

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 308
94TH GENERAL ASSEMBLY

Reported from the Special Committee on Professional Registration and Licensing April 2, 2007 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill No. 308 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

1150L.04C

AN ACT

To repeal sections 192.935, 317.001, 317.006, 317.011, 317.013, 317.015, 317.018, 327.011, 327.111, 327.181, 327.201, 327.291, 327.441, 327.633, 334.120, 334.735, 335.016, 335.036, 335.066, 335.068, 335.076, 335.096, 335.097, 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070, 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, 336.225, 337.600, 337.603, 337.604, 337.606, 337.609, 337.612, 337.615, 337.618, 337.622, 337.624, 337.627, 337.630, 337.636, 337.639, 337.650, 337.653, 337.659, 337.665, 337.668, 337.674, 337.677, 337.680, 337.686, 337.689, 339.100, 345.015, 345.030, 345.045, 345.055, 346.015, 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, 537.035, and 621.045, RSMo, and to enact in lieu thereof ninety-seven new sections relating to the practice of certain licensed professionals, with penalty provisions and an effective date for certain sections.

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

Section A. Sections 192.935, 317.001, 317.006, 317.011, 317.013, 317.015, 317.018,
2 327.011, 327.111, 327.181, 327.201, 327.291, 327.441, 327.633, 334.120, 334.735, 335.016,
3 335.036, 335.066, 335.068, 335.076, 335.096, 335.097, 336.010, 336.020, 336.030, 336.040,
4 336.050, 336.060, 336.070, 336.080, 336.090, 336.140, 336.160, 336.200, 336.220, 336.225,
5 337.600, 337.603, 337.604, 337.606, 337.609, 337.612, 337.615, 337.618, 337.622, 337.624,

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.

6 337.627, 337.630, 337.636, 337.639, 337.650, 337.653, 337.659, 337.665, 337.668, 337.674,
7 337.677, 337.680, 337.686, 337.689, 339.100, 345.015, 345.030, 345.045, 345.055, 346.015,
8 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, 537.035, and 621.045, RSMo,
9 are repealed and ninety-seven new sections enacted in lieu thereof, to be known as sections
10 167.194, 167.195, 192.935, 317.001, 317.006, 317.011, 317.013, 317.015, 317.018, 317.019,
11 324.1100, 324.1102, 324.1104, 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116,
12 324.1118, 324.1120, 324.1122, 324.1124, 324.1126, 324.1128, 324.1130, 324.1132, 324.1134,
13 324.1136, 324.1138, 324.1140, 324.1142, 324.1144, 324.1146, 324.1148, 327.011, 327.076,
14 327.077, 327.181, 327.441, 334.120, 334.735, 335.016, 335.036, 335.066, 335.067, 335.068,
15 335.076, 335.096, 335.097, 336.010, 336.020, 336.030, 336.040, 336.050, 336.060, 336.070,
16 336.080, 336.140, 336.160, 336.220, 336.225, 337.600, 337.603, 337.604, 337.612, 337.615,
17 337.618, 337.622, 337.627, 337.630, 337.636, 337.643, 337.644, 337.645, 337.646, 337.653,
18 337.665, 337.689, 339.100, 339.200, 339.205, 345.015, 345.030, 345.033, 345.045, 345.055,
19 346.015, 346.030, 346.035, 346.055, 346.060, 346.110, 383.130, 383.133, 537.035, and 621.045,
20 to read as follows:

**167.194. 1. Beginning July 1, 2008, every child enrolling in kindergarten or first
2 grade in a public elementary school in this state shall receive one comprehensive vision
3 examination performed by a state licensed optometrist or physician. Evidence of the
4 examination shall be submitted to the school no later than January first of the first year
5 in which the student is enrolled at the school, provided that the evidence submitted in no
6 way violates any provisions of Public Law 104-191, 42 U.S.C. 201 et seq, Health Insurance
7 Portability and Accountability Act of 1996.**

**2. The state board of education, in conjunction with the department of health and
9 senior services, shall promulgate rules establishing the criteria for meeting the
10 requirements of subsection 1 of this section, which may include, but are not limited to,
11 forms or other proof of such examination, or other rules as are necessary for the
12 enforcement of this section. The form or other proof of such examination shall include but
13 not be limited to identifying the result of the examinations performed under subsection 4
14 of this section, the cost for the examination, the examiner's qualifications, and method of
15 payment through either:**

- (1) Insurance;**
- (2) The state Medicaid program;**
- (3) Complimentary; or**
- (4) Other form of payment.**

**3. The department of elementary and secondary education, in conjunction with the
21 department of health and senior services, shall compile and maintain a list of sources to**

22 which children who may need vision examinations or children who have been found to
23 need further examination or vision correction may be referred for treatment on a free or
24 reduced cost basis. The sources may include individuals, and federal, state, local
25 government, and private programs. The department of elementary and secondary
26 education shall ensure that the superintendent of schools, the principal of each elementary
27 school, the school nurse or other person responsible for school health services, and the
28 parent organization for each district elementary school receives an updated copy of the list
29 each year prior to school opening. Professional and service organizations concerned with
30 vision health may assist in gathering and disseminating the information, at the direction
31 of the department of elementary and secondary education.

32 4. For purposes of this section, the following comprehensive vision examinations
33 shall include but not be limited to:

- 34 (1) Complete case history;
35 (2) Visual acuity at distance (aided and unaided);
36 (3) External examination and internal examination (ophthalmoscopic examination);
37 (4) Subjective refraction to best visual acuity.

38 5. Findings from the evidence of examination shall be provided to the department
39 of health and senior services and kept by the optometrist or physician for a period of seven
40 years.

41 6. In the event that a parent or legal guardian of a child subject to this section shall
42 submit to the appropriate school administrator a written request that the child be excused
43 from taking a vision examination as provided in this section, that child shall be so excused.

44 7. Pursuant to section 23.253, RSMo, of the Missouri sunset act:

45 (1) The provisions of the new program authorized under this section shall
46 automatically sunset on June 30, 2012, unless reauthorized by an act of the general
47 assembly; and

48 (2) If such program is reauthorized, the program authorized under this section
49 shall automatically sunset eight years after the effective date of the reauthorization of this
50 section; and

51 (3) This section shall terminate on September first of the calendar year immediately
52 following the calendar year in which the program authorized under this section is sunset.

167.195. 1. Beginning July 1, 2008, and continuing through the 2010-2011 school
2 year unless extended by act of the general assembly, all public school districts shall conduct
3 an eye screening for each student once before the completion of first grade and again
4 before the completion of third grade. The eye screening method utilized shall be one

5 approved by the children's vision commission and shall be performed by an appropriately
6 trained school nurse or other trained and qualified employee of the school district.

7 2. Results of each eye screening shall be recorded on a form provided by the
8 department of health and senior services, developed and approved by the children's vision
9 commission established under this section.

10 (1) The screening results, with all individual identifying information removed, shall
11 be sent to the state department of health and senior services via electronic form and shall
12 compile the data contained in the reports for review and analysis by the commission or
13 other interested parties;

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

24 (3) Notwithstanding any law to the contrary, nothing in this section shall violate
25 any provisions of Public Law 104-191, 42 U.S.C. et seq, Health Insurance Portability and
26 Accountability Act of 1996.

27 3. The "Children's Vision Commission" is hereby established which shall cease to
28 exist on June 30, 2012, unless renewed by act of the general assembly.

29 (1) The commission shall be composed of seven members appointed by the
30 governor: two ophthalmologists to be determined from a list of recommended
31 ophthalmologists by the Missouri society of eye physicians and surgeons; two optometrists
32 to be determined from a list of recommended optometrists by the Missouri optometric
33 association; one school nurse; one representative from the department of elementary and
34 secondary education; and one representative from the Missouri state school boards
35 association. Each ophthalmologist and optometrist shall serve a one-year term as chair of
36 the commission. Members of the commission shall serve without compensation, but may
37 be reimbursed for reasonable and necessary expenses associated with carrying out their
38 duties.

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

(a) Analyze and adopt one or more standardized eye screening and eye examination tests to carry out the requirements of this section to be used in all schools beginning with the 2008-2009 school year which, in the commission's estimation, have a reasonable expectation of identifying vision problems in children;

(b) Develop, in conjunction with the department of health and senior services, a standardized reporting form which shall be used by all school districts in carrying out the requirements of this section;

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

(d) Conduct a pilot project to track the results of the eye screenings versus eye examinations conducted based on the reports submitted by school districts to the department of health and senior services;

(e) Develop, in conjunction with the Missouri Optometric Association (MOA) and the Missouri Society of Eye Physicians and Surgeons (MOSEPS), guidelines outlining the benefits and ongoing eye care for children and summarizing the signs and symptoms of vision disorders in order for the guidelines to be made available on the MOA and MOSEPS website. The commission shall also consult with MOA and MOSEPS in the organizations' education and promotion of the guidelines;

(f) By December 31, 2011, the commission shall submit a report to the general assembly detailing the results and findings of the study, including but not limited to the total number of eye screenings and eye examinations, the number of students who received a follow-up examination from an optometrist, ophthalmologist, physician, or doctor of osteopathy and the results of those examinations to determine the effectiveness of eye examinations versus eye screenings.

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

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

6. The department of health and senior services shall provide staff support to the commission.

192.935. 1. There is hereby created in the state treasury the "Blindness Education, Screening and Treatment Program Fund". The fund shall consist of moneys donated pursuant to subsection 7 of section 301.020, RSMo, and subsection 3 of section 302.171, RSMo. Unexpended balances in the fund at the end of any fiscal year shall not be transferred to the general revenue fund or any other fund, the provisions of section 33.080, RSMo, to the contrary notwithstanding.

2. Subject to the availability of funds in the blindness education, screening and treatment program fund, the department shall develop a blindness education, screening and treatment program to provide blindness prevention education and to provide screening and treatment for persons who do not have adequate coverage for such services under a health benefit plan.

3. The program shall provide for:

(1) Public education about blindness and other eye conditions;

(2) Screenings and eye examinations to identify conditions that may cause blindness; [and]

(3) Treatment procedures necessary to prevent blindness; and

(4) Any additional costs for vision examinations under section 167.195, RSMo, that are not covered by existing public health insurance. Subject to appropriations, moneys from the fund shall be used to pay for those additional costs, provided that the costs do not exceed ninety-nine thousand dollars per year. Payment from the fund for vision examinations under section 167.195, RSMo, shall not exceed the allowable state Medicaid reimbursement amount for vision examinations.

4. The department may contract for program development with any department-approved nonprofit organization dealing with regional and community blindness education, eye donor and vision treatment services.

5. The department may adopt rules to prescribe eligibility requirements for the program.

6. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

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

(1) **"Amateur", a person who competes in a boxing, wrestling, kickboxing, or full-contact karate event who has not competed as a contestant for valuable consideration in any event in which similar boxing, wrestling, kickboxing, or full-contact karate skills were used or allowed;**

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

9 **(3) "Boxing", the sport of attack and defense where contestants are allowed to only**
10 **use the fist to attack or strike in competition;**

11 [(2)] **(4) "Combative fighting", [also known as "toughman fighting", "toughwoman**
12 **fighting", "badman fighting", "ultimate fighting", "U.F.C." and "extreme fighting", any boxing**
13 **or wrestling match, contest or exhibition, between two or more contestants, with or without**
14 **protective headgear, who use their hands, with or without gloves, or their feet, or both, and who**
15 **compete for a financial prize or any item of pecuniary value, and which match, contest,**
16 **tournament championship or exhibition is not recognized by and not sanctioned by any officially**
17 **recognized state, regional or national boxing or athletic sanctioning authority, or any promoter**
18 **duly licensed by the division of professional registration] a bout or contest, with or without**
19 **gloves or protective headgear, whereby any part of the contestant's body may be used as**
20 **a weapon or any other means of fighting may be used with the specific purpose of**
21 **intentionally injuring the other contestants in such a manner that they may not defend**
22 **themselves and in which there is no referee;**

23 [(3)] **(5) "Contest", a bout or a group of bouts involving licensed contestants competing**
24 **in professional boxing, sparring, professional wrestling, professional kickboxing, or professional**
25 **full-contact karate;**

26 [(4)] **(6) "Contestant", a person who competes in any [activity covered by sections**
27 **317.001 to 317.021] boxing, wrestling, kickboxing, or full-contact karate event;**

28 [(5)] **(7) "Division", the division of professional registration;**

29 [(6)] **(8) "Director", the director of the division of professional registration;**

30 **(9) "Exhibition", a boxing, wrestling, kickboxing, or full-contact karate**
31 **engagement in which persons are participating to show or display their boxing, wrestling,**
32 **kickboxing, or full-contact karate skill and in which no decision is rendered;**

33 [(7)] **(10) "Fund", the athletic fund established pursuant to sections 317.001 to 317.021;**

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

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

37 [(10)] **(11) "Full-contact karate", any form of full-contact martial arts including, but**
38 **not limited to, full-contact kungfu, full-contact tae kwon do, or any form of martial arts,**
39 **mixed martial arts, combat or self-defense conducted on a full-contact basis in a match**
40 **where contestants are allowed to deliver blows or strikes;**

41 **(12) "Kickboxing", any match in which contestants are allowed to use any form of**
42 **boxing and are also allowed to use any part of the fist, foot, or leg, with or without shin**
43 **guards or protective gear, or any combination thereof to deliver strikes above the waist and**
44 **which does not constitute mixed martial arts as defined by this section;**

45 **(13) "Mixed martial arts", any match in which any form of martial arts or self-**
46 **defense is conducted on a full-contact basis and where other combative techniques or**
47 **tactics are allowed in competition including, but not limited to, kicking, striking,**
48 **chokeholds, boxing, wrestling, kickboxing, grappling, or joint manipulation. Professional**
49 **mixed martial arts is a form of full-contact karate;**

50 **(14) "Office", the division of professional registration, office of athletics;**

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

53 (12) "Professional full-contact karate", any form of full-contact martial arts including but
54 not limited to full-contact kungfu, full-contact taw kwon-do, or any form of martial arts or
55 self-defense conducted on a full-contact basis in a bout or contest where weapons are not used
56 and where contestants compete for valuable consideration. Such contests take place in a
57 rope-enclosed ring and are fought in timed rounds;

58 (13) "Professional kickboxing", any form of boxing in which blows are delivered with
59 any part of the arm below the shoulder, including the hand, and any part of the leg below the hip,
60 including the foot, and where contestants compete for valuable consideration. Such contests take
61 place in a rope-enclosed ring and are fought in timed rounds;

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

67 **(15) "Professional", a wrestling, boxing, kickboxing, or full-contact karate bout or**
68 **contest where the participants compete for any valuable consideration or a person who**
69 **competes in any wrestling, boxing, kickboxing, or full-contact karate bout or contest for**
70 **any such consideration;**

71 **(16) "Sparring", [boxing for practice or as an exhibition] any boxing, wrestling,**
72 **kickboxing, or full-contact karate conducted for practice and for which admission or other**
73 **similar consideration, in any form, is charged to any member of the public;**

74 [(16) "Standing mandatory eight count", the count of eight that is given at the discretion
75 of a referee to a contestant who has been dazed by a blow and is unable to defend himself or
76 herself. The standing mandatory eight count may be waived in a bout only with special
77 permission of the office.]

78 **(17) "Wrestling", any performance of wrestling skills and techniques by two or**
79 **more individuals. Participating wrestlers may perform without being required to use their**

80 **best efforts in order to win and the winner may have been selected before the performance**
81 **commences.**

317.006. 1. The division [of professional registration] shall have general charge and
2 supervision of all professional boxing, sparring, professional wrestling, professional kickboxing
3 and professional full-contact karate contests held in the state of Missouri, and it shall have the
4 power, and it shall be its duty:

5 (1) To make and publish rules governing in every particular professional boxing,
6 sparring, professional wrestling, professional kickboxing and professional full-contact karate
7 contests;

8 (2) **To make and publish rules governing the approval of amateur sanctioning**
9 **bodies;**

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

17 [(3)] (4) 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 contest in [this state] **the state of**
23 **Missouri**. Such funds shall be paid to the division of professional registration which shall pay
24 said funds into the **Missouri** state treasury to be set apart into a fund to be known as the "Athletic
25 Fund" which is hereby established;

26 [(4)] (5) 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, **pay-per-view**, closed-circuit telecast, and motion picture
30 rights for any professional boxing, sparring, professional wrestling, professional kickboxing or
31 professional full-contact karate contest. Such funds shall be paid to the division [of professional
32 registration] which shall pay said funds into the **Missouri** state treasury to be set apart into a fund
33 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 **or closed-circuit** facilities
41 are utilized to telecast a bout or contest shall, within thirty calendar days following the date of
42 the telecast, file 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.

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 contests in the
4 state of Missouri, and to charge a fee for the issuance of same in an amount established by rule;
5 such funds to be paid to the division [of professional registration] which shall pay such funds
6 into the **Missouri** state treasury to be set apart into the athletic fund.

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

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

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

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

22 [(3)] (2) Where a fee has been paid for such permit, in an amount established by rule.

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

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

 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, or professional full-contact karate contest.**
6 The determination of consciousness is to be made only by a physician licensed by the board of
7 healing arts and the division. Medical suspensions issued in accordance with this section shall
8 not be reviewable by any tribunal.

 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, or full-contact karate**
11 **contests** in the future. Such a person shall be deemed medically retired. No person with a status
12 of medically retired shall compete in any events governed by this chapter. Medical retirements
13 issued in accordance with this section shall not be reviewable by any tribunal.

 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.

 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.

 (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:

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

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

23 (c) Use of fraud, deception, misrepresentation or bribery in securing any permit or
24 license issued pursuant to this chapter;

25 (d) Providing false information on applications or medical forms;

26 (e) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty
27 in the performing of the functions or duties of any profession licensed or regulated by this
28 chapter;

29 (f) Violating or enabling any person to violate any provision of this chapter or any rule
30 adopted pursuant to this chapter;

31 (g) Impersonating any permit or license holder or allowing any person to use their permit
32 or license;

33 (h) Contestants failing to put forth their best effort during a bout;

34 (i) Disciplinary action against the holder of a license or other right to practice any
35 profession regulated by this chapter and issued by another state, territory, federal agency or
36 country upon grounds for which revocation or suspension is authorized in this state;

37 (j) A person adjudged mentally incompetent by a court of competent jurisdiction;

38 (k) Use of any advertisement or solicitation which is false, misleading or deceptive to
39 the general public or persons to whom the advertisement or solicitation is primarily directed;

40 (l) Use of foul or abusive language or mannerisms or threats of physical harm by any
41 person associated with any bout or contest licensed pursuant to this chapter; or

42 (m) Issuance of a permit or license based upon a mistake of fact.

43 (3) After the complaint is filed, the proceeding shall be conducted in accordance with
44 the provisions of chapter 621, RSMo. If the administrative hearing commission finds that a
45 person has violated one or more of the grounds as provided in paragraphs (a) through (m) of
46 subdivision (2) of this subsection, the division may censure or place the person named in the
47 complaint on probation on appropriate terms and conditions for a period not to exceed five years,
48 may suspend the person's license for a period not to exceed three years, or may revoke the
49 person's license.

50 **3. Upon a finding that the grounds provided in subsection 2 of this section for**
51 **disciplinary action are met, the office may, singly or in combination, censure or place on**
52 **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 the disciplinary time**
57 **periods allotted herein. In lieu of or in addition to any remedy specifically provided in**
58 **subsection 1 of this section, the office may require of a licensee:**

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

61 **(2) A review conducted as the office may specify and satisfactory completion of**
62 **medical testing and/or 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 **amateur or scholastic** boxing, [including professional,]
26 amateur[,] **or** scholastic[, championship boxing, amateur] wrestling [or scholastic wrestling]

27 amateur or scholastic kickboxing, or amateur or scholastic full-contact karate or amateur
28 or scholastic mixed martial arts.

