

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 273
AN ACT

To repeal sections 324.009, 324.012, 324.200, 324.206, 327.011, 327.091, 327.101, 327.131, 327.191, 327.241, 327.612, 337.068, 339.100, 339.150, 436.218, 436.224, 436.227, 436.230, 436.236, 436.242, 436.245, 436.248, 436.254, 436.257, 436.260, 436.263, and 436.266, RSMo, and to enact in lieu thereof twenty-nine new sections relating to professional registration, with penalty provisions.

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

Section A. Sections 324.009, 324.012, 324.200, 324.206,
2 327.011, 327.091, 327.101, 327.131, 327.191, 327.241, 327.612,
3 337.068, 339.100, 339.150, 436.218, 436.224, 436.227, 436.230,
4 436.236, 436.242, 436.245, 436.248, 436.254, 436.257, 436.260,
5 436.263, and 436.266, RSMo, are repealed and twenty-nine new
6 sections enacted in lieu thereof, to be known as sections
7 324.009, 324.012, 324.087, 324.200, 324.206, 327.011, 327.091,
8 327.101, 327.131, 327.191, 327.241, 327.612, 329.034, 337.068,
9 339.100, 339.150, 375.029, 436.218, 436.224, 436.227, 436.230,
10 436.236, 436.242, 436.245, 436.248, 436.254, 436.260, 436.263,
11 and 436.266, to read as follows:

324.009. 1. For purposes of this section, the
2 following terms mean:
3 (1) "License", a license, certificate, registration,
4 permit, [or] accreditation, or military occupational
5 speciality that enables a person to legally practice an
6 occupation or profession in a particular jurisdiction;

7 (2) "Military", the Armed Forces of the United States
8 including the Air Force, Army, Coast Guard, Marine Corps,
9 Navy, Space Force, National Guard and any other military
10 branch that is designated by Congress as part of the Armed
11 Forces of the United States, and all reserve components and
12 auxiliaries. Such term also includes the military reserves
13 and militia of any United States territory or state;

14 (3) "Nonresident military spouse", a nonresident
15 spouse of an active duty member of the Armed Forces of the
16 United States who has been transferred or is scheduled to be
17 transferred to the state of Missouri, or who has been
18 transferred or is scheduled to be transferred to an adjacent
19 state and is or will be domiciled in the state of Missouri,
20 or has moved to the state of Missouri on a permanent change-
21 of-station basis;

22 [(3)] (4) "Oversight body", any board, department,
23 agency, or office of a jurisdiction that issues licenses;

24 [(4)] (5) "Resident military spouse", a spouse of an
25 active duty member of the Armed Forces of the United States
26 who has been transferred or is scheduled to be transferred
27 to the state of Missouri or an adjacent state and who is a
28 permanent resident of the state of Missouri, who is
29 domiciled in the state of Missouri, or who has Missouri as
30 his or her home of record.

31 2. Any person who holds a valid current license issued
32 by another state, a branch or unit of the military, a
33 territory of the United States, or the District of Columbia,
34 and who has been licensed for at least one year in such
35 other jurisdiction, may submit an application for a license
36 in Missouri in the same occupation or profession, and at the
37 same practice level, for which he or she holds the current
38 license, along with proof of current licensure and proof of

39 licensure for at least one year in the other jurisdiction,
40 to the relevant oversight body in this state.

41 3. The oversight body in this state shall:

42 (1) Within six months of receiving an application
43 described in subsection 2 of this section, waive any
44 examination, educational, or experience requirements for
45 licensure in this state for the applicant if it determines
46 that there were minimum education requirements and, if
47 applicable, work experience and clinical supervision
48 requirements in effect and the other state verifies that the
49 person met those requirements in order to be licensed or
50 certified in that state. An oversight body that administers
51 an examination on laws of this state as part of its
52 licensing application requirement may require an applicant
53 to take and pass an examination specific to the laws of this
54 state; or

55 (2) Within thirty days of receiving an application
56 described in subsection 2 of this section from a nonresident
57 military spouse or a resident military spouse, waive any
58 examination, educational, or experience requirements for
59 licensure in this state for the applicant and issue such
60 applicant a license under this section if such applicant
61 otherwise meets the requirements of this section.

