

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 1124
93RD GENERAL ASSEMBLY

Reported from the Committee on Professional Registration and Licensing April 24, 2006 with recommendation that House Committee Substitute for Senate Bill No. 1124 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

5159L.03C

AN ACT

To repeal sections 41.950, 317.001, 317.006, 317.011, 317.013, 317.014, 317.015, 317.018, 324.010, 324.245, 324.247, 324.257, 324.262, 324.265, 324.270, 332.071, 334.103, 334.104, 334.655, 334.660, 334.735, 335.066, 335.068, 337.500, 337.505, 337.507, 337.510, 337.515, 337.520, 337.525, 337.530, 337.535, 337.615, 337.618, 337.668, 337.700, 337.703, 337.706, 337.709, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 337.736, 337.739, 338.010, 338.035, 338.095, 338.220, 339.010, 339.040, 339.100, 339.507, 339.509, 339.513, 339.519, 339.521, 339.525, 339.532, 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 one hundred thirty-eight new sections relating to licensing and registration of certain professionals, with penalty provisions.

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, 324.010, 324.245, 324.247, 324.257, 324.262, 324.265, 324.270, 332.071, 334.103,
3 334.104, 334.655, 334.660, 334.735, 335.066, 335.068, 337.500, 337.505, 337.507, 337.510,
4 337.515, 337.520, 337.525, 337.530, 337.535, 337.615, 337.618, 337.668, 337.700, 337.703,
5 337.706, 337.709, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 337.736, 337.739,
6 338.010, 338.035, 338.095, 338.220, 339.010, 339.040, 339.100, 339.507, 339.509, 339.513,
7 339.519, 339.521, 339.525, 339.532, 340.222, 340.234, 344.020, 344.030, 344.040, 344.050,

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.

8 344.060, 344.070, 344.080, 344.105, 383.130, 383.133, 537.035, 610.120, 620.010, 621.045,
9 621.100, 621.110, and 660.315, RSMo, are repealed and one hundred thirty-eight new sections
10 enacted in lieu thereof, to be known as sections 41.950, 317.001, 317.006, 317.011, 317.013,
11 317.014, 317.015, 317.018, 317.019, 319.300, 319.303, 319.306, 319.309, 319.312, 319.315,
12 319.318, 319.321, 319.324, 319.327, 319.330, 319.333, 319.336, 319.338, 319.339, 324.011,
13 324.012, 324.013, 324.014, 324.015, 324.245, 324.247, 324.257, 324.262, 324.265, 324.270,
14 324.1150, 324.1152, 324.1154, 324.1156, 324.1158, 324.1160, 324.1162, 324.1164, 324.1166,
15 324.1168, 324.1170, 324.1172, 324.1174, 324.1176, 324.1178, 324.1180, 324.1182, 324.1184,
16 324.1186, 324.1188, 324.1190, 324.1192, 324.1194, 324.1196, 324.1198, 332.052, 332.071,
17 334.103, 334.104, 334.655, 334.660, 334.735, 334.1000, 334.1003, 334.1006, 334.1009,
18 334.1012, 334.1015, 334.1018, 334.1021, 334.1024, 334.1050, 335.066, 335.068, 337.500,
19 337.505, 337.507, 337.510, 337.520, 337.525, 337.530, 337.545, 337.550, 337.555, 337.615,
20 337.618, 337.668, 337.700, 337.703, 337.709, 337.712, 337.715, 337.718, 337.727, 337.730,
21 337.733, 337.736, 338.010, 338.035, 338.095, 338.147, 338.149, 338.220, 339.010, 339.040,
22 339.100, 339.507, 339.509, 339.513, 339.519, 339.521, 339.525, 339.532, 340.222, 340.234,
23 344.020, 344.030, 344.040, 344.050, 344.060, 344.070, 344.080, 344.105, 344.108, 383.130,
24 383.133, 537.035, 610.120, 620.010, 621.045, 621.100, 621.110, and 660.315, to read as
25 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:

(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;

(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.

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**
12 **arts;**

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

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

26 [(4)] (5) "Contestant", a person who competes in any activity covered by sections
27 317.001 to 317.021;

28 [(5)] (6) "Division", the division of professional registration;

29 [(6)] (7) "Director", the director of the division of professional registration;

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

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

35 [(8) "Mandatory count of eight", a required count of eight that is given by a referee to
36 a contestant who has been knocked down;

37 (9) "Noncompetitive boxing", boxing or sparring where a decision is not rendered;]

38 (10) "**Kickboxing**", **to compete with the fists, feet, legs, or any combination thereof;**

39 (11) "**Martial arts**", **kickboxing, full-contact karate, or mixed martial arts;**

40 (12) "**Mixed martial arts**", **professional and amateur, involves the use, subject to**
41 **any applicable limitations set forth in this chapter, of a combination of techniques from**
42 **different disciplines of the martial arts, including but not limited to, grappling, kicking,**
43 **and striking;**

44 (13) "Office", the division of professional registration, office of athletics;

45 (14) "**Professional**", **a person who has received or competed for any purse or other**
46 **article of value for participating in any match;**

47 [(11)] (15) "Professional boxing", the sport of attack and defense which uses the fist and
48 where contestants compete for valuable consideration;

49 [(12)] (16) "Professional full-contact karate", any form of full-contact martial arts
50 including but not limited to full-contact kungfu, full-contact taekwon-do, or any form of martial
51 arts or self-defense conducted on a full-contact basis in a bout or contest where weapons are not
52 used and where contestants compete for valuable consideration. Such contests take place in a
53 rope-enclosed ring and are fought in timed rounds;

54 [(13)] (17) "Professional kickboxing", any form of boxing in which blows are delivered
55 with any part of the arm below the shoulder, including the hand, and any part of the leg below

56 the hip, including the foot, and where contestants compete for valuable consideration. Such
57 contests take place in a rope-enclosed ring and are fought in timed rounds;

58 [(14)] (18) "Professional wrestling", any performance of wrestling skills and techniques
59 by two or more professional wrestlers, to which any admission is charged. Participating
60 wrestlers may not be required to use their best efforts in order to win, the winner may have been
61 selected before the performance commences and contestants compete for valuable consideration.
62 Such contests take place in a rope-enclosed ring and are fought in timed rounds[;

63 (15) "Sparring", boxing for practice or as an exhibition;

64 (16) "Standing mandatory eight count", the count of eight that is given at the discretion
65 of a referee to a contestant who has been dazed by a blow and is unable to defend himself or
66 herself. The standing mandatory eight count may be waived in a bout only with special
67 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] ,
31 professional full-contact karate, **and professional and amateur mixed martial arts** contest.
32 Such funds shall be paid to the division [of professional registration] which shall pay said funds
33 into the **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] ,
17 professional full-contact karate, **and professional and amateur mixed martial arts** contests
18 in the state of 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
23 minutes 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 compliant 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.] **Upon a finding that the grounds provided in subsection 2 of this section
50 for disciplinary action are met, the office may, singly or in combination, assess an
51 administrative penalty not to exceed two thousand dollars per violation, censure or place
52 on probation on such terms and conditions as the office deems appropriate for a period not
53 to exceed five years, or may suspend for a period not to exceed three years or revoke the
54 certificate, license, or permit. In any order of revocation, the office may provide that the
55 person shall not apply for a new license for a maximum of three years and one day
56 following the date of the order of revocation. All stay orders shall toll this time period. In
57 lieu of or in addition to any remedy specifically provided in subsection 1 of this section, the
58 office may require of a licensee:**

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

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

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

319.300. Sections 319.300 to 319.339 shall be known as the "Missouri Blasting
2 Safety Act". The purpose of sections 319.300 to 319.339 shall be to foster the safe use of
3 explosives in mining and construction by establishing and enforcing consistent statewide
4 industry standards for licensing of blasters and persons using explosives. The provisions
5 of sections 319.300 to 319.339 or any rules or regulations promulgated thereunder shall not
6 be construed to amend, supersede, or conflict with any requirement of federal law or
7 regulation governing the manufacturing, transporting, or storage of explosives.

319.303. As used in sections 319.300 to 319.339, the following terms shall mean:

- 2 (1) "Blaster", a person qualified to be in charge of and responsible for the loading
3 and firing of an explosive or explosive material;
- 4 (2) "Blast", detonation of explosives;
- 5 (3) "Blasting", the use of explosives in mining or construction;
- 6 (4) "Blast site", the area where explosives are handled during loading of a
7 borehole, including fifty feet in all directions from the perimeter formed by loaded holes.
8 A minimum of thirty feet may replace the fifty feet requirement if the perimeter of loaded
9 holes is marked and separated from nonblast site areas by a barrier. The fifty feet or
10 thirty feet distance requirements, as applicable, shall apply in all directions along the full
11 depth of the borehole;
- 12 (5) "Board", the state blasting safety board created in section 319.324;
- 13 (6) "Borehole", a hole made with a drill, auger, or other tool in which explosives
14 are placed in preparation for detonation;
- 15 (7) "Burden", the distance from an explosive charge to the nearest free or open face
16 at the time of detonation;
- 17 (8) "Business day", any day of the week except Saturday, Sunday, or a federal or
18 state holiday;
- 19 (9) "Deck", charge of explosives separated from other charges by stemming;
- 20 (10) "Delay period", the time delay provided by blasting caps which permits firing
21 of bore holes in sequence;
- 22 (11) "Detonation", the action of converting the chemicals in an explosive charge to
23 gases at a high pressure by means of a self-propagating shock wave passing through the
24 charge;
- 25 (12) "Detonator", any device containing initiating or primary explosive that is used
26 for initiating detonation of another explosive material. A detonator may not contain more
27 than ten grams of total explosives by weight, excluding ignition or delay charges. The term

28 includes, but is not limited to, electric blasting caps of instantaneous and delay types,
29 blasting caps for use with safety fuse, detonating cord delay connectors, and non-electric
30 instantaneous and delay blasting caps which use detonating cord, shock tube, or any other
31 replacement for electric leg wires;

32 (13) "Explosives", any chemical compound, mixture, or device, the primary or
33 common purpose of which is to function by explosion, including, but not limited to,
34 dynamite, black powder, pellet powder, initiating explosives, detonators, safety fuses,
35 squibs, detonating cord, igniter cord, and igniters; includes explosive materials such as any
36 blasting agent, emulsion explosive, water gel, or detonator. Explosive materials determined
37 to be within the coverage of sections 319.300 to 319.339 shall include all such materials
38 listed in 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution, and Storage of
39 Explosive Materials, as issued at least annually by the Department of Justice, Bureau of
40 Alcohol, Tobacco, Firearms and Explosives;

41 (14) "Firing", causing explosives to be detonated by the use of a fuse or electric
42 detonator;

43 (15) "Fire protection official", an authorized representative of a municipal fire
44 department, fire protection district, or volunteer fire protection association for the area
45 where blasting occurs;

46 (16) "Fugitive from justice", any person who has fled from the jurisdiction of any
47 court of record to avoid prosecution for any crime or to avoid giving testimony in any
48 criminal proceeding. The term shall also include any person who has been convicted of any
49 crime and has fled to avoid case disposition;

50 (17) "Initiation system", components of an explosive charge that cause the charge
51 to detonate, such as primers, electric detonators, and detonating charge;

52 (18) "Loading", placing of explosives in a hole in preparation for detonation;

53 (19) "Local government", a city, county, fire protection district, volunteer fire
54 protection association, or political subdivision of the state;

55 (20) "Person", any individual, proprietorship, partnership, firm, corporation,
56 company, joint venture, association, teaching institution, municipality, county, political
57 subdivision, or department, board, commission, institution, or agency of the state of
58 Missouri;

59 (21) "Person using explosives", any business, company, or other person that is
60 required to hold authority to receive or use explosives under statutes or regulations
61 administered by the U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and
62 Explosives and who employs blasters as required to be licensed by section 319.306;

63 (22) "Regulatory authority", the Missouri division of fire safety, office of the state
64 fire marshal;

65 (23) "Scaled distance", the linear distance, in feet, from the blast to a specified
66 location, divided by the square root of the maximum weight of explosives, in pounds, to be
67 detonated in any eight millisecond period;

68 (24) "Seismograph", an instrument that measures ground vibration and acoustic
69 effects;

70 (25) "Spacing", the distance between adjacent bore holes;

71 (26) "Stemming", inert material that is placed above explosives that have been
72 placed in a blast hole in preparation for detonation or vertically between columnar decks
73 of explosives that have been placed in a hole in preparation for detonation;

74 (27) "Uncontrolled structure", any dwelling, public building, school, church,
75 commercial building, or institutional building, that is not owned or leased by the person
76 using explosives, or otherwise under the direct contractual responsibility of the person
77 using explosives. For the purposes of sections 319.300 to 319.339, RSMo, the term
78 uncontrolled structure shall include but not be limited to any cemetery established or
79 regulated pursuant to chapter 42, RSMo and chapter 214, RSMo.

 319.306. 1. Any individual who uses explosives in Missouri shall obtain a blaster's
2 license, except those exempted in subsection 18 of this section. A company, business or
3 other person defined as a "person using explosives" shall not be required to hold a
4 blaster's license, but all blasting on behalf of such company, business, or other person as
5 governed by sections 319.300 to 319.339 shall be performed only by licensed blasters.
6 Applications for a blaster's license or renewal of a blaster's license shall be on a form
7 designated by the Missouri division of fire safety, but may contain only the following:

8 (1) The applicant's full name;

9 (2) The applicant's home address;

10 (3) The applicant's date of birth;

11 (4) The applicant's sex;

12 (5) The applicant's physical description;

13 (6) The applicant's drivers license number;

14 (7) The applicant's current place of employment;

15 (8) A listing of any other blasting license or certification held by the applicant, to
16 include the name, address, and phone number of the regulatory authority that issued the
17 license or certification;

18 (9) Any other information required to fulfill the obligations of sections 319.300 to
19 319.339.

20 **2. Any individual who has met the qualifications set forth in subsection 4 of this**
21 **section may apply for a blaster's license.**

22 **3. An applicant for a blaster's license shall submit an application fee and two copies**
23 **of the applicant's photograph with the application submitted to the division of fire safety.**
24 **The amount of such fee shall be established by rule promulgated by the division of fire**
25 **safety under rulemaking authority established in section 319.327. The fee established by**
26 **rule shall be no greater than the cost of administering this section, but shall not exceed one**
27 **hundred dollars.**

28 **4. Any applicant for a blaster's license shall meet the following qualifications:**

29 **(1) Is at least twenty-one years of age;**

30 **(2) Has not willfully violated any provisions of sections 319.300 to 319.339;**

31 **(3) Has not knowingly withheld information or has not made any false or fictitious**
32 **statement intended or likely to deceive in connection with the application;**

33 **(4) Has familiarity and understanding of relevant federal and state laws relating**
34 **to explosives materials;**

35 **(5) Has not been convicted in any court of, or pled guilty to, a felony;**

36 **(6) Is not a fugitive from justice;**

37 **(7) Is not an unlawful user of any controlled substance in violation of chapter 195,**
38 **RSMo;**

39 **(8) Except as provided in subsections 11 and 13 of this section, has completed an**
40 **approved blaster's training course that meets the requirements of subdivision (1) of**
41 **subsection 14 of this section and has successfully passed the licensing examination under**
42 **the provisions of subdivisions (1) to (5) of subsection 15 of this section;**

43 **(9) Has accumulated at least one thousand hours of experience directly relating to**
44 **the use of explosives within two years immediately prior to applying for a blaster's license**
45 **and shall provide signed documentation from an employer, supervisor, or other responsible**
46 **party verifying the applicant's experience;**

47 **(10) Has not been adjudicated as mentally defective; and**

48 **(11) Is a citizen of the United States and does not advocate or knowingly belong to**
49 **any organization or group that advocates violent action against any federal, state, or local**
50 **government, or against any person.**

51 **5. Any individual holding a blaster's license under the provisions of this section**
52 **shall promptly notify the division of fire safety if he or she has had any change of material**
53 **fact relating to these qualifications of holding a blaster's license.**

54 **6. If the division of fire safety finds that the requirements for a blaster's license**
55 **have been satisfied, such a license shall be issued to the applicant.**

56 **7. A blaster's license shall expire three years from the date of issuance. To qualify**
57 **for a renewal of a blaster's license, an individual will be required to provide documentation**
58 **of completing eight hours of training in an explosives-related course of instruction that is**
59 **approved by the division of fire safety, half of which shall have been completed within the**
60 **year prior to renewal. The remainder of such training for renewal of the license may be**
61 **acquired at any time during the three-year period that a license is valid. Additional**
62 **training beyond an accumulated eight hours during any three-year period is not valid for**
63 **more than one subsequent renewal of the license.**

64 **8. Each license issued under the provision of this section shall provide**
65 **documentation to the license holder in the form of a letter or letter-sized certificate and a**
66 **card that is approximately two inches by three inches in size. Each shall specify a unique**
67 **license number, the name of the individual, his or her driver's license number, the**
68 **individual's photograph, the blaster's license effective date and its expiration date, and any**
69 **other record-keeping information needed by the division of fire safety. In addition, the**
70 **card form of the license shall contain a photographic image of the license holder.**

71 **9. Each individual required to have a blaster's license shall provide documentation**
72 **that he or she has a currently valid license to a representative of the division of fire safety**
73 **within two business days of a written or verbal request. No enforcement action shall be**
74 **taken against any individual that cannot comply with such a request so long as the division**
75 **of fire safety's records provide documentation that the individual has a valid blaster's**
76 **license.**

77 **10. (1) A blaster's license issued under the provisions of this section may be**
78 **suspended or revoked, or in lieu thereof, a civil penalty assessed, upon substantial proof**
79 **that the individual holding the license has:**

80 **(a) Knowingly failed to monitor the use of explosives as provided in section 319.309;**

81 **(b) Negligently or habitually exceeded the limits established under section 319.312;**

82 **(c) Knowingly or habitually failed to create a record of blasts as required by section**
83 **319.315;**

84 **(d) Had a change in material fact relating to their qualifications for holding a**
85 **blaster's license as described in subsection 4 of this section;**

86 **(e) Failed to advise the division of fire safety of any change of material fact relating**
87 **to his or her qualification of holding a blaster's license; or**

88 **(f) Knowingly made a material misrepresentation of any information by any means**
89 **of false pretense, deception, fraud, misrepresentation, or cheating for the purpose of**
90 **obtaining training or otherwise meeting the qualifications of obtaining a license.**

91 **(2) The division of fire safety shall provide any notice of suspension or revocation,**
92 **as provided in subdivision (1) of this subsection, in writing, sent by certified mail to the last**
93 **known address of the holder of the license. The notice may also be verbal, but this does not**
94 **eliminate the requirement for written notice. Upon receipt of a verbal or written notice of**
95 **suspension or revocation from the division of fire safety, the person holding the license**
96 **shall immediately surrender all copies of the license to a representative of the division of**
97 **fire safety and shall immediately cease all blasting activity.**

98 **(3) The person holding the license may appeal any suspension or revocation or fine**
99 **to the state blasting safety board established under section 319.324 within forty-five days**
100 **of the date written notice was received. The division of fire safety shall immediately notify**
101 **the chairman of the board that an appeal has been received and an informal hearing shall**
102 **be held. The board shall consider and make a decision on any appeal received by the**
103 **division of fire safety within thirty days of the date the appeal is received by the division**
104 **of fire safety. The board shall make a decision on the appeal by majority vote of the board**
105 **and shall immediately notify the licensee of its decision in writing. The written statement**
106 **of the board's decision shall be prepared by the division of fire safety or its designee and**
107 **shall be approved by the chairman of the board. The approved statement of the board's**
108 **decision shall be sent by certified mail to the last known address of the holder of the**
109 **license.**

110 **11. Any person whose license has been expired for a period of three years or less**
111 **shall be required to successfully pass the examination as provided in subdivisions (1) to (5)**
112 **of subsection 15 of this section and attend the eight hours of training required for renewal**
113 **of a license as minimum qualifications for submitting an application for reinstatement of**
114 **the license. Any person whose license has been expired for a period of more than three**
115 **years shall meet the qualifications set forth in subsection 4 of this section, including**
116 **completing twenty hours of training and passing the examination, prior to applying for a**
117 **blaster's license.**

118 **12. License reciprocity may be granted to applicants that within the last three years**
119 **have held a valid license or certification from any other source if all of the qualifications**
120 **for obtaining the license or certification meets or exceeds the provisions of this section.**
121 **Licenses or certifications held prior to the effective date of the rule required by subsection**
122 **19 of this section shall be deemed to meet requirements for reciprocity, provided they meet**
123 **the requirements of the rule. It is the duty of the division of fire safety to investigate the**
124 **qualifications required for obtaining a license or certification that is listed on a completed**
125 **application on which the applicant is attempting to obtain a license issued by the division**
126 **of fire safety.**

127 **13. License reciprocity may also be granted upon the application of a person**
128 **employed as a blaster on or before December 31, 1995, and who has accumulated one**
129 **thousand hours of experience working for a specific person using explosives within two**
130 **years immediately prior to applying for reciprocity. The application shall include a**
131 **statement of hours of experience in the form of an affidavit signed by the person using**
132 **explosives who has employed or contracted with the blaster for the preceding two years.**
133 **Such applicant for reciprocity shall also meet the requirements of subdivisions (1), (2), (3),**
134 **(4), (5), (6), (7), (10), and (11) of subsection 4 of this section. Any person granted a license**
135 **under this subsection shall be limited to blasting performed for the person submitting the**
136 **affidavit required by this subsection. Such blaster granted reciprocity shall meet the**
137 **requirements for continuing training required by subsection 7 of this section.**

138 **14. (1) The division of fire safety or its authorized agent shall offer at least two**
139 **courses of instruction annually that fulfill the training requirement of qualifying for a**
140 **blaster's license and renewal of a blaster's license. In addition, any person may apply to**
141 **the division of fire safety for approval of a course of instruction that meets the training**
142 **requirement of obtaining a blaster's license or renewal of a blaster's license. The**
143 **application shall include a description of the qualifications of the instructor, a description**
144 **of instructional materials to be used in the course, and an outline of the subject matter to**
145 **be taught, including minimum hours of instruction on each topic. The division of fire**
146 **safety shall review the application regarding the knowledge and experience of proposed**
147 **instructors, the total hours of training and the adequacy of proposed training in subject**
148 **matter with regard to the provisions of sections 319.300 to 319.339. If the division of fire**
149 **safety determines that training proposed by the applicant is adequate, a letter of approval**
150 **shall be issued to the applicant. The letter of approval shall be effective for a period of**
151 **three years. If at any time the division of fire safety determines that an approved training**
152 **course no longer meets the standards of this section, the letter of approval may be revoked**
153 **with written notice. The division of fire safety or any person providing a course of**
154 **instruction may charge an appropriate fee to recover the cost of conducting such**
155 **instruction.**

156 **(2) To be approved by the division of fire safety, a blaster's training course shall**
157 **contain at least twenty hours of instruction to prepare attendees for obtaining a blaster's**
158 **license the first time, or eight hours of instruction to prepare attendees for obtaining a**
159 **license renewal.**

160 **(3) Any person providing training in a course of instruction approved by the**
161 **division of fire safety shall submit a list of individuals that attended any such course to the**
162 **division of fire safety within ten working days after completion of the course.**

163 (4) The division of fire safety shall maintain a current list of persons who provide
164 approved training and shall make this list available by any reasonable means to
165 professional and trade associations, labor organizations, universities, vocational schools,
166 and others upon request.