317.019. 1. The promoter of a professional boxing, professional kickboxing, and
2 professional full-contact karate contest shall sign written bout contracts with each
3 professional contestant. Original bout contracts shall be filed with the division prior to the
4 event as required by the rules of the office. The bout contract shall be on a form supplied
5 by the division and contain at least the following:

- 6 (1) The weight required of the contestant 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) The glove size allotted for each contestant;
- 10 (5) Any other payment or consideration provided to the contestant;
- 11 (6) List of all fees, charges, and expenses including training expenses that will be
12 assessed to the contestant or deducted from the contestant's purse;
- 13 (7) Any advances paid to the contestant before the bout;
- 14 (8) The amount of any compensation or consideration that a promoter has
15 contracted to receive in connection with the bout or contest;
- 16 (9) The signature of the promoter and contestant;
- 17 (10) The date signed by both the promoter and the contestant; and
- 18 (11) Any information required by the office.

19 2. If the bout contract between a contestant and promoter is changed, the promoter
20 shall provide the division with the amended contract containing all contract changes at
21 least two hours prior to the event's scheduled start time. The amended contract shall
22 comply with all requirements for original bout contracts and shall contain the signature
23 of the promoter and contestant.

24 3. A promoter of an event shall not be a manager for a contestant who is contracted
25 for ten rounds or more at the event.

26 4. The promoter of an event shall provide payments for the event official's fees to
27 the office prior to the start of the event. The form of payment shall be at the discretion of
28 the office provided that payments remitted by check or money order shall be made payable
29 directly to the applicable official.

324.1100. As used in sections 324.1100 to 324.1148, the following terms mean:

- 2 (1) "Board", the board of private investigator examiners established in section
3 324.1102;
- 4 (2) "Client", any person who engages the services of a private investigator;

5 (3) "Department", the department of insurance, financial institutions and
6 professional registration;

7 (4) "Law enforcement officer", a law enforcement officer as defined in section
8 556.061, RSMo;

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

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

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

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

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

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

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

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

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

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

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

 324.1102. 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, including two public members,
5 appointed by the governor with the advice and consent of the senate. Except for the public
6 members, each member of the board shall be a citizen of the United States, a resident of
7 Missouri, at least thirty years of age, and shall have been actively engaged in the private
8 investigator business for the previous five years. No more than one private investigator
9 board member may be employed by, or affiliated with, the same private investigator
10 agency. The initial private investigator board members shall not be required to be licensed
11 but shall obtain a license within one hundred eighty days after the effective date of the

12 rules promulgated under sections 324.1100 to 324.1148 regarding licensure. The public
13 members shall each be a registered voter and a person who is not and never was a member
14 of any profession licensed or regulated under sections 324.1100 to 324.1148 or the spouse
15 of such person; and a person who does not have and never has had a material, financial
16 interest in either the providing of the professional services regulated by sections 324.1100
17 to 324.1148, or an activity or organization directly related to any profession licensed or
18 regulated under sections 324.1100 to 324.1148. The duties of the public members shall not
19 include the determination of the technical requirements to be met for licensure or whether
20 any person meets such technical requirements or of the technical competence or technical
21 judgment of a licensee or a candidate for licensure.

22 3. The members shall be appointed for terms of two years, except those first
23 appointed, in which case two members, who shall be private investigators, shall be
24 appointed for terms of four years, two members shall be appointed for terms of three
25 years, and one member shall be appointed for a one-year term. Any vacancy on the board
26 shall be filled for the unexpired term of the member and in the manner as the first
27 appointment. No member may serve consecutive terms.

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

31 5. There is hereby created in the state treasury the "Board of Private Investigator
32 Examiners Fund", which shall consist of money collected under sections 324.1100 to
33 324.1148. The state treasurer shall be custodian of the fund and shall approve
34 disbursements from the fund in accordance with the provisions of sections 30.170 and
35 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the
36 administration of sections 324.1100 to 324.1148. Notwithstanding the provisions of section
37 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the
38 biennium shall not revert to the credit of the general revenue fund. The state treasurer
39 shall invest moneys in the fund in the same manner as other funds are invested. Any
40 interest and moneys earned on such investments shall be credited to the fund.

324.1104. Unless expressly exempted from the provisions of sections 324.1100 to
2 324.1148:

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 under sections 324.1100
5 to 324.1148;

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 under sections 324.1100 to 324.1148.

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

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

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

(3) Any employee, agent, or independent contractor employed by any government agency, division, or department of the state whose work relationship is established by a written contract while working within the scope of employment established under such contract;

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

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

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

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

(8) An insurance adjuster. For the purposes of sections 324.1100 to 324.1148, an "insurance adjuster" means any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business;

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

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

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

36 (12) Expert witnesses who have been certified or accredited by a national or state
37 association associated with the expert's scope of expertise;

38 (13) Any person who does not hold themselves out to the public as a private
39 investigator but is under contract with a state agency or political subdivision; or

40 (14) Any person performing duties or conducting investigations relating to serving
41 legal process when such person's investigation is incidental to the serving of legal process;

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

 324.1108. 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 under the provisions of
4 sections 324.1100 to 324.1148 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 conduct business;

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

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

13 (5) Two recent photographs of the applicant, of a type prescribed by the board of
14 private investigator examiners, and two classifiable sets of the applicant's fingerprints
15 processed in a manner approved by the Missouri state highway patrol, criminal records
16 and identification division, under section 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 liability insurance with amount to be no less than two hundred
24 fifty thousand dollars in coverage and proof of workers' compensation insurance if
25 required under chapter 287, RSMo. The board shall have the authority to raise the
26 requirements as deemed necessary; and

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

324.1110. 1. The board of private investigator examiners shall require as a condition of licensure as a private investigator that the applicant pass a written examination as evidence of knowledge of investigator rules and regulations.

2. The department shall conduct a complete investigation of the background of each applicant for licensure as a private investigator to determine whether the applicant is qualified for licensure under sections 324.1100 to 324.1148. The board shall outline basic qualification requirements for licensing as a private investigator and agency.

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

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

(2) Two hundred fifty thousand dollars in business general liability insurance.

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

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

(1) Has committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under the provisions of sections 324.1100 to 324.1148;

(2) Within two years prior to the application date:

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

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

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

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

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

(3) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked in this state or in any other state;

(4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after the effective date of this section; or

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

2 **324.1114. 1. Every application submitted under the provisions of sections 324.1100**
3 **to 324.1148 shall be accompanied by a fee as determined by the board as follows:**

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

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

8 **2. The board shall set fees as authorized by sections 324.1100 to 324.1148 at a level**
9 **to produce revenue which will not substantially exceed the cost and expense of**
10 **administering sections 324.1100 to 324.1148.**

11 **3. The fees prescribed by sections 324.1100 to 324.1148 shall be exclusive and**
12 **notwithstanding any other provision of law. No municipality may require any person**
13 **licensed under sections 324.1100 to 324.1148 to furnish any bond, pass any examination,**
14 **or pay any license fee or occupational tax relative to practicing the person's 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**
 be allowed to begin working immediately upon the agency submitting their applications.

2 **324.1116. A private investigator agency shall not hire any individual as an**
3 **employee unless the individual:**

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

5 (2) Provides two recent photographs of themselves, of a type prescribed by the
6 board of private investigator examiners;

7 (3) Has been fingerprinted in a manner approved by the Missouri state highway
8 patrol, criminal records and identification division, under section 43.543, RSMo; and

9 (4) Complies with any other qualifications and requirements the board adopts by
 rule.

2 **324.1118. A private investigator agency shall not hire an individual, who is not**
3 **licensed as a private investigator, as an employee if the individual:**

4 (1) Has committed any act which, if committed by a licensee, would be grounds for
5 the suspension or revocation of a license under the provisions of sections 324.1100 to
6 324.1148;

 (2) Within two years prior to the application date:

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 under the provisions of sections 324.1100 to 324.1148
17 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 324.1100 to 324.1148 after the effective date of
20 this section; or

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

324.1120. 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 direct supervision of
3 the agency whose identification number appears on their application and shall work only
4 for one agency at any one time.

324.1122. A licensee shall successfully complete sixteen hours of continuing
2 education units biennially. An individual not licensed as a private investigator who is hired
3 as an employee by a private investigator agency shall successfully complete eight hours of
4 continuing education units biennially. Such continuing education shall be relevant to the
5 private investigator business and shall be approved by the board as such.

324.1124. 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 under sections 324.1100
10 to 324.1148. When any person to whom a card is issued terminates such person's position,
11 office, or association with the licensee, the card shall be surrendered to the licensee and
12 within five days thereafter shall be mailed or delivered by the licensee to the board of

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

324.1126. 1. Any license issued under sections 324.1100 to 324.1148 shall expire two
2 years after the date of its issuance. Renewal of any such license shall be made in the
3 manner prescribed for obtaining an original license, including payment of the appropriate
4 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 324.1100 to 324.1148. A person receiving an agency
19 license shall directly manage the agency and employees.

20 3. A license issued under sections 324.1100 to 324.1148 shall not be assignable.

324.1128. 1. Any licensee may divulge to the board, any law enforcement officer,
2 prosecuting attorney, or such person's representative any information such person may
3 acquire about any criminal offense. The licensee may instruct his or her client to divulge
4 such information if the client is the victim, but such person shall not divulge to any other
5 person, except as he or she may be required by law, any information acquired by such
6 person at the direction of the employer or client for whom the information was obtained.

7 2. No licensee 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.

 324.1130. 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 location of the licensee's principal place of business. The board may require the filing of
5 other information for the purpose of identifying such principal place of business.

 324.1132. 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. No individual or business can advertise as a private
4 investigator, private detective, or private investigator agency without including their state
5 private investigator or private investigator agency license number in the advertisement.
6 A licensee shall not advertise or conduct business from any Missouri address other than
7 that shown on the records of the board as the licensee's principal place of business unless
8 the licensee has received an additional agency license for such location after compliance
9 with the provisions of sections 324.1100 to 324.1148 and such additional requirements
10 necessary for the protection of the public as the board may prescribe by regulation. A
11 licensee shall notify the board in writing within ten days after closing or changing the
12 location of a branch office. The fee for the additional license shall be one-half the cost of
13 the fee for the agency's original license.

 324.1134. 1. The board may suspend or refuse to renew any certificate of
2 registration or authority, permit or license required under sections 324.1100 to 324.1148
3 for one or any combination of causes stated in subsection 2 of this section. The board shall
4 notify the applicant in writing of the reasons for the suspension or refusal and shall advise
5 the applicant of the applicant's right to file a complaint with the administrative hearing
6 commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or
7 renew any certificate, registration or authority, the board may, at its discretion, issue a

8 license which is subject to probation, restriction or limitation to an applicant for licensure
9 for any one or any combination of causes stated in subsection 2 of this section. The board's
10 order of probation, limitation or restriction shall contain a statement of the discipline
11 imposed, the basis therefor, the date such action shall become effective, and a statement
12 that the applicant has thirty days to request in writing a hearing before the administrative
13 hearing commission. If the board issues a probationary, limited or restricted license to an
14 applicant for licensure, either party may file a written petition with the administrative
15 hearing commission within thirty days of the effective date of the probationary, limited or
16 restricted license seeking review of the board's determination. If no written request for a
17 hearing is received by the administrative hearing commission within the thirty-day period,
18 the right to seek review of the board's decision shall be considered as waived.

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

24 (1) Making any false statement or giving any false information in connection with
25 an application for a license or a renewal or reinstatement thereof;

26 (2) Violating any provision of sections 324.1100 to 324.1148;

27 (3) Violating any rule of the board of private investigator examiners adopted under
28 the authority contained in sections 324.1100 to 324.1148;

29 (4) Impersonating, or permitting or aiding and abetting an employee to
30 impersonate, a law enforcement officer or employee of the United States of America, or of
31 any state or political subdivision thereof;

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

35 (6) Knowingly violating, or advising, encouraging, or assisting the violation of, any
36 court order or injunction in the course of business as a licensee;

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

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

42 (9) Committing any act which is grounds for denial of an application for a license
43 under section 324.1112.

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

47 **4. The agency may continue under the direction of another employee if the**
48 **licensee's license is suspended or revoked by the board. The board shall establish a time**
49 **frame in which the agency shall identify an acceptable person who is qualified to assume**
50 **control of the agency, as required by the board.**

51 **5. After the filing of a complaint before the administrative hearing commission, the**
52 **proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo.**
53 **Upon a finding by the administrative hearing commission that the grounds in subsection**
54 **1 of this section for disciplinary action are met, the board may singly or in combination**
55 **censure or place the person named in the complaint on probation under such terms and**
56 **conditions as the board deems appropriate for a period not to exceed five years, may**
57 **suspend for a period not to exceed three years, or revoke the license.**

324.1136. 1. Each private investigator or investigator agency operating under the
2 **provisions of sections 324.1100 to 324.1148 shall be required to keep a complete record of**
3 **the business transactions of such investigator or investigator agency for a period of seven**
4 **years. Upon the service of a court order issued by a court of competent jurisdiction or**
5 **upon the service of a subpoena issued by the board that is based on a complaint supported**
6 **by oath or affirmation, which particularly describes the records and reports, any licensed**
7 **private investigator who is the owner, partner, director, corporate officer, or custodian of**
8 **business records shall provide an opportunity for the inspection of the same and to inspect**
9 **reports made. Any information obtained by the board shall be kept confidential, except**
10 **as may be necessary to commence and prosecute any legal proceedings. The board shall**
11 **not personally enter a licensee's place of business to inspect records, but shall utilize an**
12 **employee of the division of professional registration to act as a gatherer of information and**
13 **facts to present to the board regarding any complaint or inspection under investigation.**

14 **2. For the purpose of enforcing the provisions of sections 324.1100 to 324.1148, and**
15 **in making investigations relating to any violation thereof, the board shall have the power**
16 **to subpoena and bring before the board any person in this state and require the production**
17 **of any books, records, or papers which the board deems relevant to the inquiry. The board**
18 **also may administer an oath to and take the testimony of any person, or cause such**
19 **person's deposition to be taken, except that any applicant or licensee or officer, director,**
20 **partner, or associate thereof shall not be entitled to any fees or mileage. A subpoena issued**
21 **under this section shall be governed by the Missouri rules of civil procedure and shall**
22 **comply with any confidentiality standards or legal limitations imposed by privacy or open**

23 records acts, fair credit reporting acts, polygraph acts, driver privacy protection acts,
24 judicially recognized privileged communications, and the bill of rights of both the United
25 States and Missouri Constitutions. Any person duly subpoenaed who fails to obey such
26 subpoena without reasonable cause, or without such cause refuses to be examined or to
27 answer any legal or pertinent question as to the character or qualification of such applicant
28 or licensee or such applicant's alleged unlawful or deceptive practices or methods, shall be
29 guilty of a class A misdemeanor. The testimony of witnesses in any investigative
30 proceeding shall be under oath.

324.1138. 1. The board shall adopt such rules and regulations as may be necessary
2 to carry out the provisions of sections 324.1100 to 324.1148.

3 2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
4 that is created under the authority delegated in sections 324.1100 to 324.1148 shall become
5 effective only if it complies with and is subject to all of the provisions of chapter 536,
6 RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
7 nonseverable and if any of the powers vested with the general assembly under chapter 536,
8 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are
9 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
10 proposed or adopted after August 28, 2007, shall be invalid and void.

324.1140. 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 under 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 under sections 324.1100 to
8 324.1148 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 in order to train
17 private investigators sufficiently;

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

19 (4) Has paid the required fee.

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

 324.1142. Any person who knowingly falsifies the fingerprints or photographs or
2 other information required to be submitted under sections 324.1100 to 324.1148 is guilty
3 of a class D felony; and any person who violates any of the other provisions of sections
4 324.1100 to 324.1148 is guilty of a class A misdemeanor.

 324.1144. The board may negotiate and enter into reciprocal agreements with
2 appropriate officials in other states to permit licensed private investigator agencies and
3 licensed private investigators who meet or exceed the qualifications established in sections
4 324.1100 to 324.1148 to operate across state lines under mutually acceptable terms.

 324.1146. Law enforcement officers who perform private investigations shall be
2 licensed under this chapter subject to the following qualifications and limitations:

3 (1) The board may waive testing for law enforcement officers currently certified
4 under existing peace officer standards and training requirements under chapter 590,
5 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 under sections 324.1100 to 324.1148;

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 the information of private citizens;

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 citizen 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 324.1100 to 324.1148 shall not apply to law**
24 **enforcement officers who provide only private security services and not private**
25 **investigator services.**

324.1148. Any person who violates sections 324.1100 to 324.1148 is guilty of a class
2 **A misdemeanor. Any second or subsequent violation of sections 324.1100 to 324.1148 is**
3 **a class D felony.**

 327.011. As used in this chapter, the following words and terms shall have the meanings
2 indicated:

3 (1) "Accredited degree program from a school of architecture", a degree from any school
4 or other institution which teaches architecture and whose curricula for the degree in question
5 have been, at the time in question, certified as accredited by the National Architectural
6 Accrediting Board;

7 (2) "Accredited school of landscape architecture", any school or other institution which
8 teaches landscape architecture and whose curricula on the subjects in question are or have been
9 at the times in question certified as accredited by the Landscape Architecture Accreditation
10 Board of the American Society of Landscape Architects;

11 (3) "Accredited school of engineering", any school or other institution which teaches
12 engineering and whose curricula on the subjects in question are or have been, at the time in
13 question certified as accredited by the engineering accreditation commission of the accreditation
14 board for engineering and technology or its successor organization;

15 (4) "Architect", any person authorized pursuant to the provisions of this chapter to
16 practice architecture in Missouri, as the practice of architecture is defined in section 327.091;

17 (5) "Board", the Missouri board for architects, professional engineers, professional land
18 surveyors and landscape architects;

19 (6) "Corporation", any general business corporation, professional corporation or limited
20 liability company;

21 (7) ["Department", the department of economic development;

22 (8) "Division", the division of professional registration in the department of economic
23 development;

24 (9) "Landscape architect", any person licensed pursuant to the provisions of sections
25 327.600 to 327.635 who is qualified to practice landscape architecture by reason of special
26 knowledge and the use of biological, physical, mathematical and social sciences and the
27 principles and methods of analysis and design of the land, has demonstrated knowledge and
28 ability in such areas, and has been duly licensed as a landscape architect by the board on the basis
29 of professional education, examination and experience in landscape architecture;

30 (8) "Licensee", a person licensed to practice any profession regulated under this
31 chapter or a corporation authorized to practice any such profession;

32 [(10)] (9) "Partnership", any partnership or limited liability partnership;

33 [(11)] (10) "Person", any person, corporation, firm, partnership, association or other
34 entity;

35 [(12)] (11) "Professional engineer", any person authorized pursuant to the provisions of
36 this chapter to practice as a professional engineer in Missouri, as the practice of engineering is
37 defined in section 327.181;

38 [(13)] (12) "Professional land surveyor", any person authorized pursuant to the
39 provisions of this chapter to practice as a professional land surveyor in Missouri as the practice
40 of land surveying is defined in section 327.272.