62 4. (1) The oversight body shall not waive any
63 examination, educational, or experience requirements for any
64 applicant who has had his or her license revoked by an
65 oversight body outside the state; who is currently under
66 investigation, who has a complaint pending, or who is
67 currently under disciplinary action, except as provided in
68 subdivision (2) of this subsection, with an oversight body
69 outside the state; who does not hold a license in good
70 standing with an oversight body outside the state; who has a
71 criminal record that would disqualify him or her for

72 licensure in Missouri; or who does not hold a valid current
73 license in the other jurisdiction on the date the oversight
74 body receives his or her application under this section.

75 (2) If another jurisdiction has taken disciplinary
76 action against an applicant, the oversight body shall
77 determine if the cause for the action was corrected and the
78 matter resolved. If the matter has not been resolved by
79 that jurisdiction, the oversight body may deny a license
80 until the matter is resolved.

81 5. Nothing in this section shall prohibit the
82 oversight body from denying a license to an applicant under
83 this section for any reason described in any section
84 associated with the occupation or profession for which the
85 applicant seeks a license.

86 6. Any person who is licensed under the provisions of
87 this section shall be subject to the applicable oversight
88 body's jurisdiction and all rules and regulations pertaining
89 to the practice of the licensed occupation or profession in
90 this state.

91 7. This section shall not be construed to waive any
92 requirement for an applicant to pay any fees, post any bonds
93 or surety bonds, or submit proof of insurance associated
94 with the license the applicant seeks.

95 8. This section shall not apply to business,
96 professional, or occupational licenses issued or required by
97 political subdivisions.

98 9. The provisions of this section shall not impede an
99 oversight body's authority to require an applicant to submit
100 fingerprints as part of the application process.

101 10. The provisions of this section shall not apply to
102 an oversight body that has entered into a licensing compact
103 with another state for the regulation of practice under the
104 oversight body's jurisdiction. The provisions of this

section shall not be construed to alter the authority granted by, or any requirements promulgated pursuant to, any interjurisdictional or interstate compacts adopted by Missouri statute or any reciprocity agreements with other states in effect on August 28, 2018, and whenever possible this section shall be interpreted so as to imply no conflict between it and any compact, or any reciprocity agreements with other states in effect on August 28, 2018.

11. Notwithstanding any other provision of law, a license issued under this section shall be valid only in this state and shall not make a licensee eligible to be part of an interstate compact. An applicant who is licensed in another state pursuant to an interstate compact shall not be eligible for licensure by an oversight body under the provisions of this section.

12. The provisions of this section shall not apply to any occupation set forth in subsection 6 of section 290.257, or any electrical contractor licensed under sections 324.900 to 324.945.

324.012. 1. This section shall be known and may be cited as the "Fresh Start Act of 2020".

2. As used in this section, the following terms mean:

(1) "Criminal conviction", any conviction, finding of guilt, plea of guilty, or plea of nolo contendere;

(2) "Licensing", any required training, education, or fee to work in a specific occupation, profession, or activity in the state;

(3) "Licensing authority", an agency, examining board, credentialing board, or other office of the state with the authority to impose occupational fees or licensing requirements on any profession. For purposes of the provisions of this section other than subsection 7 of this section, the term "licensing authority" shall not include

the state board of education's licensure of teachers pursuant to chapter 168, the Missouri state board of accountant's licensure of accountants pursuant to chapter 326, the board of podiatric medicine's licensure of podiatrists pursuant to chapter 330, the Missouri dental board's licensure of dentists pursuant to chapter 332, the state board of registration for the healing art's licensure of physicians and surgeons pursuant to chapter 334, the Missouri state board of nursing's licensure of nurses pursuant to chapter 335, the board of pharmacy's licensure of pharmacists pursuant to chapter 338, the Missouri real estate commission's licensure of real estate brokers, real estate salespersons, or real estate broker-salespersons pursuant to sections 339.010 to 339.205, the Missouri veterinary medical board's licensure of veterinarian's pursuant to chapter 340, the Missouri director of finance appointed pursuant to chapter 361, or the peace officer standards and training commission's licensure of peace officers or other law enforcement personnel pursuant to chapter 590;

(4) "Political subdivision", a city, town, village, municipality, or county.

3. Notwithstanding any other provision of law, beginning January 1, 2021, no person shall be disqualified by a state licensing authority from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior conviction of a crime in this state or another state, unless the criminal conviction directly relates to the duties and responsibilities for the licensed occupation as set forth in this section or is violent or sexual in nature.

