

**HOUSE****AMENDMENT NO. \_\_\_\_\_****Offered by \_\_\_\_\_****of \_\_\_\_\_**

1 AMEND House Committee Substitute for Senate Committee Substitute  
2 for Senate Bill No. 29, Pages 5 and 6, Section 324.043, Lines 1  
3 to 37, by deleting all of said lines and inserting in lieu  
4 thereof the following:

5 "324.043. 1. Except as provided in this section, no  
6 disciplinary proceeding against any person or entity licensed,  
7 registered, or certified to practice a profession within the  
8 division of professional registration shall be initiated unless  
9 such action is commenced within three years of the date upon  
10 which the licensing, registering, or certifying agency received  
11 notice of an alleged violation of an applicable statute or  
12 regulation.

13 2. For the purpose of this section, notice shall be limited  
14 to:

15 (1) A written complaint;

16 (2) Notice of final disposition of a malpractice claim,  
17 including exhaustion of all extraordinary remedies and appeals;

18 (3) Notice of exhaustion of all extraordinary remedies and  
19 appeals of a conviction based upon a criminal statute of this  
20 state, any other state, or the federal government;

21 (4) Notice of exhaustion of all extraordinary remedies and  
22 appeals in a disciplinary action by a hospital, state licensing,  
23 registering or certifying agency, or an agency of the federal  
24 government.

25 3. For the purposes of this section, an action is commenced  
26 when a complaint is filed by the agency with the administrative  
27 hearing commission, any other appropriate agency, or in a court;  
28 or when a complaint is filed by the agency's legal counsel with  
29 the agency in respect to an automatic revocation or a probation

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Action Taken \_\_\_\_\_ Date \_\_\_\_\_

1 violation.

2 4. Disciplinary proceedings based upon repeated negligence  
3 shall be exempt from all limitations set forth in this section.

4 5. Disciplinary proceedings based upon a complaint  
5 involving sexual misconduct shall be exempt from all limitations  
6 set forth in this section.

7 6. Any time limitation provided in this section shall be  
8 tolled:

9 (1) During any time the accused licensee, registrant, or  
10 certificant is practicing exclusively outside the state of  
11 Missouri or residing outside the state of Missouri and not  
12 practicing in Missouri;

13 (2) As to an individual complainant, during the time when  
14 such complainant is less than eighteen years of age;

15 (3) During any time the accused licensee, registrant, or  
16 certificant maintains legal action against the agency; or

17 (4) When a settlement agreement is offered to the accused  
18 licensee, registrant, or certificant, in an attempt to settle  
19 such disciplinary matter without formal proceeding pursuant to  
20 section 621.045 until the accused licensee, registrant, or  
21 certificant rejects or accepts the settlement agreement.

22 7. The licensing agency may, in its discretion, toll any  
23 time limitation when the accused applicant, licensee, registrant,  
24 or certificant enters into and participates in a treatment  
25 program for chemical dependency or mental impairment."; and

26 Further amend said bill, Page 6, Section 324.045, Lines 1 to  
27 17, by deleting all of said lines and inserting in lieu thereof  
28 the following:

29 "324.045. 1. Notwithstanding any provision of chapter 536,  
30 in any proceeding initiated by the division of professional  
31 registration or any board, committee, commission, or office  
32 within the division of professional registration to determine the  
33 appropriate level of discipline or additional discipline, if any,  
34 against a licensee of the board, committee, commission, or office  
35 within the division, if the licensee against whom the proceeding  
36 has been initiated upon a properly pled writing filed to initiate  
37 the contested case and upon proper notice fails to plead or

1 otherwise defend against the proceeding, the board, commission,  
2 committee, or office within the division shall enter a default  
3 decision against the licensee without further proceedings. The  
4 terms of the default decision shall not exceed the terms of  
5 discipline authorized by law for the division, board, commission,  
6 or committee. The division, office, board, commission, or  
7 committee shall provide the licensee notice of the default  
8 decision in writing.

9 2. Upon motion stating facts constituting a meritorious  
10 defense and for good cause shown, a default decision may be set  
11 aside. The motion shall be made within a reasonable time, not to  
12 exceed thirty days after entry of the default decision. "Good  
13 cause" includes a mistake or conduct that is not intentionally or  
14 recklessly designed to impede the administrative process."; and

15 Further amend said bill, Pages 7 and 8, Section 334.001,  
16 Lines 1 to 36, by deleting all of said lines and inserting in  
17 lieu thereof the following:

18 "334.001. 1. Notwithstanding any other provision of law to  
19 the contrary, the following information is an open record and  
20 shall be released upon request of any person and may be published  
21 on the board's website:

22 (1) The name of a licensee or applicant;

23 (2) The licensee's business address;

24 (3) Registration type;

25 (4) Currency of the license, certificate, or registration;

26 (5) Professional schools attended;

27 (6) Degrees and certifications, including certification by  
28 the American Board of Medical Specialties, the American  
29 Osteopathic Association, or other certifying agency approved by  
30 the board by rule;

31 (7) To the extent provided to the board after August 28,  
32 2011, discipline by another state or administrative agency;

33 (8) Limitations on practice placed by a court of competent  
34 jurisdiction;

35 (9) Any final discipline by the board, including the  
36 content of the settlement agreement or order issued; and

37 (10) Whether a discipline case brought by the board is

1 pending in the administrative hearing commission or any court.

2 2. All other information pertaining to a licensee or  
3 applicant not specifically denominated an open record in  
4 subsection 1 of this section is a closed record and confidential.

5 3. The board shall disclose confidential information  
6 without charge or fee upon written request of the licensee or  
7 applicant if the information is less than five years old. If the  
8 information requested is more than five years old, the board may  
9 charge a fee equivalent to the fee specified by regulation.

10 4. At its discretion, the board may disclose confidential  
11 information, without the consent of the licensee or applicant, to  
12 a licensee or applicant for a license in order to further a board  
13 investigation or to facilitate settlement negotiations with the  
14 board, in the course of voluntary exchange of information with  
15 another state's licensing authority, pursuant to a court order,  
16 or to other administrative or law enforcement agencies acting  
17 within the scope of their statutory authority.

18 5. Information obtained from a federal administrative or  
19 law enforcement agency shall be disclosed only after the board  
20 has obtained written consent to the disclosure from the federal  
21 administrative or law enforcement agency.

22 6. The board is entitled to the attorney/client privilege  
23 and work product privilege to the same extent as any other  
24 person."; and

25 Further amend said bill, Pages 8 and 9, Section 334.040,  
26 Lines 1 to 52, by deleting all of said lines and inserting in  
27 lieu thereof the following:

28 "334.040. 1. Except as provided in section 334.260, all  
29 persons desiring to practice as physicians and surgeons in this  
30 state shall be examined as to their fitness to engage in such  
31 practice by the board. All persons applying for examination  
32 shall file a completed application with the board [at least  
33 eighty days before the date set for examination upon blanks] upon  
34 forms furnished by the board.

35 2. The examination shall be sufficient to test the  
36 applicant's fitness to practice as a physician and surgeon. The  
37 examination shall be conducted in such a manner as to conceal the

1 identity of the applicant until all examinations have been  
2 scored. In all such examinations an average score of not less  
3 than seventy-five percent is required to pass; provided, however,  
4 that the board may require applicants to take the Federation  
5 Licensing Examination, also known as FLEX, or the United States  
6 Medical Licensing Examination (USMLE). If the FLEX examination  
7 is required, a weighted average score of no less than  
8 seventy-five [percent] is required to pass. Scores from one test  
9 administration of the FLEX shall not be combined or averaged with  
10 scores from other test administrations to achieve a passing  
11 score. The passing score of the United States Medical Licensing  
12 Examination shall be determined by the board through rule and  
13 regulation. The board shall not issue a permanent license as a  
14 physician and surgeon or allow the Missouri state board  
15 examination to be administered to any applicant who has failed to  
16 achieve a passing score within three attempts on licensing  
17 examinations administered in one or more states or territories of  
18 the United States, the District of Columbia or Canada. The steps  
19 one, two and three of the United States Medical Licensing  
20 Examination shall be taken within a seven-year period with no  
21 more than three attempts on any step of the examination; however,  
22 the board may grant an extension of the seven-year period if the  
23 applicant has obtained a MD/PhD degree in a program accredited by  
24 the [liaison committee on medical education] Liaison Committee on  
25 Medical Education (LCME) and a regional university accrediting  
26 body or a DO/PhD degree accredited by the American Osteopathic  
27 Association and a regional university accrediting body. The  
28 board may waive the provisions of this section if the applicant  
29 is licensed to practice as a physician and surgeon in another  
30 state of the United States, the District of Columbia or Canada  
31 and the applicant has achieved a passing score on a licensing  
32 examination administered in a state or territory of the United  
33 States or the District of Columbia and no license issued to the  
34 applicant has been disciplined in any state or territory of the  
35 United States or the District of Columbia[. Prior to waiving the  
36 provisions of this section, the board may require the applicant  
37 to achieve a passing score on one of the following:

1 (1) The American Specialty Board's certifying examination  
2 in the physician's field of specialization;

3 (2) Part II of the FLEX; or

4 (3) The Federation portion of the State Medical Board's  
5 Special Purpose Examination (SPEX)] and the applicant is  
6 certified in the applicant's area of specialty by the American  
7 Board of Medical Specialties, the American Osteopathic  
8 Association, or other certifying agency approved by the board by  
9 rule.