**327.076. 1. Any person who practices architecture, engineering, land surveying,
2 or landscape architecture, as defined in sections 327.011 to 327.635, or who holds himself
3 or herself out as able to practice such profession and who is not the holder of a currently
4 valid license or certificate of authority in Missouri, and who is not exempt from holding
5 such a license or certificate, is guilty of a class A misdemeanor. As used in this section
6 "practice" shall not include the rendering of opinions or giving of testimony in a civil or
7 criminal proceeding by a licensed professional.**

**2. The board may cause a complaint to be filed with the administrative hearing
9 commission, as provided in chapter 621, RSMo, against any unlicensed person who:**

10 (1) Engages in or offers to render or engage in the practice of architecture,
11 professional engineering, land surveying, or landscape architecture;

12 (2) Uses or employs titles defined and protected by this chapter, or implies
13 authorization to provide or offer professional services, or otherwise uses or advertises any
14 title, word, figure, sign, card, advertisement, or other symbol or description tending to
15 convey the impression that the person is licensed or holds a certificate of authority to
16 practice architecture, professional engineering, land surveying, or landscape architecture;

17 (3) Presents or attempts to use another person's license, seal, or certificate of
18 authority as his or her own;

19 (4) Attempts to use an expired, suspended, revoked, or nonexistent license or
20 certificate of authority;

21 (5) Affixes his or her or another architect's seal on any plans, drawings,
22 specifications or reports which have not been prepared by such person or under such
23 person's immediate personal supervision care;

24 (6) Gives false or forged evidence of any kind to the board or any member of the
25 board in obtaining or attempting to obtain a certificate of licensure in this state or any
26 other state or jurisdiction;

27 (7) Knowingly aids or abets an unlicensed or unauthorized person who engages in
28 any prohibited activity identified in this subsection;

29 (8) Violates any provision of the code of professional conduct or other rule adopted
30 by the board; or

31 (9) Violates any provision of subsection 2 of section 327.441.

32 3. When reviewing complaints against unlicensed persons, the board may initiate
33 an investigation and take all measures necessary to find the facts of any potential violation,
34 including issuing subpoenas to compel the attendance and testimony of witnesses and the
35 disclosure of evidence, and may request the attorney general to bring an action to enforce
36 the subpoena.

37 4. If the board files a complaint with the administrative hearing commission, the
38 proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo.
39 Upon a finding by the administrative hearing commission that the grounds provided in
40 subsection 2 of this section for disciplinary action are met, the board may, either singularly
41 or in combination with other provisions of this chapter, impose a civil penalty as provided
42 for in section 327.077 against the person named in the complaint.

 327.077. 1. In disciplinary actions against licensed or unlicensed persons, the board
2 may issue an order imposing a civil penalty. Such penalty shall not be imposed until the
3 findings of fact and conclusions of law by the administrative hearing commission have been
4 delivered to the board in accordance with section 621.110, RSMo. Further, no civil penalty
5 shall commence until a formal meeting and vote by the board has been taken to impose
6 such a penalty.

7 2. A civil penalty imposed under this section shall not exceed five thousand dollars
8 for each offense. Each day of a continued violation constitutes a separate offense, with a
9 maximum penalty of twenty-five thousand dollars. In determining the amount of penalty
10 to be imposed, the board may consider any of the following:

11 (1) Whether the amount imposed will be a substantial deterrent to the violation;

12 (2) The circumstances leading to the violation;

13 (3) The severity of the violation and the risk of harm to the public;

14 (4) The economic benefits gained by the violator as a result of noncompliance;

15 (5) The interest of the public.

16 3. Any final order imposing a civil penalty is subject to judicial review upon the
17 filing of a petition under section 536.100, RSMo, by any person subject to the penalty.

18 **4. Payment of a civil penalty shall be made within sixty days of filing the order, or**
19 **if the order is stayed pending an appeal within ten days after the court enters a final**
20 **judgment in favor of the board. If the penalty is not timely paid, the board shall notify the**
21 **attorney general. The attorney general may commence an action to recover the amount**
22 **of the penalty, including reasonable attorney fees and costs and a surcharge of fifteen**
23 **percent of the penalty plus ten percent per annum on any amounts owed. In such action,**
24 **the validity and appropriateness of the final order imposing the civil penalty shall not be**
25 **subject to review.**

26 **5. An action to enforce an order under this section may be joined with an action for**
27 **an injunction.**

28 **6. Any offer of settlement to resolve a civil penalty under this section shall be in**
29 **writing, state that an action for imposition of a civil penalty may be initiated by the**
30 **attorney general representing the board under this section, and identify any dollar amount**
31 **as an offer of settlement, which shall be negotiated in good faith through conference,**
32 **conciliation, and persuasion.**

33 **7. Failure to pay a civil penalty by any person licensed under this chapter shall be**
34 **grounds for refusing to renew or denying reinstatement of a license or certificate of**
35 **authority.**

36 **8. Penalties collected under this section shall be handled in accordance with section**
37 **7 of article IX of the Missouri Constitution and shall be deposited in the state general**
38 **revenue fund. Such penalties shall not be considered a charitable contribution for tax**
39 **purposes.**

327.181. 1. Any person practices in Missouri as a professional engineer who renders or
2 offers to render or holds himself or herself out as willing or able to render any service or creative
3 work, the adequate performance of which requires engineering education, training, and
4 experience in the application of special knowledge of the mathematical, physical, and
5 engineering sciences to such services or creative work as consultation, investigation, evaluation,
6 planning and design of engineering works and systems, engineering teaching of advanced
7 engineering subjects or courses related thereto, engineering surveys, the coordination of services
8 furnished by structural, civil, mechanical and electrical engineers and other consultants as they
9 relate to engineering work and the inspection of construction for the purpose of compliance with
10 drawings and specifications, any of which embraces such service or work either public or private,
11 in connection with any utilities, structures, buildings, machines, equipment, processes, work
12 systems or projects and including such architectural work as is incidental to the practice of
13 engineering; or who uses the title "professional engineer" or "consulting engineer" or the word
14 "engineer" alone or preceded by any word indicating or implying that such person is or holds

15 himself or herself out to be a professional engineer, or who shall use any word or words, letters,
16 figures, degrees, titles or other description indicating or implying that such person is a
17 professional engineer or is willing or able to practice engineering.

18 **2. Notwithstanding any provision of subsection 1 of this section, any person using**
19 **the word "engineer", "engineers", or "engineering", alone or preceded by any word, or**
20 **in combination with any words, may do so without being subject to disciplinary action by**
21 **the board so long as such use is reflective of that person's profession or vocation and is**
22 **clearly not indicating or implying that such person is holding himself or herself out as**
23 **being a professional engineer or is willing or able to practice engineering as defined in this**
24 **section.**

327.441. 1. The board may refuse to issue any license or certificate of authority required
2 pursuant to this chapter 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 the applicant's right to file a complaint with the administrative hearing
5 commission as provided by chapter 621, RSMo.

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

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

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

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

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

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

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

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

32 (8) Disciplinary action against the holder of a license or a certificate of authority, or other
33 right to practice any profession regulated by this chapter granted by another state, territory,
34 federal agency or country upon grounds for which revocation or suspension is authorized in this
35 state;

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

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

41 (11) Issuance of a professional license or a certificate of authority based upon a material
42 mistake of fact;

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

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

46 (14) 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 3. After the filing of such complaint, the proceedings shall be conducted in accordance
49 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
50 commission that the grounds, provided in subsection 2 of this section, for disciplinary action are
51 met, the board may, singly or in combination, censure or place the person named in the complaint
52 on probation on such terms and conditions as the board deems appropriate for a period not to
53 exceed five years, or may suspend, for a period not to exceed three years, **or order a civil**
54 **penalty under section 327.077**, or revoke the license or certificate of authority of the person
55 named in the complaint.

334.120. 1. There is hereby created and established a board to be known as "The State
2 Board of Registration for the Healing Arts" for the purpose of registering, licensing and
3 supervising all physicians and surgeons, and midwives in this state. The board shall consist of
4 nine members, including one voting public member, to be appointed by the governor by and with
5 the advice and consent of the senate, **at least** five of whom shall be graduates of professional

6 schools [approved and accredited as reputable by the American Medical Association or the
7 Liaison Committee on Medical Education and] **accredited by the Liaison Committee on**
8 **Medical Education or recognized by the Educational Commission for Foreign Medical**
9 **Graduates, and at least** two of whom shall be graduates of professional schools approved and
10 accredited as reputable by the American Osteopathic Association, and all of whom, except the
11 public member, shall be duly licensed and registered as physicians and surgeons pursuant to the
12 laws of this state. Each member must be a citizen of the United States and must have been a
13 resident of this state for a period of at least one year next preceding his or her appointment and
14 shall have been actively engaged in the lawful and ethical practice of the profession of physician
15 and surgeon for at least five years next preceding his or her appointment. Not more than four
16 members shall be affiliated with the same political party. All members shall be appointed for
17 a term of four years. Each member of the board shall receive as compensation an amount set by
18 the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be
19 entitled to reimbursement of his or her expenses necessarily incurred in the discharge of his or
20 her official duties. The president of the Missouri State Medical Association, for all medical
21 physician appointments, or the president of the Missouri Association of Osteopathic Physicians
22 and Surgeons, for all osteopathic physician appointments, in office at the time shall, at least
23 ninety days prior to the expiration of the term of the respective board member, other than the
24 public member, or as soon as feasible after the appropriate vacancy on the board otherwise
25 occurs, submit to the director of the division of professional registration a list of five physicians
26 and surgeons qualified and willing to fill the vacancy in question, with the request and
27 recommendation that the governor appoint one of the five persons so listed, and with the list so
28 submitted, the president of the Missouri State Medical Association or the Missouri Association
29 of Osteopathic Physicians and Surgeons, as appropriate, shall include in his or her letter of
30 transmittal a description of the method by which the names were chosen by that association.

31 2. The public member shall be at the time of his or her appointment a citizen of the
32 United States; a resident of this state for a period of one year and a registered voter; a person who
33 is not and never was a member of any profession licensed or regulated pursuant to this chapter
34 or the spouse of such person; and a person who does not have and never has had a material,
35 financial interest in either the providing of the professional services regulated by this chapter,
36 or an activity or organization directly related to any profession licensed or regulated pursuant to
37 this chapter. All members, including public members, shall be chosen from lists submitted by
38 the director of the division of professional registration. The duties of the public member shall
39 not include the determination of the technical requirements to be met for licensure or whether
40 any person meets such technical requirements or of the technical competence or technical
41 judgment of a licensee or a candidate for licensure.

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. A person who has been employed as a physician
18 assistant for three years prior to August 28, 1989, who has passed the National Commission on
19 Certification of Physician Assistants examination, and has active certification of the National
20 Commission on Certification of Physician Assistants;
- 21 (7) "Recognition", the formal process of becoming a certifying entity as required by the
22 provisions of sections 334.735 to 334.749;
- 23 (8) "Supervision", control exercised over a physician assistant working within the same
24 [office] facility [of] **as the supervising physician sixty-six percent of the time a physician**
25 **assistant provides patient care**, except a physician assistant may make follow-up patient
26 examinations in hospitals, nursing homes, **patient homes**, and correctional facilities, each such
27 examination being reviewed, approved and signed by the supervising physician, **except as**
28 **provided by subsection 2 of this section. The supervising physician must be readily**
29 **available in person or via telecommunication during the time the physician assistant is**
30 **providing patient care.** The board shall promulgate rules pursuant to chapter 536, RSMo, for
31 [the proximity of practice between the physician assistant and the supervising physician and]
32 documentation of joint review of the physician assistant activity by the supervising physician and
33 the physician assistant. **The physician assistant shall be limited to practice at locations**
34 **where the supervising physician is no further than thirty miles by road using the most**
35 **direct route available, or in any other fashion so distanced as to create an impediment to**
36 **effective intervention and supervision of patient care or adequate review of services. Any**

37 other provisions of this chapter notwithstanding, for up to ninety days following the
38 effective date of rules promulgated by the board to establish the waiver process under
39 subsection 2 of this section, any physician assistant practicing in a health professional
40 shortage area as of April 1, 2007, shall be allowed to practice under the on-site
41 requirements stipulated by the supervising physician on the supervising physician form
42 that was in effect on April 1, 2007.

43 2. The board shall promulgate rules under chapter 536, RSMo, to direct the
44 advisory commission on physician assistants to establish a formal waiver mechanism by
45 which an individual physician-physician assistant team may apply for alternate minimum
46 amounts of on-site supervision and maximum distance from the supervising physician.
47 After review of an application for a waiver, the advisory commission on physician
48 assistants shall present its recommendation to the board for its advice and consent on the
49 approval or denial of the application. The rule shall establish a process by which the
50 public is invited to comment on the application for a waiver, and shall specify that a waiver
51 may only be granted if a supervising physician and physician assistant demonstrate to the
52 board's satisfaction in accordance with its uniformly applied criteria that:

53 (1) Adequate supervision will be provided by the physician for the physician
54 assistant, given the physician assistant's training and experience and the acuity of patient
55 conditions normally treated in the clinical setting;

56 (2) The physician assistant shall be limited to practice at locations where the
57 supervising physician is no further than fifty miles by road using the most direct route
58 available, or in any other fashion so distanced as to create an impediment to effective
59 intervention and supervision of patient care or adequate review of services;

60 (3) The community or communities served by the supervising physician and
61 physician assistant would experience reduced access to health care services in the absence
62 of a waiver; and

63 (4) The applicant will practice in an area designated at the time of application as
64 a health professional shortage area.

65 3. The scope of practice of a physician assistant shall consist only of the following
66 services and procedures:

67 (1) Taking patient histories;

68 (2) Performing physical examinations of a patient;

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

71 (4) Performing routine therapeutic procedures;

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

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

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

(8) Assisting in surgery;

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

(10) Physician assistants shall not perform abortions.

[3.] 4. Physician assistants shall not prescribe nor dispense any drug, medicine, device or therapy independent of consultation with the supervising physician, nor prescribe lenses, prisms or contact lenses for the aid, relief or correction of vision or the measurement of visual power or visual efficiency of the human eye, nor administer or monitor general or regional block anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a physician assistant supervision agreement which is specific to the clinical conditions treated by the supervising physician and the physician assistant shall be subject to the following:

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

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

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

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

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

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

[4.] 5. A physician assistant shall clearly identify himself or herself as a physician assistant and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out in any way to be a physician or surgeon.

No physician assistant shall practice or attempt to practice without physician supervision or in any location where the supervising physician is not immediately available for consultation, assistance and intervention, except **as otherwise provided in this section, and** in an emergency situation, nor shall any physician assistant bill a patient independently or directly for any services or procedure by the physician assistant.

[5.] **6.** For purposes of this section, the licensing of physician assistants shall take place within processes established by the state board of registration for the healing arts through rule and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536, RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees, and addressing such other matters as are necessary to protect the public and discipline the profession. An application for licensing may be denied or the license of a physician assistant may be suspended or revoked by the board in the same manner and for violation of the standards as set forth by section 334.100, or such other standards of conduct set by the board by rule or regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be required to be licensed as physician assistants. **All applicants for physician assistant licensure who complete a physician assistant training program after January 1, 2008, shall have a master's degree from a physician assistant program.**

[6.] **7.** "Physician assistant supervision agreement" means a written agreement, jointly agreed-upon protocols or standing order between a supervising physician and a physician assistant, which provides for the delegation of health care services from a supervising physician to a physician assistant and the review of such services.

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

[8.] **9.** At all times the physician is responsible for the oversight of the activities of, and accepts responsibility for, health care services rendered by the physician assistant.

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

11. No contract or other agreement shall require a physician to act as a supervising physician for a physician assistant against the physician's will. A physician shall have the right to refuse to act as a supervising physician, without penalty, for a particular physician

144 **assistant. No contract or other agreement shall limit the supervising physician's ultimate**
145 **authority over any protocols or standing orders or in the delegation of the physician's**
146 **authority to any physician assistant, but this requirement shall not authorize a physician**
147 **in implementing such protocols, standing orders, or delegation to violate applicable**
148 **standards for safe medical practice established by hospital's medical staff.**

149 **12. Physician assistants shall file with the board a copy of their supervising**
150 **physician form.**

151 **13. No physician shall be designated to serve as supervising physician for more than**
152 **three full-time equivalent licensed physician assistants. This limitation shall not apply to**
153 **physician assistant agreements of hospital employees providing inpatient care service in**
154 **hospitals as defined in chapter 197, RSMo.**

335.016. As used in this chapter, unless the context clearly requires otherwise, the
2 following words and terms mean:

3 (1) "Accredited", the official authorization or status granted by an agency for a program
4 through a voluntary process;

5 (2) "Advanced practice nurse", a nurse who has had education beyond the basic nursing
6 education and is certified by a nationally recognized professional organization as having a
7 nursing specialty, or who meets criteria for advanced practice nurses established by the board of
8 nursing. The board of nursing may promulgate rules specifying which professional nursing
9 organization certifications are to be recognized as advanced practice nurses, and may set
10 standards for education, training and experience required for those without such specialty
11 certification to become advanced practice nurses. Advanced practice nurses and only such
12 individuals may use the title "Advanced Practice Registered Nurse" and the abbreviation
13 "APRN";

14 (3) "Approval", official recognition of nursing education programs which meet standards
15 established by the board of nursing;

16 (4) "Board" or "state board", the state board of nursing;

17 (5) "Executive director", a qualified individual employed by the board as executive
18 secretary or otherwise to administer the provisions of this chapter under the board's direction.
19 Such person employed as executive director shall not be a member of the board;

20 (6) "Inactive nurse", as defined by rule pursuant to section 335.061;

21 (7) **"Lapsed license status", as defined by rule under section 335.061;**

22 (8) [A] "Licensed practical nurse" or "practical nurse", a person licensed pursuant to the
23 provisions of this chapter to engage in the practice of practical nursing;

24 [(8)] (9) "Licensure", the issuing of a license to practice professional or practical nursing
25 to candidates who have met the specified requirements and the recording of the names of those
26 persons as holders of a license to practice professional or practical nursing;

27 [(9)] (10) "Practical nursing", the performance for compensation of selected acts for the
28 promotion of health and in the care of persons who are ill, injured, or experiencing alterations
29 in normal health processes. Such performance requires substantial specialized skill, judgment
30 and knowledge. All such nursing care shall be given under the direction of a person licensed by
31 a state regulatory board to prescribe medications and treatments or under the direction of a
32 registered professional nurse. For the purposes of this chapter, the term "direction" shall mean
33 guidance or supervision provided by a person licensed by a state regulatory board to prescribe
34 medications and treatments or a registered professional nurse, including, but not limited to, oral,
35 written, or otherwise communicated orders or directives for patient care. When practical nursing
36 care is delivered pursuant to the direction of a person licensed by a state regulatory board to
37 prescribe medications and treatments or under the direction of a registered professional nurse,
38 such care may be delivered by a licensed practical nurse without direct physical oversight;

39 [(10)] (11) "Professional nursing", the performance for compensation of any act which
40 requires substantial specialized education, judgment and skill based on knowledge and
41 application of principles derived from the biological, physical, social and nursing sciences,
42 including, but not limited to:

43 (a) Responsibility for the teaching of health care and the prevention of illness to the
44 patient and his or her family;

45 (b) Assessment, nursing diagnosis, nursing care, and counsel of persons who are ill,
46 injured or experiencing alterations in normal health processes;

47 (c) The administration of medications and treatments as prescribed by a person licensed
48 by a state regulatory board to prescribe medications and treatments;

49 (d) The coordination and assistance in the delivery of a plan of health care with all
50 members of a health team;

51 (e) The teaching and supervision of other persons in the performance of any of the
52 foregoing;

53 [(11)] (12) A "registered professional nurse" or "registered nurse", a person licensed
54 pursuant to the provisions of this chapter to engage in the practice of professional nursing;

55 (13) "Retired license status", any person licensed in this state under this chapter
56 who retires from such practice. Such person shall file with the board an affidavit, on a
57 form to be furnished by the board, which states the date on which the licensee retired from
58 such practice, an intent to retire from the practice for at least two years, and such other
59 facts as tend to verify the retirement as the board may deem necessary; but if the licensee

60 **thereafter reengages in the practice, the licensee shall renew his or her license with the**
61 **board as provided by this chapter and by rule and regulation.**

335.036. 1. The board shall:

2 (1) Elect for a one-year term a president and a secretary, who shall also be treasurer, and
3 the board may appoint, employ and fix the compensation of a legal counsel and such board
4 personnel as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, as are
5 necessary to administer the provisions of sections 335.011 to 335.096;

6 (2) Adopt and revise such rules and regulations as may be necessary to enable it to carry
7 into effect the provisions of sections 335.011 to 335.096;

8 (3) Prescribe minimum standards for educational programs preparing persons for
9 licensure pursuant to the provisions of sections 335.011 to 335.096;

10 (4) Provide for surveys of such programs every five years and in addition at such times
11 as it may deem necessary;

12 (5) Designate as "approved" such programs as meet the requirements of sections 335.011
13 to 335.096 and the rules and regulations enacted pursuant to such sections; and the board shall
14 annually publish a list of such programs;

15 (6) Deny or withdraw approval from educational programs for failure to meet prescribed
16 minimum standards;

17 (7) Examine, license, and cause to be renewed the licenses of duly qualified applicants;

18 (8) Cause the prosecution of all persons violating provisions of sections 335.011 to
19 335.096, and may incur such necessary expenses therefor;

20 (9) Keep a record of all the proceedings; and make an annual report to the governor and
21 to the director of the department of economic development;

22 **(10) Establish an impaired nurse program.**

23 2. The board shall set the amount of the fees which this chapter authorizes and requires
24 by rules and regulations. The fees shall be set at a level to produce revenue which shall not
25 substantially exceed the cost and expense of administering this chapter.