167 15. (1) The division of fire safety shall approve a standard examination or
168 examinations for the purpose of qualifying an individual to obtain a blaster's license. Each
169 individual taking the examination shall pay a fee to the division of fire safety, or the
170 division's agent, that is established by regulation. Testing fees shall not exceed fifty dollars
171 per test, and shall be no greater than what is required to administer the testing provisions
172 of this section.

173 (2) Except as provided in subsection 11 of this section, no individual shall be
174 allowed to take an examination for purposes of obtaining a blaster's license unless that
175 individual has completed a training course approved by the division of fire safety. The
176 individual must have completed an approved course of instruction as provided in
177 subdivision (1) of subsection 14 of this section no longer than two years prior to taking the
178 examination. The examination may be administered by any person approved to provide
179 a course of instruction, as provided in subdivision (1) of subsection 14 of this section, at the
180 site of instruction, provided that any such examination may at the discretion of the fire
181 marshal be conducted under the supervision of the state fire marshal or his or her
182 designee. The division of fire safety may also administer such examinations at other times
183 and locations.

184 (3) Standards for passing the examination shall be set by the division of fire safety
185 by rule.

186 (4) The division of fire safety or its authorized agent shall provide a written
187 statement within thirty days to the individual taking the examination as to whether that
188 individual passed or failed.

189 (5) Any individual failing to pass the examination may retake the examination
190 within six months without having to complete an additional approved course of instruction.
191 If the individual fails the second examination, the person must complete another course of
192 instruction as required in subdivision (1) of subsection 14 of this section before taking the
193 examination again. No limit will be placed on how many times any individual may take the
194 examination, subject to the provisions of this subdivision of this subsection.

195 (6) Individuals having previously taken an approved course, and passed an
196 approved examination, and having taken an approved refresher training course, or that
197 have obtained a blaster's license as provided in subsections 12 and 13 of this section are
198 eligible for renewal of a blaster's license after meeting the requirements of subsection 7 of

199 **this section. The fee for renewal of a license shall be the same as the fee specified in**
200 **subsection 3 of this section.**

201 **16. No individual shall load or fire explosives or direct, order, or otherwise cause**
202 **any individual to load or fire explosives in this state unless that individual has a valid**
203 **blaster's license or is under the direct supervision and responsibility of an individual**
204 **having a valid blaster's license. An individual without a blaster's license that is loading or**
205 **firing explosives while under the direct supervision and responsibility of an individual**
206 **holding a blaster's license shall not be in violation of sections 319.300 to 319.339.**

207 **17. Persons found guilty of loading or firing explosives, or directing, ordering, or**
208 **otherwise causing any individual to load or fire explosives in this state without having a**
209 **valid blaster's license, or that loads and fires explosives without being under the direct**
210 **supervision and responsibility of an individual holding a blaster's license as provided in**
211 **sections 319.300 to 319.339, shall be guilty of a class B misdemeanor for the first offense**
212 **or a class A misdemeanor for the second offense. Any individual convicted of a class A**
213 **misdemeanor under the provisions of sections 319.300 to 319.339 shall be permanently**
214 **prohibited from obtaining a blaster's license in this state.**

215 **18. The requirement for obtaining a blaster's license shall not apply to:**

216 **(1) Individuals employed by universities, colleges, or trade schools when the use of**
217 **explosives is confined to instruction or research;**

218 **(2) Individuals using explosive materials in the forms prescribed by the official U.S.**
219 **Pharmacopoeia or the National Formulary and used in medicines and medicinal agents;**

220 **(3) Individuals conducting training or emergency operations of any federal, state,**
221 **or local government including all departments, agencies, and divisions thereof, provided**
222 **they are acting in their official capacity and in the proper performance of their duties or**
223 **functions;**

224 **(4) Individuals using explosives that are members of the armed forces or any**
225 **military unit of Missouri or the United States who are using explosives while on official**
226 **training exercises or who are on active duty;**

227 **(5) Individuals using pyrotechnics, commonly known as fireworks, including**
228 **signaling devices such as flares, fuses, and torpedoes;**

229 **(6) Individuals using small arms ammunition and components thereof which are**
230 **subject to the Gun Control Act of 1968, Title 18, Chapter 44 U.S.C., and regulations**
231 **promulgated thereunder;**

232 **(7) Any individual performing duties in underground mines regulated by 30 CFR**
233 **Part 48, Subpart A and 30 CFR Part 57; or performing duties in coal mining regulated by**

234 **30 CFR Part 76, and 30 CFR Part 77 of the Code of Federal Regulations, as amended; or**
235 **using explosives within an industrial furnace;**

236 **(8) Any individual having a valid blaster's license or certificate issued under the**
237 **provisions of any requirement of the U.S. government in which the requirements for**
238 **obtaining the license or certificate meet or exceed the requirements of sections 319.300 to**
239 **319.339;**

240 **(9) Individuals using agricultural fertilizers when used for agricultural or**
241 **horticultural purposes;**

242 **(10) Individuals handling explosives while in the act of transporting them from one**
243 **location to another;**

244 **(11) Individuals assisting or training under the direct supervision of a licensed**
245 **blaster;**

246 **(12) Individuals handling explosives while engaged in the process of explosives**
247 **manufacturing;**

248 **(13) Employees, agents, or contractors of rural electric cooperatives organized or**
249 **operating under chapter 394, RSMo;**

250 **(14) Individuals discharging historic firearms and cannon or reproductions of**
251 **historic firearms and cannon.**

252 **19. The division of fire safety shall promulgate rules under this section to become**
253 **effective no later than July 1, 2007. Any individual loading or firing explosives after the**
254 **effective date of such rule shall obtain a license within one hundred eighty days of the**
255 **effective date of such rule. Any experience or training prior to the effective date of such**
256 **rule which meets the standards established by the rule shall be deemed to comply with this**
257 **section.**

319.309. 1. Any person using explosives in the state of Missouri shall calculate the
2 **scaled distance to the nearest uncontrolled structure. If more than one uncontrolled**
3 **structure is the same approximate distance from the blast site, then the person using**
4 **explosives may select one representative structure for calculation of scaled distance.**

5 **2. For the purposes of this section, the term uncontrolled structure shall not apply**
6 **to the following:**

7 **(1) Buildings in a state of disrepair or neglect which are not being used as a**
8 **permanent residence;**

9 **(2) Noncommercial storage sheds;**

10 **(3) Temporary structures;**

11 **(4) Any unoccupied mobile recreational vehicle, trailer, or camper;**

12 **(5) Agricultural barns, storage sheds, and animal shelters;**

13 **(6) Any building on mine property that is owned by the mine operator or contained**
14 **on property leased by the mine operator.**

15 **3. In any instance when the scaled distance value is fifty-five or less, any person**
16 **using explosives, except as provided in 319.321, shall use at least one seismograph to record**
17 **the ground vibration and acoustic levels that occur from the use of such explosives or**
18 **explosive materials. When measuring ground vibration and acoustic levels, the**
19 **seismograph shall be placed in the proximity of the nearest uncontrolled structure or, at**
20 **the option of the person using explosives, closer to the blast site. If more than one**
21 **uncontrolled structure is the same approximate distance from the blast site, then the**
22 **person using explosives may select one representative structure for placement of the**
23 **seismograph.**

24 **4. Any person voluntarily using a calibrated seismograph for all blasting is exempt**
25 **from the requirements of this section.**

319.312. 1. (1) Any person using explosives in the state of Missouri in which
2 **monitoring with a seismograph is required, as provided in section 319.309, shall comply**
3 **with ground vibration limits based on the U.S. Bureau of Mines Report of Investigations**
4 **8507, Appendix B.**

5 **(2) In lieu of the ground vibration limit established in subdivision (1) of this**
6 **subsection, the person using explosives may submit a written request to the division of fire**
7 **safety to use an alternate compliance method. Such written request must be supported by**
8 **sufficient technical information, which may include but not limited to, documented**
9 **approval of such method by other federal, state, or local political subdivisions which**
10 **regulates the use of explosives. Upon submittal by the person using explosives of a request**
11 **to use an alternate compliance method, the state blasting safety board shall issue a written**
12 **determination as to whether the technical information submitted provides sufficient**
13 **justification for the alternate method to be used as a method of demonstrating compliance**
14 **with the provisions of this section.**

15 **2. Any person using explosives in the state of Missouri in which monitoring with**
16 **a seismograph is required, as provided in section 319.309, shall limit acoustic values from**
17 **blasting to one hundred thirty-three decibels using a two hertz flat response measuring**
18 **system based on the Office of Surface Mining regulation 816.67(b)(1)(i).**

319.315. 1. Seismograph recordings of the ground vibration and acoustic levels
2 **created by the use of explosives, when required by section 319.309, shall be retained for at**
3 **least three years. Such recordings shall be made available to the division of fire safety**
4 **within twenty-four hours of a request by any representative of the division of fire safety.**
5 **Each seismograph recording and the accompanying records shall include the:**

- 6 (1) Maximum ground vibration and acoustics levels recorded;
- 7 (2) Specific location of the seismograph equipment, its distance from the detonation
- 8 of the explosives, the date of the recording, and the time of the recording;
- 9 (3) Name of the individual responsible for operation of the seismograph equipment
- 10 and performing an analysis of each recording;
- 11 (4) Type of seismograph instrument, its sensitivity and calibration signal or
- 12 certification date of the last calibration.
- 13 2. When seismograph recordings of the use of explosives are required by section
- 14 319.309, a record of each such use of explosives shall be made and retained for at least
- 15 three years. The record shall be completed by the end of the work day following the day
- 16 in which the explosives were detonated. Such records shall be made available to the
- 17 division of fire safety, upon request, within twenty-four hours of the request. Each record
- 18 shall include the:
- 19 (1) Name of the person using the explosives;
- 20 (2) Location, date, and time of the detonation;
- 21 (3) Name of the licensed blaster responsible for use of the explosives;
- 22 (4) Type of material blasted;
- 23 (5) Number of bore holes, burden, and spacing;
- 24 (6) Diameter and depth of bore holes;
- 25 (7) Type of explosives used;
- 26 (8) Weight of explosives used per bore hole and total weight of explosives used;
- 27 (9) Maximum weight of explosives detonated within any eight millisecond period;
- 28 (10) Maximum number of bore holes or decks detonated within any eight
- 29 millisecond period;
- 30 (11) Initiation system, including number of circuits and the timer interval, if a
- 31 sequential timer is used;
- 32 (12) Type and length of stemming;
- 33 (13) Type of detonator and delay periods used, in milliseconds;
- 34 (14) Sketch of delay pattern, including decking;
- 35 (15) Distance and scaled distance, if required under the provisions of 319.309, to
- 36 the nearest uncontrolled structure;
- 37 (16) Location of the nearest uncontrolled structure, using the best available
- 38 information.
- 39 3. It shall be the duty of each licensed blaster and each person using explosives to
- 40 assure that the requirements of this section are met. Any person using explosives shall
- 41 provide properly calibrated seismographic equipment at the closest practical proximity to

42 the nearest uncontrolled structure, or at the option of the person using explosives the
43 seismograph equipment may be located nearer to the blast site on an approximate line
44 between the nearest uncontrolled structure and the blast site. Licensed blasters shall
45 create the record required in subsection 2 of this section and provide such record to the
46 person using explosives, who shall be responsible for maintaining records required in this
47 section.

319.318. 1. Any person using explosives shall comply with the provisions of this
2 section.

3 2. Provisions of federal law and regulation regarding the manufacturing,
4 transportation, distribution, and storage of explosives shall be enforced by the appropriate
5 federal agency and shall not be subject to enforcement under sections 319.300 to 319.339.

6 3. Within sixty days after the effective date of sections 319.300 to 319.339, each
7 person using explosives or intending to use explosives in Missouri shall register with the
8 state fire marshal. Any person not required to register on the effective date, who
9 subsequently uses explosives in Missouri, shall register with the state fire marshal prior to
10 first using explosives in Missouri. The initial registration shall state the name of the
11 person, address, telephone number, facsimile number, e-mail address, and name of the
12 principal individual having responsibility for supervision of the use of explosives. A fee of
13 one hundred dollars shall be submitted with the initial registration.

14 4. Each person using explosives that is required to register under subsection 3 of
15 this section shall by January 31 of each year after registering, file an annual report with
16 the state fire marshal for the preceding calendar year.

17 (1) The annual report shall state any material change or addition to the information
18 stated in the report required by subsection 3 of this section.

19 (2) The initial annual report shall only include that portion of the preceding
20 calendar year after the date the person became subject to the requirement to register under
21 subsection 3 of this section.

22 (3) The report shall include:

23 (a) The name and address of the explosives distributors from which explosives were
24 purchased;

25 (b) The total number of pounds of explosives purchased during the period required
26 to be covered by the report. For persons who purchase explosives for use in multiple
27 states, the report need only state the total number of pounds which were delivered for use
28 in Missouri. Persons required to annually report shall maintain records sufficient to prove
29 the accuracy of the information reported.

30 (4) The person shall submit with the annual report a fee per ton, as established
31 under this section, based on the amount of explosives reported. If the report of total
32 pounds purchased results in a portion of a ton, the cumulative total of the fee shall be
33 rounded to the nearest ton. The minimum total fee submitted by any person required to
34 annually report shall be five hundred dollars. In addition to the minimum fee, any person
35 using explosives during any year shall pay a fee of one dollar and fifteen cents on each ton
36 of explosives used. The fee authorized under this subdivision may be adjusted by rule
37 provided the fee shall not exceed one dollar and fifty cents per ton. The state blasting
38 safety board shall review the fee schedule on a biennial basis and make recommendations
39 for adjustments.

40 5. (1) The state fire marshal may audit the records of any person required to
41 annually report under subsection 4 of this section to determine the accuracy of the number
42 of pounds of explosives reported. In connection with such audit, the state fire marshal may
43 also require any distributor of explosives to provide a statement of sales during the year
44 to persons required to report under subsection 4 of this section.

45 (2) It shall be a violation of sections 319.300 to 319.319 to fail to register as required
46 by subsection 3 of this section or to knowingly report false information in the reports
47 required under subsections 3 and 4 of this section. The state fire marshal may issue a
48 notice of violation for reporting false information. The notice of violation shall be subject
49 to the same procedures and rights of appeal as established in sections 319.324, 319.327, and
50 319.333. Upon conviction for knowingly filing a false report, the person shall be subject
51 to a penalty as a class B misdemeanor. Conviction upon a second or subsequent offense
52 shall be subject to penalty as a class A misdemeanor.

53 6. It shall also be a violation of sections 319.300 to 319.339 for any person using
54 explosives to:

55 (1) Engage in blasting other than by a licensed blaster or an individual working
56 under the direct supervision of a licensed blaster;

57 (2) Fail to calculate the scaled distance, conduct monitoring of vibration and noise
58 levels, and conduct record keeping as required by sections 319.300 to 319.339.

59 (3) Fail to carry a minimum of one million dollars in commercial general liability
60 insurance.

61 7. Upon a conviction or guilty plea to violation of subsection 6 of this section, the
62 person shall be subject to a penalty as a class B misdemeanor upon the first offense, and
63 upon a second or subsequent offense, the person shall be subject to a penalty as a class A
64 misdemeanor as provided in subsection 1 of section 560.021, RSMo.

319.321. Sections 319.309, 319.312, 319.315, and 319.318 shall not apply to:

- 2 (1) Universities, colleges, or trade schools when confined to the purpose of
3 instruction or research;
- 4 (2) The use of explosive materials in the forms prescribed by the official U.S.
5 Pharmacopoeia or the National Formulary and used in medicines and medicinal agents;
- 6 (3) The training or emergency operations of any federal, state, or local government
7 including all departments, agencies, and divisions thereof, provided they are acting in their
8 official capacity and in the proper performance of their duties or functions;
- 9 (4) The use of explosives by the military or any agency of the United States;
- 10 (5) The use of pyrotechnics, commonly known as fireworks, including signaling
11 devices such as flares, fuses, and torpedoes;
- 12 (6) The use of small arms ammunition and components thereof which are subject
13 to the Gun Control Act of 1968, Title 18, Chapter 44, U.S.C., and regulations promulgated
14 thereunder. Any small arms ammunition and components thereof exempted by the Gun
15 Control Act of 1968 and regulations promulgated thereunder are also exempted from the
16 provisions of sections 319.300 to 319.339;
- 17 (7) Any individual performing duties in underground mines regulated by 30 CFR
18 Part 48, Subpart A and 30 CFR Part 57; or performing duties in coal mining regulated by
19 30 CFR Part 76 and 30 CFR Part 77 of the Code of Federal Regulations, as amended; or
20 using explosives within an industrial furnace;
- 21 (8) The use of agricultural fertilizers when used for agricultural or horticultural
22 purposes;
- 23 (9) The use of explosives for demolition of structures;
- 24 (10) The use of explosives by employees, agents, or contractors of rural electric
25 cooperatives organized or operating under chapter 394, RSMo;
- 26 (11) Individuals discharging historic firearms and cannon or reproductions of
27 historic firearms and cannon.