10 3. If the board waives the provisions of this section, then  
11 the license issued to the applicant may be limited or restricted  
12 to the applicant's board specialty. [Scores from one test  
13 administration shall not be combined or averaged with scores from  
14 other test administrations to achieve a passing score.] The  
15 board shall not be permitted to favor any particular school or  
16 system of healing.

17 4. If an applicant has not actively engaged in the practice  
18 of clinical medicine or held a teaching or faculty position in a  
19 medical or osteopathic school approved by the American Medical  
20 Association, the Liaison Committee on Medical Education, or the  
21 American Osteopathic Association for any two years in the three  
22 year period immediately preceding the filing of his or her  
23 application for licensure, the board may require successful  
24 completion of another examination, continuing medical education,  
25 or further training before issuing a permanent license. The  
26 board shall adopt rules to prescribe the form and manner of such  
27 reexamination, continuing medical education, and training."; and

28 Further amend said bill, Page 10, Section 334.070, Lines 1  
29 to 13, by deleting all of said lines and inserting in lieu  
30 thereof the following:

31 "334.070. 1. Upon due application therefor and upon  
32 submission by such person of evidence satisfactory to the board  
33 that he or she is licensed to practice in this state, and upon  
34 the payment of fees required to be paid by this chapter, the  
35 board shall issue to [him] such person a certificate of  
36 registration. The certificate of registration shall contain the  
37 name of the person to whom it is issued and his or her office

1 address [and residence address], the expiration date, and the  
2 date and number of the license to practice.

3 2. [Every person shall, upon receiving such certificate,  
4 cause it to be conspicuously displayed at all times in every  
5 office maintained by him in the state. If he maintains more than  
6 one office in this state, the board shall without additional fee  
7 issue to him duplicate certificates of registration for each  
8 office so maintained.] If any registrant shall change the  
9 location of his or her office during the period for which any  
10 certificate of registration has been issued, [he] the registrant  
11 shall, within fifteen days thereafter, notify the board of such  
12 change [and it shall issue to him without additional fee a new  
13 registration certificate showing the new location]."; and

14 Further amend said bill, Page 10, Section 334.090, Lines 1  
15 to 13, by deleting all of said lines and inserting in lieu  
16 thereof the following:

17 "334.090. 1. Each applicant for registration under this  
18 chapter shall accompany the application for registration with a  
19 registration fee to be paid to the [director of revenue] board.  
20 If the application is filed and the fee paid after the  
21 registration renewal date, a delinquent fee shall be paid; but  
22 whenever in the opinion of the board the applicant's failure to  
23 register is caused by extenuating circumstances including illness  
24 of the applicant, as defined by rule and regulation, the  
25 delinquent fee may be waived by the board. Whenever any new  
26 license is granted to any person under the provisions of this  
27 chapter, the board shall, upon application therefor, issue to  
28 such licensee a certificate of registration covering a period  
29 from the date of the issuance of the license to the next renewal  
30 date without the payment of any registration fee.

31 2. The board shall set the amount of the fees which this  
32 chapter authorizes and requires by rules and regulations  
33 promulgated pursuant to section 536.021. The fees shall be set  
34 at a level to produce revenue which shall not substantially  
35 exceed the cost and expense of administering this chapter."; and

36 Further amend said bill, Pages 10 to 12, Section 334.099,  
37 Lines 1 to 58, by deleting all of said lines and inserting in

1 lieu thereof the following:

2 "334.099. 1. The board may initiate a contested hearing to  
3 determine if reasonable cause exists to believe that a licensee  
4 or applicant is unable to practice his or her profession with  
5 reasonable skill and safety to the public by reason of medical or  
6 osteopathic incompetency, mental or physical incapacity, or due  
7 to the excessive use or abuse of alcohol or controlled  
8 substances:

9 (1) The board shall serve notice pursuant to section  
10 536.067 of the contested hearing at least fifteen days prior to  
11 the hearing. Such notice shall include a statement of the  
12 reasons the board believes there is reasonable cause to believe  
13 that a licensee or applicant is unable to practice his or her  
14 profession with reasonable skill and safety to the public by  
15 reason of medical or osteopathic incompetency, mental, or  
16 physical incapacity, or due to the excessive use or abuse of  
17 alcohol or controlled substances;

18 (2) For purposes of this section and prior to any contested  
19 hearing, the board may, notwithstanding any other law limiting  
20 access to medical or other health data, obtain medical data and  
21 health records relating to the licensee or applicant without the  
22 licensee's or applicant's consent, upon issuance of a subpoena by  
23 the board. These data and records shall be admissible without  
24 further authentication by either board or licensee at any hearing  
25 held pursuant to this section;

26 (3) After a contested hearing before the board, and upon a  
27 showing of reasonable cause to believe that a licensee or  
28 applicant is unable to practice his or her profession with  
29 reasonable skill and safety to the public by reason of medical or  
30 osteopathic incompetency, mental, or physical incapacity, or due  
31 to the excessive use or abuse of alcohol or controlled substances  
32 the board may require a licensee or applicant to submit to an  
33 examination. The board shall maintain a list of facilities  
34 approved to perform such examinations. The licensee or applicant  
35 may propose a facility not previously approved to the board and  
36 the board may accept such facility as an approved facility for  
37 such licensee or applicant by a majority vote;



1       (4) For purposes of this subsection, every licensee or  
2 applicant is deemed to have consented to an examination upon a  
3 showing of reasonable cause. The applicant or licensee shall be  
4 deemed to have waived all objections to the admissibility of  
5 testimony by the provider of the examination and to the  
6 admissibility of examination reports on the grounds that the  
7 provider of the examination's testimony or the examination is  
8 confidential or privileged;

9       (5) Written notice of the order for an examination shall be  
10 sent to the applicant or licensee by registered mail, addressed  
11 to the licensee or applicant at the licensee's or applicant's  
12 last known address on file with the board, or shall be personally  
13 served on the applicant or licensee. The order shall state the  
14 cause for the examination, how to obtain information about  
15 approved facilities, and a time limit for obtaining the  
16 examination. The licensee or applicant shall cause a report of  
17 the examination to be sent to the board;

18       (6) The licensee or applicant shall sign all necessary  
19 releases for the board to obtain and use the examination during a  
20 hearing and to disclose the recommendations of the examination as  
21 part of a disciplinary order;

22       (7) After receiving the report of the examination ordered  
23 in subdivision (3) of this subsection, the board may hold a  
24 contested hearing to determine if by clear and convincing  
25 evidence the licensee or applicant is unable to practice with  
26 reasonable skill or safety to the public by reasons of medical or  
27 osteopathic incompetency, reason of mental or physical  
28 incapacity, or due to the excessive use or abuse of alcohol or  
29 controlled substances. If the board finds that the licensee or  
30 applicant is unable to practice with reasonable skill or safety  
31 to the public by reasons of medical or osteopathic incompetency,  
32 reason of mental or physical incapacity, or excessive use or  
33 abuse of controlled substances, the board shall, after a hearing,  
34 enter an order imposing one or more of the disciplinary measures  
35 set forth in subsection 4 of section 334.100; and

36       (8) The provisions of chapter 536 for a contested case,  
37 except those provisions or amendments which are in conflict with

1 this section, shall apply to and govern the proceedings contained  
2 in this subsection and the rights and duties of the parties  
3 involved. The person appealing such an action shall be entitled  
4 to present evidence under chapter 536 relevant to the  
5 allegations.

6 2. Failure to submit to the examination when directed shall  
7 be cause for the revocation of the license of the licensee or  
8 denial of the application. No license may be reinstated or  
9 application granted until such time as the examination is  
10 completed and delivered to the board or the board withdraws its  
11 order.

12 3. Neither the record of proceedings nor the orders entered  
13 by the board shall be used against a licensee or applicant in any  
14 other proceeding, except for a proceeding in which the board or  
15 its members are a party or in a proceeding involving any state or  
16 federal agency.

17 4. A licensee or applicant whose right to practice has been  
18 affected under this section shall, at reasonable intervals not to  
19 exceed twelve months, be afforded an opportunity to demonstrate  
20 that he or she can resume the competent practice of his or her  
21 profession or should be granted a license. The board may hear  
22 such motion more often upon good cause shown.

23 5. The board shall promulgate rules and regulations to  
24 carry out the provisions of this section.