4. Beginning August 28, 2020, applicants for examination of licensure who have pleaded guilty to, entered

a plea of nolo contendere to, or been found guilty of any of the following offenses or offenses of a similar nature established under the laws of this state, any other state, United States, or any other country, notwithstanding whether sentence is imposed, shall be considered by state licensing authorities to have committed a criminal offense that directly relates to the duties and responsibilities of a licensed profession:

(1) Any murder in the first degree, or dangerous felony as defined under section 556.061 excluding an intoxication-related traffic offense or intoxication-related boating offense if the person is found to be a habitual offender or habitual boating offender as such terms are defined in section 577.001;

(2) Any of the following sexual offenses: rape in the first degree, forcible rape, rape, statutory rape in the first degree, statutory rape in the second degree, rape in the second degree, sexual assault, sodomy in the first degree, forcible sodomy, statutory sodomy in the first degree, statutory sodomy in the second degree, child molestation in the first degree, child molestation in the second degree, sodomy in the second degree, deviate sexual assault, sexual misconduct involving a child, sexual misconduct in the first degree under section 566.090 as it existed prior to August 28, 2013, sexual abuse under section 566.100 as it existed prior to August 28, 2013, sexual abuse in the first or second degree, enticement of a child, or attempting to entice a child;

(3) Any of the following offenses against the family and related offenses: incest, abandonment of a child in the first degree, abandonment of a child in the second degree, endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual performance,

promoting sexual performance by a child, or trafficking in children; and

(4) Any of the following offenses involving child pornography and related offenses: promoting obscenity in the first degree, promoting obscenity in the second degree when the penalty is enhanced to a class E felony, promoting child pornography in the first degree, promoting child pornography in the second degree, possession of child pornography in the first degree, possession of child pornography in the second degree, furnishing child pornography to a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene material;

(5) The offense of delivery of a controlled substance, as provided in section 579.020, may be a disqualifying criminal offense for the following occupations: real estate appraisers and appraisal management companies, licensed pursuant to sections 339.500 to 339.549; and nursing home administrators, licensed pursuant to chapter 344; and

(6) Any offense an essential element of which is fraud may be a disqualifying criminal offense for the following occupations: private investigators, licensed pursuant to sections 324.1100 to 324.1148; accountants, licensed pursuant to chapter 326; architects, licensed pursuant to sections 327.091 to 327.172; engineers, licensed pursuant to sections 327.181 to 327.271; land surveyors, licensed pursuant to sections 327.272 to 327.371; landscape architects, licensed pursuant to sections 327.600 to 327.635; chiropractors, licensed pursuant to chapter 331; embalmers and funeral directors, licensed pursuant to chapter 333; real estate appraisers and appraisal management companies, licensed pursuant to sections 339.500 to 339.549; and nursing home administrators, licensed pursuant to chapter 344.

114 5. If an individual is charged with any of the crimes
115 set forth in subsection 4 of this section, and is convicted,
116 pleads guilty to, or is found guilty of a lesser-included
117 offense and is sentenced to a period of incarceration, such
118 conviction shall only be considered by state licensing
119 authorities as a criminal offense that directly relates to
120 the duties and responsibilities of a licensed profession for
121 four years, beginning on the date such individual is
122 released from incarceration.

123 6. (1) [Licensing authorities shall only list
124 criminal convictions that are directly related to the duties
125 and responsibilities for the licensed occupation.

126 (2)] The licensing authority shall determine whether
127 an applicant with a criminal conviction [listed under
128 subdivision (1) of this subsection] will be denied a license
129 based on the following factors:

130 (a) The nature and seriousness of the crime for which
131 the individual was convicted;

132 (b) The passage of time since the commission of the
133 crime, including consideration of the factors listed under
134 subdivision [(3)] (2) of this subsection;

135 (c) The relationship of the crime to the ability,
136 capacity, and fitness required to perform the duties and
137 discharge the responsibilities of the occupation; and

138 (d) Any evidence of rehabilitation or treatment
139 undertaken by the individual that might mitigate against a
140 direct relation.

141 [(3)] (2) If an individual has a valid criminal
142 conviction for a criminal offense that could disqualify the
143 individual from receiving a license, the disqualification
144 shall not apply to an individual who has been exonerated for
145 a crime for which he or she has previously been convicted of
146 or incarcerated.