26 3. All fees received by the board pursuant to the provisions of sections 335.011 to
27 335.096 shall be deposited in the state treasury and be placed to the credit of the state board of
28 nursing fund. All administrative costs and expenses of the board shall be paid from
29 appropriations made for those purposes.

30 4. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in
31 this fund shall not be transferred and placed to the credit of general revenue until the amount in
32 the fund at the end of the biennium exceeds two times the amount of the appropriation from the
33 board's funds for the preceding fiscal year or, if the board requires by rule, permit renewal less
34 frequently than yearly, then three times the appropriation from the board's funds for the preceding

35 fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which
36 exceeds the appropriate multiple of the appropriations from the board's funds for the preceding
37 fiscal year.

38 5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
39 is created under the authority delegated in this chapter shall become effective only if it complies
40 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
41 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and
42 effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity
43 of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable
44 provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the
45 powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
46 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
47 grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be
48 invalid and void.

335.066. 1. The board may refuse to issue **or reinstate** any certificate of registration or
2 authority, permit or license required pursuant to [sections 335.011 to 335.096] **chapter 335** for
3 one or any combination of causes stated in subsection 2 of this section **or the board may, as a**
4 **condition to issuing or reinstating any such permit or license, require a person to submit**
5 **himself or herself for identification, intervention, treatment, or rehabilitation by the**
6 **impaired nurse program as provided in section 335.067.** The board shall notify the applicant
7 in writing of the reasons for the refusal and shall advise the applicant of his or her right to file
8 a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

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

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

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

23 (3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of
24 registration or authority, permit or license issued pursuant to sections 335.011 to 335.096 or in
25 obtaining permission to take any examination given or required pursuant to sections 335.011 to
26 335.096;

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

29 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty
30 in the performance of the functions or duties of any profession licensed or regulated by sections
31 335.011 to 335.096;

32 (6) Violation of, or assisting or enabling any person to violate, any provision of sections
33 335.011 to 335.096, or of any lawful rule or regulation adopted pursuant to sections 335.011 to
34 335.096;

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

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

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

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

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

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

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

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

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

56 **(16) Failure to successfully complete the impaired nurse program.**

57 3. After the filing of such complaint, the proceedings shall be conducted in accordance
58 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing

59 commission that the grounds, provided in subsection 2 of this section, for disciplinary action are
60 met, the board may, singly or in combination, censure or place the person named in the complaint
61 on probation on such terms and conditions as the board deems appropriate for a period not to
62 exceed five years, or may suspend, for a period not to exceed three years, or revoke the license,
63 certificate, or permit.

64 **4. For any hearing before the full board, the board shall cause the notice of the**
65 **hearing to be served upon such licensee in person or by certified mail to the licensee at the**
66 **licensee's last known address. If service cannot be accomplished in person or by certified**
67 **mail, notice by publication as described in subsection 3 of section 506.160, RSMo, shall be**
68 **allowed; any representative of the board is authorized to act as a court or judge would in**
69 **that section; any employee of the board is authorized to act as a clerk would in that section.**

70 **5.** An individual whose license has been revoked shall wait one year from the date of
71 revocation to apply for relicensure. Relicensure shall be at the discretion of the board after
72 compliance with all the requirements of sections 335.011 to 335.096 relative to the licensing of
73 an applicant for the first time.

74 **[5.] 6.** The board may notify the proper licensing authority of any other state concerning
75 the final disciplinary action determined by the board on a license in which the person whose
76 license was suspended or revoked was also licensed of the suspension or revocation.

77 **[6.] 7.** Any person, organization, association or corporation who reports or provides
78 information to the board of nursing pursuant to the provisions of sections 335.011 to 335.259 and
79 who does so in good faith shall not be subject to an action for civil damages as a result thereof.

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

94 **9. If the administrative hearing commission grants temporary authority to the**
95 **board to restrict or suspend the nurse's license, such temporary authority of the board**
96 **shall become final authority if there is no request by the nurse for a full hearing within**
97 **thirty days of the preliminary hearing. The administrative hearing commission shall, if**
98 **requested by the nurse named in the complaint, set a date to hold a full hearing under the**
99 **provisions of chapter 621, RSMo, regarding the activities alleged in the initial complaint**
100 **filed by the board.**

101 **10. If the administrative hearing commission refuses to grant temporary authority**
102 **to the board or restrict or suspend the nurse's license under subsection 8 of this section,**
103 **such dismissal shall not bar the board from initiating a subsequent disciplinary action on**
104 **the same grounds.**

335.067. 1. The state board of nursing may establish an impaired nurse program
2 **to promote the early identification, intervention, treatment, and rehabilitation of nurses**
3 **who may be impaired by reasons of illness, substance abuse, or as a result of any mental**
4 **condition. This program shall be available to anyone holding a current license and may**
5 **be entered voluntarily, as part of an agreement with the board of nursing, or as a condition**
6 **of a disciplinary order entered by the board of nursing.**

7 **2. The board may enter into a contractual agreement with a nonprofit corporation**
8 **or a nursing association for the purpose of creating, supporting, and maintaining a**
9 **program to be designated as the impaired nurse program. The board may promulgate**
10 **administrative rules subject to the provisions of this section and chapter 536, RSMo, to**
11 **effectuate and implement any program formed pursuant to this section.**

12 **3. The board may expend appropriated funds necessary to provide for operational**
13 **expenses of the program formed pursuant to this section.**

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

20 **5. All information, interviews, reports, statements, memoranda, or other documents**
21 **furnished to or produced by the program, as well as communications to or from the**
22 **program, any findings, conclusions, interventions, treatment, rehabilitation, or other**
23 **proceedings of the program which in any way pertain to a licensee who may be, or who**
24 **actually is, impaired shall be privileged and confidential.**

25 **6. All records and proceedings of the program which pertain or refer to a licensee**
26 **who may be, or who actually is, impaired shall be privileged and confidential and shall be**
27 **used by the program and its members only in the exercise of the proper function of the**
28 **program and shall not be considered public records under chapter 610, RSMo, and shall**
29 **not be subject to court subpoena or subject to discovery or introduction as evidence in any**
30 **civil, criminal, or administrative proceedings except as provided in subsection 4 of this**
31 **section.**

32 **7. The program may disclose information relative to an impaired licensee only**
33 **when:**

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

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

38 **(3) A licensee has breached his or her contract with the program. In this instance,**
39 **the breach may be reported only to the board of nursing; or**

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

41 **8. When pursuing discipline against a licensed practical nurse, registered nurse, or**
42 **advanced practice registered nurse for violating one or more causes stated in subsection**
43 **2 of section 335.066, the board may, if the violation is related to chemical dependency or**
44 **mental health, require that the licensed practical nurse, registered nurse, or advanced**
45 **practice registered nurse complete the impaired nurse program under such terms and**
46 **conditions as are agreed to by the board and the licensee for a period not to exceed five**
47 **years. If the licensee violates a term or condition of an impaired nurse program agreement**
48 **entered into under this section, the board may elect to pursue discipline against the licensee**
49 **pursuant to chapter 621, RSMo, for the original conduct that resulted in the impaired**
50 **nurse program agreement, or for any subsequent violation of subsection 2 of section**
51 **335.066. While the licensee participates in the impaired nurse program, the time**
52 **limitations of section 620.154, RSMo, shall toll under subsection 7 of section 620.154,**
53 **RSMo. All records pertaining to the impaired nurse program agreements are confidential**
54 **and may only be released under subdivision (7) of subsection 14 of section 620.010, RSMo.**

55 **9. The board may disclose information and records to the impaired nurse program**
56 **to assist the program in the identification, intervention, treatment, and rehabilitation of**
57 **licensed practical nurses, registered nurses, or advanced practice registered nurses who**
58 **may be impaired by reason of illness, substance abuse, or as the result of any physical or**
59 **mental condition. The program shall keep all information and records provided by the**

60 **board confidential to the extent the board is required to treat the information and records**
61 **closed to the public under chapter 620, RSMo.**

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 action,
3 no documentation may appear on file or disciplinary action may be taken in regards to the
4 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 August 28, 1999,
11 by an individual incarcerated or under the care and control of the department of corrections that
12 did not result in the board filing an action pursuant to subsection 2 of section 335.066, the board
13 and the division of professional registration shall in a timely fashion:

14 (1) Destroy all documentation regarding the complaint;] **If the board determines that**
15 **a complaint does not constitute a violation of the nursing practice act or that the complaint**
16 **is unsubstantiated, then that complaint, and all documentation related to it, shall be**
17 **deemed a sealed record. If the administrative hearing commission or a court of competent**
18 **jurisdiction makes a finding that an action brought by the board does not constitute**
19 **sufficient grounds to discipline the license of a licensee, that complaint, and all**
20 **documentation related to it, shall be deemed a sealed record.**

21 2. For purposes of this section, a "sealed record" shall mean that the complaint to
22 which it refers shall be deemed to never have occurred. The licensee may properly reply
23 that no record exists with respect to such complaint upon any inquiry in the matter. A
24 sealed record shall not be disclosed or reported to any other state agency, other board of
25 nursing, or any other organization without express, written permission of the licensee.

26 3. Upon determination by the board that a complaint is not a violation of the
27 nursing practice act or that the complaint is unsubstantiated, or upon the conclusion of
28 litigation resulting in a finding of insufficient grounds to impose discipline upon a licensee's
29 license, the board and the division of professional registration shall, in a timely fashion:

30 [(2)] (1) Notify any other licensing board in another state or any national registry
31 regarding the board's action if they have been previously notified of the complaint; and

32 [(3)] (2) Send a letter to the licensee that clearly states that the board found the complaint
33 to be unsubstantiated[, that the board has taken the requested action,] **or that litigation resulted**
34 **in a finding that there are insufficient grounds to discipline the licensee's license, that the**

35 **board has sealed all records concerning the complaint**, and notify the licensee of the
36 provisions of subsection [3] **4** of this section.

37 [3.] **4.** Any person who has been the subject of an unsubstantiated complaint as provided
38 in subsection 1 [or 2] of this section shall not be required to disclose the existence of such
39 complaint in subsequent applications or representations relating to their nursing professions.

40 **5. Nothing contained in this section shall prevent the board of nursing from**
41 **maintaining such records as to ensure that all complaints received by the board are**
42 **properly investigated and reviewed by the board and the results of that investigation are**
43 **reported to the appropriate parties.**

335.076. 1. Any person who holds a license to practice professional nursing in this state
2 may use the title "Registered Professional Nurse" and the abbreviation "R.N.". No other person
3 [may] **shall** use the title "Registered Professional Nurse" or the abbreviation "R.N.". No other
4 person shall assume any title or use any abbreviation or any other words, letters, signs, or devices
5 to indicate that the person using the same is a registered professional nurse.

6 2. Any person who holds a license to practice practical nursing in this state may use the
7 title "Licensed Practical Nurse" and the abbreviation "L.P.N.". No other person [may] **shall** use
8 the title "Licensed Practical Nurse" or the abbreviation "L.P.N.". No other person shall assume
9 any title or use any abbreviation or any other words, letters, signs, or devices to indicate that the
10 person using the same is a licensed practical nurse.

11 3. **Any person who holds a license or recognition to practice advanced practice**
12 **nursing in this state may use the title "Advanced Practice Registered Nurse", and the**
13 **abbreviation "APRN", and any other title designations appearing on his or her license.**
14 **No other person shall use the title "Advanced Practice Registered Nurse" or the**
15 **abbreviation "APRN". No other person shall assume any title or use any abbreviation or**
16 **any other words, letters, signs, or devices to indicate that the person using the same is an**
17 **advanced practice registered nurse.**

18 4. No person shall practice or offer to practice professional nursing [or] , practical
19 nursing, **or advanced practice nursing** in this state [for compensation] or use any title, sign,
20 abbreviation, card, or device to indicate that such person is a practicing professional nurse [or]
21 , practical nurse, **or advanced practice nurse** unless he **or she** has been duly licensed under the
22 provisions of [sections 335.011 to 335.096] **this chapter.**

23 5. **In the interest of public safety and consumer awareness, it is unlawful for any**
24 **person to use the title "nurse" in reference to himself or herself in any capacity, except**
25 **individuals who are or have been licensed as a registered nurse, licensed practical nurse,**
26 **or advanced practice registered nurse under this chapter.**

335.096. Any person who violates any of the provisions of [sections 335.011 to 335.096]
2 **chapter 335** is guilty of a class [A misdemeanor] **D felony** and, upon conviction, shall be
3 punished as provided by law.

335.097. 1. The president or secretary of the board of nursing may administer oaths,
2 issue subpoenas duces tecum and require production of documents and records. Subpoenas
3 duces tecum shall be served by a person authorized to serve subpoenas of courts of record. In
4 lieu of requiring attendance of a person to produce original documents in response to a subpoena
5 duces tecum, the board may require sworn copies of such documents to be filed with it or
6 delivered to its designated representative.

7 2. The board may enforce its subpoenas duces tecum by applying to a circuit court of
8 Cole County, the county of the investigation, hearing or proceeding, or any county where the
9 person resides or may be found, for an order upon any person who shall fail to comply with a
10 subpoena duces tecum to show cause why such subpoena should not be enforced, which such
11 order and a copy of the application therefor shall be served upon the person in the same manner
12 as a summons in a civil action, and if the circuit court shall, after a hearing, determine that the
13 subpoena duces tecum should be sustained and enforced, such court shall proceed to enforce the
14 subpoena duces tecum in the same manner as though the subpoena duces tecum had been issued
15 in a civil case in the circuit court.

16 **3. Reports made to the board under the mandated reporting requirements as**
17 **defined in chapter 383, RSMo, shall not be deemed a violation of the federal health**
18 **insurance portability and accountability act (HIPAA) and the privacy rules located in the**
19 **act because the Missouri state board of nursing qualifies as a health oversight agency as**
20 **defined in the HIPAA privacy rules.**

336.010. [Any one or any combination of the following practices constitutes the
2 "practice of optometry":

3 (1) The examination of the human eye, without the use of drugs, medicines or surgery,
4 to ascertain the presence of defects or abnormal conditions which can be corrected by the use of
5 lenses, prisms or ocular exercises;

6 (2) The employment of objective or subjective mechanical means to determine the
7 accommodative or refractive states of the human eye or the range of power of vision of the
8 human eye;

9 (3) The prescription or adaptation without the use of drugs, medicines or surgery, of
10 lenses, prisms, or ocular exercises to correct defects or abnormal conditions of the human eye
11 or to adjust the human eye to the conditions of special occupation.] **1. The "practice of**
12 **optometry" is the examination, diagnosis, treatment, and preventative care of the eye,**
13 **adnexa, and vision. The practice includes, but is not limited to:**

- 14 (1) The examination of the eye, adnexa, and vision to determine the accommodative
15 and refractive states, visual perception, conditions, and diseases;
- 16 (2) The diagnosis and treatment of conditions or diseases of the eye, adnexa, and
17 vision;
- 18 (3) The performance of diagnostic procedures and ordering of laboratory and
19 imaging tests for the diagnosis of vision and conditions and diseases of the eye and adnexa;
- 20 (4) The prescription and administration of pharmaceutical agents, excluding
21 injectable agents, for the purpose of examination, diagnosis, and treatment of vision and
22 conditions or diseases of the eye and adnexa;
- 23 (5) The removal of superficial foreign bodies from the eye or adnexa;
- 24 (6) The employment of objective or subjective mechanical means to determine the
25 accommodative or refractive states of the human eye;
- 26 (7) The prescription or adaptation of lenses, prisms, devices, or ocular exercises to
27 correct defects or abnormal conditions of the human eye or vision or to adjust the human
28 eye to special conditions;
- 29 (8) The prescription and fitting of ophthalmic or contact lenses and devices;
- 30 (9) The prescription and administration of vision therapy; and
- 31 (10) The prescription and administration of low vision care.
- 32 2. An optometrist may not perform surgery, including the use of lasers for
33 treatment of any disease or condition or for the correction of refractive error.
- 34 3. As used in this chapter, except as the context may otherwise require, the
35 following terms mean:
- 36 (1) "Eye", the human eye;
- 37 (2) "Adnexa", all structures adjacent to the eye and the conjunctiva, lids, lashes,
38 and lacrimal system;
- 39 (3) "Board", the Missouri state board of optometry;
- 40 (4) "Diagnostic pharmaceutical agents", topically applied pharmaceuticals used for
41 the purpose of conducting an examination of the eye, adnexa, and vision;
- 42 (5) "Low vision care", the examination, treatment, and management of patients
43 with visual impairments not treatable by conventional eyewear or contact lenses and may
44 include a vision rehabilitation program to enhance remaining vision skills;
- 45 (6) "Pharmaceutical agents", any diagnostic and therapeutic drug or combination
46 of drugs that assist the diagnosis, prevention, treatment, or mitigation of abnormal
47 conditions or symptoms of the human eye, adnexa, and vision;

48 (7) "Therapeutic pharmaceutical agents", those pharmaceuticals, excluding
49 injectable agents, used for the treatment of conditions or diseases of the eye, adnexa, and
50 vision;

51 (8) "Vision therapy", a treatment regiment to improve a patient's diagnosed visual
52 dysfunctions, prevent the development of visual problems, or enhance visual performance
53 to meet the defined needs of the patient.

