the department of economic development  
152 are confidential and may not be disclosed to the public or any member of the public, except with  
153 the written consent of the person whose records are involved. The agency which possesses the



records or information shall disclose the records or information if the person whose records or information is involved has consented to the disclosure. Each agency is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that any board may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority. Information regarding identity, including names and addresses, registration, and currency of the license of the persons possessing licenses to engage in a professional occupation and the names and addresses of applicants for such licenses is not confidential information.

(8) Any deliberations conducted and votes taken in rendering a final decision after a hearing before an agency assigned to the division shall be closed to the parties and the public. Once a final decision is rendered, that decision shall be made available to the parties and the public.

**(9) The director of the division shall retain personnel to render necessary services to the division and to the boards, including accountants, lawyers, and investigators. The director may retain these services by agreement with other agencies, including the attorney general, by employment of such personnel, or by agreement with private parties.**

15. (1) The division of registration and examination, department of education, within chapter 161, RSMo, and others, is abolished and the following boards and commissions are transferred by specific type transfers to the division of professional registration, department of economic development: state board of accountancy, chapter 326, RSMo; state board of barber examiners, chapter 328, RSMo; state board of registration for architects, professional engineers [and], **professional land surveyors, and landscape architects**, chapter 327, RSMo; state board of chiropractic examiners, chapter 331, RSMo; state board of cosmetology, chapter 329, RSMo; state board of healing arts, chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; state board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of podiatry, chapter 330, RSMo; Missouri real estate commission, chapter 339, RSMo; and Missouri veterinary medical board chapter 340, RSMo. The governor shall appoint members of these boards by and with the advice and consent of the senate from nominees submitted by the director of the department.

(2) The boards and commissions assigned to the division shall exercise all their respective statutory duties and powers, except those clerical and other staff services involving collecting and accounting for moneys and financial management relating to the issuance and renewal of licenses, which services shall be provided by the division, within the appropriation

190 therefor. All clerical and other staff services relating to the issuance and renewal of licenses of  
191 the individual boards and commissions are abolished. All clerical and other staff services  
192 pertaining to collecting and accounting for moneys and to financial management relative to the  
193 issuance and renewal of licenses of the individual boards and commissions are abolished.  
194 Nothing herein shall prohibit employment of professional examining or testing services from  
195 professional associations or others as required by the boards or commissions on contract.  
196 Nothing herein shall be construed to affect the power of a board or commission to expend its  
197 funds as appropriated. However, the division shall review the expense vouchers of each board.  
198 The results of such review shall be submitted to the board reviewed and to the house and senate  
199 appropriations committees annually.

200 (3) Notwithstanding any other provisions of law, the director of the division shall  
201 exercise only those management functions of the boards and commissions specifically provided  
202 in the Reorganization Act of 1974, and those relating to the allocation and assignment of space,  
203 personnel other than board personnel, and equipment.

204 (4) "Board personnel", as used in this section or chapters 326, 327, 328, 329, 330, 331,  
205 332, 333, 334, 335, 336, 338, 339 and 340, RSMo, shall mean personnel whose functions and  
206 responsibilities are in areas not related to the clerical duties involving the issuance and renewal  
207 of licenses, to the collecting and accounting for moneys, or to financial management relating to  
208 issuance and renewal of licenses; specifically included are executive secretaries (or comparable  
209 positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these  
210 positions; and such other positions as are established and authorized by statute for a particular  
211 board or commission. Boards and commissions may employ legal counsel[, if authorized by  
212 law,] and temporary personnel if the board is unable to meet its responsibilities with the  
213 employees authorized above. Any board or commission which hires temporary employees shall  
214 annually provide the division director and the appropriation committees of the general assembly  
215 with a complete list of all persons employed in the previous year, the length of their employment,  
216 the amount of their remuneration and a description of their responsibilities.

217 (5) Board personnel for each board or commission shall be employed by and serve at the  
218 pleasure of the board or commission, shall be supervised as the board or commission designates,  
219 and shall have their duties and compensation prescribed by the board or commission, within  
220 appropriations for that purpose, except that compensation for board personnel shall not exceed  
221 that established for comparable positions as determined by the board or commission pursuant  
222 to the job and pay plan of the department of economic development. Nothing herein shall be  
223 construed to permit salaries for any board personnel to be lowered except by board action.

224 (6) Each board or commission shall receive complaints concerning its licensees' business  
225 or professional practices. Each board or commission shall establish by rule a procedure for the

226 handling of such complaints prior to the filing of formal complaints before the administrative  
227 hearing commission. The rule shall provide, at a minimum, for the logging of each complaint  
228 received, the recording of the licensee's name, the name of the complaining party, the date of the  
229 complaint, and a brief statement of the complaint and its ultimate disposition. The rule shall  
230 provide for informing the complaining party of the progress of the investigation, the dismissal  
231 of the charges or the filing of a complaint before the administrative hearing commission.