319.324. 1. A state blasting safety board is hereby created and assigned to the
2 division of fire safety under the state fire marshal. There shall be seven members of this
3 board, as appointed by the governor, to be comprised of:

- 4 (1) One representative of a municipality who serves in the capacity of director of
5 public works or a similar position;
- 6 (2) One representative of a person using explosives that is engaged in surface
7 mining which is subject to the requirements of sections 319.300 to 319.339;
- 8 (3) One representative of a person using explosives that is engaged in construction;
- 9 (4) One representative of a person that is in the business of providing contract blast
10 monitoring services;

11 **(5) Two representatives of persons that manufacture or distribute explosives; and**

12 **(6) The state fire marshal or his or her designee.**

13 **2. Each board member shall serve for a term of six years, except for the members**
14 **initially appointed one term shall be for one year, one term shall be for two years, one term**
15 **shall be for three years, one term shall be for four years, one term shall be for five years,**
16 **and one term shall be for six years. Members appointed and serving shall serve until their**
17 **successor is named and shall be eligible for reappointment. The state fire marshal or his**
18 **or her designee shall be a standing member of the board and shall have the power to vote.**

19 **3. Members of the board shall serve without compensation but may be reimbursed**
20 **by the division of fire safety for reasonable and necessary expenses. Meetings of the board**
21 **shall be held in facilities arranged for by the division of fire safety. Hearings under the**
22 **duties of the board may be held at a location in Missouri agreed upon by the state fire**
23 **marshal and the chairman of the board. Upon agreement by the appellant, the state fire**
24 **marshal, and the chairman of the state blasting safety board, hearings may be conducted**
25 **by conference call.**

26 **4. The board shall annually by January 31 elect a chairman from one of the persons**
27 **other than the state fire marshal or his or her designee. The chairman shall be elected by**
28 **majority vote of the board and shall preside over all meetings and hearings and perform**
29 **any specific duties set out in sections 319.300 to 319.339.**

30 **5. The state fire marshal or his or her designee shall perform the duties of secretary**
31 **of the board.**

32 **6. The board shall meet as needed at the call of the chairman or upon written notice**
33 **by the state fire marshal. The board shall meet at least once each calendar year.**

34 **7. It shall be the duty of the board to:**

35 **(1) Advise the state fire marshal in the development of application and registration**
36 **forms, training and examinations, and setting fees for the filing of required applications,**
37 **registrations, and reports;**

38 **(2) Approve or disapprove any examination for licensing of blasters;**

39 **(3) Hold hearings and make decisions by majority vote upon appeals under section**
40 **319.306 and upon notices of violation under section 319.333;**

41 **(4) Approve or disapprove any rule proposed by the division of fire safety for**
42 **administration or enforcement of sections 319.300 to 319.339;**

43 **(5) Advise or assist the division of fire safety in any other matter regarding**
44 **administration or enforcement, within the scope and requirements of sections 319.300 to**
45 **319.339.**

46 **8. For any matter upon which a hearing is held under subdivision (3) of subsection**
47 **7 of this section, any referral of a notice of violation or request for criminal or civil**
48 **enforcement action or injunctive relief shall be made by the state fire marshal to the**
49 **attorney general or a prosecuting or circuit attorney, only upon a positive majority vote**
50 **by the board.**

319.327. It shall be the duty of the division of fire safety to:

2 **(1) Develop and distribute all forms, certificates, and printed material necessary**
3 **for carrying out duties relating to applications, registrations, training, testing, and**
4 **licensing required by sections 319.300 to 319.339.**

5 **(2) Publish, distribute, and administer an examination that tests the knowledge of**
6 **applicants for a blaster's license in the safe and proper use of explosives. The examination**
7 **may be given to applicants by representatives of the division of fire safety, persons**
8 **approved by division of fire safety to provide training under section 319.306, or by other**
9 **persons designated by the division of fire safety.**

10 **(3) Upon approval by majority vote of the state blasting safety board, promulgate**
11 **any rule necessary for carrying out the purposes of sections 319.300 to 319.339. No rule**
12 **promulgated by the state fire marshal shall duplicate, amend, supersede, or conflict with**
13 **the provisions of any statute, regulation, or policy established by:**

14 **(a) The U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms and**
15 **Explosives;**

16 **(b) 18 U.S.C., Chapter 40, Importation, Manufacturing, Distribution and Storage**
17 **of Explosive Materials;**

18 **(c) The U.S. Department of Transportation;**

19 **(d) The federal Mine Safety and Health Administration;**

20 **(e) The federal Occupational Safety and Health Administration;**

21 **(4) Investigate possible violations of sections 319.300 to 319.339 upon the complaint**
22 **of any citizen that believes explosives are being used in such a way to endanger the public's**
23 **safety or property, or upon any cause for the state fire marshal to believe that a violation**
24 **is occurring. To conduct such investigations, the state fire marshal shall assign adequately**
25 **trained personnel within the division of fire safety to inspect blasting sites, examine records**
26 **and seismograph recordings, inspect blaster's licenses, inspect registration and reporting**
27 **records required by section 319.315, or determine if any other provision of sections 319.300**
28 **to 319.339 has been violated. Such inspectors shall be employees of the division of fire**
29 **safety and may act on a full-time or part-time basis. Any such inspector shall meet the**
30 **requirements of section 319.306 for being licensed as a blaster in the state of Missouri.**

31 (5) The division of fire safety may enforce any provision of sections 319.300 to
32 319.339 by referral of violations to the attorney general or a prosecuting or circuit attorney
33 and may seek criminal penalties and may seek injunctive relief. For any matter upon
34 which a hearing is held under subdivision (3) of subsection 7 of section 319.324, any
35 referral of a notice of violation or a request for criminal or civil enforcement action or
36 injunctive relief shall be made by the state fire marshal to the attorney general or a
37 prosecuting or circuit attorney, only upon a positive majority vote by the board.

38 (6) Receive and provide information and assistance, in cooperation with local
39 governments, federal agencies, and agencies of other states, in administration and
40 enforcement of sections 319.300 to 319.339 and similar laws, regulations, and requirements
41 in other jurisdictions.

 319.330. There is hereby created in the state treasury the "Missouri Explosives
2 Safety Act Administration Fund", which shall consist of all fees collected under sections
3 319.300 to 319.339, appropriations of the general assembly, federal grants, and private
4 donations. The state treasurer shall be custodian of the fund. In accordance with sections
5 30.170 and 30.180, RSMo, the state treasurer may approve disbursements. Upon
6 appropriation, money in the fund shall be used solely for the administration of sections
7 319.300 to 319.339. Notwithstanding the provisions of section 33.080, RSMo, to the
8 contrary, any moneys remaining in the fund at the end of the biennium shall not revert to
9 the credit of the general revenue fund. The state treasurer shall invest moneys in the fund
10 in the same manner as other funds are invested. Any interest and moneys earned on such
11 investments shall be credited to the fund. The state fire marshal shall submit a report to
12 the state blasting safety board and the public each year that describes the revenue created
13 by fees established under the provisions of sections 319.300 to 319.339 and how the revenue
14 was expended to enforce the provisions of sections 319.300 to 319.339, including the
15 number of employees used and activities performed.

 319.333. Any person the state fire marshal or his or her representative determines,
2 upon substantial evidence, to be in violation of sections 319.300 to 319.339 may be issued
3 a notice of violation by the division of fire safety. Any hearings regarding suspension or
4 revocation of a blaster's license shall be conducted under the provisions of subsection 10
5 of section 319.306, rather than the provisions of this section. The notice of violation shall
6 be in writing and shall state the section or sections violated and the circumstance of the
7 violation, including date, place, person involved, and the act or omission constituting the
8 violation. The notice shall also inform the person receiving the notice of the right to
9 request a hearing before the state blasting safety board. The recipient may request a
10 hearing within forty-five days of the date the notice was received. If a hearing is requested,

11 the state fire marshal shall immediately inform the chairman of the board. The person
12 receiving the notice, the state fire marshal, and the chairman of the board shall establish
13 a mutually acceptable date and place for the hearing, which in no case shall be more than
14 thirty days after the hearing was requested. The hearing shall be conducted as an
15 uncontested case, although the person or the state fire marshal may be represented by an
16 attorney. Within fifteen days of such hearing, the board shall notify the appellant of its
17 decision on the appeal, which may include upholding, modifying, or disapproving the
18 notice of violation. The board's action upon the appeal shall be decided by majority vote.
19 If the notice of violation is upheld by the board, in whole or part, upon a separate majority
20 vote of the board, the person may be referred for enforcement action as provided in section
21 319.327.

2 319.336. Any person aggrieved by any official action of the state blasting safety
3 board affecting their licensed status, including revocation, suspension, failure to renew, or
4 refusal to grant a license may seek a determination thereon by the administrative hearing
5 commission under the provisions of section 621.045, RSMo.

2 319.338. 1. Any person using explosives within Missouri shall notify the division
3 of fire safety in writing or by telephone at least two business days in advance of first using
4 explosives at a site where blasting has not previously been conducted at that location. If
5 blasting will be conducted at an ongoing project, such as a long term construction project,
6 or at a permanent site, such as a surface mine, the person shall only be required to make
7 one notice to the division of fire safety in advance of the first use of explosives.

8 2. The notice required by this section shall state the name, address, and telephone
9 number of the person using explosives, the name of the individual responsible for
10 supervision of blasting, the date or approximate period over which blasting will be
11 conducted, the location of blasting by street address, route, or other description, and the
12 nature of the project or reason for blasting.

13 3. This section shall not apply to any blasting required by a contract with any
14 agency of the state of Missouri, any federal agency, or any political subdivision.

2 319.339. 1. Any person using explosives which will conduct blasting within the
3 jurisdiction of a political subdivision shall notify the appropriate representative of the
4 municipality in writing or by telephone at least two business days in advance of blasting
5 at that location. An appropriate representative shall be deemed to be the city's public
6 works department, code enforcement official or an official at the main office maintained
7 by the city. In any area where blasting will be conducted, whether in a municipality or in
8 an unincorporated area, the person using explosives shall also notify the appropriate fire
9 protection official for the jurisdiction where blasting will occur, which may be a city fire

9 department, fire protection district, or volunteer fire protection association. The notice
10 required by this section shall state the name, address, and telephone number of the person
11 using explosives, the name of the individual responsible for supervision of blasting, the date
12 or approximate period over which blasting will be conducted, the location of blasting by
13 street address, route, or other description, and the nature of the project or reason for
14 blasting. If blasting will be conducted at an ongoing project, such as a long term
15 construction project, or at a permanent site, such as a surface mine, the person shall only
16 be required to make one notice to the municipality or appropriate fire protection official
17 in advance of the first use of explosives. Any such ongoing projects or permanent sites in
18 existence at the time of the effective date of sections 319.300 to 319.339 shall not be
19 required to provide notice as described in this subsection.

20 2. Any person using explosives which will conduct blasting within the jurisdiction
21 of a political subdivision shall notify the owner or occupant of any residence or business
22 located within a scaled distance of fifty-five from the site of blasting prior to the start of
23 blasting at any new location. One notification by mail, telephone, or by printed notification
24 posted prominently on the premises or property, or delivered in person to any such owner
25 or occupant meets the requirements of this subsection. A municipality may provide the
26 name, last known address, and telephone number of the owners or occupants of any
27 residence or business that may be located within the scaled distance of fifty-five from the
28 site of blasting to the person using explosives upon request.

29 3. Any political subdivision or authorized representative of a political subdivision
30 may:

31 (1) Require that a permit be obtained in addition to the notice required by
32 subsection 1 of this section, with such application for permit being due no more than ten
33 days prior to the first use of explosives;

34 (2) Require that the application for the permit contain specific information about
35 the type of explosives to be used and their storage location at the site where used;

36 (3) Require the applicant to demonstrate an acceptable plan for signage or other
37 means of informing the public of blasting in proximity to public streets or highways and
38 any request for temporary closing of streets or routing of traffic;

39 (4) Specify the times of day blasting may be conducted, which shall not be less than
40 eight consecutive hours, and provide that blasting may not be conducted on Sunday except
41 upon application of the person using explosives and approval by the municipality;

42 (5) Require the applicant to submit proof that the person using explosives is
43 registered with the division of fire safety and that blasting will be conducted by blasters
44 licensed by the state of Missouri, division of fire safety;

45 **(6) Require that the applicant submit proof of commercial general liability**
46 **insurance in an acceptable amount, which shall not be less than one million dollars and no**
47 **more than five million dollars;**

48 **(7) Require that the applicant conduct a preblast survey of any uncontrolled**
49 **structures within a scaled distance of fifty-five from the blast site.**

50 **4. A permit for blasting under a municipal ordinance authorized by subsection 3**
51 **of this section shall be granted by the municipality upon satisfying the requirements of the**
52 **ordinance and upon the applicant's payment of a reasonable fee to cover the**
53 **administration of the permit system.**

54 **5. Any authorized representative of a municipality or an appropriate fire protection**
55 **official may:**

56 **(1) Require any person using explosives to show proof that he or she is registered**
57 **with the division of fire safety and blasting is being conducted by an individual that is**
58 **licensed under the provisions of section 319.306;**

59 **(2) Request and be allowed access to the site of blasting by the person using**
60 **explosives and shall be allowed to observe blasting from a safe location designated by the**
61 **blaster;**

62 **(3) Examine records of blasting required to be maintained by sections 319.300 and**
63 **319.315. However, no municipality or fire protection official shall require a person using**
64 **explosives or a blaster to surrender such records or a copy of such records to the**
65 **municipality or fire protection official;**

66 **(4) Report suspected violations of sections 319.300 to 319.339 to the division of fire**
67 **safety.**

68 **6. Subsections 1, 2, 3, and 4 of this section shall not apply to any blasting required**
69 **by a construction contract with any agency of the state of Missouri, any federal agency, or**
70 **any political subdivision.**

71 **7. The state of Missouri hereby preempts existing regulation, licensing, and**
72 **inspection of persons using explosives, blasters, and blasting by local governments or other**
73 **political subdivisions, except as authorized in this section. It shall be unlawful for any local**
74 **government or other political subdivision to impose any future ordinance, order, permit**
75 **or regulation upon persons using explosives or blasters which duplicates, exceeds or**
76 **conflicts with the requirements of sections 319.300 to 319.339. Nothing in this section shall**
77 **preempt the rights and remedies afforded by the general assembly or common law to**
78 **persons damaged by blasting.**

324.011. As used in sections 324.011 to 324.015, the following terms mean:

2 **(1) "Director", the director of revenue;**

3 (2) "License", a license, certificate, registration, or authorization issued by a
4 licensing authority under sections 209.319 to 209.339, RSMo, sections 256.010 to 256.453,
5 RSMo, section 375.014, RSMo, and chapters 324 to 340, RSMo, and chapters 344 to 346,
6 RSMo, granting a natural person a right or privilege to engage in an occupation or
7 profession that is subject to suspension, revocation, forfeiture, or termination by the
8 licensing authority. Any new requirement to license a profession assigned to the division
9 of professional registration after August 28, 2006, shall be included in the definition of a
10 license;

11 (3) "Licensee", any person who holds a license;

12 (4) "Licensing authority", any department, division, board, agency, or
13 instrumentality of this state that issues a license under sections 209.319 to 209.339, RSMo,
14 sections 256.010 to 256.453, RSMo, section 375.014, RSMo, and chapters 324 to 340, RSMo,
15 and chapters 344 to 346, RSMo. Any board or commission assigned to the division of
16 professional registration after August 28, 2006, shall be included in the definition of a
17 licensing authority;

18 (5) "Payment plan", a written plan signed by the taxpayer and approved by the
19 director that incorporates an arrangement for periodic payment of state taxes owed;

20 (6) "Tax compliance letter", a letter issued by the director that states the taxpayer
21 is in compliance for all of the tax years in which the taxpayer was determined to be
22 delinquent in payment of state taxes or the filing of tax returns.

 324.012. 1. The director shall send, via first class mail, a notice to any taxpayer
2 who is the subject of the transmission of data from the licensing authority to the director
3 under section 324.014 and who is delinquent on any state taxes or has failed to file state
4 income tax returns for any of the three years immediately preceding the license renewal.
5 The notice shall state that the taxpayer's license shall be suspended within one hundred
6 twenty days from the date of the notice unless, within such time, the taxpayer presents to
7 the appropriate licensing authority a tax compliance letter.

8 2. The notice shall include the following information:

9 (1) A statement that the taxpayer is delinquent in payment of state taxes owed or
10 has failed to file state income tax returns;

11 (2) The date that the suspension shall go into effect, which shall be within one
12 hundred twenty days from the date the notice was issued;

13 (3) A conspicuous statement as follows: "NOTICE TO TAXPAYER: IN ORDER
14 TO PREVENT YOUR LICENSE SUSPENSION FROM GOING INTO EFFECT, YOU
15 ARE RESPONSIBLE FOR PRESENTING A TAX COMPLIANCE LETTER FROM THE

16 **MISSOURI DEPARTMENT OF REVENUE TO YOUR LICENSING ENTITY PRIOR**
17 **TO THE DATE OF SUSPENSION CITED IN THIS NOTICE.";**

18 **(4) A conspicuous statement as follows: "NOTICE TO TAXPAYER: YOU ARE**
19 **ENTITLED TO A REVIEW OF THE NOTIFICATION PROCESS WITH THE**
20 **DIRECTOR OF REVENUE. ANY REQUEST FOR REVIEW MUST BE FILED IN**
21 **WRITING WITHIN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE AT**
22 **THE FOLLOWING ADDRESS: (INSERT ADDRESS).";**

23 **(5) A conspicuous statement as follows: "NOTICE TO TAXPAYER: IF YOU DO**
24 **NOT OBTAIN A TAX COMPLIANCE LETTER OR SEEK REVIEW UNDER SECTION**
25 **143.778, RSMo, YOUR LICENSE SHALL BE SUSPENDED BY OPERATION OF LAW**
26 **EFFECTIVE THE DATE OF SUSPENSION CITED IN THIS NOTICE."**

27 **3. A tax compliance letter shall be issued by the director to the taxpayer if the**
28 **taxpayer:**

29 **(1) Files any delinquent state tax return and pays the entire amount of delinquent**
30 **state taxes, interest, and additions due; or**

31 **(2) Enters into and complies with a payment plan. If the taxpayer fails to comply**
32 **with the terms of a payment plan, the director may issue a notice informing the licensing**
33 **authority of the defaulted payment plan. Upon receipt of payment plan default notice, the**
34 **licensing authority shall issue a notice informing the taxpayer that the license shall be**
35 **suspended by operation of law as of the date of the notice.**

36 **4. The notice required under subsection 1 of this section shall be sent to the last**
37 **known address supplied to the director unless no such address has been provided,**
38 **whereupon the notice shall be sent to the last known address supplied to the licensing**
39 **authority.**

40 **5. The notice shall apply only to the license that is the subject of the transmission**
41 **of data from the licensing authority to the director under section 324.014.**

42 **6. Within fifteen business days of the date of the notice required under subsection**
43 **1 of this section, the licensing authority shall send a letter to the taxpayer indicating that**
44 **the license is subject to automatic suspension by operation of law as of the date provided**
45 **in the notice required under subsection 1 of this section, unless the taxpayer provides the**
46 **licensing authority a copy of a tax compliance letter by the date provided in the notice**
47 **required under subsection 1 of this section.**

324.013. 1. Within thirty days of the date of the notice, the taxpayer may file with
2 **the director at the address provided in the notice, a written request for review of the notice**
3 **required under subsection 1 of section 324.012, stating the grounds upon which the**
4 **taxpayer claims the notice was not proper.**

5 **2. Upon timely receipt of a request for review from a taxpayer, the director shall**
6 **review the notice and mail the director's determination to the taxpayer by certified or**
7 **registered mail within thirty days of receipt of the request. Such determination shall set**
8 **forth briefly the director's findings of fact, and the basis of the decision and information**
9 **regarding the taxpayer's right to appeal.**

10 **3. The issues that may be determined in a review under this section shall be limited**
11 **to:**

12 **(1) The identity of the taxpayer;**

13 **(2) Whether the director has properly applied any credits or payments by the**
14 **taxpayer; and**

15 **(3) Whether the director sent the notice to the proper address under subsection 4**
16 **of section 324.012.**

17 **4. The determination of the director, after a review under this section, shall be a**
18 **final agency decision and shall be subject to appeal to the administrative hearing**
19 **commission under chapter 621, RSMo.**

20 **5. A taxpayer shall appeal under chapter 621, RSMo, by filing a petition within**
21 **thirty days of the date of the director's determination.**

22 **6. Suspension of a taxpayer's license shall be automatically stayed pending the**
23 **appeal under chapter 621, RSMo.**

24 **7. A determination made by the director under this section is independent of any**
25 **action imposed by the licensing authority.**

324.014. 1. All state licensing authorities subject to sections 324.011 to 324.015 shall
2 **provide specified information, in a format agreed upon by the director and the licensing**
3 **authorities, to the director within thirty days following the date of the receipt of an**
4 **application for licensure or at least thirty days after the required renewal date of a**
5 **licensee's license. Such information shall include, but is not limited to, the following:**

6 **(1) Name;**

7 **(2) Address of record;**

8 **(3) Social Security number;**

9 **(4) Type of license.**

10 **2. For licensees who are not residents of this state, the licensing authority shall**
11 **include in the application and renewal forms a method allowing the nonresident licensee**
12 **to indicate that they received no Missouri source income within the applicable three-year**
13 **period. The licensing authority shall transmit this information to the director in a**
14 **mutually agreed upon manner.**

15 **3. The director shall promulgate rules necessary for the administration of sections**
16 **324.011 to 324.015. Any rule or portion of a rule, as that term is defined in section 536.010,**
17 **RSMo, that is created under the authority delegated in this section shall become effective**
18 **only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and,**
19 **if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
20 **nonseverable and if any of the powers vested with the general assembly pursuant to**
21 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**
22 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
23 **rule proposed or adopted after August 28, 2006, shall be invalid and void.**

324.015. 1. With regard to any licensee who has been issued a notice under section
2 **324.012, the licensing authority shall enter a suspension of the applicable license on the**
3 **effective date set out in the notice, unless the licensee has presented a tax compliance letter,**
4 **or has timely filed for review in the administrative hearing commission as provided under**
5 **section 324.013. The suspension under this section shall be stayed for ten days from the**
6 **date of issue in order to protect the public and allow for the orderly transfer of the**
7 **licensee's clients.**

8 **2. The suspension shall be processed by the licensing authority without any**
9 **additional review or hearing by such licensing authority.**

10 **3. The suspension shall continue until a tax compliance letter is issued by the**
11 **director of the department of revenue.**

12 **4. If a license is suspended under sections 324.011 to 324.014, any funds paid by the**
13 **licensee to the licensing authority for costs related to issuance, renewal or maintenance of**
14 **a license shall not be refunded to the licensee.**

15 **5. During any period of suspension imposed under sections 324.011 to 324.014, the**
16 **licensee shall continue to pay all license or license renewal fees and obtain all continuing**
17 **education hours as required by the licensing authority's statutes and regulations.**

18 **6. A licensee who continues to engage in the business, occupation, profession or**
19 **other licensed activity while the license is suspended under sections 324.011 to 324.014, is**
20 **guilty of a class A misdemeanor. The licensing authority may refer the licensee to the**
21 **appropriate prosecuting or circuit attorney or the attorney general for prosecution under**
22 **this section, in addition to any other remedy provided by law for engaging in a licensed**
23 **activity without a license or while a license is suspended.**

24 **7. The licensing authority shall be exempt from liability to the licensee for activities**
25 **conducted under sections 324.011 to 324.015.**

26 **8. The licensing authority shall not modify, remand, reverse, vacate or stay a**
27 **suspension; except that, if the director of revenue certifies that an error has been made by**

28 **the department or if an error is made by the licensing authority, the licensing authority**
29 **may expunge the suspension from the licensee's permanent record.**

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.