25 6. For purposes of this section, "examination" means a  
26 skills, multidisciplinary, or substance abuse evaluation."; and

27 Further amend said bill, Pages 12 to 19, Section 334.100,  
28 Lines 1 to 268, by deleting all of said lines and inserting in  
29 lieu thereof the following:

30 "334.100. 1. The board may refuse to issue or renew any  
31 certificate of registration or authority, permit or license  
32 required pursuant to this chapter for one or any combination of  
33 causes stated in subsection 2 of this section. The board shall  
34 notify the applicant in writing of the reasons for the refusal  
35 and shall advise the applicant of the applicant's right to file a  
36 complaint with the administrative hearing commission as provided  
37 by chapter 621. As an alternative to a refusal to issue or renew

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

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

26 (1) Use of any controlled substance, as defined in chapter  
27 195, or alcoholic beverage to an extent that such use impairs a  
28 person's ability to perform the work of any profession licensed  
29 or regulated by this chapter;

30 (2) The person has been finally adjudicated and found  
31 guilty, or entered a plea of guilty or nolo contendere, in a  
32 criminal prosecution under the laws of any state or of the United  
33 States, for any offense reasonably related to the qualifications,  
34 functions or duties of any profession licensed or regulated  
35 pursuant to this chapter, for any offense [an essential element  
36 of which is] involving fraud, dishonesty or an act of violence,  
37 or for any offense involving moral turpitude, whether or not

1 sentence is imposed;

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

7 (4) Misconduct, fraud, misrepresentation, dishonesty,  
8 unethical conduct or unprofessional conduct in the performance of  
9 the functions or duties of any profession licensed or regulated  
10 by this chapter, including, but not limited to, the following:

11 (a) Obtaining or attempting to obtain any fee, charge,  
12 tuition or other compensation by fraud, deception or  
13 misrepresentation; willfully and continually overcharging or  
14 overtreating patients; or charging for visits to the physician's  
15 office which did not occur unless the services were contracted  
16 for in advance, or for services which were not rendered or  
17 documented in the patient's records;

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

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

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

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

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

34 (g) Final disciplinary action by any professional medical  
35 or osteopathic association or society or licensed hospital or  
36 medical staff of such hospital in this or any other state or  
37 territory, whether agreed to voluntarily or not, and including,

1 but not limited to, any removal, suspension, limitation, or  
2 restriction of the person's license or staff or hospital  
3 privileges, failure to renew such privileges or license for  
4 cause, or other final disciplinary action, if the action was in  
5 any way related to unprofessional conduct, professional  
6 incompetence, malpractice or any other violation of any provision  
7 of this chapter;

8 (h) Signing a blank prescription form; or dispensing,  
9 prescribing, administering or otherwise distributing any drug,  
10 controlled substance or other treatment without sufficient  
11 examination including failing to establish a valid physician-  
12 patient relationship pursuant to section 334.108, or for other  
13 than medically accepted therapeutic or experimental or  
14 investigative purposes duly authorized by a state or federal  
15 agency, or not in the course of professional practice, or not in  
16 good faith to relieve pain and suffering, or not to cure an  
17 ailment, physical infirmity or disease, except as authorized in  
18 section 334.104;

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

22 (j) Being listed on any state or federal sexual offender  
23 registry;

24 (k) Terminating the medical care of a patient without  
25 adequate notice or without making other arrangements for the  
26 continued care of the patient;

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

31 [(l)] (m) Failure of any applicant or licensee[, other than  
32 the licensee subject to the investigation,] to cooperate with the  
33 board during any investigation;

34 [(m)] (n) Failure to comply with any subpoena or subpoena  
35 duces tecum from the board or an order of the board;

36 [(n)] (o) Failure to timely pay license renewal fees  
37 specified in this chapter;

1        [(o)] (p) Violating a probation agreement, order, or other  
2 settlement agreement with this board or any other licensing  
3 agency;

4        [(p)] (q) Failing to inform the board of the physician's  
5 current residence and business address;

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

15        (s) Any other conduct that is unethical or unprofessional  
16 involving a minor;

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

26        (6) Violation of, or attempting to violate, directly or  
27 indirectly, or assisting or enabling any person to violate, any  
28 provision of this chapter or chapter 324, or of any lawful rule  
29 or regulation adopted pursuant to this chapter or chapter 324;

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

34        (8) Revocation, suspension, restriction, modification,  
35 limitation, reprimand, warning, censure, probation or other final  
36 disciplinary action against the holder of or applicant for a  
37 license or other right to practice any profession regulated by

1 this chapter by another state, territory, federal agency or  
2 country, whether or not voluntarily agreed to by the licensee or  
3 applicant, including, but not limited to, the denial of  
4 licensure, surrender of the license, allowing the license to  
5 expire or lapse, or discontinuing or limiting the practice of  
6 medicine while subject to an investigation or while actually  
7 under investigation by any licensing authority, medical facility,  
8 branch of the armed forces of the United States of America,  
9 insurance company, court, agency of the state or federal  
10 government, or employer;

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

13 (10) Assisting or enabling any person to practice or offer  
14 to practice any profession licensed or regulated by this chapter  
15 who is not registered and currently eligible to practice pursuant  
16 to this chapter; or knowingly performing any act which in any way  
17 aids, assists, procures, advises, or encourages any person to  
18 practice medicine who is not registered and currently eligible to  
19 practice pursuant to this chapter. A physician who works in  
20 accordance with standing orders or protocols or in accordance  
21 with the provisions of section 334.104 shall not be in violation  
22 of this subdivision;

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

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

29 (13) Violation of the drug laws or rules and regulations of  
30 this state, including but not limited to any provision of chapter  
31 195, any other state, or the federal government;

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

36 (15) Knowingly making a false statement, orally or in  
37 writing to the board;

1     (16) Soliciting patronage in person or by agents or  
2 representatives, or by any other means or manner, under the  
3 person's own name or under the name of another person or concern,  
4 actual or pretended, in such a manner as to confuse, deceive, or  
5 mislead the public as to the need or necessity for or  
6 appropriateness of health care services for all patients, or the  
7 qualifications of an individual person or persons to diagnose,  
8 render, or perform health care services;

9     [(16)] (17) Using, or permitting the use of, the person's  
10 name under the designation of "Doctor", "Dr.", "M.D.", or "D.O.",  
11 or any similar designation with reference to the commercial  
12 exploitation of any goods, wares or merchandise;

13     [(17)] (18) Knowingly making or causing to be made a false  
14 statement or misrepresentation of a material fact, with intent to  
15 defraud, for payment pursuant to the provisions of chapter 208 or  
16 chapter 630 or for payment from Title XVIII or Title XIX of the  
17 federal Medicare program;

18     [(18)] (19) Failure or refusal to properly guard against  
19 contagious, infectious or communicable diseases or the spread  
20 thereof; maintaining an unsanitary office or performing  
21 professional services under unsanitary conditions; or failure to  
22 report the existence of an unsanitary condition in the office of  
23 a physician or in any health care facility to the board, in  
24 writing, within thirty days after the discovery thereof;

25     [(19)] (20) Any candidate for licensure or person licensed  
26 to practice as a physical therapist, paying or offering to pay a  
27 referral fee or, notwithstanding section 334.010 to the contrary,  
28 practicing or offering to practice professional physical therapy  
29 independent of the prescription and direction of a person  
30 licensed and registered as a physician and surgeon pursuant to  
31 this chapter, as a dentist pursuant to chapter 332, as a  
32 podiatrist pursuant to chapter 330, as an advanced practice  
33 registered nurse under chapter 335, or any licensed and  
34 registered physician, dentist, podiatrist, or advanced practice  
35 registered nurse practicing in another jurisdiction, whose  
36 license is in good standing;

37     [(20)] (21) Any candidate for licensure or person licensed



1 to practice as a physical therapist, treating or attempting to  
2 treat ailments or other health conditions of human beings other  
3 than by professional physical therapy and as authorized by  
4 sections 334.500 to 334.620;

5 [(21)] (22) Any person licensed to practice as a physician  
6 or surgeon, requiring, as a condition of the physician-patient  
7 relationship, that the patient receive prescribed drugs, devices  
8 or other professional services directly from facilities of that  
9 physician's office or other entities under that physician's  
10 ownership or control. A physician shall provide the patient with  
11 a prescription which may be taken to the facility selected by the  
12 patient and a physician knowingly failing to disclose to a  
13 patient on a form approved by the advisory commission for  
14 professional physical therapists as established by section  
15 334.625 which is dated and signed by a patient or guardian  
16 acknowledging that the patient or guardian has read and  
17 understands that the physician has a pecuniary interest in a  
18 physical therapy or rehabilitation service providing prescribed  
19 treatment and that the prescribed treatment is available on a  
20 competitive basis. This subdivision shall not apply to a  
21 referral by one physician to another physician within a group of  
22 physicians practicing together;

23 [(22)] (23) A pattern of personal use or consumption of any  
24 controlled substance unless it is prescribed, dispensed or  
25 administered by another physician who is authorized by law to do  
26 so;

27 [(23)] (24) Habitual intoxication or dependence on alcohol,  
28 evidence of which may include more than one alcohol-related  
29 enforcement contact as defined by section 302.525;

30 (25) Failure to comply with a treatment program or an  
31 aftercare program entered into as part of a board order,  
32 settlement agreement or licensee's professional health program;

33 (26) Revocation, suspension, limitation, probation, or  
34 restriction of any kind whatsoever of any controlled substance  
35 authority, whether agreed to voluntarily or not, or voluntary  
36 termination of a controlled substance authority while under  
37 investigation;