232 16. All the powers, duties and functions of the division of athletics, chapter 317, RSMo,  
233 and others, are transferred by type I transfer to the division of professional registration. The  
234 athletic commission is abolished.

235 17. The state council on the arts, chapter 185, RSMo, and others, is transferred by type  
236 II transfer to the department of economic development, and the members of the council shall be  
237 appointed by the director of the department.

238 18. The Missouri housing development commission, chapter 215, RSMo, is assigned to  
239 the department of economic development, but shall remain a governmental instrumentality of  
240 the state of Missouri and shall constitute a body corporate and politic.

241 19. All the authority, powers, duties, functions, records, personnel, property, matters  
242 pending and other pertinent vestiges of the division of manpower planning of the department of  
243 social services are transferred by a type I transfer to the "Division of Job Development and  
244 Training", which is hereby created, within the department of economic development. The  
245 division of manpower planning within the department of social services is abolished. The  
246 provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating  
247 to the manner and procedures for transfers of state agencies shall apply to the transfers provided  
248 in this section.

249 20. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
250 is created under the authority delegated in this chapter shall become effective only if it complies  
251 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section  
252 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and  
253 effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity  
254 of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable  
255 provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the  
256 powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the  
257 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the  
258 grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be  
259 invalid and void.

621.045. 1. The administrative hearing commission shall conduct hearings and make  
2 findings of fact and conclusions of law in those cases when, under the law, a license issued by

any of the following agencies may be revoked or suspended or when the licensee may be placed on probation or when an agency refuses to permit an applicant to be examined upon his qualifications or refuses to issue or renew a license of an applicant who has passed an examination for licensure or who possesses the qualifications for licensure without examination:

Missouri State Board of Accountancy

Missouri Board [of Registration] for Architects, Professional Engineers [and],

**Professional Land Surveyors, and Landscape Architects**

Board of Barber Examiners

Board of Cosmetology

Board of Chiropody and Podiatry

Board of Chiropractic Examiners

Missouri Dental Board

Board of Embalmers and Funeral Directors

**Board of Private Investigator Examiners**

Board of Registration for the Healing Arts

Board of Nursing

Board of Optometry

Board of Pharmacy

Missouri Real Estate Commission

Missouri Veterinary Medical Board

Supervisor of Liquor Control

Department of Health and Senior Services

Department of Insurance

Department of Mental Health.

2. If in the future there are created by law any new or additional administrative agencies which have the power to issue, revoke, suspend, or place on probation any license, then those agencies are under the provisions of this law.

3. Notwithstanding any other provision of this section to the contrary, after August 28, 1995, in order to encourage settlement of disputes between any agency described in subsection 1 or 2 of this section and its licensees, any such agency shall:

(1) Provide the licensee with a written description of the specific conduct for which discipline is sought and a citation to the law and rules allegedly violated, together with copies of any documents which are the basis thereof and the agency's initial settlement offer, or file a contested case against the licensee;

37           (2) If no contested case has been filed against the licensee, allow the licensee at least  
38 sixty days, from the date of mailing, to consider the agency's initial settlement offer and to  
39 contact the agency to discuss the terms of such settlement offer;

40           (3) If no contested case has been filed against the licensee, advise the licensee that the  
41 licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen  
42 days thereafter, submit the agreement to the administrative hearing commission for determination  
43 that the facts agreed to by the parties to the settlement constitute grounds for denying or  
44 disciplining the license of the licensee; and

45           (4) In any contact pursuant to this subsection by the agency or its counsel with a licensee  
46 who is not represented by counsel, advise the licensee that the licensee has the right to consult  
47 an attorney at the licensee's own expense.

48           4. If the licensee desires review by the administrative hearing commission pursuant to  
49 subdivision (3) of subsection 3 of this section at any time prior to the settlement becoming final,  
50 the licensee may rescind and withdraw from the settlement and any admissions of fact or law in  
51 the agreement shall be deemed withdrawn and not admissible for any purposes under the law  
52 against the licensee. Any settlement submitted to the administrative hearing commission shall  
53 not be effective and final unless and until findings of fact and conclusions of law are entered by  
54 the administrative hearing commission that the facts agreed to by the parties to the settlement  
55 constitute grounds for denying or disciplining the license of the licensee.