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:

(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, or wherein a written contract is established between any governmental agency,
8 department, or division thereof while engaged in the performance of the officers,
9 employees, or independent contracted employees official duties;

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

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

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

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

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

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

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

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

33 **(11) Any real estate broker, real estate salesperson, or real estate appraiser acting**
34 **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 require the applicant to be fingerprinted in a manner**
15 **approved by the Missouri state highway patrol, criminal records and identification division**
16 **under chapter 43.543, RSMo;**

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

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

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

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

22 **(2) Be a citizen of the United States;**

23 **(3) Provide proof of insurance with amount to be no less than one million in**
24 **coverage for liability and proof of workers' compensation insurance if required in chapter**
25 **287, RSMo. The board shall have the authority to raise the requirements as deemed**
26 **necessary; and**

27 **(4) Comply with such other qualifications as the board adopts by rules and**
28 **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) Has 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.

2 324.1172. 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.

2 324.1174. 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.

2 324.1176. 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 334.1162.

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.

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

2 **324.1194.** The board may negotiate and enter into reciprocal agreements with
3 appropriate officials in other states to permit licensed private investigator agencies and
4 licensed private investigators who meet or exceed the qualifications established in sections
5 324.1150 to 324.1198 to operate across state lines under mutually acceptable terms.

2 **324.1196.** Law enforcement officers who perform private investigations shall be
3 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 **or approved** by the board [and copies of
44 which shall be retained by the nondentist for two years], of a dentist registered and currently
45 licensed in Missouri and which the substitute in this subdivision described is constructed upon
46 or by use of casts or models made from an impression furnished by a dentist registered and
47 currently licensed 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.

334.104. 1. A physician may enter into collaborative practice arrangements with
2 registered professional nurses. Collaborative practice arrangements shall be in the form of
3 written agreements, jointly agreed-upon protocols, or standing orders for the delivery of health
4 care services. Collaborative practice arrangements, which shall be in writing, may delegate to
5 a registered professional nurse the authority to administer or dispense drugs and provide
6 treatment as long as the delivery of such health care services is within the scope of practice of
7 the registered professional nurse and is consistent with that nurse's skill, training and
8 competence.

9 2. Collaborative practice arrangements, which shall be in writing, may delegate to a
10 registered professional nurse the authority to administer, dispense or prescribe drugs and provide
11 treatment if the registered professional nurse is an advanced practice nurse as defined in
12 subdivision (2) of section 335.016, RSMo. Such collaborative practice arrangements shall be
13 in the form of written agreements, jointly agreed-upon protocols or standing orders for the
14 delivery of health care services.

15 3. The state board of registration for the healing arts pursuant to section 334.125 and the
16 board of nursing pursuant to section 335.036, RSMo, may jointly promulgate rules regulating
17 the use of collaborative practice arrangements. Such rules shall be limited to specifying
18 geographic areas to be covered, the methods of treatment that may be covered by collaborative
19 practice arrangements and the requirements for review of services provided pursuant to
20 collaborative practice arrangements. Any rules relating to dispensing or distribution of
21 medications or devices by prescription or prescription drug orders under this section shall be
22 subject to the approval of the state board of pharmacy. In order to take effect, such rules shall
23 be approved by a majority vote of a quorum of each board. Neither the state board of registration
24 for the healing arts nor the board of nursing may separately promulgate rules relating to
25 collaborative practice arrangements. Such jointly promulgated rules shall be consistent with
26 guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall
27 not extend to collaborative practice arrangements of hospital employees providing inpatient care
28 within hospitals as defined pursuant to chapter 197, RSMo.

29 4. The state board of registration for the healing arts shall not deny, revoke, suspend or
30 otherwise take disciplinary action against a physician for health care services delegated to a
31 registered professional nurse provided the provisions of this section and the rules promulgated
32 thereunder are satisfied. Upon the written request of a physician subject to a disciplinary action
33 imposed as a result of an agreement between a physician and a registered professional nurse or
34 registered physician assistant, whether written or not, prior to August 28, 1993, all records of
35 such disciplinary licensure action and all records pertaining to the filing, investigation or review
36 of an alleged violation of this chapter incurred as a result of such an agreement shall be removed
37 from the records of the state board of registration for the healing arts and the division of
38 professional registration and shall not be disclosed to any public or private entity seeking such
39 information from the board or the division. The state board of registration for the healing arts
40 shall take action to correct reports of alleged violations and disciplinary actions as described in
41 this section which have been submitted to the National Practitioner Data Bank. In subsequent
42 applications or representations relating to his medical practice, a physician completing forms or
43 documents shall not be required to report any actions of the state board of registration for the
44 healing arts for which the records are subject to removal under this section.

45 5. Notwithstanding anything to the contrary in this section, a registered nurse who has
46 graduated from a school of nurse anesthesia accredited by the Council on Accreditation of
47 Educational Programs of Nurse Anesthesia or its predecessor and has been certified or is eligible
48 for certification as a nurse anesthetist by the Council on Certification of Nurse Anesthetists shall
49 be permitted to provide anesthesia services without a collaborative practice arrangement

50 provided that he or she is under the supervision of an anesthesiologist or other physician, dentist,
51 or podiatrist who is immediately available if needed.

52 **6. No physician shall enter into a collaborative practice arrangement with an**
53 **advanced practice nurse who directly or indirectly employs a collaborating physician.**

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.

334.735. 1. As used in sections 334.735 to 334.749, the following terms mean:

- 2 (1) "Applicant", any individual who seeks to become licensed as a physician assistant;
- 3 (2) "Certification" or "registration", a process by a certifying entity that grants
4 recognition to applicants meeting predetermined qualifications specified by such certifying
5 entity;
- 6 (3) "Certifying entity", the nongovernmental agency or association which certifies or
7 registers individuals who have completed academic and training requirements;
- 8 (4) "Department", the department of economic development or a designated agency
9 thereof;
- 10 (5) "License", a document issued to an applicant by the department acknowledging that
11 the applicant is entitled to practice as a physician assistant;
- 12 (6) "Physician assistant", a person who has graduated from a physician assistant program
13 accredited by the American Medical Association's Committee on Allied Health Education and
14 Accreditation or by its successor agency, who has passed the certifying examination administered
15 by the National Commission on Certification of Physician Assistants and has active certification
16 by the National Commission on Certification of Physician Assistants who provides health care
17 services delegated by a licensed physician **where such supervising physician regularly**
18 **practices medicine.** A person who has been employed as a physician assistant for three years
19 prior to August 28, 1989, who has passed the National Commission on Certification of Physician
20 Assistants examination, and has active certification of the National Commission on Certification
21 of Physician Assistants;
- 22 (7) "Recognition", the formal process of becoming a certifying entity as required by the
23 provisions of sections 334.735 to 334.749;
- 24 (8) "Supervision", [control exercised over a physician assistant working within the same
25 office facility of the supervising physician except a physician assistant may make follow-up
26 patient examinations in hospitals, nursing homes and correctional facilities, each such
27 examination being reviewed, approved and signed by the supervising physician] **overseeing the**
28 **activities of, and accepting responsibility for, the medical services rendered by a physician**
29 **assistant. The supervising physician shall at all times be immediately available to the**
30 **physician assistant for consultation, assistance, or intervention either personally or via**
31 **telecommunications. A supervising physician shall be present personally for practice**
32 **supervision and collaboration a minimum of fifty-five percent of clinic hours in any clinic**
33 **location utilizing physician assistants, except that, physician assistants practicing in**
34 **federally designated health professional shortage areas (HPSA) shall be limited to practice**

35 **at locations where the supervising physician is personally present for practice supervision**
36 **and collaboration a minimum of thirty percent of clinic hours and no further than fifty**
37 **miles by road, using the most direct route available from the physician assistant. The**
38 **physician assistant shall be limited to practice at the supervision physician's primary**
39 **location or regular site of practice and where the supervising physician of a physician, not**
40 **practicing in a federally designated professional shortage area (HPSA), is able to be**
41 **physically present at the location within thirty minutes so that there is no impediment to**
42 **effective intervention and supervision of patient care or adequate review of services. The**
43 board shall promulgate rules pursuant to chapter 536, RSMo, for the proximity of practice
44 between the physician assistant and the supervising physician and documentation of joint review
45 of the physician assistant activity by the supervising physician and the physician assistant.

46 2. The scope of practice of a physician assistant shall consist only of the following
47 services and procedures:

48 (1) Taking patient histories;

49 (2) Performing physical examinations of a patient;

50 (3) Performing or assisting in the performance of routine office laboratory and patient
51 screening procedures;

52 (4) Performing routine therapeutic procedures;

53 (5) Recording diagnostic impressions and evaluating situations calling for attention of
54 a physician to institute treatment procedures;

55 (6) Instructing and counseling patients regarding mental and physical health using
56 procedures reviewed and approved by a licensed physician;

57 (7) Assisting the supervising physician in institutional settings, including reviewing of
58 treatment plans, ordering of tests and diagnostic laboratory and radiological services, and
59 ordering of therapies, using procedures reviewed and approved by a licensed physician;

60 (8) Assisting in surgery;

61 (9) Performing such other tasks not prohibited by law under the supervision of a licensed
62 physician as the [physician's] **physician** assistant has been trained and is proficient to perform;

63 (10) Physician assistants shall not perform abortions.

64 3. Physician assistants shall not prescribe nor dispense any drug, medicine, device or
65 therapy independent of consultation with the supervising physician, nor prescribe lenses, prisms
66 or contact lenses for the aid, relief or correction of vision or the measurement of visual power
67 or visual efficiency of the human eye, nor administer or monitor general or regional block
68 anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing
69 of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a

70 physician assistant supervision agreement which is specific to the clinical conditions treated by
71 the supervising physician and the physician assistant shall be subject to the following:

72 (1) A physician assistant shall not prescribe controlled substances;

73 (2) The types of drugs, medications, devices or therapies prescribed or dispensed by a
74 physician assistant shall be consistent with the scopes of practice of the physician assistant and
75 the supervising physician;

76 (3) All prescriptions shall conform with state and federal laws and regulations and shall
77 include the name, address and telephone number of the physician assistant and the supervising
78 physician;

79 (4) A physician assistant or advanced practice nurse as defined in section 335.016,
80 RSMo, may request, receive and sign for noncontrolled professional samples and may distribute
81 professional samples to patients;

82 (5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies
83 the supervising physician is not qualified or authorized to prescribe; and

84 (6) A physician assistant may only dispense starter doses of medication to cover a period
85 of time for seventy-two hours or less.

86 4. A physician assistant shall clearly identify himself or herself as a physician assistant
87 and [shall not] **shall specifically inform each patient seen of his or her status as a physician**
88 **assistant and shall specifically inform each patient that he or she has the opportunity to be**
89 **seen by the supervision physician. No physician assistant shall** use or permit to be used in
90 the physician assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out
91 in any way to be a physician or surgeon. No physician assistant shall practice or attempt to
92 practice without physician supervision or in any location where the supervising physician is not
93 immediately available for consultation, assistance and intervention, **either personally or via**
94 **telecommunications**, except in an emergency situation, nor shall any physician assistant bill a
95 patient independently or directly for any services or procedure by the physician assistant.

96 5. For purposes of this section, the licensing of physician assistants shall take place
97 within processes established by the state board of registration for the healing arts through rule
98 and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536,
99 RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees,
100 and addressing such other matters as are necessary to protect the public and discipline the
101 profession. An application for licensing may be denied or the license of a physician assistant
102 may be suspended or revoked by the board in the same manner and for violation of the standards
103 as set forth by section 334.100, or such other standards of conduct set by the board by rule or
104 regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be
105 required to be licensed as physician assistants. **All applicants for physician assistant licensure**

106 **who complete their physician assistant training program after January 1, 2007, shall have**
107 **a master's degree from a physician assistant program.**

108 6. "Physician assistant supervision agreement" means a written agreement, jointly
109 agreed-upon protocols or standing order between a supervising physician and a physician
110 assistant, which provides for the delegation of health care services from a supervising physician
111 to a physician assistant and the review of such services. **In any physician assistant supervision**
112 **agreement, the supervising physician and physician shall designate the primary location**
113 **or regular site of practice where the supervising physician practices at least fifty-five**
114 **percent of clinic hours. The board shall randomly review physician assistant supervision**
115 **agreements and the practices of physician assistants and supervising physicians under such**
116 **agreements.**

117 7. When a physician assistant supervision agreement is utilized to provide health care
118 services for conditions other than acute self-limited or well-defined problems, the supervising
119 physician or other physician designated in the supervision agreement shall see the patient for
120 evaluation and approve or formulate the plan of treatment for new or significantly changed
121 conditions as soon as practical, but in no case more than two weeks after the patient has been
122 seen by the physician assistant.

123 8. At all times the physician is responsible for the oversight of the activities of, and
124 accepts responsibility for, health care services rendered by the physician assistant.

125 **9. No physician shall be designated to serve as supervising physician for more than**
126 **three licensed physician assistants. This information shall not apply to physician assistant**
127 **agreements of hospital employees providing in-patient care services in hospitals as defined**
128 **in chapter 197, RSMo.**

129 **10. It is the responsibility of the supervising physician to determine and document**
130 **the completion of at least a one-month period during which the licensed physician assistant**
131 **shall practice with a supervising physician continuously present before practicing in a**
132 **setting where a supervising physician is not continuously present.**

133 **11. It shall be void and against public policy to require any physician in any**
134 **contract or other agreement to act as a supervising physician for any physician assistant.**
135 **A physician shall have the right to refuse to act as a supervising physician, without penalty,**
136 **for a particular physician assistant. No contract or other agreement shall limit the**
137 **supervising physician's ultimate authority over any protocols or standing orders or in the**
138 **delegation of the physician's authority to any physician assistant.**

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 Therapy Board of Examiners" which shall consist of seven members appointed by the governor with the advice and consent of the senate. All members of the board shall be residents of this state. Of the seven board members, two shall be persons who administer medical imaging and radiation therapy procedures, two shall be radiologists, one of whom shall be a chiropractic radiologist, one shall be a radiologic physicist, and one shall be a public member.

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

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

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

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

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

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

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

9. The board shall be responsible for setting and implementing policies for licensing 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, or nuclear
11 medicine technologist shall have satisfactorily completed a course of study in radiography,
12 radiation therapy, or nuclear medicine, respectively, or an equivalent to be determined by
13 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.

25 7. Persons who use equipment powered by no more than one hundred-ten volt
26 electricity shall be exempt from said licensure requirements under sections 334.1000 to
27 334.1024 unless the board authorizes to study the impact of such exemption and if after

28 such study an analysis shows there is a risk to the public, the board may issue a rule to
29 require licensure of such persons.

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

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

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

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

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

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

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

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

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

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

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

31

32 Any person aggrieved by an official action of the board affecting the licensed status of a
33 person under the provisions of sections 334.1000 to 334.1024, including the refusal to grant,
34 the granting, the revocation, the suspension, or the failure to renew a license, may seek a

35 determination thereon by the administrative hearing commission pursuant to the
36 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.

23 337.500. As used in sections 337.500 to 337.540, unless the context clearly requires
24 otherwise, the following words and phrases mean:

25 (1) ["Committee", the committee for professional counselors] **"Board", the board of**
26 **counselors and therapists established in section 337.545;**

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

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

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

31 **(5) "Fund", the board of counselors and therapists fund created by section 337.560;**

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

37 [(6)] **(7) "Practice of professional counseling", rendering, offering to render, or**
38 **supervising those who render to individuals, couples, groups, organizations, institutions,**
39 **corporations, schools, government agencies, or the general public any counseling service**
40 **involving the application of counseling procedures, and the principles and methods thereof, to**
41 **assist in achieving more effective intrapersonal or interpersonal, marital, decisional, social,**
42 **educational, vocational, developmental, or rehabilitative adjustments;**

43 [(7)] **(8) "Professional counseling", includes, but is not limited to:**

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

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

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

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

55 (e) Designing, conducting, and interpreting research;

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

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

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

60 (i) No provision of sections 337.500 to 337.540, or of chapter 354 or 375, RSMo, shall
61 be construed to mandate benefits or third-party reimbursement for services of professional
62 counselors in the policies or contracts of any insurance company, health services corporation or
63 other third-party payer;

64 [(8)] (9) "Provisional licensed professional counselor", any person who is a graduate of
65 an acceptable educational institution, as defined by [division] **board** rules, with at least a
66 master's degree with a major in counseling, or its equivalent, and meets all requirements of a
67 licensed professional counselor, other than the supervised counseling experience prescribed by
68 subdivision (1) of section 337.510, and who is supervised by a person who is qualified for the
69 practice of professional counseling.