1        [(24)] (27) For a physician to operate, conduct, manage, or  
2 establish an abortion facility, or for a physician to perform an  
3 abortion in an abortion facility, if such facility comes under  
4 the definition of an ambulatory surgical center pursuant to  
5 sections 197.200 to 197.240, and such facility has failed to  
6 obtain or renew a license as an ambulatory surgical center[;

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

13        (a) In enforcing this subdivision the board shall, after a  
14 hearing by the board, upon a finding of probable cause, require a  
15 physician to submit to a reexamination for the purpose of  
16 establishing his or her competency to practice as a physician or  
17 surgeon or with a specialty conducted in accordance with rules  
18 adopted for this purpose by the board, including rules to allow  
19 the examination of the pattern and practice of such physician's  
20 or surgeon's professional conduct, or to submit to a mental or  
21 physical examination or combination thereof by at least three  
22 physicians, one selected by the physician compelled to take the  
23 examination, one selected by the board, and one selected by the  
24 two physicians so selected who are graduates of a professional  
25 school approved and accredited as reputable by the association  
26 which has approved and accredited as reputable the professional  
27 school from which the licentiate graduated. However, if the  
28 physician is a graduate of a medical school not accredited by the  
29 American Medical Association or American Osteopathic Association,  
30 then each party shall choose any physician who is a graduate of a  
31 medical school accredited by the American Medical Association or  
32 the American Osteopathic Association;

33        (b) For the purpose of this subdivision, every physician  
34 licensed pursuant to this chapter is deemed to have consented to  
35 submit to a mental or physical examination when directed in  
36 writing by the board and further to have waived all objections to  
37 the admissibility of the examining physician's testimony or

1 examination reports on the ground that the examining physician's  
2 testimony or examination is privileged;

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

9 (d) Written notice of the reexamination or the physical or  
10 mental examination shall be sent to the physician, by registered  
11 mail, addressed to the physician at the physician's last known  
12 address. Failure of a physician to designate an examining  
13 physician to the board or failure to submit to the examination  
14 when directed shall constitute an admission of the allegations  
15 against the physician, in which case the board may enter a final  
16 order without the presentation of evidence, unless the failure  
17 was due to circumstances beyond the physician's control. A  
18 physician whose right to practice has been affected under this  
19 subdivision shall, at reasonable intervals, be afforded an  
20 opportunity to demonstrate that the physician can resume the  
21 competent practice as a physician and surgeon with reasonable  
22 skill and safety to patients;

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

29 (f) When the board finds any person unqualified because of  
30 any of the grounds set forth in this subdivision, it may enter an  
31 order imposing one or more of the disciplinary measures set forth  
32 in subsection 4 of this section].

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

36 4. After the filing of such complaint before the  
37 administrative hearing commission, the proceedings shall be

1 conducted in accordance with the provisions of chapter 621. Upon  
2 a finding by the administrative hearing commission that the  
3 grounds, provided in subsection 2 of this section, for  
4 disciplinary action are met, the board may, singly or in  
5 combination, warn, censure or place the person named in the  
6 complaint on probation on such terms and conditions as the board  
7 deems appropriate for a period not to exceed ten years, or may  
8 suspend the person's license, certificate or permit for a period  
9 not to exceed three years, or restrict or limit the person's  
10 license, certificate or permit for an indefinite period of time,  
11 or revoke the person's license, certificate, or permit, or  
12 administer a public or private reprimand, or deny the person's  
13 application for a license, or permanently withhold issuance of a  
14 license or require the person to submit to the care, counseling  
15 or treatment of physicians designated by the board at the expense  
16 of the individual to be examined, or require the person to attend  
17 such continuing educational courses and pass such examinations as  
18 the board may direct.

19 5. In any order of revocation, the board may provide that  
20 the person may not apply for reinstatement of the person's  
21 license for a period of time ranging from two to seven years  
22 following the date of the order of revocation. All stay orders  
23 shall toll this time period.

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

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

1 licensee's or applicant's fitness to practice on the ground of  
2 privilege between such licensee, applicant or record custodian  
3 and a patient."; and

4 Further amend said bill, Pages 19 to 24, Section 334.102,  
5 Lines 1 to 158, by deleting all of said lines and inserting in  
6 lieu thereof the following:

7 "334.102. 1. [Upon receipt of information that the holder  
8 of any certificate of registration or authority, permit or  
9 license issued pursuant to this chapter may present a clear and  
10 present danger to the public health and safety, the executive  
11 secretary or director shall direct that the information be  
12 brought to the board in the form of sworn testimony or affidavits  
13 during a meeting of the board.

14 2. The board may issue an order suspending and/or  
15 restricting the holder of a certificate of registration or  
16 authority, permit or license if it believes:

17 (1) The licensee's acts, conduct or condition may have  
18 violated subsection 2 of section 334.100; and

19 (2) A licensee is practicing, attempting or intending to  
20 practice in Missouri; and

21 (3) Either a licensee is unable by reason of any physical  
22 or mental condition to receive and evaluate information or to  
23 communicate decisions to the extent that the licensee's condition  
24 or actions significantly affect the licensee's ability to  
25 practice, or another state, territory, federal agency or country  
26 has issued an order suspending or restricting the holder of a  
27 license or other right to practice a profession regulated by this  
28 chapter, or the licensee has engaged in repeated acts of  
29 life-threatening negligence as defined in subsection 2 of section  
30 334.100; and

31 (4) The acts, conduct or condition of the licensee  
32 constitute a clear and present danger to the public health and  
33 safety.

34 3. (1) The order of suspension or restriction:

35 (a) Shall be based on the sworn testimony or affidavits  
36 presented to the board;

37 (b) May be issued without notice and hearing to the

1 licensee;

2 (c) Shall include the facts which lead the board to  
3 conclude that the acts, conduct or condition of the licensee  
4 constitute a clear and present danger to the public health and  
5 safety; and

6 (2) The board or the administrative hearing commission  
7 shall serve the licensee, in person or by certified mail, with a  
8 copy of the order of suspension or restriction and all sworn  
9 testimony or affidavits presented to the board, a copy of the  
10 complaint and the request for expedited hearing, and a notice of  
11 the place of and the date upon which the preliminary hearing will  
12 be held.

13 (3) The order of restriction shall be effective upon  
14 service of the documents required in subdivision (2) of this  
15 subsection.

16 (4) The order of suspension shall become effective upon the  
17 entry of the preliminary order of the administrative hearing  
18 commission.

19 (5) The licensee may seek a stay order from the circuit  
20 court of Cole County from the preliminary order of suspension,  
21 pending the issuance of a final order by the administrative  
22 hearing commission.

23 4. The board shall file a complaint in the administrative  
24 hearing commission with a request for expedited preliminary  
25 hearing and shall certify the order of suspension or restriction  
26 and all sworn testimony or affidavits presented to the board.  
27 Immediately upon receipt of a complaint filed pursuant to this  
28 section, the administrative hearing commission shall set the  
29 place and date of the expedited preliminary hearing which shall  
30 be conducted as soon as possible, but not later than five days  
31 after the date of service upon the licensee. The administrative  
32 hearing commission shall grant a licensee's request for a  
33 continuance of the preliminary hearing; however, the board's  
34 order shall remain in full force and effect until the preliminary  
35 hearing, which shall be held not later than forty-five days after  
36 service of the documents required in subdivision (2) of  
37 subsection 3.

1           5. At the preliminary hearing, the administrative hearing  
2 commission shall receive into evidence all information certified  
3 by the board and shall only hear evidence on the issue of whether  
4 the board's order of suspension or restriction should be  
5 terminated or modified. Within one hour after the preliminary  
6 hearing, the administrative hearing commission shall issue its  
7 oral or written preliminary order, with or without findings of  
8 fact and conclusions of law, that either adopts, terminates or  
9 modifies the board's order. The administrative hearing  
10 commission shall reduce to writing any oral preliminary order  
11 within five business days, but the effective date of the order  
12 shall be the date orally issued.

13           6. The preliminary order of the administrative hearing  
14 commission shall become a final order and shall remain in effect  
15 for three years unless either party files a request for a full  
16 hearing on the merits of the complaint filed by the board within  
17 thirty days from the date of the issuance of the preliminary  
18 order of the administrative hearing commission.

19           7. Upon receipt of a request for full hearing, the  
20 administrative hearing commission shall set a date for hearing  
21 and notify the parties in writing of the time and place of the  
22 hearing. If a request for full hearing is timely filed, the  
23 preliminary order of the administrative hearing commission shall  
24 remain in effect until the administrative hearing commission  
25 enters an order terminating, modifying, or dismissing its  
26 preliminary order or until the board issues an order of  
27 discipline following its consideration of the decision of the  
28 administrative hearing commission pursuant to section 621.110 and  
29 subsection 3 of section 334.100.

30           8. In cases where the board initiates summary suspension or  
31 restriction proceedings against a physician licensed pursuant to  
32 this chapter, and said petition is subsequently denied by the  
33 administrative hearing commission, in addition to any award made  
34 pursuant to sections 536.085 and 536.087, the board, but not  
35 individual members of the board, shall pay actual damages  
36 incurred during any period of suspension or restriction.