147 7. An individual with a criminal record may petition a
148 licensing authority at any time for a determination of
149 whether the individual's criminal record will disqualify the
150 individual from obtaining a license. This petition shall
151 include details on the individual's criminal record. The
152 licensing authority shall inform the individual of his or
153 her standing within thirty days after the licensing
154 authority has met, but in no event more than four months
155 after receiving the petition from the applicant. The
156 decision shall be binding, unless the individual has
157 subsequent criminal convictions or failed to disclose
158 information in his or her petition. If the decision is that
159 the individual is disqualified, the individual shall be
160 notified in writing of the grounds and reasons for
161 disqualification. The licensing authority may charge a fee
162 by rule to recoup its costs as set by rulemaking authority
163 not to exceed twenty-five dollars for each petition.

164 8. (1) If a licensing authority denies an individual
165 a license solely or in part because of the individual's
166 prior conviction of a crime, the licensing authority shall
167 notify the individual in writing of the following:

168 (a) The grounds and reasons for the denial or
169 disqualification;

170 (b) That the individual has the right to a hearing as
171 provided by chapter 621 to challenge the licensing
172 authority's decision;

173 (c) The earliest date the person may reapply for a
174 license; and

175 (d) That evidence of rehabilitation may be considered
176 upon reapplication.

177 (2) Any written determination by the licensing
178 authority that an applicant's criminal conviction is a
179 specifically listed disqualifying conviction and is directly

related to the duties and responsibilities for the licensed occupation shall be documented with written findings for each of the grounds or reasons under paragraph (a) of subdivision (1) of this subsection by clear and convincing evidence sufficient for a reviewing court.

(3) In any administrative hearing or civil litigation authorized under this subsection, the licensing authority shall carry the burden of proof on the question of whether the applicant's criminal conviction directly relates to the occupation for which the license is sought.

9. The provisions of this section shall apply to any profession for which an occupational license is issued in this state, including any new occupational license created by a state licensing authority after August 28, 2020. Notwithstanding any other provision of law, political subdivisions shall be prohibited from creating any new occupational licenses after August 28, 2020. The provisions of this section shall not apply to business licenses, where the terms "occupational licenses" and "business licenses" are used interchangeably in a city or county charter definition.

324.087. SECTION 1. PURPOSE

The purpose of this Compact is to facilitate interstate practice of Occupational Therapy with the goal of improving public access to Occupational Therapy services. The Practice of Occupational Therapy occurs in the State where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure. This Compact is designed to achieve the following objectives:

11 A. Increase public access to Occupational Therapy
12 services by providing for the mutual recognition of other
13 Member State licenses;

14 B. Enhance the States' ability to protect the public's
15 health and safety;

16 C. Encourage the cooperation of Member States in
17 regulating multi-State Occupational Therapy Practice;

18 D. Support spouses of relocating military members;

19 E. Enhance the exchange of licensure, investigative,
20 and disciplinary information between Member States;

21 F. Allow a Remote State to hold a provider of services
22 with a Compact Privilege in that State accountable to that
23 State's practice standards; and

24 G. Facilitate the use of Telehealth technology in
25 order to increase access to Occupational Therapy services.

26 SECTION 2. DEFINITIONS

27 As used in this Compact, and except as otherwise
28 provided, the following definitions shall apply:

29 A. "Active Duty Military" means full-time duty status
30 in the active uniformed service of the United States,
31 including members of the National Guard and Reserve on
32 active duty orders pursuant to 10 U.S.C. Chapter 1209 and
33 Section 1211.

34 B. "Adverse Action" means any administrative, civil,
35 equitable, or criminal action permitted by a State's laws
36 which is imposed by a Licensing Board or other authority
37 against an Occupational Therapist or Occupational Therapy
38 Assistant, including actions against an individual's license
39 or Compact Privilege such as censure, revocation,
40 suspension, probation, monitoring of the Licensee, or
41 restriction on the Licensee's practice.

42 C. "Alternative Program" means a non-disciplinary
43 monitoring process approved by an Occupational Therapy
44 Licensing Board.

45 D. "Compact Privilege" means the authorization, which
46 is equivalent to a license, granted by a Remote State to
47 allow a Licensee from another Member State to practice as an
48 Occupational Therapist or practice as an Occupational
49 Therapy Assistant in the Remote State under its laws and
50 rules. The Practice of Occupational Therapy occurs in the
51 Member State where the patient/client is located at the time
52 of the patient/client encounter.