337.505. No person shall use the title of "professional counselor", "counselor" or
2 "provisional licensed professional counselor" or engage in the practice of professional counseling
3 in this state unless the person is licensed as required by the provisions of sections 337.500 to
4 [337.540] **337.560**. Sections 337.500 to [337.540] **337.560** do not apply to:

5 (1) Any person registered, certificated or licensed by this state, another state, or any
6 recognized national certification agent, acceptable to the [committee] **board**, to practice any
7 other occupation or profession while rendering counseling service in the performance of the
8 occupation or profession for which the person is registered, certificated, or licensed, including
9 but not limited to physicians, psychologists and attorneys;

10 (2) School counselors, school administration personnel, or classroom teachers, so long
11 as they are performing their assigned duties within the scope of their employment by a board of
12 education or private school;

13 (3) Counselors in postsecondary educational institutions so long as they are practicing
14 within the scope of their employment;

15 (4) Student interns or trainees in counseling procedures pursuing a course of study in
16 counseling in an institution of higher education or training institution if such activities and
17 services constitute a part of their course of study and provided that such persons are designated
18 as "counselor interns";

19 (5) Professionals employed by postsecondary educational institutions as counselor
20 educators so long as they are practicing counseling within the scope of their employment;

21 (6) Duly ordained ministers [or] , clergy [or] , religious workers, **or staff counselors**
22 while functioning in their ministerial capacity **or in a religious institution or religious**
23 **counseling ministries program;**

24 (7) Alcoholism counselors so long as they serve only individuals with alcohol related
25 concerns;

26 (8) Any nonresident temporarily employed in this state to render counseling services for
27 not more than thirty days in any year, if in the opinion of the [committee] **board** the person
28 would qualify for a license pursuant to the provisions of sections 337.500 to [337.540] **337.560**,
29 and if the person holds a license required for counselors in the person's home state or country;

30 (9) Duly accredited Christian Science practitioners, so long as they are practicing within
31 the scope of Christian Science principles;

32 (10) Counselors employed by the Missouri state department of elementary and secondary
33 education or the Missouri state bureau for the blind while rendering counseling services in the
34 performance of their state assigned duties;

35 (11) Professionals employed by vocational and medical rehabilitation facilities
36 accredited by the commission on the accreditation of rehabilitation facilities, the joint committee
37 on accreditation of hospitals or other agents acceptable to the [committee] **board** while rendering
38 counseling services in the performance of their assigned duties, and so long as they do not use
39 the title of "counselor";

40 (12) Employees or volunteers of sheltered workshops who are providing meaningful
41 employment services for handicapped workers, so long as they do not use the "counselor" title;

42 (13) [Marital therapists or family therapists or both, certified by the American
43 Association of Marriage and Family Therapists or an agent acceptable to the committee, and their
44 supervisees, so long as they serve only individuals with marital or family systems concerns, and,
45 so long as they do not use the titles of "counselor" or "counseling";

46 (14) Staff counselors employed by religious institutions in a religious counseling
47 ministries program;

48 (15)] Drug abuse counselors certified by the department of mental health as meeting
49 standards in rules promulgated pursuant to section 630.655, RSMo, certified by the Missouri
50 substance abuse counselors certification board, or by an agent acceptable to the committee, so
51 long as such counselors are practicing consistent with such standards, and they are serving only
52 individuals with drug-related concerns;

53 [(16) Social workers, certified by the National Association of Social Workers, Inc., or
54 by an agent acceptable to the committee, or workers under their supervision so long as they are

55 doing work consistent with their training and with a code of ethics of the social work profession,
56 and so long as they do not use the title of "professional counselor";

57 (17)] **(14)** Professionals in the employ of a governmental agency while rendering
58 services in the performance of their duties;

59 [(18) Any person performing counseling, as defined in sections 337.500 to 337.540,
60 without receiving compensation, monetary or otherwise, and so long as they do not use the title
61 of "professional counselor";

62 (19)] **(15)** Employment counselors and interviewers, personnel officers, personnel
63 analysts and consultants and related workers who in the normal course of their duties and
64 responsibilities as employees of this state may engage in the screening, examination, assessment,
65 referral or selection of individuals for employment or for consideration for employment;

66 [(20)] **(16)** Counselors and employees of employee assistance programs [which] **that** are
67 members of the Association of Labor-Management Administrators and Consultants on
68 Alcoholism, Inc., a Wisconsin corporation, or its successors or such other accrediting body for
69 EAP Programs acceptable to the [committee] **board** who provide evaluation, assessment,
70 information, and referral services so long as they are performing their assigned duties within the
71 scope of their employment; provided, however, that this exemption shall not apply to individuals
72 employed by employee assistance programs who provide direct long-term therapy and counseling
73 services, as may be defined by regulation, so long as they do not use the title of counselor or
74 counseling;

75 [(21)] **(17)** Individuals who are duly certified by the employee assistance certification
76 commission as administered by the Association of Labor-Management Administrators and
77 Consultants on Alcoholism, Inc., a Wisconsin corporation, or its successor; so long as the
78 individual is an employee of a generally recognized employee assistance program and so long
79 as such individual is performing services within the scope of such individual's employment and
80 education;

81 [(22)] **(18)** Weight loss or weight control consultants or advisors in recognized,
82 legitimate programs or business environments so long as they serve only individuals or groups
83 who have weight related concerns and discuss only weight improvement issues and do not use
84 the titles of "counselor" or "counseling" without using an adjective which describes to the
85 ordinary person that the counseling is limited to weight loss or weight control;

86 [(23)] **(19)** Activity therapists as certified or licensed by their respective professional
87 organizations including, but not limited to art, music, dance, recreation, and occupation, and who
88 have received certification or licensure by their respective professional organizations by January
89 1, 1994, so long as they do not use the titles of "counselor" or "counseling";

90 [(24)] (20) Professionals certified by the American Board of Medical Psychotherapists
91 and who have received certification from the American Board of Medical Psychotherapists by
92 January 1, 1994, so long as they do not use the titles of "counselor" or "counseling"; [and

93 (25) Transactional analysts certified by the International Transactional Analysis
94 Association and who have received certification from the International Transactional Analysis
95 Association as a level one transactional analyst, specializing in clinical application by January
96 1, 1994, so long as they do not use the titles of "counselor" or "counseling";] or

97 [(26)] (21) Any person with a doctoral degree in anthropology received on or prior to
98 December 31, 1989, and which was from an educational institution accredited by one of the
99 regional accrediting associations approved by the council on postsecondary accreditation;
100 provided further that said individual has completed at least twenty-four months of supervised
101 clinical experience in psychotherapy under the supervision of a physician.

337.507. 1. Applications for examination and licensure as a professional counselor shall
2 be in writing, submitted to the [division] **board** on forms prescribed by the [division] **board** and
3 furnished to the applicant. The application shall contain the applicant's statements showing [his]
4 **the applicant's** education, experience and such other information as the [division] **board** may
5 require. Each application shall contain a statement that it is made under oath or affirmation [and]
6 that the information contained therein is true and correct to the best knowledge and belief of the
7 applicant, subject to the penalties provided for the making of a false affidavit or declaration.
8 Each application shall be accompanied by the fees required by the [committee] **board**.

9 2. [The division shall mail a renewal notice to the last known address of each licensee
10 prior to the registration renewal date. Failure to provide the division with the information
11 required for registration, or to pay the registration fee after such notice shall effect a revocation
12 of the license after a period of sixty days from the registration renewal date. The license shall
13 be restored if, within two years of the registration date, the applicant provides written application
14 and the payment of the registration fee and a delinquency fee.] **Each license issued under the**
15 **provisions of section 337.500 to 337.560 shall expire on the renewal date. The division shall**
16 **mail a renewal notice to the last known address of each licensee prior to the license renewal**
17 **date. Failure to provide the division or board with the information required for license**
18 **renewal or pay the license renewal fee shall cause the license to expire. Notwithstanding**
19 **this notice requirement, the failure to receive a license renewal notification from the**
20 **division shall not excuse the licensee from renewing the license as required by law.**

21 3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued
22 subject to the rules of the [committee] **board**, upon payment of a fee.

23 4. The [committee] **board** shall set the amount of the fees [which] **authorized by**
24 sections 337.500 to [337.540 authorize and require by rules and regulations promulgated

25 pursuant to section 536.021, RSMo] **337.560**. The fees shall be set at a level to produce revenue
26 which shall not substantially exceed the cost and expense of administering the provisions of
27 sections 337.500 to 337.540. All fees provided for in sections 337.500 to [337.540] **337.560**
28 shall be collected by the director who shall deposit the same with the state treasurer in [a fund
29 to be known as the "Committee of Professional Counselors Fund"] **the board of counselors and**
30 **therapists fund established by 337.555**.

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

39 6. The committee shall hold public examinations at least two times per year, at such
40 times and places as may be fixed by the committee, notice of such examinations to be given to
41 each applicant at least ten days prior thereto.] **The board shall designate an examination as**
42 **defined by rule for applicants seeking licensure as a professional counselor.**

43 **6. If a license has expired for more than two years and the applicant does not hold**
44 **a valid, unrevoked, unsuspended license as a professional counselor in another state at the**
45 **time of application to the board, the applicant shall pay the required fee and obtain**
46 **continuing education relating to the practice of professional counseling as defined by the**
47 **board. Continuing education required under this subsection shall not exceed twenty hours**
48 **of continuing education credit.**

337.510. 1. Each applicant for licensure as a professional counselor shall furnish
2 evidence to the [committee] **board that the applicant is at least eighteen years of age, is of**
3 **good moral character, is a United States citizen, or is legally present in the United States**
4 **and:**

5 (1) [The applicant has met any one of the three following education-experience
6 requirements:

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

11 (b) The applicant has received a specialist's degree with a major in counseling, or its
12 equivalent, from an acceptable educational institution, as defined by division rules, and has

13 completed at least one year of acceptable supervised counseling experience subsequent to receipt
14 of the specialist's degree; or

15 (c) The applicant has received at least a master's degree with a major in counseling, or
16 its equivalent, from an acceptable educational institution as defined by division rules, and has
17 completed two years of acceptable supervised counseling experience subsequent to receipt of the
18 master's degree. An applicant may substitute thirty semester hours of post-master's graduate
19 study, or their equivalent, for one of the two required years of acceptable supervised counseling
20 experience, if such hours are clearly related to the field of professional counseling and are earned
21 from an acceptable educational institution;] **The applicant has completed a course of study
22 as defined by the board rule leading to a master's, specialist's, or doctoral degree with a
23 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 as defined by board rule, the applicant shall complete at least two years of acceptable
27 supervised counseling experience subsequent to the receipt of the master's degree. The
28 composition and number of hours comprising the acceptable supervised counseling
29 experience shall be defined by board rule. An applicant may substitute thirty semester
30 hours of post master's graduate study for one of the two required years of acceptable
31 supervised counseling experience if such hours are clearly related to counseling.**

32 [(2)] **(3) After August 28, 2007, [each] the applicant [shall have] has completed a
33 minimum of three hours of graduate level coursework in diagnostic systems either in the
34 curriculum leading to [his or her] a degree or a post master's graduate level course work;**

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

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

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

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

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

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

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

55 3.] Any person who previously held a valid unrevoked, unsuspended license as a
56 professional counselor in this state and who held a valid license **as a professional counselor** in
57 another state at the time of application to the [committee] **board** shall be granted a license to
58 engage in professional counseling in this state upon application to the [committee] **board**
59 accompanied by the appropriate fee as established by the [committee] **board** pursuant to section
60 337.507.

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

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

69 (2) **Is in good standing and currently certified by the National Board for Certified**
70 **Counselors or its successor organization and has completed acceptable supervised**
71 **counseling experience as defined by board rule; or**

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

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

85 acceptable supervised counseling experience [required by paragraphs (a) to (c) of subdivision
86 (1) of subsection 1 of this section,] and such applicant may reapply for licensure as a professional
87 counselor upon completion of such acceptable supervised counseling experience.

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

337.520. 1. The [division] **board** shall promulgate rules and regulations pertaining to:

2 (1) The form and content of license applications required by the provisions of sections
3 337.500 to [337.540] **337.560** and the procedures for filing an application for an initial or
4 renewal license in this state;

5 (2) Fees required by the provisions of sections 337.500 to [337.540] **337.560**;

6 (3) The content, conduct and administration of the licensing examination required by
7 section 337.510;

8 (4) The characteristics of "acceptable supervised counseling experience" as that term is
9 used in section 337.510;

10 (5) The equivalent of the basic educational requirements set forth in section 337.510;

11 (6) The standards and methods to be used in assessing **and maintaining** competency as
12 a professional counselor;

13 (7) Establishment and promulgation of procedures for investigating, hearing and
14 determining grievances and violations occurring under the provisions of sections 337.500 to
15 [337.540] **337.560**;

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

18 (9) Establishment of a policy and procedure for reciprocity with other states, including
19 states which do not have counselor licensing laws or states whose licensing laws are not
20 substantially the same as those of this state;

21 (10) The characteristics of "an acceptable educational institution" as that term is used
22 in section 337.510;

23 (11) The characteristics of an acceptable agent for the certification of an exempted
24 occupation as listed in [subdivisions] **subdivision** (11) [and (13)] of section 337.505; and

25 (12) The form and content of "ethical standards for **professional** counselors" as that term
26 is used in subdivision (15) of subsection 2 of section 337.525.

27 2. No rule or portion of a rule promulgated under the authority of sections 337.500 to
28 [337.545] **337.560** shall become effective unless it has been promulgated pursuant to the
29 provisions of section 536.024, RSMo.

 337.525. 1. The [committee] **board** may refuse to issue or renew any license required
2 by the provisions of sections 337.500 to [337.540] **337.560** for one or any combination of causes
3 stated in subsection 2 of this section. The [committee] **board** shall notify the applicant in
4 writing of the reasons for the refusal and shall advise the applicant of his **or her** right to file a
5 complaint with the administrative hearing commission as provided by chapter 621, RSMo.

6 2. The [committee] **board** may cause a complaint to be filed with the administrative
7 hearing commission as provided by chapter 621, RSMo, against any holder of any license
8 required by sections 337.500 to [337.540] **337.560** 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 illegal** use of any controlled substance, as defined in chapter 195, RSMo, or **the**
11 **use of** alcoholic beverage to an extent that such use impairs a person's ability to engage in the
12 occupation of professional [counselor] **counseling; except the fact that a person has**
13 **undergone treatment for past substance abuse or alcohol abuse or has participated in a**
14 **recovery program shall not by itself be cause for refusal to issue or renew a license;**

15 (2) The person has [been finally adjudicated and found guilty, or entered a plea of guilty
16 or nolo contendere, in a criminal prosecution] **committed a criminal offense** under the laws of
17 any state or of the United States, for any offense **that:**

18 (a) **Is** reasonably related to the qualifications, functions or duties of a professional
19 counselor;

20 (b) [for any offense an essential element of which is] **Has** fraud, dishonesty or an act of
21 violence **as an essential element of the offense;** or

22 (c) [for any] **The** offense [involving] **involves** moral turpitude, whether or not sentence
23 is imposed;

24 (3) Use of fraud, deception, misrepresentation or bribery in securing any license issued
25 pursuant to the provisions of sections 337.500 to [337.540] **337.560** or in obtaining permission
26 to take any examination given or required pursuant to the provisions of sections 337.500 to
27 [337.540] **337.560;**

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

30 (5) [Incompetency] **Incompetence,** misconduct, **gross negligence,** fraud,
31 misrepresentation or dishonesty in the performance of the functions or duties of a professional
32 counselor;

33 (6) Violation of, or assisting or enabling any person to violate, any provision of sections
34 337.500 to [337.540] **337.560**, or of any lawful rule or regulation adopted pursuant to sections
35 337.500 to [337.540] **337.560**;

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

38 (8) [Revocation or suspension] **Disciplinary action against the holder** of a license or
39 other right to practice counseling **or other related profession** granted by another state, territory,
40 federal agency or country upon grounds for which [revocation or suspension] **discipline** is
41 authorized in this state;

42 (9) [A person is finally adjudged] **Final adjudication as** incapacitated by a court of
43 competent jurisdiction;

44 (10) Assisting or enabling any person to practice or offer to practice professional
45 counseling who is not licensed and currently eligible to practice under the provisions of sections
46 337.500 to [337.540] **337.560**;

47 (11) [Issuance of] **Obtaining** a license based upon a material mistake of fact;

48 (12) Failure to display a valid license if so required by sections 337.500 to [337.540]
49 **337.560** or any rule promulgated hereunder;

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

51 (14) Use of any advertisement or solicitation [which] **that** is false, misleading or
52 deceptive to the general public or persons to whom the advertisement or solicitation is primarily
53 directed[;

54 (15) Being guilty of unethical conduct as defined in the ethical standards for counselors
55 adopted by the division and filed with the secretary of state].

56 3. Any person, organization, association or corporation [who reports or provides]
57 **reporting or providing** information to the [committee] **board** pursuant to the provisions of [this
58 chapter] **sections 337.500 to 337.560** and who does so in good faith shall not be subject to an
59 action for civil damages as a result thereof.

60 4. After the filing of such complaint, the proceedings shall be conducted in accordance
61 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
62 commission that the grounds, provided in subsection 2 of this section, for disciplinary action are
63 met, the [committee] **board** may censure or place the person named in the complaint on
64 probation on such terms and conditions as the [committee] **board** deems appropriate for a period
65 not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the
66 license.

337.530. 1. Violation of any provision of sections 337.500 to [337.540] **337.560** shall
2 be a class B misdemeanor.

3 2. All fees or other compensation received for services rendered in violation of sections
4 337.500 to [337.540] **337.560** shall be refunded.

5 3. The [department] **board** may sue in its own name in any court in this state. The
6 [department] **board** shall inquire diligently as to any violation of sections 337.500 to [337.540]
7 **337.560**, [shall] **may** institute actions for penalties herein prescribed, and shall enforce generally
8 the provisions of sections 337.500 to [337.540] **337.560**.

9 4. Upon application by the [committee] **board**, the attorney general may on behalf of the
10 [committee] **board** request that a court of competent jurisdiction grant an injunction, restraining
11 order or other order as may be appropriate to enjoin a person from:

12 (1) Offering to engage or engaging in the performance of any acts or practices for which
13 a certificate of registration or authority, permit or license is required **under sections 337.500 to**
14 **337.560**, upon a showing that such acts or practices were performed or offered to be performed
15 without a certificate of registration or authority, permit or license; or

16 (2) Engaging in any practice or business authorized by a certificate of registration or
17 authority, permit or license issued pursuant to [this chapter] **sections 337.500 to 337.560** upon
18 a showing that the holder presents a substantial probability of serious harm to the health, safety
19 or welfare of any resident of this state or client or patient of the licensee.

20 5. Any action brought pursuant to [the provisions of] this section shall be commenced
21 either in the county in which such conduct occurred or in the county in which the defendant
22 resides.

23 6. Any action brought under this section may be in addition to or in lieu of any penalty
24 provided by [this chapter] **sections 337.500 to 337.560**, and may be brought concurrently with
25 other actions to enforce [this chapter] **sections 337.500 to 337.560**.

337.545. 1. There is hereby created a "Board of Counselors and Therapists",
2 **which shall guide, advise, and make recommendations to the division and fulfill all other**
3 **responsibilities designated by sections 337.700 to 337.736 as such sections pertain to marital**
4 **and family therapists and sections 337.500 to 337.560 as such sections pertain to licensed**
5 **professional counselors. The duties and responsibilities of the board of counselors and**
6 **therapists as such duties and responsibilities pertain to marital and family therapists and**
7 **licensed professional counselors shall not take full force and effect until such time as the**
8 **governor appoints the members of the board of counselors and therapists and the**
9 **appointments are confirmed by the senate. At such time, the powers and duties of the state**
10 **committee of marital and family therapists and the committee for professional counselors**
11 **shall be merged into the board of counselors and therapists under section 337.550.**

12 **2. The board of counselors and therapists shall be appointed by the governor with**
13 **the advice and consent of the senate and shall consist of nine members that are United**

14 States citizens and residents of this state. Of these nine members, four shall be licensed
15 professional counselors who shall constitute the subcommittee for professional counselors,
16 four shall be licensed marital and family therapists who shall constitute the subcommittee
17 for marital therapists, and one shall be a voting public member.

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

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

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

2 337.550. 1. Upon appointment by the governor and conformation by the senate of
3 the board of counselors and therapists, the committee for professional counselors and the
4 state committee of marital and family therapists are abolished and their duties and
5 responsibilities shall merge into the board of counselors and therapists as established
under section 337.545. The board of counselors and therapists shall be a continuance of

6 and shall carry out the duties of the committee for professional counselors and the state
7 committee of marital and family therapists.

8 **2. Upon appointments by the governor and confirmation by the senate of the board**
9 **of counselors and therapists, all of the powers, duties, and functions of the committee for**
10 **professional counselors and the state committee of marital and family therapists are**
11 **transferred to, conferred, and imposed upon the board of counselors and therapists. The**
12 **board of counselors and therapists shall be the successor in every way to the powers,**
13 **duties, and functions of the committee for professional counselors and the state committee**
14 **of marital and family therapists.**

15 **3. Every act performed in the exercise of such powers, duties, and authorities by**
16 **or under the authority of the board of counselors and therapists shall be deemed to have**
17 **the same force and effect as if performed by the committee for professional counselors or**
18 **state committee of marital and family therapists under sections 337.500 to 337.560 and**
19 **sections 337.700 to 337.736, including any amendments thereto effective August 28, 2006,**
20 **or prior to August 28, 2006.**

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

28 **5. Any person licensed or provisionally licensed as a professional counselor by the**
29 **committee for professional counselors or any person licensed by the state committee of**
30 **marital and family therapists prior to the appointment by the governor and confirmation**
31 **by the senate of the board of counselors and therapists shall be considered licensed as a**
32 **professional counselor, provisionally licensed as a professional counselor, or licensed as a**
33 **marital and family therapist by the board of counselors and therapists. Any person**
34 **pursuing post-degree experience approved by the committee for professional counselors**
35 **or the state committee of marital and family therapists shall be considered approved for**
36 **post-degree experience by the board of counselors and therapists.**

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

4 **2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys**
5 **in this fund shall not be transferred and placed to the credit of general revenue until the**

6 amount in the fund at the end of the biennium exceeds three times the amount of the
7 appropriations from the board of counselors and therapists fund for the preceding fiscal
8 year. The amount, if any, in the fund that shall lapse is that amount in the fund that
9 exceeds the appropriate multiple of the appropriations from the board of counselors and
10 therapists fund for the preceding fiscal year.