37           9. Notwithstanding the provisions of this chapter or

chapter 610 or chapter 621 to the contrary, the proceedings under this section shall be closed and no order shall be made public until it is final, for purposes of appeal.

10. The burden of proving the elements listed in subsection 2 of this section shall be upon the state board of registration for the healing arts.] The board may apply to the administrative hearing commission for an emergency suspension or restriction of a licensee for the following causes:

(1) Engaging in sexual conduct, as defined in section 566.010, with a patient who is not the licensee's spouse, regardless of whether the patient consented;

(2) Engaging in sexual misconduct with a minor or person the licensee believes to be a minor. "Sexual misconduct" means any conduct of a sexual nature which would be illegal under state or federal law;

(3) Possession of a controlled substance in violation of chapter 195 or any state or federal law, rule, or regulation, excluding record keeping violations;

(4) Use of a controlled substance without a valid prescription;

(5) The licensee is adjudicated incapacitated or disabled by a court of competent jurisdiction;

(6) Habitual intoxication or dependence upon alcohol or controlled substances or failure to comply with a treatment or aftercare program entered into pursuant to a board order, settlement agreement, or as part of the licensee's professional health program;

(7) A report from a board approved facility or a professional health program stating the licensee is not fit to practice. For purposes of this section, a licensee is deemed to have waived all objections to the admissibility of testimony from the provider of the examination and admissibility of the examination reports. The licensee shall sign all necessary releases for the board to obtain and use the examination during a hearing; or

(8) Any conduct for which the board may discipline that constitutes a serious danger to the health, safety, or welfare of



1 a patient or the public.

2 2. The board shall submit existing affidavits and existing  
3 certified court records together with a complaint alleging the  
4 facts in support of the board's request for an emergency  
5 suspension or restriction to the administrative hearing  
6 commission and shall supply the administrative hearing commission  
7 with the last home or business addresses on file with the board  
8 for the licensee. Within one business day of the filing of the  
9 complaint, the administrative hearing commission shall return a  
10 service packet to the board. The service packet shall include  
11 the board's complaint and any affidavits or records the board  
12 intends to rely on that have been filed with the administrative  
13 hearing commission. The service packet may contain other  
14 information in the discretion of the administrative hearing  
15 commission. Within twenty-four hours of receiving the packet,  
16 the board shall either personally serve the licensee or leave a  
17 copy of the service packet at all of the licensee's current  
18 addresses on file with the board. Prior to the hearing, the  
19 licensee may file affidavits and certified court records for  
20 consideration by the administrative hearing commission.

21 3. Within five days of the board's filing of the complaint,  
22 the administrative hearing commission shall review the  
23 information submitted by the board and the licensee and shall  
24 determine based on that information if probable cause exists  
25 pursuant to subsection 1 of this section and shall issue its  
26 findings of fact and conclusions of law. If the administrative  
27 hearing commission finds that there is probable cause, the  
28 administrative hearing commission shall enter the order requested  
29 by the board. The order shall be effective upon personal service  
30 or by leaving a copy at all of the licensee's current addresses  
31 on file with the board.

32 4. The administrative hearing commission shall hold a  
33 hearing within forty-five days of the board's filing of the  
34 complaint to determine if cause for discipline exists. The  
35 administrative hearing commission may grant a request for a  
36 continuance, but shall in any event, hold the hearing within one  
37 hundred twenty days of the board's initial filing. The board

1 shall be granted leave to amend its complaint if it is more than  
2 thirty days prior to the hearing. If less than thirty days, the  
3 board may be granted leave to amend if public safety requires.

4 (1) If no cause for discipline exists, the administrative  
5 hearing commission shall issue findings of fact, conclusions of  
6 law, and an order terminating the emergency suspension or  
7 restriction.

8 (2) If cause for discipline exists, the administrative  
9 hearing commission shall issue findings of fact and conclusions  
10 of law and order the emergency suspension or restriction to  
11 remain in full force and effect pending a disciplinary hearing  
12 before the board. The board shall hold a hearing following the  
13 certification of the record by the administrative hearing  
14 commission and may impose any discipline otherwise authorized by  
15 state law.

16 5. Any action under this section shall be in addition to  
17 and not in lieu of any discipline otherwise in the board's power  
18 to impose and may be brought concurrently with other actions.

19 6. If the administrative hearing commission does not find  
20 probable cause and does not grant the emergency suspension or  
21 restriction, the board shall remove all reference to such  
22 emergency suspension or restriction from its public records.  
23 Records relating to the suspension or restriction shall be  
24 maintained in the board's files. The board or licensee may use  
25 such records in the course of any litigation to which they are  
26 both parties. Additionally, such records may be released upon a  
27 specific, written request of the licensee.

28 7. (1) The board may initiate a hearing before the board,  
29 for discipline of any licensee's license or certificate upon  
30 receipt of one of the following:

31 (a) Certified court records of a finding of guilt or plea  
32 of guilty or nolo contendere in a criminal prosecution under the  
33 laws of any state or of the United States for any offense  
34 involving the qualifications, functions, or duties of any  
35 profession licensed or regulated under this chapter, for any  
36 offense involving fraud, dishonesty, or an act of violence, or  
37 for any offense involving moral turpitude, whether or not

1 sentence is imposed;

2 (b) Evidence of final disciplinary action against the  
3 licensee's license, certification or registration issued by any  
4 other state, by any other agency or entity of this state or any  
5 other state or the United States or its territories, or any other  
6 country;

7 (c) Evidence of certified court records finding the  
8 licensee has been judged incapacitated or disabled under Missouri  
9 law or under the laws of any other state or of the United States  
10 or its territories.

11 (2) The board shall provide the licensee not less than ten  
12 days notice of any hearing held pursuant to chapter 536.

13 (3) Upon a finding that cause exists to discipline a  
14 licensee's license the board may impose any discipline otherwise  
15 available when disciplining licensees of that same profession.

16 8. A final decision of the administrative hearing  
17 commission or the board shall be subject to judicial review  
18 pursuant to chapter 536."; and

19 Further amend said bill, Page 24, Section 334.103, Lines 1  
20 to 18, by deleting all of said lines and inserting in lieu  
21 thereof the following:

22 "334.103. 1. A license issued under this chapter by the  
23 Missouri State Board of Registration for the Healing Arts shall  
24 be automatically revoked at such time as the final trial  
25 proceedings are concluded whereby a licensee has been adjudicated  
26 and found guilty, or has entered a plea of guilty or nolo  
27 contendere, in a felony criminal prosecution under the laws of  
28 the state of Missouri, the laws of any other state, or the laws  
29 of the United States of America for any offense reasonably  
30 related to the qualifications, functions or duties of their  
31 profession, or for any felony offense[, an essential element of  
32 which is] involving fraud, dishonesty or an act of violence, or  
33 for any felony offense involving moral turpitude, whether or not  
34 sentence is imposed, or, upon the final and unconditional  
35 revocation of the license to practice their profession in another  
36 state or territory upon grounds for which revocation is  
37 authorized in this state following a review of the record of the

1 proceedings and upon a formal motion of the state board of  
2 registration for the healing arts. The license of any such  
3 licensee shall be automatically reinstated if the conviction or  
4 the revocation is ultimately set aside upon final appeal in any  
5 court of competent jurisdiction.

6 2. Anyone who has been denied a license, permit or  
7 certificate to practice in another state shall automatically be  
8 denied a license to practice in this state. However, the board  
9 of healing arts may set up other qualifications by which such  
10 person may ultimately be qualified and licensed to practice in  
11 Missouri."; and

12 Further amend said bill, Pages 24 and 25, Section 334.108,  
13 Lines 1 to 22, by deleting all of said lines and inserting in  
14 lieu thereof the following:

15 "334.108. 1. Prior to prescribing any drug, controlled  
16 substance, or other treatment through the internet, a physician  
17 shall establish a valid physician-patient relationship. This  
18 relationship shall include:

19 (1) Obtaining a reliable medical history and performing a  
20 physical examination of the patient, adequate to establish the  
21 diagnosis for which the drug is being prescribed and to identify  
22 underlying conditions or contraindications to the treatment  
23 recommended or provided;

24 (2) Having sufficient dialogue with the patient regarding  
25 treatment options and the risks and benefits of treatment or  
26 treatments;

27 (3) If appropriate, following up with the patient to assess  
28 the therapeutic outcome;

29 (4) Maintaining a contemporaneous medical record that is  
30 readily available to the patient and, subject to the patient's  
31 consent, to the patient's other health care professionals; and

32 (5) Including the electronic prescription information as  
33 part of the patient's medical record.