336.020. It shall be unlawful for any person to practice [optometry or] , to attempt to
2 practice [optometry], or to **offer to practice optometry, or to** be employed by [a] **any person,**
3 corporation, partnership, [or] association [for the purpose of practicing optometry] , **or other**
4 **entity that practice or attempts to practice** without a [certificate of registration] **license** as [a
5 registered] **an** optometrist issued by the [state] board [of optometry]. **Nothing in this section**
6 **shall be construed to prohibit a person licensed or registered under chapter 334, RSMo,**
7 **whose license is in good standing from acting within the scope of his or her practice or a**
8 **person licensed as an optometrist in any state to serve as an expert witness in a civil,**
9 **criminal, or administrative proceeding.**

336.030. **1.** A person is qualified to receive a [certificate of registration as a registered]
2 **license as an** optometrist:

3 (1) Who is at least twenty-one years of age;

4 (2) Who is of good moral character [and];

5 (3) Who has graduated from a **college or** school of optometry approved by the [state]
6 board [of optometry]; **and**

7 (4) Who has [passed a satisfactory examination conducted by or approved by the state
8 board of optometry to determine his fitness to receive a certificate of registration as a registered
9 optometrist] **met either of the following conditions:**

10 (a) **Has passed an examination satisfactory to, conducted by, or approved by the**
11 **board to determine his or her fitness to receive a license as an optometrist with**
12 **pharmaceutical certification and met the requirements of licensure as may be required by**
13 **rule and regulation; or**

14 (b) **Has been licensed and has practiced for at least three years in the five years**
15 **immediately preceding the date of application with pharmaceutical certification in another**
16 **state, territory, country, or province in which the requirements are substantially equivalent**
17 **to the requirements in this state and has satisfactorily completed any practical examination**
18 **or any examination on Missouri laws as may be required by rule and regulation.**

19 **2.** The board may adopt reasonable rules and regulations providing for the
20 examination and certification of optometrists who apply to the board for the authority to
21 practice optometry in this state.

336.040. Every person who desires to obtain a [certificate of registration] **license to practice optometry** shall apply [therefor] to the [state] board [of optometry], in writing, on [blanks] **forms** prepared and furnished by the [state] board [of optometry]. [Each] **The** application shall [contain proof of the particular] **state the required** qualifications [required] of the applicant, [shall contain a statement that it is] **that the representations are** made under oath or affirmation and [that its representations] are true and correct to the **applicant's** best knowledge [and belief of the person signing same], subject to the penalties of making a false affidavit or declaration and shall be accompanied by the examination fee.

336.050. The [state] board [of optometry] shall hold examinations of applicants for [certificates of registration as registered optometrists] **a license as an optometrist** at such times and places as it may determine. The examination of applicants for [certificates of registration as registered optometrists] **a license as an optometrist** may include both practical demonstrations and written and oral tests, and shall embrace the subjects normally taught in schools of optometry approved by the [state] board [of optometry].

336.060. Whenever the provisions of this chapter have been complied with, and upon payment of the [certificate] **license** fee, the [state] board [of optometry] shall issue a [certificate of registration as a registered optometrist] **license as an optometrist**.

336.070. Every holder of [a certificate of registration] **an optometry license** shall display [it] **the license** in a conspicuous place in his **or her** principal office, place of business or employment. Whenever a [registered] **licensed** optometrist practices optometry [outside of, or] away from[,] his **or her** principal office, [places of business or employment, he] **the licensee** shall [deliver to each patient in his care a certificate of identification or provide other identification as authorized by rule and regulation] **obtain a duplicate renewal license from the board and display it in clear view of the public**.

336.080. **1.** Every [registered] **licensed** optometrist who continues in active practice or service shall, on or before the renewal date, renew his [certificate of registration] **or her license** and pay the required renewal fee and present satisfactory evidence to the [state] board [of optometry] of his **or her** attendance for a minimum of [eight hours each year] **thirty-two hours of board-approved continuing education, or their equivalent** during the preceding [licensing period at educational optometric programs, or their equivalent, that have been approved by the board] **two-year continuing education reporting period as established by rule and regulation**. The [attendance or equivalent] **continuing education requirement** may be waived by the board upon presentation to it of satisfactory evidence of the illness of the optometrist or for other good cause as defined by rule and regulation. The board shall not reject any such application if approved programs are not available within the state of Missouri. Every

12 [certificate of registration] **license** which has not been renewed on or before the renewal date
13 shall expire.

14 **2.** Any registered optometrist who permits his [certificate] **or her license** to expire may
15 renew it within five years of expiration upon payment of the required [restoration] **reactivation**
16 fee and presentation of satisfactory evidence to the [state] board [of optometry] of his **or her**
17 attendance for a minimum of twenty-four hours **of board-approved continuing education, or**
18 **their equivalent**, during the five years [at educational programs, or their equivalent, that have
19 been approved by the board. The attendance or equivalent may be waived by the board upon
20 presentation to it of satisfactory evidence of the illness of the optometrist or for other good cause
21 as defined by rule and regulation].

336.140. 1. The board shall hold meetings for the examination of applicants for
2 registration and the transaction of other business pertaining to its duties at least once in six
3 months. [The board shall give thirty days' public notice of the time and place of this meeting.]
4 Each member of the board shall receive as compensation an amount set by the board not to
5 exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to
6 reimbursement of his expenses necessarily incurred in the discharge of his official duties. All
7 fees payable under this chapter shall be collected by the division of professional registration,
8 which shall transmit the same to the department of revenue for deposit in the state treasury to the
9 credit of a fund to be known as the "Optometry Fund". All costs and expenses incurred in
10 administering the provisions of this chapter shall be appropriated and paid from this fund.

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

336.160. 1. The [state] board [of optometry] may adopt reasonable rules and regulations
2 within the scope and terms of this chapter for the proper administration and enforcement thereof.
3 It may employ such board personnel, as defined in subdivision (4) of subsection 16 of section
4 620.010, RSMo, as it deems necessary within appropriations therefor.

5 2. The board shall set the amount of the fees which this chapter authorizes and requires
6 by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set
7 at a level to produce revenue which shall not substantially exceed the cost and expense of
8 administering this chapter.

336.220. 1. [The state board of optometry may adopt reasonable rules and regulations providing for the examination and certification of registered optometrists who apply to the board for authority to administer pharmaceutical agents in the practice of optometry. Such pharmaceutical agents may be "diagnostic pharmaceutical agents" or "therapeutic pharmaceutical agents". As used in this section, the term "diagnostic pharmaceutical agents" means those topically applied pharmaceuticals used for the purpose of conducting an examination upon the eye or adnexa, and the term "therapeutic pharmaceutical agents" means those pharmaceuticals, excluding injectable agents, used for the treatment of conditions or diseases of the eye or the adnexa.

2. No registered optometrist shall administer diagnostic pharmaceutical agents or therapeutic pharmaceutical agents in the practice of optometry unless such person submits to the state board of optometry evidence of satisfactory completion of: a course of instruction in general and ocular pharmacology; which includes at least one hundred hours of approved, supervised, clinical training in the examination, diagnosis and treatment of conditions of the human eye and adnexa in a program supervised by a board-certified ophthalmologist; and such other educational requirements or examination as may be required by the board, and is certified by the board as qualified to administer diagnostic pharmaceutical agents and therapeutic pharmaceutical agents in the practice of optometry. An optometrist may not be certified by the board to administer therapeutic pharmaceutical agents unless the optometrist is certified to administer diagnostic pharmaceutical agents. The board shall not approve a course of instruction in general or ocular pharmacology unless it is taught by an institution utilizing both the didactic and clinical instruction in pharmacology and which is accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education or its successors and the transcript for the course of instruction is certified to the board by the institution as being comparable in content to those courses in general and ocular pharmacology required by other licensing boards whose licenses or registrants are permitted the administration of pharmaceutical agents in the course of their professional practice for either diagnostic or therapeutic purposes or both.

3. In issuing a certificate of registration or a renewal of a certificate of registration, the state board of optometry shall:

(1) State upon the certificate of an optometrist certified by the board to administer diagnostic pharmaceutical agents in the practice of optometry that the optometrist is so certified; and

(2) State upon the certificate of an optometrist certified by the board to administer therapeutic pharmaceutical agents in the practice of optometry that the optometrist is so certified.

36 4. Any provision of section 336.010 to the contrary notwithstanding, a registered
37 optometrist who is examined and so certified by the state board of optometry in the
38 administration of diagnostic pharmaceutical agents or therapeutic pharmaceutical agents may
39 administer those agents for which he is certified in the practice of optometry. An optometrist's
40 prescriptions for therapeutic pharmaceutical agents should be dispensed by a pharmacist licensed
41 under chapter 338, RSMo. When therapeutic pharmaceutical agents are dispensed by an
42 optometrist the provisions of section 338.059, RSMo, shall apply.

43 5. An optometrist certified in the administration of therapeutic pharmaceutical agents
44 may:

45 (1) Administer and prescribe pharmaceutical agents, excluding injectable agents, for the
46 diagnosis and treatment of conditions or diseases of the eye or adnexa; and

47 (2) Perform diagnostic procedures and order laboratory and imaging tests for the
48 diagnosis of conditions or diseases of the eye or adnexa.

49 6. Each optometrist certified in the administration of therapeutic pharmaceutical agents
50 shall, within one year of August 28, 1995, complete a course of instruction approved by the
51 board that includes at least twenty-four hours of training in the treatment of glaucoma. The
52 board shall not approve a course of instruction in the treatment of glaucoma unless it is taught
53 by an institution that is accredited by a regional or professional accrediting organization that is
54 recognized by the United States Department of Education or its successor and the content for the
55 course of instruction is certified to the board by the institution as being comparable in the content
56 to those courses in the treatment of glaucoma required by other licensing boards whose licensees
57 or registrants are permitted to treat glaucoma in the course of their professional practice; except
58 that, any optometrist initially licensed in Missouri after December 31, 1990, who had previously
59 passed the examination of the National Board of Examiners in Optometry in the year 1990, or
60 anytime after such year, shall be exempt from the requirement of completing the course of
61 instruction in the treatment of glaucoma required by this subsection. Until December 31, 1999,
62 as a condition for the annual renewal of the certificate of registration, each optometrist certified
63 in the administration of therapeutic pharmaceutical agents shall, as a condition for the annual
64 renewal of certification through December 31, 1999, complete a continuing course of instruction
65 of at least six hours in the treatment of glaucoma as approved by the board; provided that, such
66 six hours may be credited against the initial course of at least twenty-four hours required by this
67 section and against the educational optometric program of at least eight hours required by section
68 336.080.

69 7. An optometrist certified by the board in the administration of therapeutic
70 pharmaceutical agents may remove superficial foreign bodies from the eye and adnexa. An
71 optometrist may not perform surgery, including the use of lasers for treatment of any disease or

72 condition or for the correction of refractive error. An optometrist certified to use pharmaceutical
73 agents as provided in this section shall be held to the same standard of care in the use of such
74 agents in the optometrist's diagnosis and treatment as are physicians, licensed by the Missouri
75 state board of registration for the healing arts, who exercise that degree of skill and proficiency
76 commonly exercised by ordinary, skillful, careful and prudent physicians and surgeons engaged
77 in the practice of medicine.

78 8. Any optometrist authorized by the board to administer diagnostic pharmaceutical
79 agents shall refer a patient to a physician licensed under chapter 334, RSMo, if an examination
80 of the eyes indicates a condition, including reduced visual acuity, which requires medical
81 treatment, further medical diagnosis, or further refraction. This referral is not required on known
82 or previously diagnosed conditions. The record of the referral in the optometrist's notes shall
83 have the standing of any business record. Any optometrist violating this section shall be subject
84 to the provisions of section 336.110.] **Notwithstanding the provisions of subsection 1 of**
85 **section 336.010, any optometrist who is not certified to use either diagnostic or therapeutic**
86 **pharmaceutical agents shall continue to be prohibited from administering, dispensing, or**
87 **prescribing the respective pharmaceutical agents unless the optometrist has completed an**
88 **approved course of study and has been certified by the board. Such status shall be noted**
89 **on the license at each renewal.**

90 2. Any optometrist authorized by the board to administer only diagnostic
91 pharmaceutical agents shall refer a patient to a physician licensed under chapter 334,
92 RSMo, if an examination of the eyes indicates a condition, including reduced visual acuity,
93 which requires medical treatment, further medical diagnosis, or further refraction. This
94 referral is not required on known or previously diagnosed conditions. The record of the
95 referral in the optometrist's notes shall have the standing of any business record. Any
96 optometrist violating this section shall be subject to the provisions of section 336.110.

97 3. An optometrist's prescriptions for therapeutic pharmaceutical agents shall be
98 dispensed by a pharmacist licensed under chapter 338, RSMo. When therapeutic
99 pharmaceutical agents are dispensed by an optometrist, the provisions of section 338.059,
100 RSMo, shall apply.

101 4. An optometrist certified to use pharmaceutical agents shall be held to the
102 standard of care in the use of pharmaceutical agents in the optometrist's diagnosis and
103 treatment as are physicians licensed by the Missouri State Board of Registration for the
104 Healing Arts, who exercise that degree of skill and learning ordinarily used under the same
105 or similar circumstances by physicians and surgeons engaged in the practice of medicine.

106 **5. The board may adopt reasonable rules and regulations providing for the**
107 **examination and certification of optometrists who apply to the board for authority to**
108 **administer and prescribe pharmaceutical agents in the practice of optometry.**

336.225. [Notwithstanding any other provision of law, any written or broadcast
2 advertising for eye exam services whether regional or national by any optical firm shall not be
3 required to list the name of the optometrist in the advertisement provided those optometrists
4 practicing under a trade name at a specific location shall be identified to any person by having
5 the optometrist's name prominently displayed at such specific location. All eye exam services
6 provided by any optical firm must be provided by a person in accordance with the provisions
7 contained in section 336.030.] **Any optometrist or any person, firm, or corporation**
8 **employing or associated with an optometrist may advertise the availability of optometric**
9 **service. The optometrist shall be responsible for ensuring that his or her name is**
10 **prominently displayed at all of his or her practice locations. All eye examination services**
11 **shall be provided by a person in accordance with the provisions of section 336.030.**

337.600. As used in sections 337.600 to 337.689, the following terms mean:

2 (1) **"Advanced macro social worker", the applications of social work theory,**
3 **knowledge, methods, principles, values, and ethics; and the professional use of self to**
4 **community and organizational systems, systemic and macrocosm issues, and other indirect**
5 **nonclinical services; specialized knowledge and advanced practice skills in case**
6 **management, information and referral, nonclinical assessments, counseling, outcome**
7 **evaluation, mediation, nonclinical supervision, nonclinical consultation, expert testimony,**
8 **education, outcome evaluation, research, advocacy, social planning and policy**
9 **development, community organization, and the development, implementation and**
10 **administration of policies, programs, and activities. A licensed advanced macro social**
11 **worker may not treat mental or emotional disorders or provide psychotherapy without the**
12 **direct supervision of a licensed clinical social worker; or diagnose a mental disorder;**

13 (2) **"Clinical social work", the application of social work theory, knowledge, values,**
14 **methods, principles, and techniques of case work, group work, client-centered advocacy,**
15 **[community organization,] administration, [planning, evaluation,] consultation, research,**
16 **psychotherapy and counseling methods and techniques to persons, families and groups in**
17 **assessment, diagnosis, treatment, prevention and amelioration of mental and emotional**
18 **conditions;**

19 (3) **"Committee", the state committee for social workers established in section**
20 **337.622;**

21 [(2)] (4) **"Department", the Missouri department of economic development;**

22 [(3)] (5) "Director", the director of the division of professional registration [in the
23 department of economic development];

24 [(4)] (6) "Division", the division of professional registration;

25 [(5)] (7) "Independent practice", any practice of social workers outside of an organized
26 setting such as a social, medical, or governmental agency in which a social worker assumes
27 responsibility and accountability for services required;

28 (8) **"Licensed advanced macro social worker", any person who offers to render**
29 **services to individuals, groups, families, couples, organizations, institutions, communities,**
30 **government agencies, corporations, or the general public for a fee, monetary or otherwise,**
31 **implying that the person is trained, experienced, and licensed as an advanced macro social**
32 **worker, and who holds a current valid license to practice as an advanced macro social**
33 **worker;**

34 (9) **"Licensed baccalaureate social worker", any person who offers to render**
35 **services to individuals, groups, organizations, institutions, corporations, government**
36 **agencies, or the general public for a fee, monetary or otherwise, implying that the person**
37 **is trained, experienced, and licensed as a baccalaureate social worker, and who holds a**
38 **current valid license to practice as a baccalaureate social worker;**

39 [(6)] (10) "Licensed clinical social worker", any person who offers to render services to
40 individuals, groups, organizations, institutions, corporations, government agencies, or the general
41 public for a fee, monetary or otherwise, implying that the person is trained, experienced, and
42 licensed as a clinical social worker, and who holds a current, valid license to practice as a clinical
43 social worker;

44 (11) **"Licensed master social worker", any person who offers to render services to**
45 **individuals, groups, families, couples, organizations, institutions, communities, government**
46 **agencies, corporations, or the general public for a fee, monetary or otherwise, implying**
47 **that the person is trained, experienced, and licensed as a master social worker, and who**
48 **holds a current valid license to practice as a master social worker. A licensed master social**
49 **worker may not treat mental or emotional disorders, provide psychotherapy without the**
50 **direct supervision of a licensed clinical social worker, or diagnose a mental disorder;**

51 (12) **"Master social work", the application of social work theory, knowledge,**
52 **methods, and ethics and the professional use of self to restore or enhance social,**
53 **psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups,**
54 **organizations, communities, institutions, government agencies, or corporations. The**
55 **practice includes the applications of specialized knowledge and advanced practice skills**
56 **in the areas of assessment, treatment planning, implementation and evaluation, case**
57 **management, mediation, information and referral, counseling, client education,**

58 supervision, consultation, education, research, advocacy, community organization and
59 development, planning, evaluation, implementation and administration of policies,
60 programs, and activities. Under supervision as provided in this section, the practice of
61 master social work may include the practices reserved to clinical social workers or
62 advanced macro social workers;

63 (13) "Practice of advanced macro social work", rendering, offering to render, or
64 supervising those who render to individuals, couples, families, groups, organizations,
65 institutions, corporations, government agencies, communities, or the general public any
66 service involving the application of methods, principles, and techniques of advanced
67 practice macro social work;

68 (14) "Practice of baccalaureate social work", rendering, offering to render, or
69 supervising those who render to individuals, families, groups, organizations, institutions,
70 corporations, or the general public any service involving the application of methods,
71 principles, and techniques of baccalaureate social work;

72 [(7)] (15) "Practice of clinical social work", rendering, offering to render, or supervising
73 those who render to individuals, couples, groups, organizations, institutions, corporations, or the
74 general public any service involving the application of methods, principles, and techniques of
75 clinical social work;

76 (16) "Practice of master social work", rendering, offering to render, or supervising
77 those who render to individuals, couples, families, groups, organizations, institutions,
78 corporations, government agencies, communities, or the general public any service
79 involving the application of methods, principles, and techniques of master social work;

80 [(8)] (17) "Provisional licensed clinical social worker", any person who is a graduate of
81 an accredited school of social work and meets all requirements of a licensed clinical social
82 worker, other than the supervised clinical social work experience prescribed by subdivision (2)
83 of subsection 1 of section 337.615, and who is supervised by a person who is qualified to
84 practice clinical social work, as defined by rule;

85 (18) "Qualified advanced macro supervisor", any licensed social worker who meets
86 the qualifications of a qualified clinical supervisor or a licensed advanced macro social
87 worker who has:

88 (a) Practiced in the field for which he or she is supervising the applicant for a
89 minimum uninterrupted period of five years;

90 (b) Has successfully completed a minimum of sixteen hours of supervisory training
91 from the Association of Social Work boards, the National Association of Social Workers,
92 an accredited university, or a program approved by the state committee for social workers;
93 and

94 (c) Met all the requirements as defined in rule by the state committee for social
95 workers;

96 (19) "Qualified baccalaureate supervisor", any licensed social worker who meets
97 the qualifications of a qualified clinical supervisor, qualified master supervisor, qualified
98 advanced macro supervisor, or a licensed baccalaureate social worker who has:

99 (a) Practiced in the field for which he or she is supervising the applicant for a
100 minimum uninterrupted period of five years;

101 (b) Has successfully completed a minimum of sixteen hours of supervisory training
102 from the Association of Social Work boards, the National Association of Social Workers,
103 an accredited university, or a program approved by the state committee for social workers;
104 and

105 (c) Met all the requirements as defined in rule by the state committee for social
106 workers;

107 (20) "Qualified clinical supervisor", any licensed clinical social worker who has:

108 (a) Practiced in the field for which he or she is supervising the applicant
109 uninterrupted since August 28, 2004, or a minimum of five years;

110 (b) Has successfully completed a minimum of sixteen hours of supervisory training
111 from the Association of Social Work boards, the National Association of Social Workers,
112 an accredited university, or a program approved by the state committee for social workers;
113 and

114 (c) Met all the requirements of sections 337.600 to 337.689, and as defined in rule
115 by the state committee for social workers;

116 [(9)] (21) "Social worker", any individual that has:

117 (a) Received a baccalaureate or master's degree in social work from an accredited social
118 work program approved by the council on social work education;

119 (b) Received a doctorate or Ph.D. in social work; or

120 (c) A current [baccalaureate or clinical] social worker license as set forth in sections
121 337.600 to 337.689.