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

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.

337.618. Each license issued pursuant to the provisions of sections 337.600 to [337.639]
2 **337.642** shall expire on a renewal date established by the director. The term of licensure shall
3 be twenty-four months. The committee shall require a minimum number of thirty clock hours
4 of continuing education for renewal of a license issued pursuant to sections 337.600 to [337.639]
5 **337.642. At least three hours, of the minimum thirty, shall be dedicated to education on**
6 **ethics within the field and such information shall be taught by a licensed social worker as**
7 **defined under section 337.600. Additionally, one and one-half hours, of the minimum**
8 **thirty, shall be dedicated to current rules and regulations of social work licensing.** The
9 committee shall renew any license, other than a provisional license, upon application for a
10 renewal, completion of the required continuing education hours and upon payment of the fee
11 established by the committee pursuant to the provisions of section 337.612. As provided by rule,
12 the board may waive or extend the time requirements for completion of continuing education for
13 reasons related to health, military service, foreign residency, or for other good cause. All
14 requests for waivers or extensions of time shall be made in writing and submitted to the board
15 before the renewal date.

337.668. The term of each license issued pursuant to the provisions of sections 337.650
2 to 337.689 shall be no less than twenty-four and no more than forty-eight consecutive calendar

3 months. All licensees shall annually complete fifteen hours of continuing education [units].
4 **Prior to the renewal of a license under this section the committee shall ensure that all**
5 **licensees have at least three hours of continuing education dedicated to ethics within the**
6 **field and such information shall be taught by a licensed social worker as defined under**
7 **section 337.600. Additionally, the committee shall ensure all licensees have at least one and**
8 **one-half hours of continuing education dedicated to current rules and regulations of social**
9 **work licensing.** The committee shall renew any license, other than a provisional license, upon
10 application for a renewal, submission of documentation of the completion of the required annual
11 hours of continuing education and payment of the fee established by the committee pursuant to
12 the provisions of section 337.662.

337.700. As used in sections 337.700 to [337.739] **337.736**, the following terms mean:

- 2 (1) ["Committee", the state committee for family and marital therapists] **"Board", the**
3 **board of counselors and therapists established in section 337.545;**
- 4 (2) "Department", the Missouri department of economic development;
- 5 (3) "Director", the director of the division of professional registration in the department
6 of economic development;
- 7 (4) "Division", the division of professional registration;
- 8 (5) "Fund", [the marital and family therapists' fund created in section 337.712] **the board**
9 **of counselors and therapists fund created by section 337.560;**
- 10 (6) "Licensed marital and family therapist", a person to whom a license has been issued
11 pursuant to the provisions of sections 337.700 to [337.739] **337.736**, whose license is in force
12 and not suspended or revoked;
- 13 (7) "Marital and family therapy", the use of scientific and applied marriage and family
14 theories, methods and procedures for the purpose of describing, evaluating and modifying
15 marital, family and individual behavior within the context of marital and family systems,
16 including the context of marital formation and dissolution. Marriage and family therapy is based
17 on systems theories, marriage and family development, normal and dysfunctional behavior,
18 human sexuality and psychotherapeutic, marital and family therapy theories and techniques and
19 includes the use of marriage and family therapy theories and techniques in the evaluation,
20 assessment and treatment of intrapersonal or interpersonal dysfunctions within the context of
21 marriage and family systems. Marriage and family therapy may also include clinical research
22 into more effective methods for the treatment and prevention of the above-named conditions;
- 23 (8) "Practice of marital and family therapy", the rendering of professional marital and
24 family therapy services to individuals, family groups and marital pairs, singly or in groups,
25 whether such services are offered directly to the general public or through organizations, either
26 public or private, for a fee, monetary or otherwise.

337.703. No person shall use the title of "licensed marital and family therapist", "marital and family therapist", "provisional marital and family therapist", or engage in the practice of marital and family therapy in this state unless the person is licensed as required by the provisions of sections 337.700 to [337.739] **337.736**. Sections 337.700 to [337.739] **337.736** shall not apply to:

(1) Any person registered, certificated or licensed by this state, another state or any recognized national certification agent acceptable to the [division] **board** to practice any other occupation or profession while rendering services similar in nature to marital and family therapy in the performance of the occupation or profession in which the person is registered, certificated or licensed, so long as the person does not use the title of "licensed marital and family therapist", "marital and family therapist", or "provisional marital and family therapist";

(2) The practice of any marital and family therapist who is employed by any political subdivision, school district, agency or department of the state of Missouri while discharging the therapist's duties in that capacity; and

(3) Duly ordained ministers or clergy, religious workers and volunteers or Christian Science Practitioners.

337.709. No provision of sections 337.700 to [337.739] **337.736** shall be construed to require any agency, corporation or organization, not otherwise required by law, to employ licensed marital and family therapists.

337.712. 1. Applications for licensure as a marital and family therapist shall be in writing, submitted to the [division] **board** on forms prescribed by the [division] **board** and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the [division] **board** may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the [division] **board**.

2. [The division shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the division with the information required for license, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the licensure renewal date. The license shall be restored if, within two years of the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee.

3.] A new [certificate] **license** to replace any [certificate] **license** lost, destroyed or mutilated may be issued subject to the rules of the [division] **board** upon payment of a fee.

17 [4.] **3.** The [division] **board** shall set the amount of the fees authorized. The fees shall
18 be set at a level to produce revenue which shall not substantially exceed the cost and expense of
19 administering the provisions of sections 337.700 to [337.739] **337.736**. All fees provided for in
20 sections 337.700 to [337.739] **337.736** shall be collected by the director who shall deposit the
21 same with the state treasurer to [a fund to be known as the "Marital and Family Therapists'
22 Fund"] **the board of counselors and therapists fund, as established in section 337.555.**

23 [5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in
24 this fund shall not be transferred and placed to the credit of general revenue until the amount in
25 the fund at the end of the biennium exceeds two times the amount of the appropriations from the
26 marital and family therapists' fund for the preceding fiscal year or, if the division requires by rule
27 renewal less frequently than yearly then three times the appropriation from the fund for the
28 preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the
29 fund which exceeds the appropriate multiple of the appropriations from the marital and family
30 therapists' fund for the preceding fiscal year.]

337.715. 1. Each applicant for licensure as a marital and family therapist shall furnish
2 evidence to the [division] **board** that:

3 (1) The applicant has a master's degree or a doctoral degree in marital and family
4 therapy, or its equivalent, from an acceptable educational institution accredited by a regional
5 accrediting body or accredited by an accrediting body which has been approved by the United
6 States Department of Education;

7 (2) The applicant has twenty-four months of postgraduate supervised clinical experience
8 acceptable to the [division] **board**, as the [division] **board** determines by rule;

9 (3) Upon examination, the applicant is possessed of requisite knowledge of the
10 profession, including techniques and applications research and its interpretation and professional
11 affairs and ethics. **The board shall designate an examination as defined by board rule for**
12 **applicants seeking licensure as a marital and family therapist;**

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

16 2. [A licensed marriage and family therapist who has had no violations and no
17 suspensions and no revocation of a license to practice marriage and family therapy in any
18 jurisdiction may receive a license in Missouri provided said marriage and family therapist passes
19 a written examination on Missouri laws and regulations governing the practice of professional
20 counseling as defined in section 337.700, and meets one of the following criteria:

21 (1) Is a member in good standing and holds a certification from the Academy of
22 Marriage and Family Therapists;

23 (2) Is currently licensed or certified as a licensed marriage and family therapist in another
24 state, territory of the United States, or the District of Columbia; and

25 (a) Meets the educational standards set forth in subdivision (1) of subsection 1 of this
26 section;

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

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

29 or

30 (3) Is currently licensed or certified as a marriage and family therapist in another state,
31 territory of the United States, or the District of Columbia that extends like privileges for
32 reciprocal licensing or certification to persons licensed by this state with similar qualifications.]

33 **Any person holding a current license, certificate, or registration from another state or**
34 **territory of the United States having substantially the same or higher requirements as this**
35 **state, as determined by the board, for marital and family therapists may be granted a**
36 **license without examination to engage in the practice of marital and family therapy in this**
37 **state upon application to the board, payment of the required fee, as established by the**
38 **board, and upon certification by the applicant's current licensing entity that he or she**
39 **holds a current license. The applicant shall consent to the examination of any disciplinary**
40 **history.**

41 3. The [division] **board** shall issue a license to each person who files an application and
42 fee as required by the provisions of sections 337.700 to [337.739] **337.736**, and who furnishes
43 evidence satisfactory to the [division] **board** that the applicant has complied with the provisions
44 of subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2
45 of this section **and has taken and passed a written, open book examination on Missouri laws**
46 **and regulations governing the practice of marital and family therapy, as defined in section**
47 **337.700.**

337.718. 1. [Each license issued pursuant to the provisions of sections 337.700 to
2 337.739 shall expire on a renewal date established by the director. The term of licensure shall
3 be twenty-four months; however, the director may establish a shorter term for the first licenses
4 issued pursuant to sections 337.700 to 337.739. The division shall renew any license upon
5 application for a renewal and upon payment of the fee established by the division pursuant to the
6 provisions of section 337.712.] **Each license issued under the provisions of sections 337.700**
7 **to 337.736 shall expire on the renewal date. The division shall mail a renewal notice to the**
8 **last known address of each licensee prior to the license renewal date. Failure to provide**
9 **the division or board with the information required for license renewal or pay the license**
10 **renewal fee shall cause the license to expire. Notwithstanding this notice requirement, the**

11 **failure to receive a license renewal notification from the division does not excuse the**
12 **licensee from renewing the license as required by law.**

13 2. The [division] **board** may issue temporary permits to practice under extenuating
14 circumstances as determined by the [division] **board** and defined by rule.

337.727. 1. The [division] **board** shall promulgate rules and regulations pertaining to:

2 (1) The form and content of license applications required by the provisions of sections
3 337.700 to [337.739] **337.736** and the procedures for filing an application for an initial or
4 renewal license in this state;

5 (2) Fees required by the provisions of sections 337.700 to [337.739] **337.736**;

6 (3) The content, conduct and administration of the licensing examination required by
7 section 337.715;

8 (4) The characteristics of supervised clinical experience as that term is used in section
9 337.715;

10 (5) The equivalent of the basic educational requirements set forth in section 337.715;

11 (6) The standards and methods to be used in assessing **and maintaining** competency as
12 a licensed marital and family therapist;

13 (7) Establishment and promulgation of procedures for investigating, hearing and
14 determining grievances and violations occurring under the provisions of sections 337.700 to
15 [337.739] **337.736**;

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

18 (9) Establishment of a policy and procedure for reciprocity with other states, including
19 states which do not have marital and family therapist licensing laws or states whose licensing
20 laws are not substantially the same as those of this state; and

21 (10) Any other policies or procedures necessary to the fulfillment of the requirements
22 of sections 337.700 to [337.739] **337.736**.

23 2. No rule or portion of a rule promulgated under the authority of sections 337.700 to
24 [337.739] **337.736** shall become effective until it has been approved by the joint committee on
25 administrative rules in accordance with the procedures provided in this section, and the
26 delegation of the legislative authority to enact law by the adoption of such rules is dependent
27 upon the power of the joint committee on administrative rules to review and suspend rules
28 pending ratification by the senate and the house of representatives as provided in this section.

29 3. Upon filing any proposed rule with the secretary of state, the [division] **board** shall
30 concurrently submit such proposed rule to the committee, which may hold hearings upon any
31 proposed rule or portion thereof at any time.

32 4. A final order of rulemaking shall not be filed with the secretary of state until thirty
33 days after such final order of rulemaking has been received by the committee. The committee
34 may hold one or more hearings upon such final order of rulemaking during the thirty-day period.
35 If the committee does not disapprove such order of rulemaking within the thirty- day period, the
36 [division] **board** may file such order of rulemaking with the secretary of state and the order of
37 rulemaking shall be deemed approved.

38 5. The committee may, by majority vote of the members, suspend the order of
39 rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking
40 only for one or more of the following grounds:

41 (1) An absence of statutory authority for the proposed rule;

42 (2) An emergency relating to public health, safety or welfare;

43 (3) The proposed rule is in conflict with state law;

44 (4) A substantial change in circumstance since enactment of the law upon which the
45 proposed rule is based.

46 6. If the committee disapproves any rule or portion thereof, the [division] **board** shall
47 not file such disapproved portion of any rule with the secretary of state and the secretary of state
48 shall not publish in the Missouri Register any final order of rulemaking containing the
49 disapproved portion.

50 7. If the committee disapproves any rule or portion thereof, the committee shall report
51 its findings to the senate and the house of representatives. No rule or portion thereof disapproved
52 by the committee shall take effect so long as the senate and the house of representatives ratify
53 the act of the joint committee by resolution adopted in each house within thirty legislative days
54 after such rule or portion thereof has been disapproved by the joint committee.

55 8. Upon adoption of a rule as provided in this section, any such rule or portion thereof
56 may be suspended or revoked by the general assembly either by bill or, pursuant to section 8,
57 article IV of the Constitution of Missouri, by concurrent resolution upon recommendation of the
58 joint committee on administrative rules. The committee shall be authorized to hold hearings and
59 make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of
60 state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or
61 revocation.

337.730. 1. The [division] **board** may refuse to issue or renew any license required by
2 the provisions of sections 337.700 to [337.739] **337.736** for one or any combination of causes
3 stated in subsection 2 of this section. The [division] **board** shall notify the applicant in writing
4 of the reasons for the refusal and shall advise the applicant of the applicant's right to file a
5 complaint with the administrative hearing commission as provided by chapter 621, RSMo.

6 2. The [division] **board** may cause a complaint to be filed with the administrative
7 hearing commission as provided by chapter 621, RSMo, against any holder of any license
8 required by sections 337.700 to [337.739] **337.736** or any person who has failed to renew or has
9 surrendered the person's license for any one or any combination of the following causes:

10 (1) **The illegal** use of any controlled substance, as defined in chapter 195, RSMo, or **the**
11 **use of** alcoholic beverage to an extent that such use impairs a person's ability to engage in the
12 occupation of marital and family therapist; except the fact that a person has undergone treatment
13 for past substance or alcohol abuse or has participated in a recovery program, shall not by itself
14 be cause for refusal to issue or renew a license;

15 (2) The person has [been finally adjudicated and found guilty, or entered a plea of guilty
16 or nolo contendere, in a criminal prosecution] **committed a criminal offense** under the laws of
17 any state or of the United States, for any offense **that:**

18 **(a) Is** reasonably related to the qualifications, functions or duties of a professional
19 counselor;

20 **(b) [for any offense an essential element of which is] Has** fraud, dishonesty or an act of
21 violence **as an essential element of the offense;** or

22 **(c) [for any] The** offense [involving] **involves** moral turpitude, whether or not sentence
23 is imposed;

24 (3) Use of fraud, deception, misrepresentation or bribery in securing any license issued
25 pursuant to the provisions of sections 337.700 to [337.739] **337.736** or in obtaining permission
26 to take any examination given or required pursuant to the provisions of sections 337.700 to
27 [337.739] **337.736;**

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

30 (5) [Incompetency] **Incompetence**, misconduct, **gross negligence**, fraud,
31 misrepresentation or dishonesty in the performance of the functions or duties of a marital and
32 family therapist;

33 (6) Violation of, or assisting or enabling any person to violate, any provision of sections
34 337.700 to [337.739] **337.736** or of any lawful rule or regulation adopted pursuant to sections
35 337.700 to [337.739] **337.736;**

36 (7) Impersonation of any person holding a license or allowing any person to use the
37 person's license or diploma from any school;

38 (8) [Revocation or suspension] **Disciplinary action against the holder** of a license or
39 other right to practice marital and family therapy **or other related profession** granted by another
40 state, territory, federal agency or country upon grounds for which [revocation or suspension]
41 **discipline** is authorized in this state;

42 (9) Final adjudication as incapacitated by a court of competent jurisdiction;

43 (10) Assisting or enabling any person to practice or offer to practice marital and family
44 therapy who is not licensed and is not currently eligible to practice under the provisions of
45 sections 337.700 to [337.739] **337.736**;

46 (11) Obtaining a license based upon a material mistake of fact;

47 (12) Failure to display a valid license if so required by sections 337.700 to [337.739]
48 **337.736** or any rule promulgated hereunder;

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

50 (14) Use of any advertisement or solicitation [which] **that** is false, misleading or
51 deceptive to the general public or persons to whom the advertisement or solicitation is primarily
52 directed;

53 (15) [Being guilty of unethical conduct as defined in] **Violation of** the ethical standards
54 for marital and family therapists [adopted by the committee by rule and filed with the secretary
55 of state] **as defined by board rule**.

56 3. Any person, organization, association or corporation [who reports or provides]
57 **reporting or providing** information to the [division] **board** pursuant to the provisions of
58 sections 337.700 to [337.739] **337.736** and who does so in good faith shall not be subject to an
59 action for civil damages as a result thereof.

60 4. After filing of such complaint, the proceedings shall be conducted in accordance with
61 the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission
62 that the grounds provided in subsection 2 of this section for disciplinary action are met, the
63 [division] **board** may censure or place the person named in the complaint on probation on such
64 terms and conditions as the [division] **board** deems appropriate for a period not to exceed five
65 years, or may suspend for a period not to exceed three years, or revoke the license.

337.733. 1. Violation of any provision of sections 337.700 to 337.739 is a class B
2 misdemeanor.

3 2. All fees or other compensation received for services [which] **that** are rendered in
4 violation of sections 337.700 to [337.739] **337.736** shall be refunded.

5 3. The [department] **board** on behalf of the division may sue in its own name in any
6 court in this state. The [department] **board** shall inquire as to any violations of sections 337.700
7 to 337.739, may institute actions for penalties prescribed, and shall enforce generally the
8 provisions of sections 337.700 to 337.739.

9 4. Upon application by the [division] **board**, the attorney general may on behalf of the
10 [division] **board** request that a court of competent jurisdiction grant an injunction, restraining
11 order or other order as may be appropriate to enjoin a person from:

12 (1) Offering to engage or engaging in the performance of any acts or practices for which
13 a certificate of registration or authority, permit or license is required upon a showing that such
14 acts or practices were performed or offered to be performed without a certificate of registration
15 or authority, permit or license;

16 (2) Engaging in any practice of business authorized by a certificate of registration or
17 authority, permit or license issued pursuant to sections 337.700 to [337.739] **337.736**, upon a
18 showing that the holder presents a substantial probability of serious harm to the health, safety or
19 welfare of any resident of this state or client or patient of the licensee.

20 5. Any action brought pursuant to the provisions of this section shall be commenced
21 either in the county in which such conduct occurred or in the county in which the defendant
22 resides.

23 6. Any action brought under this section may be in addition to or in lieu of any penalty
24 provided by sections 337.700 to [337.739] **337.736** and may be brought concurrently with other
25 actions to enforce the provisions of sections 337.700 to [337.739] **337.736**.

337.736. Persons licensed under the provisions of sections 337.700 to [337.739 may]
2 **337.736 shall** not disclose any information acquired from persons consulting them in their
3 professional capacity, or be compelled to disclose such information except:

4 (1) With the written consent of the client, or in the case of the client's death or disability,
5 the client's personal representative or other person authorized to sue or the beneficiary of any
6 insurance policy on the client's life, health or physical condition;

7 (2) When such information pertains to a criminal act;

8 (3) When the person is a child under the age of eighteen years and the information
9 acquired by the licensee indicated that the child was the victim of a crime;

10 (4) When the person waives the privilege by bringing charges against the licensee;

11 (5) When the licensee is called upon to testify in any court or administrative hearings
12 concerning matters of adoption, adult abuse, child abuse, child neglect or other matters pertaining
13 to the welfare of clients of the licensee; or

14 (6) When the licensee is collaborating or consulting with professional colleagues or an
15 administrative superior on behalf of the client.