34 2. The requirements of subsection 1 of this section may be  
35 satisfied by the prescribing physician's designee when treatment  
36 is provided in:

37 (1) A hospital as defined in section 197.020;

1       (2) A hospice program as defined in section 197.250;

2       (3) Accordance with a collaborative practice agreement as  
3 defined in section 334.104;

4       (4) Conjunction with a physician assistant licensed  
5 pursuant to section 334.738;

6       (5) Consultation with another physician who has an ongoing  
7 physician-patient relationship with the patient, and who has  
8 agreed to supervise the patient's treatment, including use of any  
9 prescribed medications; or

10       (6) On-call or cross-coverage situations."; and

11       Further amend said bill, Pages 25 to 27, Section 334.715,  
12 Lines 1 to 63, by deleting all of said lines and inserting in  
13 lieu thereof the following:

14       "334.715. 1. The board may refuse to issue or renew any  
15 license [any applicant or may suspend, revoke, or refuse to renew  
16 the license of any licensee for any one or any combination of the  
17 causes provided in section 334.100, or if the applicant or  
18 licensee] required under sections 334.700 to 334.725 for one or  
19 any combination of causes listed in subsection 2 of this section  
20 or any cause listed in section 334.100. The board shall notify  
21 the applicant in writing of the reasons for the refusal and shall  
22 advise the applicant of the applicant's right to file a complaint  
23 with the administrative hearing commission as provided in chapter  
24 621. As an alternative to a refusal to issue or renew any  
25 certificate, registration, or authority, the board may, in its  
26 discretion, issue a license which is subject to reprimand,  
27 probation, restriction, or limitation to an applicant for  
28 licensure for any one or any combination of causes listed in  
29 subsection 2 of this section or section 334.100. The board's  
30 order of reprimand, probation, limitation, or restriction shall  
31 contain a statement of the discipline imposed, the basis  
32 therefor, the date such action shall become effective, and a  
33 statement that the applicant has thirty days to request in  
34 writing a hearing before the administrative hearing commission.  
35 If the board issues a probationary, limited, or restricted  
36 license to an applicant for licensure, either party may file a  
37 written petition with the administrative hearing commission

1 within thirty days of the effective date of the probationary,  
2 limited, or restricted license seeking review of the board's  
3 determination. If no written request for a hearing is received  
4 by the administrative hearing commission within the thirty-day  
5 period, the right to seek review of the board's decision shall be  
6 considered waived.

7 2. The board may cause a complaint to be filed with the  
8 administrative hearing commission as provided in chapter 621  
9 against any holder of a certificate of registration or authority,  
10 permit, or license required by sections 334.700 to 334.725 or any  
11 person who has failed to renew or has surrendered the person's  
12 certification of registration or license for any one or any  
13 combination of the following causes:

14 (1) Violated or conspired to violate any provision of  
15 sections 334.700 to 334.725 or any provision of any rule  
16 promulgated pursuant to sections 334.700 to 334.725; or

17 (2) Has been found guilty of unethical conduct as defined  
18 in the ethical standards of the National Athletic Trainers  
19 Association or the National Athletic Trainers Association Board  
20 of Certification, or its successor agency, as adopted and  
21 published by the committee and the board and filed with the  
22 secretary of state; or

23 (3) Any cause listed in section 334.100.

24 [2. Upon receipt of a written application made in the form  
25 and manner prescribed by the board, the board may reinstate any  
26 license which has expired, been suspended or been revoked or may  
27 issue any license which has been denied; provided, that no  
28 application for reinstatement or issuance of license or licensure  
29 shall be considered until at least six months have elapsed from  
30 the date of denial, expiration, suspension, or revocation when  
31 the license to be reinstated or issued was denied issuance or  
32 renewal or was suspended or revoked for one of the causes listed  
33 in subsection 1 of this section.]

34 3. After the filing of such complaint before the  
35 administrative hearing commission, the proceedings shall be  
36 conducted in accordance with the provisions of chapter 621. Upon  
37 a finding by the administrative hearing commission that the

1 grounds provided in subsection 2 of this section for disciplinary  
2 action are met, the board may, singly or in combination:

3 (1) Warn, censure, or place the person named in the  
4 complaint on probation on such terms and conditions as the board  
5 deems appropriate for a period not to exceed ten years; or

6 (2) Suspend the person's license, certificate, or permit  
7 for a period not to exceed three years; or

8 (3) Administer a public or private reprimand; or

9 (4) Deny the person's application for a license; or

10 (5) Permanently withhold issuance of a license or require  
11 the person to submit to the care, counseling, or treatment of  
12 physicians designated by the board at the expense of the  
13 individual to be examined; or

14 (6) Require the person to attend such continuing education  
15 courses and pass such examinations as the board may direct.

16 4. In any order of revocation, the board may provide that  
17 the person shall not apply for reinstatement of the person's  
18 license for a period of time ranging from two to seven years  
19 following the date of the order of revocation. All stay orders  
20 shall toll such time period.

21 5. Before restoring to good standing a license,  
22 certificate, or permit issued under this chapter which has been  
23 in a revoked, suspended, or inactive state for any cause for more  
24 than two years, the board may require the applicant to attend  
25 such continuing education courses and pass such examinations as  
26 the board may direct."; and

27 Further amend said bill, Pages 33 and 34, Section 536.063,  
28 Lines 1 to 43, by deleting all of said lines and inserting in  
29 lieu thereof the following:

30 "536.063. In any contested case:

31 (1) The contested case shall be commenced by the filing of  
32 a writing by which the party or agency instituting the proceeding  
33 seeks such action as by law can be taken by the agency only after  
34 opportunity for hearing, or seeks a hearing for the purpose of  
35 obtaining a decision reviewable upon the record of the  
36 proceedings and evidence at such hearing, or upon such record and  
37 additional evidence, either by a court or by another agency.

1 Answering, intervening and amendatory writings and motions may be  
2 filed in any case and shall be filed where required by rule of  
3 the agency, except that no answering instrument shall be required  
4 unless the notice of institution of the case states such  
5 requirement. Entries of appearance shall be permitted[.];

6 (2) Any writing filed whereby affirmative relief is sought  
7 shall state what relief is sought or proposed and the reason for  
8 granting it, and shall not consist merely of statements or  
9 charges phrased in the language of a statute or rule; provided,  
10 however, that this subdivision shall not apply when the writing  
11 is a notice of appeal as authorized by law[.];

12 (3) Reasonable opportunity shall be given for the  
13 preparation and presentation of evidence bearing on any issue  
14 raised or decided or relief sought or granted. Where issues are  
15 tried without objection or by consent, such issues shall be  
16 deemed to have been properly before the agency. Any formality of  
17 procedure may be waived by mutual consent[.];

18 (4) Every writing seeking relief or answering any other  
19 writing, and any motion shall state the name and address of the  
20 attorney, if any, filing it; otherwise the name and address of  
21 the party filing it[.];

22 (5) By rule the agency may require any party filing such a  
23 writing to furnish, in addition to the original of such writing,  
24 the number of copies required for the agency's own use and the  
25 number of copies necessary to enable the agency to comply with  
26 the provisions of this subdivision hereinafter set forth. The  
27 agency shall, without charge therefor, mail one copy of each such  
28 writing, as promptly as possible after it is filed, to every  
29 party or his or her attorney who has filed a writing or who has  
30 entered his or her appearance in the case, and who has not  
31 theretofore been furnished with a copy of such writing and shall  
32 have requested copies of the writings; provided that in any case  
33 where the parties are so numerous that the requirements of this  
34 subdivision would be unduly onerous, the agency may in lieu  
35 thereof (a) notify all parties of the fact of the filing of such  
36 writing, and (b) permit any party to copy such writing[.];

37 (6) When a holder of a license, registration, permit, or



1 certificate of authority issued by the division of professional  
2 registration or a board, commission, or committee of the division  
3 of professional registration against whom an affirmative decision  
4 is sought has failed to plead or otherwise respond in the  
5 contested case and adequate notice has been given under section  
6 536.067 upon a properly pled writing filed to initiate the  
7 contested case under this chapter, a default decision shall be  
8 entered against the licensee without further proceedings. The  
9 default decision shall grant such relief as requested by the  
10 division of professional registration, board, committee,  
11 commission, or office in the writing initiating the contested  
12 case as allowed by law. Upon motion stating facts constituting a  
13 meritorious defense and for good cause shown, a default decision  
14 may be set aside. The motion shall be made within a reasonable  
15 time, not to exceed thirty days after entry of the default  
16 decision. "Good cause" includes a mistake or conduct that is not  
17 intentionally or recklessly designed to impede the administrative  
18 process."; and

19 Further amend said bill, Pages 34 and 35, Section 536.067,  
20 Lines 1 to 54, by deleting all of said lines and inserting in  
21 lieu thereof the following:

22 "536.067. In any contested case:

23 (1) The agency shall promptly mail a notice of institution  
24 of the case to all necessary parties, if any, and to all persons  
25 designated by the moving party and to any other persons to whom  
26 the agency may determine that notice should be given. The agency  
27 or its clerk or secretary shall keep a permanent record of the  
28 persons to whom such notice was sent and of the addresses to  
29 which sent and the time when sent. Where a contested case would  
30 affect the rights, privileges or duties of a large number of  
31 persons whose interests are sufficiently similar that they may be  
32 considered as a class, notice may in a proper case be given to a  
33 reasonable number thereof as representatives of such class. In  
34 any case where the name or address of any proper or designated  
35 party or person is not known to the agency, and where notice by  
36 publication is permitted by law, then notice by publication may  
37 be given in accordance with any rule or regulation of the agency