337.603. No person shall use the title of "licensed clinical social worker", "clinical social
2 worker" or "provisional licensed clinical social worker" [and] , **or** engage in the practice of
3 clinical social work in this state, unless the person is licensed as required by the provisions of
4 sections 337.600 to [337.639] **337.689**. Only individuals who are licensed clinical social
5 workers shall practice clinical social work. Sections 337.600 to [337.639] **337.689** shall not
6 apply to:

7 (1) Any person registered, certificated, or licensed by this state, another state, or any
8 recognized national certification agent acceptable to the committee to practice any other

9 occupation or profession while rendering services similar in nature to clinical social work in the
10 performance of the occupation or profession which the person is registered, certificated, or
11 licensed; and

12 (2) The practice of any social worker who is employed by any agency or department of
13 the state of Missouri while discharging the person's duties in that capacity.

337.604. 1. No person shall hold himself or herself out to be a "social worker" unless
2 such person has:

3 (1) Received a baccalaureate or master's degree in social work from an accredited social
4 work program approved by the council on social work education;

5 (2) Received a doctorate or Ph.D. in social work; or

6 (3) A current [baccalaureate or clinical] social worker license as set forth in sections
7 337.600 to 337.689.

8 2. No government entities, public or private agencies or organizations in the state shall
9 use the title "social worker" or any form of the title for volunteer or employment positions or
10 within contracts for services, documents, manuals, or reference material effective January 1,
11 2004, unless the volunteers or employees in those positions meet the criteria set forth in
12 subdivision [(8)] (17) of section 337.600 or subsection 1 of this section.

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

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

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

18 4. The committee shall set the amount of the fees which sections 337.600 to [337.639]
19 **337.689** authorize and require by rules and regulations promulgated pursuant to section 536.021,

20 RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed
21 the cost and expense of administering the provisions of sections 337.600 to [337.639] **337.689**.
22 All fees provided for in sections 337.600 to [337.639] **337.689** shall be collected by the director
23 who shall deposit the same with the state treasurer in a fund to be known as the "Clinical Social
24 Workers Fund". **After August 28, 2007, the "Clinical Social Workers Fund" shall be called**
25 **the "Licensed Social Workers Fund" and after such date all references in state law to the**
26 **"Clinical Social Workers Fund" shall be considered references to the "Licensed Social**
27 **Workers Fund"**.

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

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,]
8 **"qualified clinical supervisor", as defined in section 337.600**, in no less than twenty-four
9 months and no more than forty-eight consecutive calendar months;

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

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. Any person holding a current license, certificate of registration, or permit from another
17 state or territory of the United States or the District of Columbia to practice clinical social work
18 who has had no disciplinary action taken against the license, certificate of registration, or permit
19 for the preceding five years may be granted a license to practice clinical social work in this state
20 if the person meets one of the following criteria:

21 (1) Has received a masters or doctoral degree from a college or university program of
22 social work accredited by the council of social work education and has been licensed to practice
23 clinical social work for the preceding five years; or

24 (2) Is currently licensed or certified as a clinical social worker in another state, territory
25 of the United States, or the District of Columbia having substantially the same requirements as
26 this state for clinical social workers.

27 3. The committee shall issue a license to each person who files an application and fee
28 as required by the provisions of sections 337.600 to [337.639] **337.689** and who furnishes
29 evidence satisfactory to the committee that the applicant has complied with the provisions of
30 subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2 of
31 this section. The committee shall issue a provisional clinical social worker license to any
32 applicant who meets all requirements of subdivisions (1), (3) and (4) of subsection 1 of this
33 section, but who has not completed the twenty-four months of supervised clinical experience
34 required by subdivision (2) of subsection 1 of this section, and such applicant may reapply for
35 licensure as a clinical social worker upon completion of the twenty-four months of supervised
36 clinical experience.

337.618. Each license issued pursuant to the provisions of sections 337.600 to [337.639]
2 **337.689** 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, **including a minimum of three hours in ethics presented by a social**
5 **worker with a degree** for renewal of a license issued pursuant to sections 337.600 to [337.639]
6 **337.689**. The committee shall renew any license, other than a provisional license, upon
7 application for a renewal, completion of the required continuing education hours and upon
8 payment of the fee established by the committee pursuant to the provisions of section 337.612.
9 As provided by rule, the board may waive or extend the time requirements for completion of
10 continuing education for reasons related to health, military service, foreign residency, or for other
11 good cause. All requests for waivers or extensions of time shall be made in writing and
12 submitted to the board before the renewal date.

337.622. 1. There is hereby established the "State Committee for Social Workers",
2 which shall guide, advise, and make recommendations to the division and fulfill other
3 responsibilities designated by sections 337.600 to [337.649 and sections 337.650 to] 337.689.
4 The committee shall approve any examination required by sections 337.600 to [337.649 and
5 sections 337.650 to] 337.689 and shall assist the division in carrying out the provisions of
6 sections 337.600 to [337.649 and sections 337.650 to] 337.689.

7 2. The committee shall consist of [nine] **eleven** members, including a public member
8 appointed by the governor with the advice and consent of the senate. Each member of the

9 committee shall be a citizen of the United States and a resident of this state. The committee shall
10 consist of six licensed clinical social workers, [two] **one licensed master social worker, one**
11 licensed baccalaureate social workers, **two licensed macro social workers**, and one voting
12 public member. At least two committee members shall be involved in the private practice of
13 clinical social work. [Any person who is a member of any clinical social worker advisory
14 committee appointed by the director of the division of professional registration shall be eligible
15 for appointment to the state committee for social work on August 28, 1997.] The governor shall
16 endeavor to appoint members from different geographic regions of the state and with regard to
17 the pattern of distribution of social workers in the state. The term of office for committee
18 members shall be four years and no committee member shall serve more than ten years. [Of the
19 members first appointed, the governor shall appoint three members, one of whom shall be the
20 public member, whose terms shall be four years; three members whose terms shall be three
21 years; two members whose terms shall be two years; and one member whose term shall be one
22 year.] The president of the National Association of Social Workers Missouri Chapter in office
23 at the time shall, at least ninety days prior to the expiration of a term of a member of a clinical
24 social worker, **master social worker, advanced macro social worker**, or baccalaureate social
25 worker committee member or as soon as feasible after a vacancy on the committee otherwise
26 occurs, submit to the director of the division of professional registration a list of five [clinical]
27 social workers qualified [or five baccalaureate social workers] and willing to fill the vacancy in
28 question, with the request and recommendation that the governor appoint one of the five persons
29 in each category so listed, and with the list so submitted, the president of the National
30 Association of Social Workers Missouri Chapter shall include in his or her letter of transmittal
31 a description of the method by which the names were chosen by that association.

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

34 4. Notwithstanding any other provision of law to the contrary, any appointed member
35 of the committee shall receive as compensation an amount established by the director of the
36 division of professional registration not to exceed seventy dollars per day for committee business
37 plus each member of the committee shall be reimbursed for necessary and actual expenses
38 incurred in the performance of the member's official duties. The director of the division of
39 professional registration shall establish by rule guidelines for payment. All staff for the
40 committee shall be provided by the division.

41 5. The committee shall hold an annual meeting at which it shall elect from its
42 membership a chairperson and a secretary. The committee may hold such additional meetings
43 as may be required in the performance of its duties, provided that notice of every meeting must

44 be given to each member at least three days prior to the date of the meeting. A quorum of the
45 board shall consist of a majority of its members.

46 6. The governor may remove a committee member for misconduct, incompetency or
47 neglect of the member's official duties after giving the committee member written notice of the
48 charges against such member and an opportunity to be heard thereon.

49 7. The public member shall be at the time of such member's appointment a citizen of the
50 United States; a resident of this state for a period of one year and a registered voter; a person who
51 is not and never was a member of any profession licensed or regulated pursuant to sections
52 337.600 to [337.649 or sections 337.650 to] 337.689, or the spouse of such person; and a person
53 who does not have and never has had a material, financial interest in either the providing of the
54 professional services regulated by sections 337.600 to [337.649 or sections 337.650 to] 337.689,
55 or an activity or organization directly related to any profession licensed or regulated pursuant to
56 sections 337.600 to [337.649] **337.689**. The duties of the public member shall not include the
57 determination of the technical requirements to be met for licensure or whether any person meets
58 such technical requirements or of the technical competence or technical judgment of a licensee
59 or a candidate for licensure.

337.627. 1. The committee shall promulgate rules and regulations pertaining to:

2 (1) The form and content of license applications required by the provisions of sections
3 337.600 to [337.639] **337.689** 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 337.600 to [337.639] **337.689**;

6 (3) The characteristics of "supervised clinical experience" [as that term is used in section
7 337.615], "**supervised master experience**", "**supervised advanced macro experience**", and
8 "**supervised baccalaureate experience**";

9 (4) The standards and methods to be used in assessing competency as a licensed clinical
10 social worker, **licensed master social worker, licensed advanced macro social worker, and**
11 **licensed baccalaureate social worker, including the requirement for continuing education**
12 **hours**;

13 (5) Establishment and promulgation of procedures for investigating, hearing and
14 determining grievances and violations occurring pursuant to the provisions of sections 337.600
15 to [337.639] **337.689**;

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

18 (7) Establishment of a policy and procedure for reciprocity with other states, including
19 states which do not have clinical, **master, advanced macro, or baccalaureate** social worker

20 licensing laws or states whose licensing laws are not substantially the same as those of this state;
21 and

22 (8) Any other policies or procedures necessary to the fulfillment of the requirements of
23 sections 337.600 to [337.639] **337.689**.

24 2. [No rule or portion of a rule promulgated pursuant to the authority of sections 337.600
25 to 337.639 shall become effective unless it has been promulgated pursuant to the provisions of
26 section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section**
27 **536.010, RSMo, that is created under the authority delegated in this section shall become**
28 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
29 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
30 **nonseverable and if any of the powers vested with the general assembly pursuant to**
31 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**
32 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
33 **rule proposed or adopted after August 28, 2007, shall be invalid and void.**

337.630. 1. The committee may refuse to issue or renew any license required by the
2 provisions of sections 337.600 to [337.639] **337.689** for one or any combination of causes stated
3 in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons
4 for the refusal and shall advise the applicant of the applicant's right to file a complaint with the
5 administrative hearing commission as provided by chapter 621, RSMo.

6 2. The committee 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 required by
8 sections 337.600 to [337.639] **337.689** or any person who has failed to renew or has surrendered
9 the person's license for any one or any combination of the following causes:

10 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic
11 beverage to an extent that such use impairs a person's ability to engage in the occupation of
12 [clinical] social work **licensed under this chapter**; except that the fact that a person has
13 undergone treatment for past substance or alcohol abuse and/or has participated in a recovery
14 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 pursuant to the laws of any state or of the United
17 States, for any offense reasonably related to the qualifications, functions or duties of a [clinical]
18 social worker **licensed under this chapter**; for any offense an essential element of which is
19 fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or
20 not sentence is imposed;

21 (3) Use of fraud, deception, misrepresentation or bribery in securing any license issued
22 pursuant to the provisions of sections 337.600 to [337.639] **337.689** or in obtaining permission

23 to take any examination given or required pursuant to the provisions of sections 337.600 to
24 [337.639] **337.689**;

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

27 (5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance
28 of the functions or duties of a [clinical] social worker licensed pursuant to this chapter;

29 (6) Violation of, or assisting or enabling any person to violate, any provision of sections
30 337.600 to [337.639] **337.689**, or of any lawful rule or regulation adopted pursuant to sections
31 337.600 to [337.639] **337.689**;

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

34 (8) Revocation or suspension of a license or other right to practice [clinical] social work
35 licensed pursuant to this chapter granted by another state, territory, federal agency or country
36 upon grounds for which revocation or suspension is authorized in this state;

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

38 (10) Assisting or enabling any person to practice or offer to practice [clinical] social
39 work licensed pursuant to this chapter who is not licensed and currently eligible to practice
40 pursuant to the provisions of sections 337.600 to [337.639] **337.689**;

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

42 (12) Failure to display a valid license if so required by sections 337.600 to [337.639]
43 **337.689** or any rule promulgated hereunder;

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

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

47 (15) Being guilty of unethical conduct as defined in the ethical standards for clinical
48 social workers adopted by the committee by rule and filed with the secretary of state.

49 3. Any person, organization, association or corporation who reports or provides
50 information to the committee pursuant to the provisions of sections 337.600 to [337.639]
51 **337.689** and who does so in good faith shall not be subject to an action for civil damages as a
52 result thereof.

53 4. 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 committee may censure or place the person named in the complaint on probation on
57 such terms and conditions as the committee deems appropriate for a period not to exceed five
58 years, or may suspend, for a period not to exceed three years, or revoke the license.

337.636. Persons licensed under the provisions of sections 337.600 to [337.639] **337.689**
2 may not disclose any information acquired from persons consulting them in their professional
3 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 an
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
13 pertaining 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.

**337.643. 1. No person shall use the title of licensed master social worker and engage
2 in the practice of master social work in this state unless the person is licensed as required
3 by the provisions of this section and section 337.644.**

4 **2. A licensed master social worker shall be deemed qualified to practice the
5 applications of social work theory, knowledge, methods and ethics and the professional use
6 of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of
7 individuals, couples, families, groups, organizations, and communities. Master social work
8 practice includes the applications of specialized knowledge and advanced practice skills
9 in the management, information and referral, counseling, supervision, consultation,
10 education, research, advocacy, community organization, and the development,
11 implementation, and administration of policies, programs, and activities. Under
12 supervision as provided in sections 337.600 to 337.689, the practice of master social work
13 may include the practices reserved to clinical social workers or advanced macro social
14 workers.**

**337.644. 1. Each applicant for licensure as a master social worker shall furnish
2 evidence to the committee that:**

3 (1) The applicant has a master's or doctorate degree in social work from an
4 accredited social work degree program approved by the council of social work education;
5 (2) The applicant has achieved a passing score, as defined by the committee, on an
6 examination approved by the committee. The eligibility requirements for such
7 examination shall be determined by the state committee for social workers;

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

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

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

15 2. Any applicant who answers in the affirmative to any question on the application
16 that relates to possible grounds for denial of licensure under section 337.630 shall submit
17 a sworn affidavit setting forth in detail the facts which explain such answer and copies of
18 appropriate documents related to such answer.

19 3. Any person holding a valid unrevoked and unexpired license, certificate, or
20 registration from another state or territory of the United States having substantially the
21 same requirements as this state for master social workers may be granted a license to
22 engage in the person's occupation in this state upon application to the committee
23 accompanied by the appropriate fee as established by the committee under section 337.612.

24 4. The committee shall issue a license to each person who files an application and
25 fee as required by the provisions of sections 337.600 to 337.689 and who furnishes evidence
26 satisfactory to the committee that the applicant has complied with the provisions of
27 subsection 1 of this section or with the provisions of subsection 3 of this section. The
28 license shall refer to the individual as a licensed master social worker and shall recognize
29 that individual's right to practice licensed master social work as defined in section 337.600.

337.645. 1. Each applicant for licensure as an advanced macro social worker shall
2 furnish evidence to the committee that:

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

6 (2) The applicant has completed three thousand hours of supervised advanced
7 macro experience with a "qualified advanced macro supervisor" as defined in section
8 337.600 in no less than twenty-four months and no more than forty-eight consecutive
9 calendar months;

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

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

16 2. Any person holding a current license, certificate of registration, or permit from
17 another state or territory of the United States or the District of Columbia to practice
18 advanced macro social work who has had no disciplinary action taken against the license,
19 certificate of registration, or permit for the preceding five years may be granted a license
20 to practice advanced macro social work in this state if the person meets one of the following
21 criteria:

22 (1) Has received a master's or doctoral degree from a college or university program
23 of social work accredited by the council of social work education and has been licensed to
24 practice advanced macro social work for the preceding five years; or

25 (2) Is currently licensed or certified as an advanced macro social worker in another
26 state, territory of the United States, or the District of Columbia having substantially the
27 same requirements as this state for advanced macro social workers.

28 3. The committee shall issue a license to each person who files an application and
29 fee as required by the provisions of sections 337.600 to 337.689 and who furnishes evidence
30 satisfactory to the committee that the applicant has complied with the provisions of
31 subdivisions (1) to (4) of subsection 1 of this section or with the provisions of subsection 2
32 of this section.

 337.646. 1. No person shall use the title of licensed advanced macro social worker
2 and engage in the practice of advanced macro social work in this state unless the person
3 is licensed as required by the provisions of section 337.645.

 337.653. 1. No person shall use the title of "licensed baccalaureate social worker" [or
2 "provisional licensed baccalaureate social worker"] and engage in the practice of baccalaureate
3 social work in this state unless the person is licensed as required by the provisions of sections
4 [337.650] 337.600 to 337.689.

5 2. A licensed baccalaureate social worker shall be deemed qualified to practice the
6 following:

7 (1) Engage in assessment and evaluation from a generalist perspective, excluding the
8 diagnosis and treatment of mental illness and emotional disorders;

9 (2) Conduct basic data gathering of records and social problems of individuals, groups,
10 families and communities, assess such data, and formulate and implement a plan to achieve
11 specific goals;

12 (3) Serve as an advocate for clients, families, groups or communities for the purpose of
13 achieving specific goals;

14 (4) Counsel, excluding psychotherapy; however, counseling shall be defined as providing
15 support, direction, and guidance to clients by assisting them in successfully solving complex
16 social problems;

17 (5) Perform crisis intervention, screening and resolution, excluding the use of
18 psychotherapeutic techniques;

19 (6) Be a community supporter, organizer, planner or administrator for a social service
20 program;

21 (7) Conduct crisis planning ranging from disaster relief planning for communities to
22 helping individuals prepare for the death or disability of family members;

23 (8) Inform and refer clients to other professional services;

24 (9) Perform case management and outreach, including but not limited to planning,
25 managing, directing or coordinating social services; and

26 (10) Engage in the training and education of social work students from an accredited
27 institution and supervise other licensed baccalaureate social workers.