621.100. 1. Upon receipt of a written complaint from an agency named in section  
2 621.045 in a case relating to a holder of a license granted by such agency, or upon receipt of such  
3 complaint from the attorney general, the administrative hearing commission shall cause a copy  
4 of said complaint to be served upon such licensee in person or by certified mail, together with  
5 a notice of the place of and the date upon which the hearing on said complaint will be held. **If**  
6 **service cannot be accomplished in person or by certified mail, notice by publication as**  
7 **described in subsection 3 of section 506.160, RSMo, shall be allowed; any commissioner is**  
8 **authorized to act as a court or judge would in that section, and any employee of the**  
9 **commission is authorized to act as a clerk would in that section.** In any case initiated upon  
10 complaint of the attorney general, the agency which issued the license shall be given notice of  
11 such complaint and the date upon which the hearing will be held by delivery of a copy of such  
12 complaint and notice to the office of such agency or by certified mail. Such agency may  
13 intervene and may retain the services of legal counsel to represent it in such case.

14           2. In any case initiated under this section, the custodian of the records of an agency may  
15 prepare a sworn affidavit stating truthfully pertinent information regarding the license status of  
16 the licensee charged in the complaint, including only: the name of the licensee; his license  
17 number; its designated date of expiration; the date of his original Missouri licensure; the

18 particular profession, practice or privilege licensed; and the status of his license as current and  
19 active or otherwise. This affidavit shall be received as substantial and competent evidence of  
20 the facts stated therein notwithstanding any objection as to the form, manner of presentment or  
21 admissibility of this evidence, and shall create a rebuttable presumption of the veracity of the  
22 statements therein; provided, however, that the procedures specified in section 536.070, RSMo,  
23 shall apply to the introduction of this affidavit in any case where the status of this license  
24 constitutes a material issue of fact in the proof of the cause charged in the complaint.

621.110. Upon a finding in any cause charged by the complaint for which the license  
2 may be suspended or revoked as provided in the statutes and regulations relating to the  
3 profession or vocation of the licensee, the commission shall deliver or transmit by [certified]  
4 mail to the agency which issued the license the record and a transcript of the proceedings before  
5 the commission together with the commission's findings of fact and conclusions of law. The  
6 commission may make recommendations as to appropriate disciplinary action but any such  
7 recommendations shall not be binding upon the agency. A copy of the findings of fact,  
8 conclusions of law and the commission's recommendations, if any, shall be [served upon]  
9 **delivered or transmitted by mail to the licensee [in person or by certified mail] if the licensee's**  
10 **whereabouts are known, and to any attorney who represented the licensee.** Within thirty  
11 days after receipt of the record of the proceedings before the commission and the findings of fact,  
12 conclusions of law, and recommendations, if any, of the commission, the agency shall set the  
13 matter for hearing upon the issue of appropriate disciplinary action and shall notify the licensee  
14 of the time and place of the hearing, provided that such hearing may be waived by consent of the  
15 agency and licensee where the commission has made recommendations as to appropriate  
16 disciplinary action. In case of such waiver by the agency and licensee, the recommendations of  
17 the commission shall become the order of the agency. The licensee may appear at said hearing  
18 and be represented by counsel. The agency may receive evidence relevant to said issue from the  
19 licensee or any other source. After such hearing the agency may order any disciplinary measure  
20 it deems appropriate and which is authorized by law. In any case where the commission fails to  
21 find any cause charged by the complaint for which the license may be suspended or revoked, the  
22 commission shall dismiss the complaint, and so notify all parties.

660.315. 1. After an investigation and a determination has been made to place a person's  
2 name on the employee disqualification list, that person shall be notified in writing mailed to his  
3 or her last known address that:

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

6 (2) The person's name will be included in the employee disqualification list of the  
7 department;

8 (3) The consequences of being so listed including the length of time to be listed; and

9 (4) The person's rights and the procedure to challenge the allegation.

10 2. If no reply has been received within thirty days of mailing the notice, the department  
11 may include the name of such person on its list. The length of time the person's name shall  
12 appear on the employee disqualification list shall be determined by the director or the director's  
13 designee, based upon the criteria contained in subsection 9 of this section.

14 3. If the person so notified wishes to challenge the allegation, such person may file an  
15 application for a hearing with the department. The department shall grant the application within  
16 thirty days after receipt by the department and set the matter for hearing, or the department shall  
17 notify the applicant that, after review, the allegation has been held to be unfounded and the  
18 applicant's name will not be listed.

19 4. If a person's name is included on the employee disqualification list without **the**  
20 **department providing** notice [by the department] **as required under subsection 1 of this**  
21 **section**, such person may file a request with the department for removal of the name or for a  
22 hearing. Within thirty days after receipt of the request, the department shall either remove the  
23 name from the list or grant a hearing and set a date therefor.

24 5. Any hearing shall be conducted in the county of the person's residence by the director  
25 of the department or the director's designee. The provisions of chapter 536, RSMo, for a  
26 contested case except those provisions or amendments which are in conflict with this section,  
27 shall apply to and govern the proceedings contained in this section and the rights and duties of  
28 the parties involved. The person appealing such an action shall be entitled to present evidence,  
29 pursuant to the provisions of chapter 536, RSMo, relevant to the allegations.