1 or if there is no such rule or regulation, then, in a proper  
2 case, the agency may by a special order fix the time and manner  
3 of such publication[.];

4 (2) The notice of institution of the case to be mailed as  
5 provided in this section shall state in substance:

6 (a) The caption and number of the case;

7 (b) That a writing seeking relief has been filed in such  
8 case, the date it was filed, and the name of the party filing the  
9 same;

10 (c) A brief statement of the matter involved in the case  
11 unless a copy of the writing accompanies said notice;

12 (d) Whether an answer to the writing is required, and if so  
13 the date when it must be filed;

14 (e) That a copy of the writing may be obtained from the  
15 agency, giving the address to which application for such a copy  
16 may be made. This may be omitted if the notice is accompanied by  
17 a copy of such writing;

18 (f) The location in the Code of State Regulations of any  
19 rules of the agency regarding discovery or a statement that the  
20 agency shall send a copy of such rules on request;

21 (3) Unless the notice of hearing hereinafter provided for  
22 shall have been included in the notice of institution of the  
23 case, the agency shall, as promptly as possible after the time  
24 and place of hearing have been determined, mail a notice of  
25 hearing to the moving party and to all persons and parties to  
26 whom a notice of institution of the case was required to be or  
27 was mailed, and also to any other persons who may thereafter have  
28 become or have been made parties to the proceeding. The notice  
29 of hearing shall state:

30 (a) The caption and number of the case;

31 (b) The time and place of hearing;

32 (4) No hearing in a contested case shall be had, except by  
33 consent, until a notice of hearing shall have been given  
34 substantially as provided in this section, and such notice shall  
35 in every case be given a reasonable time before the hearing.  
36 Such reasonable time shall be at least ten days except in cases  
37 where the public morals, health, safety or interest may make a

1 shorter time reasonable; provided that when a longer time than  
2 ten days is prescribed by statute, no time shorter than that so  
3 prescribed shall be deemed reasonable;

4 (5) When a holder of a license, registration, permit, or  
5 certificate of authority issued by the division of professional  
6 registration or a board, commission, or committee of the division  
7 of professional registration against whom an affirmative decision  
8 is sought has failed to plead or otherwise respond in the  
9 contested case and adequate notice has been given under this  
10 section upon a properly pled writing filed to initiate the  
11 contested case under this chapter, a default decision shall be  
12 entered against the holder of a license, registration, permit, or  
13 certificate of authority without further proceedings. The  
14 default decision shall grant such relief as requested by the  
15 division of professional registration, board, committee,  
16 commission, or office in the writing initiating the contested  
17 case as allowed by law. Upon motion stating facts constituting a  
18 meritorious defense and for good cause shown, a default decision  
19 may be set aside. The motion shall be made within a reasonable  
20 time, not to exceed thirty days after entry of the default  
21 decision. "Good cause" includes a mistake or conduct that is not  
22 intentionally or recklessly designed to impede the administrative  
23 process."; and

24 Further amend said bill, Pages 35 to 38, Section 536.070,  
25 Lines 1 to 93, by deleting all of said lines and inserting in  
26 lieu thereof the following:

27 "536.070. In any contested case:

28 (1) Oral evidence shall be taken only on oath or  
29 affirmation[.];

30 (2) Each party shall have the right to call and examine  
31 witnesses, to introduce exhibits, to cross-examine opposing  
32 witnesses on any matter relevant to the issues even though that  
33 matter was not the subject of the direct examination, to impeach  
34 any witness regardless of which party first called him or her to  
35 testify, and to rebut the evidence against him[.] or her;

36 (3) A party who does not testify in his or her own behalf  
37 may be called and examined as if under cross-examination[.];

1           (4) Each agency shall cause all proceedings in hearings  
2 before it to be suitably recorded and preserved. A copy of the  
3 transcript of such a proceeding shall be made available to any  
4 interested person upon the payment of a fee which shall in no  
5 case exceed the reasonable cost of preparation and supply[.];

6           (5) Records and documents of the agency which are to be  
7 considered in the case shall be offered in evidence so as to  
8 become a part of the record, the same as any other evidence, but  
9 the records and documents may be considered as a part of the  
10 record by reference thereto when so offered[.];

11          (6) Agencies shall take official notice of all matters of  
12 which the courts take judicial notice. They may also take  
13 official notice of technical or scientific facts, not judicially  
14 cognizable, within their competence, if they notify the parties,  
15 either during a hearing or in writing before a hearing, or before  
16 findings are made after hearing, of the facts of which they  
17 propose to take such notice and give the parties reasonable  
18 opportunity to contest such facts or otherwise show that it would  
19 not be proper for the agency to take such notice of them[.];

20          (7) Evidence to which an objection is sustained shall, at  
21 the request of the party seeking to introduce the same, or at the  
22 instance of the agency, nevertheless be heard and preserved in  
23 the record, together with any cross-examination with respect  
24 thereto and any rebuttal thereof, unless it is wholly irrelevant,  
25 repetitious, privileged, or unduly long[.];

26          (8) Any evidence received without objection which has  
27 probative value shall be considered by the agency along with the  
28 other evidence in the case. The rules of privilege shall be  
29 effective to the same extent that they are now or may hereafter  
30 be in civil actions. Irrelevant and unduly repetitious evidence  
31 shall be excluded[.];

32          (9) Copies of writings, documents and records shall be  
33 admissible without proof that the originals thereof cannot be  
34 produced, if it shall appear by testimony or otherwise that the  
35 copy offered is a true copy of the original, but the agency may,  
36 nevertheless, if it believes the interests of justice so require,  
37 sustain any objection to such evidence which would be sustained

1 were the proffered evidence offered in a civil action in the  
2 circuit court, but if it does sustain such an objection, it shall  
3 give the party offering such evidence reasonable opportunity and,  
4 if necessary, opportunity at a later date, to establish by  
5 evidence the facts sought to be proved by the evidence to which  
6 such objection is sustained[.];

7 (10) Any writing or record, whether in the form of an entry  
8 in a book or otherwise, made as a memorandum or record of an act,  
9 transaction, occurrence or event, shall be admissible as evidence  
10 of the act, transaction, occurrence or event, if it shall appear  
11 that it was made in the regular course of any business, and that  
12 it was the regular course of such business to make such  
13 memorandum or record at the time of such act, transaction,  
14 occurrence, or event or within a reasonable time thereafter. All  
15 other circumstances of the making of such writing or record,  
16 including lack of personal knowledge by the entrant or maker, may  
17 be shown to affect the weight of such evidence, but such showing  
18 shall not affect its admissibility. The term "business" shall  
19 include business, profession, occupation and calling of every  
20 kind[.];

21 (11) The results of statistical examinations or studies, or  
22 of audits, compilations of figures, or surveys, involving  
23 interviews with many persons, or examination of many records, or  
24 of long or complicated accounts, or of a large number of figures,  
25 or involving the ascertainment of many related facts, shall be  
26 admissible as evidence of such results, if it shall appear that  
27 such examination, study, audit, compilation of figures, or survey  
28 was made by or under the supervision of a witness, who is present  
29 at the hearing, who testifies to the accuracy of such results,  
30 and who is subject to cross-examination, and if it shall further  
31 appear by evidence adduced that the witness making or under whose  
32 supervision such examination, study, audit, compilation of  
33 figures, or survey was made was basically qualified to make it.  
34 All the circumstances relating to the making of such an  
35 examination, study, audit, compilation of figures or survey,  
36 including the nature and extent of the qualifications of the  
37 maker, may be shown to affect the weight of such evidence but

1 such showing shall not affect its admissibility[.];

2 (12) Any party or the agency desiring to introduce an  
3 affidavit in evidence at a hearing in a contested case may serve  
4 on all other parties (including, in a proper case, the agency)  
5 copies of such affidavit in the manner hereinafter provided, at  
6 any time before the hearing, or at such later time as may be  
7 stipulated. Not later than seven days after such service, or at  
8 such later time as may be stipulated, any other party (or, in a  
9 proper case, the agency) may serve on the party or the agency who  
10 served such affidavit an objection to the use of the affidavit or  
11 some designated portion or portions thereof on the ground that it  
12 is in the form of an affidavit; provided, however, that if such  
13 affidavit shall have been served less than eight days before the  
14 hearing such objection may be served at any time before the  
15 hearing or may be made orally at the hearing. If such objection  
16 is so served, the affidavit or the part thereof to which  
17 objection was made, may not be used except in ways that would  
18 have been permissible in the absence of this subdivision;  
19 provided, however, that such objection may be waived by the party  
20 or the agency making the same. Failure to serve an objection as  
21 aforesaid, based on the ground aforesaid, shall constitute a  
22 waiver of all objections to the introduction of such affidavit,  
23 or of the parts thereof with respect to which no such objection  
24 was so served, on the ground that it is in the form of an  
25 affidavit, or that it constitutes or contains hearsay evidence,  
26 or that it is not, or contains matters which are not, the best  
27 evidence, but any and all other objections may be made at the  
28 hearing. Nothing herein contained shall prevent the  
29 cross-examination of the affiant if he or she is present in  
30 obedience to a subpoena or otherwise and if he or she is present,  
31 he or she may be called for cross-examination during the case of  
32 the party who introduced the affidavit in evidence. If the  
33 affidavit is admissible in part only it shall be admitted as to  
34 such part, without the necessity of preparing a new affidavit.  
35 The manner of service of such affidavit and of such objection  
36 shall be by delivering or mailing copies thereof to the attorneys  
37 of record of the parties being served, if any, otherwise, to such