53 E. "Continuing Competence/Education" means a
54 requirement, as a condition of license renewal, to provide
55 evidence of participation in, and/or completion of,
56 educational and professional activities relevant to practice
57 or area of work.

58 F. "Current Significant Investigative Information"
59 means Investigative Information that a Licensing Board,
60 after an inquiry or investigation that includes notification
61 and an opportunity for the Occupational Therapist or
62 Occupational Therapy Assistant to respond, if required by
63 State law, has reason to believe is not groundless and, if
64 proved true, would indicate more than a minor infraction.

65 G. "Data System" means a repository of information
66 about Licensees, including but not limited to license
67 status, Investigative Information, Compact Privileges, and
68 Adverse Actions.

69 H. "Encumbered License" means a license in which an
70 Adverse Action restricts the Practice of Occupational
71 Therapy by the Licensee or said Adverse Action has been
72 reported to the National Practitioners Data Bank (NPDB).

I. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

J. "Home State" means the Member State that is the Licensee's Primary State of Residence.

K. "Impaired Practitioner" means individuals whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

L. "Investigative Information" means information, records, and/or documents received or generated by an Occupational Therapy Licensing Board pursuant to an investigation.

M. "Jurisprudence Requirement" means the assessment of an individual's knowledge of the laws and rules governing the Practice of Occupational Therapy in a State.

N. "Licensee" means an individual who currently holds an authorization from the State to practice as an Occupational Therapist or as an Occupational Therapy Assistant.

O. "Member State" means a State that has enacted the Compact.

P. "Occupational Therapist" means an individual who is licensed by a State to practice 63 Occupational Therapy.

Q. "Occupational Therapy Assistant" means an individual who is licensed by a State to assist in the Practice of Occupational Therapy.

R. "Occupational Therapy," "Occupational Therapy Practice," and the "Practice of Occupational Therapy" mean the care and services provided by an Occupational Therapist or an Occupational Therapy Assistant as set forth in the Member State's statutes and regulations.

S. "Occupational Therapy Compact Commission" or "Commission" means the national administrative body whose

membership consists of all States that have enacted the Compact.

T. "Occupational Therapy Licensing Board" or "Licensing Board" means the agency of a State that is authorized to license and regulate Occupational Therapists and Occupational Therapy Assistants.

U. "Primary State of Residence" means the state (also known as the Home State) in which an Occupational Therapist or Occupational Therapy Assistant who is not Active Duty Military declares a primary residence for legal purposes as verified by: driver's license, federal income tax return, lease, deed, mortgage or voter registration or other verifying documentation as further defined by Commission Rules.

V. "Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Compact Privilege.

W. "Rule" means a regulation promulgated by the Commission that has the force of law.

X. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the Practice of Occupational Therapy.

Y. "Single-State License" means an Occupational Therapist or Occupational Therapy Assistant license issued by a Member State that authorizes practice only within the issuing State and does not include a Compact Privilege in any other Member State.

Z. "Telehealth" means the application of telecommunication technology to deliver Occupational Therapy services for assessment, intervention and/or consultation.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

A. To participate in the Compact, a Member State shall:

1. License Occupational Therapists and Occupational Therapy Assistants;

2. Participate fully in the Commission's Data System, including but not limited to using the Commission's unique identifier as defined in Rules of the Commission;

3. Have a mechanism in place for receiving and investigating complaints about Licensees;

4. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;

5. Implement or utilize procedures for considering the criminal history records of applicants for an initial Compact Privilege. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

a. A Member State shall, within a time frame established by the Commission, require a criminal background check for a Licensee seeking/applying for a Compact Privilege whose Primary State of Residence is that Member State, by receiving the results of the Federal Bureau of Investigation criminal record search, and shall use the results in making licensure decisions.

b. Communication between a Member State, the Commission and among Member States regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a Member State under Public Law 92-544.