338.010. 1. The "practice of pharmacy" [shall mean] **means** the interpretation,
2 **implementation**, and evaluation of **medical or veterinary** prescription orders **including**
3 **receipt, transmission, or handling of such orders or facilitating the dispensing of such**
4 **orders, the designing, initiating, implementing, and monitoring of a medication therapeutic**
5 **plan as defined by the prescription order so long as the prescription order is specific to**
6 **each patient for care by a specific pharmacist**; the compounding, dispensing [and] , labeling,
7 **and administration** of drugs and devices pursuant to **medical or veterinary** prescription orders

8 **and administration of vaccines by written protocol authorized by a physician;** the
9 participation in drug selection according to state law and participation in drug utilization reviews;
10 the proper and safe storage of drugs and devices and the maintenance of proper records thereof;
11 consultation with patients and other health care practitioners about the safe and effective use of
12 drugs and devices; and the offering or performing of those acts, services, operations, or
13 transactions necessary in the conduct, operation, management and control of a pharmacy. No
14 person shall engage in the practice of pharmacy unless he is licensed under the provisions of this
15 chapter. This chapter shall not be construed to prohibit the use of auxiliary personnel under the
16 direct supervision of a pharmacist from assisting the pharmacist in any of his duties. This
17 assistance in no way is intended to relieve the pharmacist from his responsibilities for
18 compliance with this chapter and he will be responsible for the actions of the auxiliary personnel
19 acting in his assistance. This chapter shall also not be construed to prohibit or interfere with any
20 legally registered practitioner of medicine, dentistry, podiatry, or veterinary medicine, or the
21 practice of optometry in accordance with and as provided in sections 195.070 and 336.220,
22 RSMo, in the compounding or dispensing of his own prescriptions.

23 **2. Any pharmacist who accepts a prescription order for a medication therapeutic**
24 **plan shall have a written protocol from the physician who refers the patient for medication**
25 **therapy services. The written protocol and the prescription order for a medication**
26 **therapeutic plan shall come from the physician only, and shall not come from a nurse**
27 **engaged in a collaborative practice arrangement under section 334.104, RSMo, or from a**
28 **physician assistant engaged in a supervision agreement under section 334.735, RSMo.**

29 **3.** Nothing in this section shall be construed as to prevent any person, firm or corporation
30 from owning a pharmacy regulated by sections 338.210 to 338.315, provided that a licensed
31 pharmacist is in charge of such pharmacy.

32 [3.] **4.** Nothing in this section shall be construed to apply to or interfere with the sale of
33 nonprescription drugs and the ordinary household remedies and such drugs or medicines as are
34 normally sold by those engaged in the sale of general merchandise.

35 **5. No health carrier as defined in chapter 376, RSMo, shall require any physician**
36 **with which they contract to enter into a written protocol with a pharmacist for medication**
37 **therapeutic services.**

38 **6. This section shall not be construed to allow a pharmacist to diagnose or**
39 **independently prescribe.**

40 **7. The state board of registration for the healing arts, under section 334.125, RSMo,**
41 **and the state board of pharmacy, under section 338.140, shall jointly promulgate rules**
42 **regulating the use of protocols for prescriptions orders for medication therapy services.**
43 **Such rules shall require protocols to include provisions allowing for timely communication**

44 **between the pharmacist and the referring physician, and any other patient protection**
45 **provisions deemed appropriate by both boards. In order to take effect, such rules shall be**
46 **approved by a majority vote of a quorum of each board. Neither board shall separately**
47 **promulgate rules regulating the use of protocols for prescription orders for medication**
48 **therapy services.**

49 **8. The state board of pharmacy may grant a certificate of medication therapeutic**
50 **plan authority to a licensed pharmacist who submits proof of successful completion of a**
51 **board-approved course of academic clinical study beyond a bachelor of science in**
52 **pharmacy, including but not limited to clinical assessment skills, from a nationally**
53 **accredited college or university, or a certification of equivalence issued by a nationally**
54 **recognized professional organization and approved by the board of pharmacy.**

55 **9. Any pharmacist who has received a certificate of medication therapeutic plan**
56 **authority may engage in the designing, initiating, implementing, and monitoring of a**
57 **medication therapeutic plan as defined by a prescription order from a physician that is**
58 **specific to each patient for care by a specific pharmacist.**

59 **10. Nothing in this section shall be construed to allow a pharmacist to make a**
60 **therapeutic substitution of a pharmaceutical prescribed by a physician unless authorized**
61 **by the written protocol or the physician's prescription order.**

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.

338.095. 1. The terms "prescription" and "prescription drug order" are hereby defined
2 as a lawful order for medications or devices issued and signed by an authorized prescriber within

3 the scope of his professional practice which is to be dispensed or administered by a pharmacist
4 or dispensed or administered pursuant to section 334.104, RSMo, to and for the ultimate user.
5 The terms "prescription" and "drug order" do not include an order for medication **requiring a**
6 **prescription to be dispensed**, which is provided for the immediate administration to the
7 ultimate user or recipient.

8 2. The term "telephone prescription" is defined as an order for medications or devices
9 transmitted to a pharmacist by telephone or similar electronic medium by an authorized
10 prescriber or his authorized agent acting in the course of his professional practice which is to be
11 dispensed or administered by a pharmacist or dispensed or administered pursuant to section
12 334.104, RSMo, to and for the ultimate user. A telephone prescription shall be promptly reduced
13 to written or electronic medium by the pharmacist and shall comply with all laws governing
14 prescriptions and record keeping.

15 3. A licensed pharmacist may lawfully provide prescription or medical information to
16 a licensed health care provider or his agent who is legally qualified to administer medications
17 and treatments and who is involved in the treatment of the patient. The information may be
18 derived by direct contact with the prescriber or through a written protocol approved by the
19 prescriber. Such information shall authorize the provider to administer appropriate medications
20 and treatments.

21 4. Nothing in this section shall be construed to limit the authority of other licensed health
22 care providers to prescribe, administer, or dispense medications and treatments within the scope
23 of their professional practice.

24 **5. It is unlawful for any person other than the patient or the patient's authorized**
25 **representative to accept a prescription presented to be dispensed unless that person is**
26 **located on a premises licensed by the board as a pharmacy.**

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.

339.040. 1. Licenses shall be granted only to persons who present, and corporations,
2 associations, or partnerships whose officers, associates, or partners present, satisfactory proof
3 to the commission that they:

- 4 (1) Are persons of good moral character; and
- 5 (2) Bear a good reputation for honesty, integrity, and fair dealing; and
- 6 (3) Are competent to transact the business of a broker or salesperson in such a manner
7 as to safeguard the interest of the public.

8 2. In order to determine an applicant's qualifications to receive a license under sections
9 339.010 to 339.180 and sections 339.710 to 339.860, the commission shall hold oral or written
10 examinations at such times and places as the commission may determine.

11 3. Each applicant for a broker or salesperson license shall be at least eighteen years of
12 age and shall pay the broker examination fee or the salesperson examination fee.

13 4. Each applicant for a broker license shall be required to have satisfactorily completed
14 the salesperson license examination prescribed by the commission. For the purposes of this
15 section only, the commission may permit a person who is not associated with a licensed broker
16 to take the salesperson examination.

17 5. Each application for a broker license shall include a certificate from the applicant's
18 broker or brokers that the applicant has been actively engaged in the real estate business as a
19 licensed salesperson for at least [one year] **two years** immediately preceding the date of
20 application, [or, in lieu thereof,] **and** shall include a certificate from a school accredited by the
21 commission under the provisions of section 339.045 that the applicant has, within six months
22 prior to the date of application, successfully completed the prescribed broker curriculum or
23 broker correspondence course offered by such school, except that the commission may waive all
24 or part of the [educational] requirements set forth in this subsection when an applicant presents
25 proof of other educational background or experience acceptable to the commission.

26 6. Each application for a salesperson license shall include a certificate from a school
27 accredited by the commission under the provisions of section 339.045 that the applicant has,
28 within six months prior to the date of application, successfully completed the prescribed
29 salesperson curriculum or salesperson correspondence course offered by such school, except that
30 the commission may waive all or part of the educational requirements set forth in this subsection
31 when an applicant presents proof of other educational background or experience acceptable to
32 the commission.

33 7. The commission may issue a temporary work permit pending final review and printing
34 of the license to an applicant who appears to have satisfied the requirements for licenses. The
35 commission may, at its discretion, withdraw the work permit at any time.

36 8. Every active broker, salesperson, officer, partner, or associate shall provide upon
37 request to the commission evidence that during the two years preceding he or she has completed
38 twelve hours of real estate instruction in courses approved by the commission. The commission
39 may, by rule and regulation, provide for individual waiver of this requirement.

40 9. Each entity that provides continuing education required under the provisions of
41 subsection 8 of this section may make available instruction courses that the entity conducts
42 through means of distance delivery. The commission shall by rule set standards for such courses.
43 The commission may by regulation require the individual completing such distance-delivered
44 course to complete an examination on the contents of the course. Such examination shall be
45 designed to ensure that the licensee displays adequate knowledge of the subject matter of the
46 course, and shall be designed by the entity producing the course and approved by the
47 commission.

48 10. In the event of the death or incapacity of a licensed broker, or of one or more of the
49 licensed partners, officers, or associates of a real estate partnership, corporation, or association
50 whereby the affairs of the broker, partnership, or corporation cannot be carried on, the
51 commission may issue, without examination or fee, to the legal representative or representatives
52 of the deceased or incapacitated individual, or to another individual approved by the commission,
53 a temporary broker license which shall authorize such individual to continue for a period to be
54 designated by the commission to transact business for the sole purpose of winding up the affairs
55 of the broker, partnership or corporation under the supervision of the commission.

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, **entered a plea of nolo contendere to**, or been found guilty of any of the
111 following offenses or offenses of a similar nature established under the laws of this, any other
112 state, the United States, or any other country, 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 commission within ninety days of **mailing, by certified mail, the** notice of
135 revocation. Failure of a person whose license was revoked to notify the **administrative**
136 **hearing** commission of his or her intent to appeal waives all rights to appeal the revocation.
137 Upon notice of such person's intent to appeal, a hearing shall be held before the administrative
138 hearing commissioner.

339.507. 1. There is hereby created within the division of professional registration of
2 the department of economic development the "Missouri Real Estate Appraisers Commission",
3 which shall consist of seven members appointed by the governor with the advice and consent of
4 the senate, six of whom shall be appraiser members, and one shall be a public member. Each
5 member shall be a resident of this state and a registered voter for a period of one year prior to the
6 person's appointment. The president of the Missouri Appraiser Advisory Council in office at the
7 time shall, at least ninety days prior to the expiration of the term of the commission member,
8 other than the public member, or as soon as feasible after the vacancy on the commission
9 otherwise occurs, submit to the director of the division of professional registration a list of five
10 appraisers qualified and willing to fill the vacancy in question, with the request and
11 recommendation that the governor appoint one of the five persons so listed, and with the list so
12 submitted, the president of the Missouri Appraiser Advisory Council shall include in his or her
13 letter of transmittal a description of the method by which the names were chosen by that
14 association. The public member shall have never been engaged in the businesses of real estate
15 appraisal, real estate sales or making loans secured by real estate. The governor shall designate
16 one of the appraiser appointees to be chairperson.

17 2. The real estate appraiser members appointed by the governor shall be Missouri
18 residents who have real estate appraisal experience in the state of Missouri for not less than five

19 years immediately preceding their appointment. [The real estate appraiser members appointed
20 to the commission shall be designated members in good standing of nationally recognized real
21 estate appraisal organizations that required, as of June 1, 1988, in order to become a designated
22 member, appraisal experience, education and testing, and recertification that is at least equal to
23 that required for certification or licensure pursuant to sections 339.500 to 339.549, provided that
24 not more than one member of the commission shall be a designated member of the same
25 nationally recognized real estate appraisal organization. Successor] Appraiser members of the
26 commission shall be appointed from the registry of state-certified real estate appraisers and
27 state-licensed real estate appraisers and not more than one [successor] appraiser member of the
28 commission shall be a designated member in good standing of the same nationally recognized
29 real estate appraisal organization as provided in this subsection. The governor shall not exclude
30 a state-certified real estate appraiser or a state-licensed real estate appraiser from appointment
31 as a successor appraiser member of the commission by virtue of membership or lack of
32 membership of the state-certified real estate appraiser or state-licensed real estate appraiser in
33 any particular real estate appraisal organization.

34 3. [Of the initial members appointed, two members shall be appointed for one-year
35 terms, two members for two-year terms, and three members for three-year terms, provided that
36 the initial public member shall be appointed for a three-year term.] All [successor] members
37 shall be appointed for three-year terms. All members shall serve until their successors have been
38 appointed and qualified. Vacancies occurring in the membership of the commission for any
39 reason shall be filled by appointment by the governor for the unexpired term. Upon expiration
40 of their terms, members of the commission shall continue to hold office until the appointment
41 and qualification of their successors. No more than four members of the commission shall be
42 members of the same political party. No person shall be appointed for more than two
43 consecutive terms. The governor may remove a member for cause. The executive director of
44 the commission shall be employed by the division of professional registration, subject to
45 approval and confirmation by the commission.

46 4. The commission shall meet at least once each calendar quarter to conduct its business.
47 [The location in Missouri of future meetings shall be decided by a vote of the members present
48 at the current meeting. The executive director shall give written notice by certified mail to each
49 member of the time and place of each meeting of the commission at least ten days before the
50 scheduled date of the meeting, and notice of any special meeting shall state the specific matters
51 to be considered in the special meeting which is not a regular quarterly meeting.] A quorum of
52 the commission shall consist of four members.

53 5. Each member of the commission shall be entitled to a per diem allowance of [fifty]
54 **seventy** dollars for each meeting of the commission at which the member is present and shall be

55 entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the
56 member's official duties. Each member of the commission shall be entitled to reimbursement
57 of travel expenses necessarily incurred in attending meetings of the commission.

339.509. **1.** The commission shall have the following powers and duties:

2 (1) To establish educational programs and research projects related to the appraisal of
3 real estate;

4 (2) To establish administrative procedures for processing applications and issuing
5 certificates of state-certified real estate appraisers and licenses of state-licensed real estate
6 appraisers and for conducting disciplinary proceedings pursuant to the provisions of sections
7 339.500 to 339.549; and shall have authority to determine who meets the criteria for certification
8 and licensure, and shall have authority to renew, censure, suspend or revoke certifications and
9 licenses;

10 (3) To further define by regulation, with respect to each category of state-certified real
11 estate appraiser, and for state-licensed real estate appraisers, the type of educational experience,
12 appraisal experience and equivalent experience that will meet the statutory requirements of
13 sections 339.500 to 339.549; provided that such standards shall be equivalent to the minimum
14 criteria for certification and licensure issued by the appraiser qualifications board of the appraisal
15 foundation and the provisions of section 339.517;

16 (4) To further define by regulation, with respect to each category of state-certified real
17 estate appraiser, and for state-licensed real estate appraisers, the continuing education
18 requirements for the renewal of certification and licensure that will meet the statutory
19 requirements provided in section 339.530;

20 (5) To adopt standards for the development and communication of real estate appraisals
21 and to adopt regulations explaining and interpreting the standards; provided that such standards
22 shall meet the standards specified by the appraisal standards board of the appraisal foundation;

23 (6) To establish an examination for each category of state-certified real estate appraiser,
24 and for state-licensed real estate appraisers, to provide or procure appropriate examination
25 questions and answers, and to establish procedures for grading examinations; provided that such
26 standards for examinations for certification shall meet the minimum criteria specified by the
27 appraiser qualifications board of the appraisal foundation;

28 (7) To maintain a registry of the names and addresses of state-certified real estate
29 appraisers and state-licensed real estate appraisers; and

30 (8) To perform such other functions and duties as may be necessary to carry out the
31 provisions of sections 339.500 to 339.549.

32 **2. The chairperson of the commission may administer oaths, issue subpoenas, and**
33 **issue subpoenas duces tecum requiring the production of documents and records.**

34 **Subpoenas and subpoenas duces tecum shall be served by a person authorized to serve**
35 **subpoenas of courts of record. In lieu of requiring attendance of a person to produce**
36 **original documents in response to a subpoena duces tecum, the commission may require**
37 **sworn copies of such documents to be filed with or delivered to its designated**
38 **representative.**

39 **3. The commission may enforce its subpoenas and subpoenas duces tecum by**
40 **applying to the circuit court of Cole County, the county of the investigation, hearing, or**
41 **proceeding, or any county where the person subpoenaed resides or may be found for an**
42 **order to show cause why such subpoena should not be enforced. Such order and a copy**
43 **of the application shall be served upon the person in the same manner as a summons in a**
44 **civil action, and if the circuit court determines after a hearing the subpoena should be**
45 **sustained and enforced, such court shall proceed to enforce the subpoena in the same**
46 **manner as though the subpoena had been issued in a civil case in the circuit court.**

339.513. 1. Applications for examination, original certification and licensure, and
2 renewal certification and licensure shall be made in writing to the commission on forms provided
3 by the commission. The application shall specify the classification of certification, or licensure,
4 for which application is being made.

5 2. Appropriate fees shall accompany all applications for examination, original
6 certification or licensure, and renewal certification or licensure; provided that such fees shall be
7 in amounts set by the commission in order to offset the cost and expense of administering
8 sections 339.500 to 339.549, and in amounts to be determined by the commission with reference
9 to the requirements of Section 1109 of the United States Public Law 101-73, as later codified and
10 as may be amended. All fees collected pursuant to this subsection shall be collected by the
11 commission and deposited with the state treasurer into a fund to be known as the "Missouri Real
12 Estate Appraisers Fund". The provisions of section 33.080, RSMo, relating to the transfer of
13 unexpended balances to the general revenue fund shall not apply to the Missouri real estate
14 appraisers fund. **In any proceeding in which a remedy provided by subsection 1 or 2 of**
15 **section 339.532 is imposed, the commission may also require the respondent licensee to pay**
16 **the costs of the proceedings if the commission is a prevailing party or in settlement. The**
17 **moneys shall be placed in the state treasury to the credit of the "Missouri Real Estate**
18 **Appraisers Investigation Fund", which is hereby created to be used solely for**
19 **investigations as provided in this chapter. The provisions of section 33.080, RSMo, relating**
20 **to the transfer of unexpended balances to the general revenue fund shall not apply to the**
21 **Missouri real estate appraisers investigation fund.**

22 3. At the time of filing an application for certification or licensure, each applicant shall
23 sign a pledge to comply with the standards set forth in sections 339.500 to 339.549 and state that

24 he or she understands the types of misconduct for which disciplinary proceedings may be
25 initiated against a state-certified real estate appraiser or a state-licensed real estate appraiser.
26 **Any applicant for a certificate or license under this section shall be a resident of this state.**

339.519. 1. The term of an original certificate or license issued pursuant to sections
2 339.500 to 339.549 shall be for a period set by the commission. All certificates and licenses
3 shall be subject to renewal on the same date. The expiration date of the certificate or license
4 shall appear on the certificate or license and no other notice of its expiration need be given to its
5 holder.

6 2. The commission shall require every state-certified or state-licensed real estate
7 appraiser to provide satisfactory evidence of the completion of the required continuing education
8 hours as promulgated by the appraiser qualifications board. [The commission may waive the
9 requirements of continuing education for retired or disabled licensed or certified appraisers or
10 for other good cause.]

339.521. [If, in the determination by the commission, another state is deemed to have
2 substantially equivalent certification or licensure requirements,] An applicant who is certified
3 or licensed under the laws of [such other] **another** state may obtain certification as a state
4 certified real estate appraiser or licensure as a state licensed real estate appraiser in this state
5 upon such terms and conditions as may be determined by the board, provided that such terms and
6 conditions shall comply with the minimum criteria for certification or licensure issued by the
7 appraiser qualifications board of the appraisal foundation.

339.525. 1. To obtain a renewal certificate or license, a state certified real estate
2 appraiser or state licensed real estate appraiser shall make application and pay the prescribed fee
3 to the commission not earlier than one hundred twenty days nor later than thirty days prior to the
4 expiration date of the certificate or license then held. With the application for renewal, the state
5 certified real estate appraiser or state licensed real estate appraiser shall present evidence in the
6 form prescribed by the commission of having completed the continuing education requirements
7 for renewal specified in section 339.530.

8 2. If the commission determines that a state certified real estate appraiser or state
9 licensed real estate appraiser has failed to meet the requirements for renewal of certification or
10 licensure through mistake, misunderstanding, or circumstances beyond the appraiser's control,
11 the commission may extend the term of the certificate or license for good cause shown for a
12 period not to exceed six months, upon payment of a prescribed fee for the extension.

13 3. If a state certified real estate appraiser or state licensed real estate appraiser satisfies
14 the requirements for renewal during the extended term of certification or licensure, the beginning
15 date of the new renewal certificate or license shall be the day following the expiration of the

16 certificate or license previously held by the state certified real estate appraiser or state licensed
17 real estate appraiser.

18 4. If a person is otherwise eligible to renew the person's certification or license, the
19 person may renew an expired certification or license within one year from the date of expiration.
20 To renew such expired certification or license, the person shall submit an application for
21 renewal, pay the renewal fee [and] , pay a delinquent renewal fee as established by the
22 commission, **and present evidence in the form prescribed by the commission of having**
23 **completed the continuing education requirements for renewal specified in section 339.530.**
24 Upon a finding of extenuating circumstances, the commission may waive the payment of the
25 delinquent fee.