1 parties, and service shall be deemed complete upon mailing;  
2 provided, however, that when the parties are so numerous as to  
3 make service of copies of the affidavit on all of them unduly  
4 onerous, the agency may make an order specifying on what parties  
5 service of copies of such affidavit shall be made, and in that  
6 case a copy of such affidavit shall be filed with the agency and  
7 kept available for inspection and copying. Nothing in this  
8 subdivision shall prevent any use of affidavits that would be  
9 proper in the absence of this subdivision."; and

10 Further amend said bill, Pages 40 and 41, Section 621.045,  
11 Lines 1 to 72, by deleting all of said lines and inserting in  
12 lieu thereof the following:

13 "621.045. 1. The administrative hearing commission shall  
14 conduct hearings and make findings of fact and conclusions of law  
15 in those cases when, under the law, a license issued by any of  
16 the following agencies may be revoked or suspended or when the  
17 licensee may be placed on probation or when an agency refuses to  
18 permit an applicant to be examined upon his or her qualifications  
19 or refuses to issue or renew a license of an applicant who has  
20 passed an examination for licensure or who possesses the  
21 qualifications for licensure without examination:

22 Missouri State Board of Accountancy

23 Missouri State Board for Architects, Professional Engineers,  
24 Professional Land Surveyors and Landscape Architects

25 Board of Barber Examiners

26 Board of Cosmetology

27 Board of Chiropody and Podiatry

28 Board of Chiropractic Examiners

29 Missouri Dental Board

30 Board of Embalmers and Funeral Directors

31 Board of Registration for the Healing Arts

32 Board of Nursing

33 Board of Optometry

34 Board of Pharmacy

35 Missouri Real Estate Commission

36 Missouri Veterinary Medical Board

37 Supervisor of Liquor Control

1 Department of Health and Senior Services  
2 Department of Insurance, Financial Institutions and  
3 Professional Registration  
4 Department of Mental Health  
5 Board of Private Investigator Examiners.

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

10 3. The administrative hearing commission is authorized to  
11 conduct hearings and make findings of fact and conclusions of law  
12 in those cases brought by the Missouri state board for  
13 architects, professional engineers, professional land surveyors  
14 and landscape architects against unlicensed persons under section  
15 327.076.

16 4. Notwithstanding any other provision of this section to  
17 the contrary, after August 28, 1995, in order to encourage  
18 settlement of disputes between any agency described in subsection  
19 1 or 2 of this section and its licensees, any such agency shall:

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

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

30 (3) If no contested case has been filed against the  
31 licensee, advise the licensee that the licensee may, either at  
32 the time the settlement agreement is signed by all parties, or  
33 within fifteen days thereafter, submit the agreement to the  
34 administrative hearing commission for determination that the  
35 facts agreed to by the parties to the settlement constitute  
36 grounds for denying or disciplining the license of the licensee;  
37 and



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

5           5. If the licensee desires review by the administrative  
6 hearing commission under subdivision (3) of subsection 4 of this  
7 section at any time prior to the settlement becoming final, the  
8 licensee may rescind and withdraw from the settlement and any  
9 admissions of fact or law in the agreement shall be deemed  
10 withdrawn and not admissible for any purposes under the law  
11 against the licensee. Any settlement submitted to the  
12 administrative hearing commission shall not be effective and  
13 final unless and until findings of fact and conclusions of law  
14 are entered by the administrative hearing commission that the  
15 facts agreed to by the parties to the settlement constitute  
16 grounds for denying or disciplining the license of the licensee.

17           6. When a holder of a license, registration, permit, or  
18 certificate of authority issued by the division of professional  
19 registration or a board, commission, or committee of the division  
20 of professional registration against whom an affirmative decision  
21 is sought has failed to plead or otherwise respond in the  
22 contested case and adequate notice has been given under sections  
23 536.067 and 621.100 upon a properly pled writing filed to  
24 initiate the contested case under this chapter or chapter 536, a  
25 default decision shall be entered against the licensee without  
26 further proceedings. The default decision shall grant such  
27 relief as requested by the division of professional registration,  
28 board, committee, commission, or office in the writing initiating  
29 the contested case as allowed by law. Upon motion stating facts  
30 constituting a meritorious defense and for good cause shown, a  
31 default decision may be set aside. The motion shall be made  
32 within a reasonable time, not to exceed thirty days after entry  
33 of the default decision. "Good cause" includes a mistake or  
34 conduct that is not intentionally or recklessly designed to  
35 impede the administrative process."; and

36           Further amend said bill, Pages 42 and 43, Section 621.100,  
37 Lines 1 to 42, by deleting all of said lines and inserting in

1 lieu thereof the following:

2 "621.100. 1. Upon receipt of a written complaint from an  
3 agency named in section 621.045 in a case relating to a holder of  
4 a license granted by such agency, or upon receipt of such  
5 complaint from the attorney general, the administrative hearing  
6 commission shall cause a copy of said complaint to be served upon  
7 such licensee in person, or by leaving a copy of the complaint at  
8 the licensee's dwelling house or usual place of abode or last  
9 address given to the agency by the licensee with some person  
10 residing or present therein over the age of fifteen, or by  
11 certified mail, together with a notice of the place of and the  
12 date upon which the hearing on said complaint will be held. If  
13 service cannot be accomplished [in person or by certified mail]  
14 as described in this section, notice by publication as described  
15 in subsection 3 of section 506.160 shall be allowed; any  
16 commissioner is authorized to act as a court or judge would in  
17 that section, and any employee of the commission is authorized to  
18 act as a clerk would in that section. In any case initiated upon  
19 complaint of the attorney general, the agency which issued the  
20 license shall be given notice of such complaint and the date upon  
21 which the hearing will be held by delivery of a copy of such  
22 complaint and notice to the office of such agency or by certified  
23 mail. Such agency may intervene and may retain the services of  
24 legal counsel to represent it in such case.

25 2. When a holder of a license, registration, permit, or  
26 certificate of authority issued by the division of professional  
27 registration or a board, commission, or committee of the division  
28 of professional registration against whom an affirmative decision  
29 is sought has failed to plead or otherwise respond in the  
30 contested case and adequate notice has been given under this  
31 section and section 536.067 upon a properly pled writing filed to  
32 initiate the contested case under this chapter or chapter 536, a  
33 default decision shall be entered against the licensee without  
34 further proceedings. The default decision shall grant such  
35 relief as requested by the division of professional registration,  
36 board, committee, commission, or office in the writing initiating  
37 the contested case as allowed by law. Upon motion stating facts

1 constituting a meritorious defense and for good cause shown, a  
2 default decision may be set aside. The motion shall be made  
3 within a reasonable time, not to exceed thirty days after entry  
4 of the default decision. "Good cause" includes a mistake or  
5 conduct that is not intentionally or recklessly designed to  
6 impede the administrative process.

7 3. In any case initiated under this section, the custodian  
8 of the records of an agency may prepare a sworn affidavit stating  
9 truthfully pertinent information regarding the license status of  
10 the licensee charged in the complaint, including only: the name  
11 of the licensee; his or her license number; its designated date  
12 of expiration; the date of his or her original Missouri  
13 licensure; the particular profession, practice or privilege  
14 licensed; and the status of his or her license as current and  
15 active or otherwise. This affidavit shall be received as  
16 substantial and competent evidence of the facts stated therein  
17 notwithstanding any objection as to the form, manner of  
18 presentment or admissibility of this evidence, and shall create a  
19 rebuttable presumption of the veracity of the statements therein;  
20 provided, however, that the procedures specified in section  
21 536.070 shall apply to the introduction of this affidavit in any  
22 case where the status of this license constitutes a material  
23 issue of fact in the proof of the cause charged in the  
24 complaint."; and

25 Further amend said bill, Page 43, Section 621.110, Lines 1  
26 to 22, by deleting all of said lines and inserting in lieu  
27 thereof the following:

28 "621.110. Upon a finding in any cause charged by the  
29 complaint for which the license may be suspended or revoked as  
30 provided in the statutes and regulations relating to the  
31 profession or vocation of the licensee and within one hundred  
32 twenty days of the date the case became ready for decision, the  
33 commission shall deliver or transmit by mail to the agency which  
34 issued the license the record and a transcript of the proceedings  
35 before the commission together with the commission's findings of  
36 fact and conclusions of law. The commission may make  
37 recommendations as to appropriate disciplinary action but any

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

24 Further amend said title, enacting clause and intersectional  
25 references accordingly.