171 6. Comply with the Rules of the Commission;
172 7. Utilize only a recognized national examination as a
173 requirement for licensure pursuant to the Rules of the
174 Commission; and
175 8. Have Continuing Competence/Education requirements
176 as a condition for license renewal.
177 B. A Member State shall grant the Compact Privilege to
178 a Licensee holding a valid unencumbered license in another
179 Member State in accordance with the terms of the Compact and
180 Rules.
181 C. Member States may charge a fee for granting a
182 Compact Privilege.
183 D. A Member State shall provide for the State's
184 delegate to attend all Occupational Therapy Compact
185 Commission meetings.
186 E. Individuals not residing in a Member State shall
187 continue to be able to apply for a Member State's Single-
188 State License as provided under the laws of each Member
189 State. However, the Single-State License granted to these
190 individuals shall not be recognized as granting the Compact
191 Privilege in any other Member State.
192 F. Nothing in this Compact shall affect the
193 requirements established by a Member State for the issuance
194 of a Single-State License.
195 SECTION 4. COMPACT PRIVILEGE
196 A. To exercise the Compact Privilege under the terms
197 and provisions of the Compact, the Licensee shall:
198 1. Hold a license in the Home State;
199 2. Have a valid United States Social Security Number
200 or National Practitioner Identification number;
201 3. Have no encumbrance on any State license;
202 4. Be eligible for a Compact Privilege in any Member
203 State in accordance with Section 4D, F, G, and H;

204 5. Have paid all fines and completed all requirements
205 resulting from any Adverse Action against any license or
206 Compact Privilege, and two years have elapsed from the date
207 of such completion;

208 6. Notify the Commission that the Licensee is seeking
209 the Compact Privilege within a Remote State(s);

210 7. Pay any applicable fees, including any State fee,
211 for the Compact Privilege;

212 8. Complete a criminal background check in accordance
213 with Section 3A(5);

214 a. The Licensee shall be responsible for the payment
215 of any fee associated with the completion of a criminal
216 background check.

217 9. Meet any Jurisprudence Requirements established by
218 the Remote State(s) in which the Licensee is seeking a
219 Compact Privilege; and

220 10. Report to the Commission Adverse Action taken by
221 any non-Member State within 30 days from the date the
222 Adverse Action is taken.

223 B. The Compact Privilege is valid until the expiration
224 date of the Home State license. The Licensee must comply
225 with the requirements of Section 4A to maintain the Compact
226 Privilege in the Remote State.

227 C. A Licensee providing Occupational Therapy in a
228 Remote State under the Compact Privilege shall function
229 within the laws and regulations of the Remote State.

230 D. Occupational Therapy Assistants practicing in a
231 Remote State shall be supervised by an Occupational
232 Therapist licensed or holding a Compact Privilege in that
233 Remote State.

234 E. A Licensee providing Occupational Therapy in a
235 Remote State is subject to that State's regulatory
236 authority. A Remote State may, in accordance with due

process and that State's laws, remove a Licensee's Compact Privilege in the Remote State for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The Licensee may be ineligible for a Compact Privilege in any State until the specific time for removal has passed and all fines are paid.

F. If a Home State license is encumbered, the Licensee shall lose the Compact Privilege in any Remote State until the following occur:

1. The Home State license is no longer encumbered; and
2. Two years have elapsed from the date on which the Home State license is no longer encumbered in accordance with Section 4(F)(1).

G. Once an Encumbered License in the Home State is restored to good standing, the Licensee must meet the requirements of Section 4A to obtain a Compact Privilege in any Remote State.

H. If a Licensee's Compact Privilege in any Remote State is removed, the individual may lose the Compact Privilege in any other Remote State until the following occur:

1. The specific period of time for which the Compact Privilege was removed has ended;
2. All fines have been paid and all conditions have been met;
3. Two years have elapsed from the date of completing requirements for 4(H)(1) and (2); and
4. The Compact Privileges are reinstated by the Commission, and the compact Data System is updated to reflect reinstatement.

I. If a Licensee's Compact Privilege in any Remote State is removed due to an erroneous charge, privileges shall be restored through the compact Data System.

J. Once the requirements of Section 4H have been met, the license must meet the requirements in Section 4A to obtain a Compact Privilege in a Remote State.

SECTION 5. OBTAINING A NEW HOME STATE LICENSE BY VIRTUE OF COMPACT PRIVILEGE

A. An Occupational Therapist or Occupational Therapy Assistant may hold a Home State license, which allows for Compact Privileges in Member States, in only one Member State at a time.

B. If an Occupational Therapist or Occupational Therapy Assistant changes Primary State of Residence by moving between two Member States:

1. The Occupational Therapist or Occupational Therapy Assistant shall file an application for obtaining a new Home State license by virtue of a Compact Privilege, pay all applicable fees, and notify the current and new Home State in accordance with applicable Rules adopted by the Commission.