28 3. [A] **If the licensed baccalaureate social worker has completed three thousand**
29 **hours of supervised baccalaureate experience with a qualified baccalaureate supervisor in**
30 **no less than twenty-four months and no more than forty-eight consecutive calendar**
31 **months, the** licensed baccalaureate social worker may engage in the independent practice of
32 baccalaureate social work as defined in [subdivision (6) of] section [337.650] **337.600** and
33 subdivisions (1) to (10) of subsection 2 of this section. **Upon demonstrating the successful**
34 **completion of supervised experience, the state committee for social workers shall provide**
35 **the licensee with a certificate clearly stating the individual's qualification to practice**
36 **independently with the words "independent practice" or "IP" next to his or her licensure.**

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

3 (1) The applicant has a baccalaureate degree in social work from an accredited social
4 work degree program approved by the council of social work education;

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

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

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

14 [(5)] (4) The applicant has submitted a written application on forms prescribed by the
15 state board;

16 [(6)] (5) The applicant has submitted the required licensing fee, as determined by the
17 division.

18 2. Any applicant who answers in the affirmative to any question on the application that
19 relates to possible grounds for denial of licensure pursuant to section [337.680] **337.630** shall
20 submit a sworn affidavit setting forth in detail the facts which explain such answer and copies
21 of appropriate documents related to such answer.

22 3. Any person holding a valid unrevoked and unexpired license, certificate or registration
23 from another state or territory of the United States having substantially the same requirements
24 as this state for baccalaureate social workers may be granted a license to engage in the person's
25 occupation in this state upon application to the committee accompanied by the appropriate fee
26 as established by the committee pursuant to section [337.662] **337.612**.

27 4. The committee shall issue a license to each person who files an application and fee
28 as required by the provisions of sections [337.650] **337.600** to 337.689 and who furnishes
29 evidence satisfactory to the committee that the applicant has complied with the provisions of
30 subsection 1 of this section or with the provisions of subsection 2 of this section. [The
31 committee shall issue a one-time provisional baccalaureate social worker license to any applicant
32 who meets all requirements of subdivisions (1), (2), (4), (5) and (6) of subsection 1 of this
33 section, but who has not completed the supervised baccalaureate experience required by
34 subdivision (3) of subsection 1 of this section, and such applicant may apply for licensure as a
35 baccalaureate social worker upon completion of the supervised baccalaureate experience.]

36 **5. The committee shall issue a certificate to practice independently under**
37 **subsection 3 of section 337.653 to any licensed baccalaureate social worker who has**
38 **satisfactorily completed three thousand hours of supervised experience with a qualified**
39 **baccalaureate supervisor in no less than twenty-four months and no more than forty-eight**
40 **consecutive calendar months.**

 337.689. Nothing in sections [337.650] **337.600** to 337.689 shall be construed to prohibit
2 any person licensed pursuant to the provisions of sections [337.650] **337.600** to 337.689 from
3 testifying in court hearings concerning matters of adoption, adult abuse, child abuse, child
4 neglect, or other matters pertaining to the welfare of children or any dependent person, or from
5 seeking collaboration or consultation with professional colleagues or administrative supervisors
6 on behalf of the client.

 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, **or the imposition of a civil penalty by the**
104 **commission not to exceed two thousand five hundred dollars for each offense. Each day**
105 **of a continued violation shall constitute a separate offense.**

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

110 5. Notwithstanding other provisions of this section, a broker or salesperson's license shall
111 be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has

112 pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the
113 following offenses or offenses of a similar nature established under the laws of this, any other
114 state, the United States, or any other country, notwithstanding whether sentence is imposed:

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

117 (2) Any of the following sexual offenses: rape, statutory rape in the first degree,
118 statutory rape in the second degree, sexual assault, forcible sodomy, statutory sodomy in the first
119 degree, statutory sodomy in the second degree, child molestation in the first degree, child
120 molestation in the second degree, deviate sexual assault, sexual misconduct involving a child,
121 sexual misconduct in the first degree, sexual abuse, enticement of a child, or attempting to entice
122 a child;

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

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

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

**339.200. 1. It shall be unlawful for any person not holding the required license
2 from the commission to perform any act for which a license is required by sections 339.010
3 to 339.180 and sections 339.710 to 339.860. The commission may cause a complaint to be
4 filed with the administrative hearing commission, as provided in chapter 621, RSMo,
5 against any unlicensed person who:**

6 (1) Engages in or offers to perform any act for which a license is required by
7 sections 339.010 to 339.180 and sections 339.710 to 339.860; or

8 (2) Uses or employs titles defined and protected by this chapter, or implies
9 authorization to provide or offer professional services, or otherwise uses or advertises any
10 title, word, figure, sign, card, advertisement, or other symbol or description tending to
11 convey the impression that the person holds any license required by sections 339.010 to
12 339.180 and sections 339.710 to 339.860.

13 2. When reviewing complaints against unlicensed persons, the commission may
14 initiate an investigation and take all measures necessary to find the facts of any potential
15 violation, including issuing subpoenas to compel the attendance and testimony of witnesses
16 and the disclosure of evidence.

17 3. If the commission files a complaint with the administrative hearing commission,
18 the proceedings shall be conducted in accordance with the provisions of chapter 621,
19 RSMo. Upon a finding by the administrative hearing commission that the grounds
20 provided in subsection 1 of this section for action are met, the commission may, either
21 singularly or in combination with other provisions of this chapter, impose a civil penalty
22 against the person named in the complaint in an amount not to exceed the limit authorized
23 by section 339.205.

 339.205. 1. In actions against unlicensed persons or disciplinary actions against
2 licensed persons, the commission may issue an order imposing a civil penalty. Such penalty
3 shall not be imposed until the findings of facts and conclusions of law by the administrative
4 hearing commission have been delivered to the commission in accordance with section
5 621.110, RSMo. Further, no civil penalty shall be assessed until a formal meeting and vote
6 by the board has been taken to impose such a penalty.

7 2. Any civil penalty imposed by the commission shall not exceed two thousand five
8 hundred dollars for each offense. Each day of a continued violation constitutes a separate
9 offense, with a maximum penalty of twenty-five thousand dollars. In determining the
10 amount of penalty to be imposed, the commission may consider any of the following:

- 11 (1) Whether the amount imposed will be a substantial deterrent to the violation;
12 (2) The circumstances leading to the violation;
13 (3) The severity of the violation and the risk of harm to the public;
14 (4) The economic benefits gained by the violator as a result of noncompliance; and
15 (5) The interest of the public.

16 3. Any final order imposing a civil penalty is subject to judicial review upon the
17 filing of a petition under section 536.100, RSMo, by any person subject to the penalty.

18 4. Payment of a civil penalty shall be made within sixty days of filing the order, or
19 if the order is stayed pending an appeal, within ten days after the court enters a final
20 judgment in favor of the commission. If the penalty is not timely paid, the commission

21 shall notify the attorney general. The attorney general may commence an action to recover
22 the amount of the penalty, including reasonable attorney fees and costs and a surcharge
23 of fifteen percent of the penalty plus ten percent per annum on any amounts owed. In such
24 action, the validity and appropriateness of the final order imposing the civil penalty shall
25 not be subject to review.

26 5. An action to enforce an order under this section may be joined with an action for
27 an injunction.

28 6. Any offer of settlement to resolve a civil penalty under this section shall be in
29 writing, state that an action for imposition of a civil penalty may be initiated by the
30 attorney general representing the commission under this section, and identify any dollar
31 amount as an offer of settlement, which shall be negotiated in good faith through
32 conference, conciliation, and persuasion.

33 7. Failure to pay a civil penalty by any person licensed under this chapter shall be
34 grounds for denying, disciplining or refusing to renew or reinstate a license or certificate
35 of authority.

36 8. Penalties collected under this section shall be handled in accordance with section
37 7 of article IX of the Missouri Constitution and shall be deposited in the state general
38 revenue fund. Such penalties shall not be considered a charitable contribution for tax
39 purposes.

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

2 (1) "Audiologist", a person who is licensed as an audiologist pursuant to sections
3 345.010 to 345.080 to practice audiology;

4 (2) "Audiology aide", a person who is registered as an audiology aide by the board, who
5 does not act independently but works under the direction and supervision of a licensed
6 audiologist. Such person assists the audiologist with activities which require an understanding
7 of audiology but do not require formal training in the relevant academics. To be eligible for
8 registration by the board, each applicant shall submit a registration fee, be of good moral and
9 ethical character; and:

10 (a) Be at least eighteen years of age;

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

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

14 b. On-the-job training;

15 (c) Be employed in a setting in which direct and indirect supervision are provided on a
16 regular and systematic basis by a licensed audiologist.

17 However, the aide shall not administer or interpret hearing screening or diagnostic tests, fit or
18 dispense hearing instruments, make ear impressions, make diagnostic statements, determine case
19 selection, present written reports to anyone other than the supervisor without the signature of the
20 supervisor, make referrals to other professionals or agencies, use a title other than
21 speech-language pathology aide or clinical audiology aide, develop or modify treatment plans,
22 discharge clients from treatment or terminate treatment, disclose clinical information, either
23 orally or in writing, to anyone other than the supervising speech-language
24 pathologist/audiologist, or perform any procedure for which he or she is not qualified, has not
25 been adequately trained or both;

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

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

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

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

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

38 (8) "Practice of audiology":
39

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

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

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

46 (d) Provides for establishing goals, implementing strategies, methods and techniques,
47 for habilitation, rehabilitation or aural rehabilitation, related to disorders of the auditory system,
48 balance system or related structures and systems;

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

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

- 52 (g) Provides and interprets behavioral and neurophysiologic measurements of auditory
53 balance, cognitive processing and related functions, including intraoperative monitoring;
- 54 (h) Provides involvement in any tasks, procedures, acts or practices that are necessary
55 for evaluation of audition, hearing, training in the use of amplification or assistive listening
56 devices;
- 57 (i) Provides selection [and] , assessment, **fitting, programming, and dispensing** of
58 hearing instruments, **assistive listening devices, and other amplification systems**;
- 59 (j) Provides for taking impressions of the ear, making custom ear molds, ear plugs, swim
60 molds and industrial noise protectors;
- 61 (k) Provides assessment of external ear and cerumen management;
- 62 (l) Provides advising, fitting, mapping assessment of implantable devices such as
63 cochlear or auditory brain stem devices;
- 64 (m) Provides information in noise control and hearing conservation including education,
65 equipment selection, equipment calibration, site evaluation and employee evaluation;
- 66 (n) Provides performing basic speech-language screening test;
- 67 (o) Provides involvement in social aspects of communication, including challenging
68 behavior and ineffective social skills, lack of communication opportunities;
- 69 (p) Provides support and training of family members and other communication partners
70 for the individual with auditory balance, cognitive and communication disorders;
- 71 (q) Provides aural rehabilitation and related services to individuals with hearing loss and
72 their families;
- 73 (r) Evaluates, collaborates and manages audition problems in the assessment of the
74 central auditory processing disorders and providing intervention for individuals with central
75 auditory processing disorders;
- 76 (s) Develops and manages academic and clinical problems in communication sciences
77 and disorders;
- 78 (t) Conducts, disseminates and applies research in communication sciences and
79 disorders;
- 80 (9) "Practice of speech-language pathology":
- 81 (a) Provides screening, identification, assessment, diagnosis, treatment, intervention,
82 including but not limited to prevention, restoration, amelioration and compensation, and
83 follow-up services for disorders of:
- 84 a. Speech: articulation, fluency, voice, including respiration, phonation and resonance;
- 85 b. Language, involving the parameters of phonology, morphology, syntax, semantics and
86 pragmatic; and including disorders of receptive and expressive communication in oral, written,
87 graphic and manual modalities;

- 88 c. Oral, pharyngeal, cervical esophageal and related functions, such as dysphagia,
89 including disorders of swallowing and oral functions for feeding; orofacial myofunctional
90 disorders;
- 91 d. Cognitive aspects of communication, including communication disability and other
92 functional disabilities associated with cognitive impairment;
- 93 e. Social aspects of communication, including challenging behavior, ineffective social
94 skills, lack of communication opportunities;
- 95 (b) Provides consultation and counseling and makes referrals when appropriate;
- 96 (c) Trains and supports family members and other communication partners of individuals
97 with speech, voice, language, communication and swallowing disabilities;
- 98 (d) Develops and establishes effective augmentative and alternative communication
99 techniques and strategies, including selecting, prescribing and dispensing of augmentative aids
100 and devices; and the training of individuals, their families and other communication partners in
101 their use;
- 102 (e) Selects, fits and establishes effective use of appropriate prosthetic/adaptive devices
103 for speaking and swallowing, such as tracheoesophageal valves, electrolarynges, or speaking
104 valves;
- 105 (f) Uses instrumental technology to diagnose and treat disorders of communication and
106 swallowing, such as videofluoroscopy, nasendoscopy, ultrasonography and stroboscopy;
- 107 (g) Provides aural rehabilitative and related counseling services to individuals with
108 hearing loss and to their families;
- 109 (h) Collaborates in the assessment of central auditory processing disorders in cases in
110 which there is evidence of speech, language or other cognitive communication disorders;
111 provides intervention for individuals with central auditory processing disorders;
- 112 (i) Conducts pure-tone air conduction hearing screening and screening tympanometry
113 for the purpose of the initial identification or referral;
- 114 (j) Enhances speech and language proficiency and communication effectiveness,
115 including but not limited to accent reduction, collaboration with teachers of English as a second
116 language and improvement of voice, performance and singing;
- 117 (k) Trains and supervises support personnel;
- 118 (l) Develops and manages academic and clinical programs in communication sciences
119 and disorders;
- 120 (m) Conducts, disseminates and applies research in communication sciences and
121 disorders;
- 122 (n) Measures outcomes of treatment and conducts continuous evaluation of the
123 effectiveness of practices and programs to improve and maintain quality of services;

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

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

133 (a) Be at least eighteen years of age;

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

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

137 b. On-the-job training;

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

148 (12) "Speech-language pathology assistant", a person who is registered as a
149 speech-language pathology assistant by the board, who does not act independently but works
150 under the direction and supervision of a licensed speech-language pathologist and whose
151 activities require both academic and practical training in the field of speech-language pathology
152 although less training than those established by sections 345.010 to 345.080 as necessary for
153 licensing as a speech-language pathologist. To be eligible for registration by the board, each
154 applicant shall submit the registration fee, be of good moral character and furnish evidence of
155 the person's educational qualifications which meet the following:

156 (a) Hold a bachelor's level degree in the field of speech-language pathology from an
157 institution accredited or approved by a regional accrediting body recognized by the United States
158 Department of Education or its equivalent; and

159 (b) Submit official transcripts from one or more accredited colleges or universities
160 presenting evidence of the completion of bachelor's level course work and clinical practicum
161 requirements equivalent to that required or approved by a regional accrediting body recognized
162 by the United States Department of Education or its equivalent.

345.030. 1. The board shall administer, coordinate, and enforce the provisions of
2 sections 345.010 to 345.080, evaluate the qualifications of applicants, supervise the examination
3 of applicants, issue licenses, and shall investigate persons engaging in practices which appear
4 to violate the provisions of sections 345.010 to 345.080.

5 2. The board shall conduct such hearings and keep such records and minutes as shall be
6 necessary to an orderly dispatch of business.

7 3. The board shall adopt reasonable rules and regulations which establish ethical
8 standards of practice and may amend or repeal the same. **Rules and regulations shall be**
9 **adopted that ensure consumer protection related to hearing instrument dispensing that**
10 **meet or exceed those provided under sections 346.007 to 346.250, RSMo, and rules and**
11 **regulations promulgated pursuant thereto.**

12 4. Regular meetings of the commission shall be held at such times and places as it
13 prescribes, and special meetings may be held upon the call of the chairperson or by request of
14 at least two other members of the commission, but at least one regular meeting shall be held each
15 year.

16 5. No rule or portion of a rule promulgated pursuant to the authority of sections 345.010
17 to 345.080 shall become effective unless it has been promulgated pursuant to the provisions of
18 chapter 536, RSMo.

345.033. 1. Any person licensed under sections 345.010 to 345.080 who dispenses
2 **products associated with professional practice to clients for remuneration shall deliver to**
3 **each person supplied with a product a completed purchase agreement which shall include**
4 **the terms of the sale clearly stated using ordinary English language and terminology which**
5 **is easily understood by the purchaser. If a product which is not new is sold, the purchase**
6 **agreement and the container thereof shall be clearly marked as "used", "recased", or**
7 **"reconditioned", whichever is applicable, with terms of guarantee, if any.**

8 2. Any audiologist licensed under sections 345.010 to 345.080 who dispenses hearing
9 instruments shall include in the purchase agreement for a hearing instrument the
10 following:

11 (1) The licensee's signature, business address, and license number;

12 (2) The specifications of the hearing instrument dispensed including make, model,
13 and serial number;

14 (3) The exact amount of any down payment;

- 15 **(4) The length of any trial period provided;**
16 **(5) The amount of any charges or service fees connected with any trial period;**
17 **(6) A description of the right of the purchaser to return the hearing instrument or**
18 **written notification that no such right exists;**
19 **(7) The name of the manufacturer of the component parts and the assembler or**
20 **reassembler of the hearing instrument when the product sold is remanufactured or**
21 **assembled by someone other than the manufacturer of the component parts.**

345.045. 1. Except as otherwise provided in this section, all moneys received
2 pursuant to sections 345.010 to 345.080 shall be collected by the division of professional
3 registration and shall be transmitted to the department of revenue for deposit in the state treasury
4 to the credit of the board of registration for the healing arts fund.

5 **2. Effective July 1, 2008, the board shall, in every odd numbered year, transfer**
6 **from the "Board of Registration for the Healing Arts Fund" to the "Hearing Instrument**
7 **Specialist Fund" an amount not to exceed sixty-one thousand dollars per transfer as**
8 **necessary to replace decreased renewal fees received by the board of examiners for hearing**
9 **instrument specialists as a result of the decrease in licensees under subsection 2 of section**
10 **346.060, RSMo. The initial transfer amount shall be equal to the license renewal fees paid**
11 **during fiscal years 2006 and 2007 by individuals licensed under subsection 2 of section**
12 **346.060, RSMo. The amount of subsequent transfers may decrease each odd numbered**
13 **year. Any decrease shall be no more than twenty-five percent of the initial transfer**
14 **amount. The transfer amount shall be requested through the legislative budget process by**
15 **the director of the division of professional registration, with the advice and consultation**
16 **of the board and the board of examiners for hearing instrument specialists.**

17 **3. Moneys collected and deposited under this section may be used to assist in the**
18 **enforcement of the statutes relating to the fitting and dispensing of hearing aids by**
19 **unlicensed individuals.**

345.055. 1. The board shall charge a license or registration renewal fee for each license
2 or registration renewed. Persons possessing the required training and qualifications to be
3 licensed or registered as both a speech-language pathologist and audiologist shall receive both
4 licenses, which for the purposes of this section shall be considered as a single license or
5 certificate. Duplicate licenses or certificates shall be issued without additional charge to persons
6 practicing in more than one location. Persons who allow their licenses to lapse shall submit a
7 reinstatement fee, and if the license has lapsed for more than a three-year period, the board may
8 require reexamination.

9 2. The fees prescribed by section 345.051 and this section shall be exclusive, and
10 notwithstanding any other provision of law, no municipality may require any person licensed

11 pursuant to the provisions of sections 345.010 to 345.080 to furnish any bond, pass any
12 examination, or pay any license fee or occupational tax.