30 6. Upon the record made at the hearing, the director of the department or the director's  
31 designee shall determine all questions presented and shall determine whether the person shall  
32 be listed on the employee disqualification list. The director of the department or the director's  
33 designee shall clearly state the reasons for his or her decision and shall include a statement of  
34 findings of fact and conclusions of law pertinent to the questions in issue.

35 7. A person aggrieved by the decision following the hearing shall be informed of his or  
36 her right to seek judicial review as provided under chapter 536, RSMo. If the person fails to  
37 appeal the director's findings, those findings shall constitute a final determination that the person  
38 shall be placed on the employee disqualification list.

39 8. A decision by the director shall be inadmissible in any civil action brought against a  
40 facility or the in-home services provider agency and arising out of the facts and circumstances  
41 which brought about the employment disqualification proceeding, unless the civil action is  
42 brought against the facility or the in-home services provider agency by the department of health  
43 and senior services or one of its divisions.

44           9. The length of time the person's name shall appear on the employee disqualification  
45 list shall be determined by the director of the department of health and senior services or the  
46 director's designee, based upon the following:

47           (1) Whether the person acted recklessly or knowingly, as defined in chapter 562, RSMo;

48           (2) The degree of the physical, sexual, or emotional injury or harm; or the degree of the  
49 imminent danger to the health, safety or welfare of a resident or in-home services client;

50           (3) The degree of misappropriation of the property or funds, or falsification of any  
51 documents for service delivery of an in-home services client;

52           (4) Whether the person has previously been listed on the employee disqualification list;

53           (5) Any mitigating circumstances;

54           (6) Any aggravating circumstances; and

55           (7) Whether alternative sanctions resulting in conditions of continued employment are  
56 appropriate in lieu of placing a person's name on the employee disqualification list. Such  
57 conditions of employment may include, but are not limited to, additional training and employee  
58 counseling. Conditional employment shall terminate upon the expiration of the designated  
59 length of time and the person's submitting documentation which fulfills the department of health  
60 and senior services' requirements.

61           10. The removal of any person's name from the list under this section shall not prevent  
62 the director from keeping records of all acts finally determined to have occurred under this  
63 section.

64           11. The department shall provide the list maintained pursuant to this section to other  
65 state departments upon request and to any person, corporation, **organization**, or association who:

66           (1) Is licensed as an operator under chapter 198, RSMo;

67           (2) Provides in-home services under contract with the department;

68           (3) Employs nurses and nursing assistants for temporary or intermittent placement in  
69 health care facilities;

70           (4) Is approved by the department to issue certificates for nursing assistants training; [or]

71           (5) Is an entity licensed under chapter 197, RSMo; **or**

72           **(6) Is a recognized school of nursing, medicine, or other health profession for the**  
73 **purpose of determining whether students scheduled to participate in clinical rotations with**  
74 **entities described in subdivision (1), (2), or (5) of this subsection are included in the**  
75 **employee disqualification list.**

76

77 The department shall inform any person listed above who inquires of the department whether or  
78 not a particular name is on the list. The department may require that the request be made in  
79 writing.



80           12. No person, corporation, **organization**, or association who received the employee  
81 disqualification list under **subdivisions (1) to (5) of** subsection 11 of this section shall knowingly  
82 employ any person who is on the employee disqualification list. Any person, corporation,  
83 **organization**, or association who received the employee disqualification list under **subdivisions**  
84 **(1) to (5) of** subsection 11 of this section, or any person responsible for providing health care  
85 service, who declines to employ or terminates a person whose name is listed in this section shall  
86 be immune from suit by that person or anyone else acting for or in behalf of that person for the  
87 failure to employ or for the termination of the person whose name is listed on the employee  
88 disqualification list.

89           13. Any employer who is required to discharge an employee because the employee was  
90 placed on a disqualification list maintained by the department of health and senior services after  
91 the date of hire shall not be charged for unemployment insurance benefits based on wages paid  
92 to the employee for work prior to the date of discharge, pursuant to section 288.100, RSMo.

93           14. Any person who has been listed on the employee disqualification list may request  
94 that the director remove his or her name from the employee disqualification list. The request  
95 shall be written and may not be made more than once every twelve months. The request will be  
96 granted by the director upon a clear showing, by written submission only, that the person will  
97 not commit additional acts of abuse, neglect, misappropriation of the property or funds, or the  
98 falsification of any documents of service delivery to an in-home services client. The director  
99 may make conditional the removal of a person's name from the list on any terms that the director  
100 deems appropriate, and failure to comply with such terms may result in the person's name being  
101 relisted. The director's determination of whether to remove the person's name from the list is not  
102 subject to appeal.

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