26 5. If a person has failed to renew the person's license within one year of its expiration,
27 the person may renew such expired certification or license by completing either the number of
28 hours of continuing education equal to fifty percent of the hours required for initial certification
29 or licensure or pass the state examination for such classification, submit an application for
30 renewal, pay the renewal fee and pay a delinquent renewal fee not to exceed an amount as
31 established by the commission. Upon a finding of extenuating circumstances, the commission
32 may waive the payment of the delinquent fee.

33 6. [If a state certified real estate appraiser or state licensed real estate appraiser renews
34 an expired certification or license pursuant to subsection 5 of this section, the beginning date of
35 the new term of certification or licensure shall be the day following the expiration of the
36 certification or license term previously held by the state certified real estate appraiser or state
37 licensed real estate appraiser.] **The commission shall be authorized to issue an inactive**
38 **certificate or license to any licensee who makes written application for such on a form**
39 **provided by the commission and remits the fee for an inactive certificate or license**
40 **established by the commission. An inactive certificate or license shall be issued only to a**
41 **person who has previously been issued a certificate or license to practice as a real estate**
42 **appraiser in this state, who is no longer regularly engaged in such practice, and who does**
43 **not hold himself or herself out to the public as being professionally engaged in such**
44 **practice in this state. Each inactive certificate or license shall be subject to all provisions**
45 **of this chapter, except as otherwise specifically provided. Each inactive certificate or**
46 **license may be renewed by the commission subject to all provisions of this section and all**
47 **other provisions of this chapter. An inactive licensee may apply for a certificate or license**
48 **to regularly engage in the practice of real estate appraising upon filing a written**
49 **application on a form provided by the commission, submitting the reactivation fee**
50 **established by the commission, and submitting satisfactory proof of current competency,**
51 **as established by the commission.**

339.532. 1. The commission may refuse to issue or renew any certificate or license issued pursuant to sections 339.500 to 339.549 for one or any combination of causes stated in subsection 2 of this section. The commission shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any state-certified real estate appraiser, state-licensed real estate appraiser, or any person who has failed to renew or has surrendered his or her certificate or license for any one or any combination of the following causes:

(1) Procuring or attempting to procure a certificate or license pursuant to section 339.513 by knowingly making a false statement, submitting false information, refusing to provide complete information in response to a question in an application for certification or licensure, or through any form of fraud or misrepresentation;

(2) Failing to meet the minimum qualifications for certification or licensure or renewal established by sections 339.500 to 339.549;

(3) Paying money or other valuable consideration, other than as provided for by section 339.513, to any member or employee of the commission to procure a certificate or license pursuant to sections 339.500 to 339.549;

(4) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to sections 339.500 to 339.549, for any offense of which an essential element is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(5) Incompetency, misconduct, gross negligence, dishonesty, fraud, or misrepresentation in the performance of the functions or duties of any profession licensed or regulated by sections 339.500 to 339.549;

(6) Violation of any of the standards for the development or communication of real estate appraisals as provided in or pursuant to sections 339.500 to 339.549;

(7) Failure to comply with the Uniform Standards of Professional Appraisal Practice promulgated by the appraisal standards board of the appraisal foundation;

(8) Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(9) Negligence or incompetence in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal;

36 (10) Violating, assisting or enabling any person to willfully disregard any of the
37 provisions of sections 339.500 to 339.549 or the regulations of the commission for the
38 administration and enforcement of the provisions of sections 339.500 to 339.549;

39 (11) Accepting an appraisal assignment when the employment itself is contingent upon
40 the appraiser's reporting a predetermined analysis or opinion or where the fee to be paid for the
41 performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation
42 reached or upon the consequences resulting from the appraisal assignment;

43 (12) Violating the confidential nature of governmental records to which the person
44 gained access through employment or engagement to perform an appraisal assignment or
45 specialized appraisal services for a governmental agency;

46 (13) Violating any term or condition of a certificate or license issued by the commission
47 pursuant to the authority of sections 339.500 to 339.549;

48 (14) Violation of any professional trust or confidence;

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

51 (16) Assisting or enabling any person to practice or offer to practice any profession
52 licensed or regulated by sections 339.500 to 339.549 who is not licensed or certified and
53 currently eligible to practice pursuant to sections 339.500 to 339.549;

54 (17) Use of any advertisement or solicitation which is false, misleading or deceptive to
55 the general public or persons to whom the advertisement or solicitation is primarily directed;

56 (18) Disciplinary action against the holder of a license, certificate or other right to
57 practice any profession regulated pursuant to sections 339.500 to 339.549, imposed by another
58 state, territory, federal agency or country upon grounds for which revocation or suspension is
59 authorized in this state.

60 3. After the filing of such complaint, the proceedings shall be conducted in accordance
61 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
62 commission that the grounds, provided in subsection 2 of this section, for disciplinary action are
63 met, the commission may, singly or in combination, publicly censure or place the person named
64 in the complaint on probation on such terms and conditions as the commission deems
65 appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three
66 years, or revoke, the certificate or license. The holder of a certificate or license revoked pursuant
67 to this section may not obtain certification as a state-certified real estate appraiser or licensure
68 as a state-licensed real estate appraiser for at least five years after the date of revocation.

69 4. A certification of a state-certified real estate appraiser or a license of a state-licensed
70 real estate appraiser that has been suspended as a result of disciplinary action by the commission
71 shall not be reinstated, and a person may not obtain certification as a state-certified real estate

72 appraiser or licensure as a state-licensed real estate appraiser subsequent to revocation, unless
73 the applicant presents evidence of completion of the continuing education required by section
74 339.530 during the period of suspension or revocation as well as fulfillment of any other
75 conditions imposed by the commission. Applicants for recertification, relicensure or
76 reinstatement also shall be required to successfully complete the examination for original
77 certification or licensure required by section 339.515 as a condition to reinstatement of
78 certification or licensure, or recertification or relicensure subsequent to revocation.

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

11 2. The board shall adopt, amend and repeal rules and regulations necessary to carry out
12 the provisions of sections 344.030 to [344.100] **344.108**. [Any rule or regulation under the
13 authority of sections 344.030 to 344.100 shall be promulgated in accordance with chapter 536,
14 RSMo. The committee on administrative rules may file a complaint in accordance with the
15 provisions of chapter 536, RSMo, before the commission contesting the validity of any rule
16 purportedly promulgated under the authority of sections 344.030 to 344.100. On filing any

17 complaint in accordance with this section, the administrative hearing commission shall
18 immediately suspend that portion of the rule which is challenged until the commission has
19 determined the matter. The commission shall hold a hearing within ten days of the filing to
20 determine the matter. No rule or portion of a rule promulgated under the authority of this chapter
21 shall become effective unless it has been promulgated pursuant to the provisions of section
22 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010,**
23 **RSMo, that is created under the authority delegated in this section shall become effective**
24 **only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and,**
25 **if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
26 **nonseverable and if any of the powers vested with the general assembly pursuant to**
27 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**
28 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
29 **rule proposed or adopted after August 28, 2006, shall be invalid and void.**

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

344.080. The members of the board, other than the director of the [division of aging]
2 **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.**

383.130. As used in sections 383.130, 383.133 and 383.500, the following terms shall
2 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**
5 **defined in chapter 197, RSMo, or any long-term care facility licensed under chapter 198,**
6 **RSMo, or any other entity that employs or contracts with licensed health care professionals**
7 **to provide services to individuals or to any hospital, home health agency, ambulatory**
8 **surgical center, or long-term care facility, or any employer of registered nurses and**
9 **licensed practical nurses, including nurse agencies and subcontractors of nurse agencies,**
10 to reprimand, discipline or restrict the practice of a health care professional. [If the health care
11 professional is a physician or surgeon,] Only such reprimands, discipline, or restrictions in
12 response to activities which are also grounds for disciplinary actions [pursuant to section

13 334.100, RSMo,] **according to the professional licensing law for that health care**
14 **professional** shall be considered disciplinary actions for the purposes of this definition. [If the
15 health care professional is a dentist, only such reprimands, discipline, or restrictions in response
16 to activities which are also grounds for disciplinary actions pursuant to section 332.321, RSMo,
17 shall be considered disciplinary actions for the purposes of this definition] **If the health care**
18 **professional is a nurse, only such reprimands, discipline, or restrictions in response to**
19 **activities which are also grounds for disciplinary actions pursuant to chapter 335, RSMo,**
20 **shall be considered disciplinary actions for the purposes of this definition;**

21 (2) "Health care professional", a physician or surgeon licensed under the provisions of
22 chapter 334, RSMo, a dentist licensed under the provisions of chapter 332, RSMo, or a podiatrist
23 licensed under the provisions of chapter 330, RSMo, or a pharmacist licensed under the
24 provisions of chapter 338, RSMo, a psychologist licensed under the provisions of chapter 337,
25 RSMo, or a nurse licensed under the provisions of chapter 335, RSMo, while acting within their
26 scope of practice;

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

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

383.133. 1. [Beginning on January 1, 1987,] The chief executive officer **or similarly**
2 **empowered official** of any hospital, **home health agency**, or ambulatory surgical center, as such
3 [term is] **terms are** defined in [section 197.200,] **chapter 197, RSMo, or any long-term care**
4 **facility licensed under chapter 198, RSMo, or any entity that employs or contracts with**
5 **licensed health care professionals to provide services to individuals or to any hospital,**
6 **home health agency, ambulatory surgical center, or long-term care facility, and any other**
7 **employer of registered nurses and licensed practical nurses, including nurse agencies and**
8 **subcontractors of agency nurses**, shall report to the appropriate health care professional
9 licensing authority any disciplinary action against any health care professional **including**
10 **termination of contracted services due to complaints or reports**, or the voluntary resignation
11 of any health care professional against whom any complaints or reports have been made which
12 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
154 records or information shall disclose the records or information if the person whose records or
155 information is involved has consented to the disclosure. Each agency is entitled to the
156 attorney-client privilege and work-product privilege to the same extent as any other person.
157 Provided, however, that any board may disclose confidential information without the consent of
158 the person involved in the course of voluntary interstate exchange of information, or in the
159 course of any litigation concerning that person, or pursuant to a lawful request, or to other
160 administrative or law enforcement agencies acting within the scope of their statutory authority.
161 Information regarding identity, including names and addresses, registration, and currency of the
162 license of the persons possessing licenses to engage in a professional occupation and the names
163 and addresses of applicants for such licenses is not confidential information.

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

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

172 15. (1) The division of registration and examination, department of education, within
173 chapter 161, RSMo, and others, is abolished and the following boards and commissions are
174 transferred by specific type transfers to the division of professional registration, department of
175 economic development: state board of accountancy, chapter 326, RSMo; state board of barber
176 examiners, chapter 328, RSMo; state board of registration for architects, professional engineers
177 [and] , **professional land surveyors, and landscape architects**, chapter 327, RSMo; state board
178 of chiropractic examiners, chapter 331, RSMo; state board of cosmetology, chapter 329, RSMo;
179 state board of healing arts, chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state

180 board of embalmers and funeral directors, chapter 333, RSMo; state board of optometry, chapter
181 336, RSMo; state board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo;
182 state board of podiatry, chapter 330, RSMo; Missouri real estate commission, chapter 339,
183 RSMo; and Missouri veterinary medical board chapter 340, RSMo. The governor shall appoint
184 members of these boards by and with the advice and consent of the senate from nominees
185 submitted by the director of the department.

186 (2) The boards and commissions assigned to the division shall exercise all their
187 respective statutory duties and powers, except those clerical and other staff services involving
188 collecting and accounting for moneys and financial management relating to the issuance and
189 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
3 any of the following agencies may be revoked or suspended or when the licensee may be placed
4 on probation or when an agency refuses to permit an applicant to be examined upon his
5 qualifications or refuses to issue or renew a license of an applicant who has passed an
6 examination for licensure or who possesses the qualifications for licensure without examination:
7 Missouri State Board of Accountancy
8 Missouri Board [of Registration] for Architects, Professional Engineers [and] ,
9 **Professional Land Surveyors, and Landscape Architects**
10 Board of Barber Examiners
11 Board of Cosmetology
12 Board of Chiropody and Podiatry
13 Board of Chiropractic Examiners
14 Missouri Dental Board
15 Board of Embalmers and Funeral Directors
16 **Board of Private Investigator Examiners**
17 Board of Registration for the Healing Arts
18 Board of Nursing
19 Board of Optometry
20 Board of Pharmacy
21 Missouri Real Estate Commission
22 Missouri Veterinary Medical Board
23 Supervisor of Liquor Control
24 Department of Health and Senior Services
25 Department of Insurance
26 Department of Mental Health.

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

30 3. Notwithstanding any other provision of this section to the contrary, after August 28,
31 1995, in order to encourage settlement of disputes between any agency described in subsection
32 1 or 2 of this section and its licensees, any such agency shall:

33 (1) Provide the licensee with a written description of the specific conduct for which
34 discipline is sought and a citation to the law and rules allegedly violated, together with copies
35 of any documents which are the basis thereof and the agency's initial settlement offer, or file a
36 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.

2 [324.010. All governmental entities issuing professional licenses,
3 certificates, registrations, or permits pursuant to sections 209.319 to 209.339,
4 RSMo, sections 214.270 to 214.516, RSMo, sections 256.010 to 256.453, RSMo,
5 section 375.014, RSMo, sections 436.005 to 436.071, RSMo, and chapter 317,
6 RSMo, and chapters 324 to 346, RSMo, shall provide the director of revenue
7 with the name and Social Security number of each applicant for licensure with
8 or licensee of such entities within one month of the date the application is filed
9 or at least one month prior to the anticipated renewal of a licensee's license. If
10 such licensee is delinquent on any state taxes or has failed to file state income tax
11 returns in the last three years, the director shall then send notice to each such
12 entity and licensee. In the case of such delinquency or failure to file, the
13 licensee's license shall be suspended within ninety days after notice of such
14 delinquency or failure to file, unless the director of revenue verifies that such
15 delinquency or failure has been remedied or arrangements have been made to
16 achieve such remedy. The director of revenue shall, within ten business days of
17 notification to the governmental entity issuing the professional license that the
18 delinquency has been remedied or arrangements have been made to remedy such
19 delinquency, send written notification to the licensee that the delinquency has
20 been remedied. Tax liability paid in protest or reasonably founded disputes with
21 such liability shall be considered paid for the purposes of this section.]

2 [337.515. Each license issued pursuant to the provisions of sections
3 337.500 to 337.540 shall expire on the renewal date. The division shall renew
4 any license upon application for renewal and upon payment of the fee established
5 by the committee pursuant to the provisions of section 337.507.]

2 [337.535. 1. There is hereby established the "Committee for Professional
3 Counselors" which shall guide, advise, and make recommendations to the
4 division and fulfill other responsibilities designated by this chapter. The
5 committee shall approve the examination required by section 337.510 and shall
6 assist the division in carrying out the provisions of sections 337.500 to 337.540.

7 2. The committee shall consist of six members, including one public
8 member, appointed by the governor with the advice and consent of the senate.
9 Each member of the committee shall be a citizen of the United States and a
10 resident of this state and, except as provided hereinafter, shall be licensed as a
11 professional counselor by this state. Beginning with the appointments made after
12 August 28, 1992, two members shall be appointed for four years, two members
13 shall be appointed for three years and two members shall be appointed for two
14 years. Thereafter, all members shall be appointed to serve four-year terms. No
15 person shall be eligible for reappointment who has served as a member of the
16 committee for a total of eight years. The membership of the committee shall
17 reflect the differences in levels of education and work experience with
consideration being given to race, gender and ethnic origins. Not more than two

18 counselor educators shall be members of the committee at the same time. The
19 president of the American Counseling Association of Missouri in office at the
20 time shall, at least ninety days prior to the expiration of the term of the committee
21 member, other than the public member, or as soon as feasible after the vacancy
22 on the committee otherwise occurs, submit to the director of the division of
23 professional registration a list of five professional counselors qualified and
24 willing to fill the vacancy in question, with the request and recommendation that
25 the governor appoint one of the five persons so listed, and with the list so
26 submitted, the president of the American Counseling Association of Missouri
27 shall include in his or her letter of transmittal a description of the method by
28 which the names were chosen by that association.

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

31 4. Each member of the committee shall receive as compensation, an
32 amount set by the committee not to exceed fifty dollars for each day devoted to
33 the affairs of the committee, and shall be reimbursed for necessary and actual
34 expenses incurred in the performance of his or her official duties. All staff for
35 the committee shall be provided by the division.

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

42 6. The governor may remove a committee member for misconduct,
43 incompetency or neglect of his or her official duties after giving the committee
44 member written notice of the charges against the committee member and an
45 opportunity to be heard thereon.

46 7. The public member shall be at the time of his or her appointment a
47 citizen of the United States; a resident of this state for a period of one year and
48 a registered voter; a person who is not and never was a member of any profession
49 licensed or regulated pursuant to sections 337.500 to 337.540 or the spouse of
50 such person; and a person who does not have and never has had a material,
51 financial interest in either the providing of the professional services regulated by
52 sections 337.500 to 337.540, or an activity or organization directly related to any
53 profession licensed or regulated pursuant to sections 337.500 to 337.540. The
54 duties of the public member shall not include the determination of the technical
55 requirements to be met for licensure or whether any person meets such technical
56 requirements or of the technical competence or technical judgment of a licensee
57 or a candidate for licensure.]

58

2 [337.706. 1. For a period of six months from September 1, 1995, a
person may apply for licensure without examination and shall be exempt from the

3 academic requirements of sections 337.700 to 337.739 if the division is satisfied
4 that the applicant:

5 (1) Has been a resident of the state of Missouri for at least the last six
6 months; and

7 (2) Holds a valid license as a marital and family therapist from another
8 state.

9 2. The division may determine by administrative rule the types of
10 documentation needed to verify that an applicant meets the qualifications
11 provided in subsection 1 of this section.

12 3. After March 1, 1996, no person may engage in marital and family
13 therapy for compensation or hold himself or herself out as a "licensed marital and
14 family therapist", "marital and family therapist", or "provisional marital and
15 family therapist" unless the person complies with all educational and examination
16 requirements and is licensed in accordance with the provisions of sections
17 337.700 to 337.739.]
18

[337.739. 1. There is created and established the "State Committee of
2 Marital and Family Therapists" which shall consist of four family and marital
3 therapists and two voting public members. The committee shall be appointed by
4 the governor with the advice and consent of the senate. Committee members
5 shall serve for a term of five years, except for the members first appointed, one
6 public member and one other member shall be appointed for five years, two
7 members shall be appointed for four years, the other public member and one
8 other member appointed for three years. No person shall be eligible for
9 appointment to the committee who has served as a member of the committee for
10 a total of ten years. Members shall be appointed to represent a diversity in
11 gender, race and ethnicity. No more than three members shall be from the same
12 political party.

13 2. Each nonpublic committee member shall be a resident of the state of
14 Missouri for one year, shall be a United States citizen, and shall meet all the
15 requirements for licensing enumerated in sections 337.700 to 337.739, shall be
16 licensed pursuant to sections 337.700 to 337.739, except the members of the first
17 committee, who shall be licensed within six months of their appointment, and are
18 actively engaged in the practice of marital and family therapy. If a member of the
19 committee shall, during the member's term as a committee member, remove the
20 member's domicile from the state of Missouri, then the committee shall
21 immediately notify the governor, and the seat of that committee member shall be
22 declared vacant. All such vacancies shall be filled by appointment as in the same
23 manner as the first appointment, and the member so appointed shall serve for the
24 unexpired term of the member whose seat has been declared vacant. The public
25 members shall be at the time of each member's appointment a citizen of the
26 United States; a resident of this state for a period of one year and a registered
27 voter; a person who is not and never was a member of any profession licensed or

28 regulated pursuant to this chapter or the spouse of such person; a person who
29 does not have and never has had a material, financial interest in either the
30 provision of the professional services regulated by this chapter, or an activity or
31 organization directly related to any profession licensed or regulated pursuant to
32 this chapter.

33 3. The committee shall hold a regular annual meeting at which it shall
34 select from among its members a chairman and a secretary. A quorum of the
35 committee shall consist of a majority of its members. In the absence of the
36 chairman, the secretary shall conduct the office of the chairman.

37 4. No member of the committee shall receive any compensation for the
38 performance of the member's official duties but shall be entitled to
39 reimbursement for necessary and actual expenses incurred in the performance of
40 the member's duties. The committee shall share resources and facilities with the
41 office for the committee for professional counselors provided for in sections
42 337.500 to 337.540. All staff for the committee shall be provided by the director
43 of the division of professional registration.

44 5. The governor may remove any member of the committee for
45 misconduct, inefficiency, incompetency or neglect of office.]

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