13 3. The board shall set the amount of the fees which sections 345.010 to 345.080
14 authorize and require by rules and regulations promulgated pursuant to section 536.021, RSMo.
15 The fees shall be set at a level to produce:

16 (1) Revenue which shall not substantially exceed the cost and expense of administering
17 sections 345.010 to 345.080; **and**

18 (2) **Effective July 1, 2008, any transfer required from the board under subsection**
19 **2 of section 345.045.**

346.015. 1. No person shall engage in the practice of fitting hearing instruments or
2 display a sign or in any other way advertise or represent such person by any other words, letters,
3 abbreviations or insignia indicating or implying that the person practices the fitting of hearing
4 instruments unless the person holds a valid license issued by the division as provided in this
5 chapter. The license shall be conspicuously posted in the person's office or place of business.
6 Duplicate licenses shall be issued by the department to valid license holders operating more than
7 one office, without additional payment. A license under this chapter shall confer upon the holder
8 the right to select, fit and sell hearing instruments.

9 2. Each person licensed pursuant to sections 346.010 to 346.250 shall display the license
10 in an appropriate and public manner and shall keep the board informed of the licensee's current
11 address. A license issued pursuant to sections 346.010 to 346.250 is the property of the division
12 and must be surrendered on demand in the event of expiration or after a final determination is
13 made with respect to revocation, suspension or probation.

14 3. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or
15 other like organization maintaining an established business address from engaging in the
16 business of selling or offering for sale hearing instruments at retail, provided that it employ only
17 properly licensed hearing instrument specialists **or properly licensed audiologists** in the direct
18 sale and fitting of such instruments. Each corporation, partnership, trust, association or other like
19 organization shall file annually with the board on a form provided by the board, a list of all
20 licensed hearing instrument specialists employed by it. Each organization shall also file with the
21 division a statement, on a form provided by the division, that it agrees to comply with the rules
22 and regulations of the division and the provisions of **this chapter**.

23 4. Any person who violates any provision of this section is guilty of a class B
24 misdemeanor.

346.030. Sections 346.010 to 346.250 [are not intended to prevent] **shall not apply to**
2 any audiologist licensed pursuant to chapter 345, RSMo, [from engaging in the practice of
3 measuring human hearing for the purpose of selection of hearing aids, provided such audiologist,

4 or organization employing such audiologist, does not sell hearing instruments, or accessories
5 thereto, except in the case of earmolds provided by an audiologist to be used only for the purpose
6 of audiologic evaluation] **while practicing exclusively under that license.**

346.035. [1.] Sections 346.010 to 346.250 shall not apply to a person who is a physician
2 licensed to practice in Missouri pursuant to chapter 334, RSMo.

3 [2. Sections 346.010 to 346.250 shall not apply to an audiologist, provided such person
4 or organization employing such person does not engage in the sale of hearing aids.]

346.055. **1.** An applicant may obtain a license by successfully passing a qualifying
2 examination of the type described in sections 346.010 to 346.250, provided the applicant:

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

4 (2) Is of good moral character; **and**

5 (3) **Until December 31, 2008**, has an education equivalent to at least a high school
6 diploma from an accredited high school.

7 **2. Beginning January 1, 2009, an applicant for a hearing instrument specialist**
8 **license or a hearing instrument specialist-in-training permit shall demonstrate successful**
9 **completion of a minimum of sixty semester hours, or its equivalent, at a state or regionally**
10 **accredited institution of higher education.**

11 **3. Beginning January 1, 2011, an applicant for a hearing instrument specialist**
12 **license or a hearing instrument specialist-in-training permit shall hold an associate's level**
13 **degree or higher from a state or regionally accredited institution of higher education.**

14 **4. Beginning, January 1, 2013, or any date thereafter when an associate degree**
15 **program in hearing instrument sciences is available from a state or regionally accredited**
16 **institution within Missouri, an applicant for a hearing instrument specialist license or a**
17 **hearing instrument specialist-in-training permit shall hold:**

18 (1) **An associate's degree or higher in hearing instrument sciences; or**

19 (2) **A master's or doctoral degree in audiology from a state or regionally accredited**
20 **institution.**

21 **5. The provisions of subsections 2, 3, and 4 of this section shall not apply to any**
22 **person holding a valid Missouri hearing instrument specialist license under this chapter**
23 **when applying for the renewal of that license. These provisions shall apply to any person**
24 **holding a hearing instrument specialist-in-training permit at the time of their application**
25 **for licensure or renewal of said permit.**

346.060. [1.] An applicant for license by examination shall appear at a time, place, and
2 before such persons as the board may designate to be examined by means of written and practical
3 tests in order to demonstrate that the applicant is qualified to engage in the practice of fitting

4 hearing instruments. Nothing in this examination shall imply that the applicant shall possess the
5 degree of medical competence normally expected of physicians.

6 [2. Notwithstanding the provisions of subsection 1 of this section, any applicant who is
7 an audiologist licensed pursuant to chapter 345, RSMo, and who holds the certification of
8 clinical competence or is completing the clinical fellowship year offered by the American
9 Speech-Language-Hearing Association shall not be required to pass either the written exam or
10 the practical exam for licensure as a hearing instrument specialist in this state.]

346.110. No person shall:

2 (1) Sell through the mails, hearing instruments without prior fitting and testing by a
3 hearing instrument specialist **licensed under this chapter or an audiologist licensed under**
4 **chapter 345, RSMo;**

5 (2) Sell, barter, or offer to sell or barter a license;

6 (3) Purchase or procure by barter a license with intent to use it as evidence of the holder's
7 qualification to engage in the practice of fitting hearing instruments;

8 (4) Alter a license with fraudulent intent;

9 (5) Use or attempt to use as a valid license a license which has been purchased,
10 fraudulently obtained, counterfeited or materially altered;

11 (6) Willfully make a false statement in an application for license or application for
12 renewal of a license.

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

3 (1) "Disciplinary action", any final action taken by the board of trustees or similarly
4 empowered officials of a hospital or ambulatory surgical center, **or owner or operator of a**
5 **temporary nursing staffing agency,** to reprimand, discipline or restrict the practice of a health
6 care professional. [If the health care professional is a physician or surgeon,] Only such
7 reprimands, discipline, or restrictions in response to activities which are also grounds for
8 disciplinary actions [pursuant to section 334.100, RSMo,] **according to the professional**
9 **licensing law for that health care professional** shall be considered disciplinary actions for the
10 purposes of this definition[. If the health care professional is a dentist, only such reprimands,
11 discipline, or restrictions in response to activities which are also grounds for disciplinary actions
12 pursuant to section 332.321, RSMo, shall be considered disciplinary actions for the purposes of
13 this definition];

14 (2) "Health care professional", a physician or surgeon licensed under the provisions of
15 chapter 334, RSMo, a dentist licensed under the provisions of chapter 332, RSMo, or a podiatrist
16 licensed under the provisions of chapter 330, RSMo, or a pharmacist licensed under the
17 provisions of chapter 338, RSMo, a psychologist licensed under the provisions of chapter 337,

18 RSMo, or a nurse licensed under the provisions of chapter 335, RSMo, while acting within their
19 scope of practice;

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

27 (4) "Licensing authority", the appropriate board or authority which is responsible for the
28 licensing or regulation of the health care professional;

29 (5) **"Temporary nursing staffing agency", any person, firm, partnership, or**
30 **corporation doing business within the state that supplies, on a temporary basis, registered**
31 **nurses, licensed practical nurses to a hospital, nursing home, or other facility requiring the**
32 **services of those persons.**

383.133. 1. [Beginning on January 1, 1987,] The chief executive office **or similarly**
2 **empowered official** of any hospital [or] , ambulatory surgical center, as such [term is] **terms are**
3 defined in [section 197.200] **chapter 197**, RSMo, **or temporary nursing staffing agency**, shall
4 report to the appropriate health care professional licensing authority any disciplinary action
5 against any health care professional or the voluntary resignation of any health care professional
6 against whom any complaints or reports have been made which might have led to disciplinary
7 action.

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

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

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

13 (3) A [brief] description of the facts, **including as much detail and information as**
14 **possible**, which gave rise to the issuance of the report, including the dates of occurrence deemed
15 to necessitate the filing of the report;

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

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

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

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

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

31 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 physical therapist licensed under the provisions of chapter 334,**
5 **RSMo**, or a dentist licensed under the provisions of chapter 332, RSMo, or a podiatrist licensed
6 under the provisions of chapter 330, RSMo, or an optometrist licensed under the provisions of
7 chapter 336, RSMo, or a pharmacist licensed under the provisions of chapter 338, RSMo, or a
8 chiropractor licensed under the provisions of chapter 331, 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 emergency medical**
15 **dispatcher licensed or authorized under the provisions of chapter 190, RSMo**, while acting
16 within their scope 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:**

33 (a) **A licensed ambulance service;**

34 (b) **A licensed emergency medical response agency; or**

35 (c) **Any not-for-profit organization that provides or contracts for ambulance**
36 **services under authority granted to such not-for-profit organization by a city, county,**
37 **town, village, or ambulance district and of which a majority of the governing body of such**
38 **not-for-profit organization consists of elected officials or individuals appointed by a mayor,**
39 **board of aldermen, city council, county commission, county legislature, or ambulance**
40 **district;**

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

43 [(5)] (6) Appointed by the board of directors, chief executive officer or the medical
44 director of the licensed health maintenance organization;

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

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

57 4. Except as otherwise provided in this section, the interviews, memoranda, proceedings,
58 findings, deliberations, reports, and minutes of peer review committees, or the existence of the
59 same, concerning the health care provided any patient are privileged and shall not be subject to
60 discovery, subpoena, or other means of legal compulsion for their release to any person or entity

61 or be admissible into evidence in any judicial or administrative action for failure to provide
62 appropriate care. Except as otherwise provided in this section, no person who was in attendance
63 at any peer review committee proceeding shall be permitted or required to disclose any
64 information acquired in connection with or in the course of such proceeding, or to disclose any
65 opinion, recommendation, or evaluation of the committee or board, or any member thereof;
66 provided, however, that information otherwise discoverable or admissible from original sources
67 is not to be construed as immune from discovery or use in any proceeding merely because it was
68 presented during proceedings before a peer review committee nor is a member, employee, or
69 agent of such committee, or other person appearing before it, to be prevented from testifying as
70 to matters within his personal knowledge and in accordance with the other provisions of this
71 section, but such witness cannot be questioned about testimony or other proceedings before any
72 health care review committee or board or about opinions formed as a result of such committee
73 hearings. The disclosure of any interview, memoranda, proceedings, findings, deliberations,
74 reports, or minutes to any person or entity, including but not limited to governmental agencies,
75 professional accrediting agencies, or other health care providers, whether proper or improper,
76 shall not waive or have any effect upon its confidentiality, nondiscoverability, or
77 nonadmissibility.

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

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

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 **State** 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 Registration for the Healing Arts

17 Board of Nursing

18 Board of Optometry

19 Board of Pharmacy

20 Missouri Real Estate Commission

21 Missouri Veterinary Medical Board

22 Supervisor of Liquor Control

23 Department of Health and Senior Services

24 Department of Insurance

25 Department of Mental Health

26 **Board of Private Investigator Examiners.**

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. **The administrative hearing commission is authorized to conduct hearings and**
31 **make findings of fact and conclusions of law in those cases brought by the Missouri state**
32 **board for architects, professional engineers, professional land surveyors and landscape**
33 **architects against unlicensed persons under section 327.076, RSMo.**

34 4. Notwithstanding any other provision of this section to the contrary, after August 28,
35 1995, in order to encourage settlement of disputes between any agency described in subsection
36 1 or 2 of this section and its licensees, any such agency shall:

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

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

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

49 (4) In any contact [pursuant to] **under** this subsection by the agency or its counsel with
50 a licensee who is not represented by counsel, advise the licensee that the licensee has the right
51 to consult an attorney at the licensee's own expense.

52 [4.] **5.** If the licensee desires review by the administrative hearing commission [pursuant
53 to] **under** subdivision (3) of subsection [3] **4** of this section at any time prior to the settlement
54 becoming final, the licensee may rescind and withdraw from the settlement and any admissions
55 of fact or law in the agreement shall be deemed withdrawn and not admissible for any purposes
56 under the law against the licensee. Any settlement submitted to the administrative hearing
57 commission shall not be effective and final unless and until findings of fact and conclusions of
58 law are entered by the administrative hearing commission that the facts agreed to by the parties
59 to the settlement constitute grounds for denying or disciplining the license of the licensee.

2 [327.111. Any person who practices architecture in Missouri as defined
3 in section 327.091, who is not exempt pursuant to the provisions of section
4 327.101, or who is not the holder of a currently valid license or certificate of
5 authority to practice architecture in Missouri, or who pretends or attempts to use
6 as such person's own the license or certificate of authority or the seal of another
7 architect or who affixes his or her or another's architect's seal on any plans,
8 specifications, drawings, or reports which have not been prepared by such person
9 or under such person's immediate personal supervision, is guilty of a class A
10 misdemeanor.]

2 [327.201. Any person who practices professional engineering in Missouri
3 as defined in section 327.181, who is not exempt pursuant to the provisions of
4 section 327.191 and who is not the holder of a currently valid license or
5 certificate of authority to practice professional engineering in Missouri, or who
6 pretends or attempts to use as such person's own the license or certificate of
7 authority or the seal of another professional engineer, or who affixes such
8 person's or another professional engineer's seal on any plans, specifications,
9 drawings or reports which have not been prepared by such person or under such
10 person's immediate personal supervision is guilty of a class A misdemeanor.]

2 [327.291. Any person who practices as a professional land surveyor in
3 Missouri as defined in section 327.272, who is not a holder of a currently valid
4 license or certificate of authority to practice professional land surveying in
5 Missouri, or who pretends or attempts to use as such person's own the license or
6 certificate of authority or the seal of another professional land surveyor or who
7 affixes such person's or another professional land surveyor's seal on any map,
8 plat, survey or other document which has not been prepared by such person or
9 under such person's immediate personal supervision is guilty of a class A
10 misdemeanor.]

2 [327.633. Any person violating any of the provisions of sections 327.600
3 to 327.635 is deemed guilty of a class A misdemeanor.]

2 [336.090. 1. Upon payment of a fee equivalent to the examination and
3 certificate fees, an applicant who is an optometrist, registered or licensed under
4 the laws of another state or territory of the United States, or of a foreign country
5 or province shall, without examination, be granted a certificate of registration as
6 a registered optometrist by the state board of optometry upon the following
7 conditions:

8 (1) That the applicant is at least twenty-one years of age, of good moral
9 character; and

10 (2) That the requirements for the registration or licensing of optometrists
11 in the particular state, territory, country or province, were, at the date of the
12 license, substantially equal to the requirements then in force in this state.

13 2. The board may by rule and regulation require applicants under this
14 section to satisfactorily complete any practical examination or any examination
15 on Missouri laws required pursuant to section 336.050.]

2 [336.200. Any person, firm or corporation employing a registered
3 optometrist may advertise the availability of optometric service, provided that the
4 names of the registered optometrists providing such service are included in all
5 printed advertisements. The violation of any provision of this section shall
6 constitute an infraction, punishable upon conviction, by a fine of not less than
7 twenty-five dollars nor more than two hundred dollars.]

2 [337.606. For a period of twenty-four months from July 1, 1990,
3 applicants for licensure shall be exempted from the academic requirements of
4 sections 337.600 to 337.639 if the committee is satisfied that the applicant has
5 acceptable educational qualifications, or social work experience, or is currently
6 engaged in the practice of clinical social work. After that time no person shall
7 engage in clinical social work practice for compensation or hold himself or
8 herself out as a licensed clinical social worker unless the person is licensed in
accordance with the provisions of sections 337.600 to 337.639.]

[337.609. No provision of sections 337.600 to 337.639 shall be construed to require any agency, corporation, or organization, not otherwise required by law, to employ licensed clinical social workers.]

[337.624. 1. No part of this section or of chapter 354 or 375, RSMo, shall be construed to mandate benefits or third-party reimbursement for services of social workers in the policies or contracts of any insurance company, health services corporation, or other third-party payer.

2. This section shall not be construed to effect procedures for billing for social work services provided by agencies, corporations, or organizations which employ licensed social workers.]

[337.639. Nothing in sections 337.600 to 337.639 shall be construed to prohibit any person licensed under the provisions of sections 337.600 to 337.639 from testifying in court hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of children or any dependent person, or from seeking collaboration or consultation with professional colleagues or administrative supervisors on behalf of the client.]

[337.650. As used in sections 337.650 to 337.689, the following terms mean:

(1) "Committee", the state committee for social work established in section 337.622;

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

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

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

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

(6) "Practice of baccalaureate social work", rendering, offering to render or supervising those who render to individuals, families, groups, organizations, institutions, corporations or the general public any service involving the application of methods, principles, and techniques of baccalaureate social work;

(7) "Provisional licensed baccalaureate social worker", any person who is a graduate of an accredited school of social work and meets all requirements of a licensed baccalaureate social worker, other than the supervised baccalaureate social work experience prescribed by subdivision (3) of subsection 1 of section 337.665, and who is supervised by a licensed clinical social worker or a licensed baccalaureate social worker, as defined by rule.]

[337.659. No provision of sections 337.650 to 337.689 shall be construed to require any agency, corporation or organization, not otherwise required by law, to employ licensed baccalaureate social workers.]

[337.668. The term of each license issued pursuant to the provisions of sections 337.650 to 337.689 shall be no less than twenty-four and no more than forty-eight consecutive calendar months. All licensees shall annually complete fifteen hours of continuing education units. The committee shall renew any license, other than a provisional license, upon application for a renewal, submission of documentation of the completion of the required annual hours of continuing education and payment of the fee established by the committee pursuant to the provisions of section 337.662.]

[337.674. No part of this section or of chapter 354 or 375, RSMo, shall be construed to mandate benefits or third-party reimbursement for services of social workers in the policies or contracts of any insurance company, health services corporation, or other third-party payer.]

[337.677. 1. The committee shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.650 to 337.689 and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.650 to 337.689;

(3) The characteristics of "supervised baccalaureate experience" as that term is used in section 337.665;

(4) The standards and methods to be used in assessing competency as a licensed baccalaureate social worker, including the requirement for annual continuing education units;

(5) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring pursuant to the provisions of sections 337.650 to 337.689;

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

(7) Establishment of a policy and procedure for reciprocity with other states, including states which do not have baccalaureate or clinical social worker licensing laws or states whose licensing laws are not substantially the same as those of this state; and

(8) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.650 to 337.689.

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 337.650 to

337.689 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.]

[337.680. 1. The committee may refuse to issue or renew any license required by the provisions of sections 337.650 to 337.689 for one or any combination of causes stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 337.650 to 337.689 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of baccalaureate social work; except that the fact that a person has undergone treatment for past substance or alcohol abuse and/or has participated in a recovery program shall not by itself be cause for refusal to issue or renew a license;

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

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of sections 337.650 to 337.689 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 337.650 to 337.689;

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

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a baccalaureate social worker;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.650 to 337.689, or of any lawful rule or regulation adopted pursuant to sections 337.650 to 337.689;

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

(8) Revocation or suspension of a license or other right to practice baccalaureate social work granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

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

(10) Assisting or enabling any person to practice or offer to practice baccalaureate social work who is not licensed and currently eligible to practice pursuant to the provisions of sections 337.650 to 337.689;

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

(12) Failure to display a valid license if so required by sections 337.650 to 337.689 or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

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

(15) Being guilty of unethical conduct based on the code of ethics of the National Association of Social Workers.

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 337.650 to 337.689 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

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

[337.686. Persons licensed pursuant to the provisions of sections 337.650 to 337.689 may not disclose any information acquired from persons consulting them in their professional capacity, or be compelled to disclose such information except:

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

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

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

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

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

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

Section B. The repeal and reenactment of sections 317.001, 317.006, 317.011, 317.013,
2 317.015, and 317.018, and the enactment of section 317.019 of section A of this act shall become
3 effective on July 1, 2008.

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