2. Upon receipt of an application for obtaining a new Home State license by virtue of compact privilege, the new Home State shall verify that the Occupational Therapist or Occupational Therapy Assistant meets the pertinent criteria outlined in Section 4 via the Data System, without need for primary source verification except for:

a. an FBI fingerprint based criminal background check if not previously performed or updated pursuant to applicable Rules adopted by the Commission in accordance with Public Law 92-544;

b. other criminal background check as required by the new Home State; and

301 c. submission of any requisite Jurisprudence
302 Requirements of the new Home State.

303 3. The former Home State shall convert the former Home
304 State license into a Compact Privilege once the new Home
305 State has activated the new Home State license in accordance
306 with applicable Rules adopted by the Commission.

307 4. Notwithstanding any other provision of this
308 Compact, if the Occupational Therapist or Occupational
309 Therapy Assistant cannot meet the criteria in Section 4, the
310 new Home State shall apply its requirements for issuing a
311 new Single-State License.

312 5. The Occupational Therapist or the Occupational
313 Therapy Assistant shall pay all applicable fees to the new
314 Home State in order to be issued a new Home State license.

315 C. If an Occupational Therapist or Occupational
316 Therapy Assistant changes Primary State of Residence by
317 moving from a Member State to a non-Member State, or from a
318 non-Member State to a Member State, the State criteria shall
319 apply for issuance of a Single-State License in the new
320 State.

321 D. Nothing in this compact shall interfere with a
322 Licensee's ability to hold a Single-State License in
323 multiple States; however, for the purposes of this compact,
324 a Licensee shall have only one Home State license.

325 E. Nothing in this Compact shall affect the
326 requirements established by a Member State for the issuance
327 of a Single-State License.

328 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR
329 SPOUSES

330 A. Active Duty Military personnel, or their spouses,
331 shall designate a Home State where the individual has a
332 current license in good standing. The individual may retain
333 the Home State designation during the period the service

member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in the new State or through the process described in Section 5.

SECTION 7. ADVERSE ACTIONS

A. A Home State shall have exclusive power to impose Adverse Action against an Occupational Therapist's or Occupational Therapy Assistant's license issued by the Home State.

B. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

1. Take Adverse Action against an Occupational Therapist's or Occupational Therapy Assistant's Compact Privilege within that Member State.

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the State in which the witnesses or evidence are located.

C. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing,

the Home State shall apply its own State laws to determine appropriate action.

D. The Home State shall complete any pending investigations of an Occupational Therapist or Occupational Therapy Assistant who changes Primary State of Residence during the course of the investigations. The Home State, where the investigations were initiated, shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the OT Compact Commission Data System. The Occupational Therapy Compact Commission Data System administrator shall promptly notify the new Home State of any Adverse Actions.

E. A Member State, if otherwise permitted by State law, may recover from the affected Occupational Therapist or Occupational Therapy Assistant the costs of investigations and disposition of cases resulting from any Adverse Action taken against that Occupational Therapist or Occupational Therapy Assistant.

F. A Member State may take Adverse Action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.

G. Joint Investigations

1. In addition to the authority granted to a Member State by its respective State Occupational Therapy laws and regulations or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

398 H. If an Adverse Action is taken by the Home State
399 against an Occupational Therapist's or Occupational Therapy
400 Assistant's license, the Occupational Therapist's or
401 Occupational Therapy Assistant's Compact Privilege in all
402 other Member States shall be deactivated until all
403 encumbrances have been removed from the State license. All
404 Home State disciplinary orders that impose Adverse Action
405 against an Occupational Therapist's or Occupational Therapy
406 Assistant's license shall include a Statement that the
407 Occupational Therapist's or Occupational Therapy Assistant's
408 Compact Privilege is deactivated in all Member States during
409 the pendency of the order.

410 I. If a Member State takes Adverse Action, it shall
411 promptly notify the administrator of the Data System. The
412 administrator of the Data System shall promptly notify the
413 Home State of any Adverse Actions by Remote States.

414 J. Nothing in this Compact shall override a Member
415 State's decision that participation in an Alternative
416 Program may be used in lieu of Adverse Action.

417 SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY
418 COMPACT COMMISSION.

419 A. The Compact Member States hereby create and
420 establish a joint public agency known as the Occupational
421 Therapy Compact Commission:

422 1. The Commission is an instrumentality of the Compact
423 States.

424 2. Venue is proper and judicial proceedings by or
425 against the Commission shall be brought solely and
426 exclusively in a court of competent jurisdiction where the
427 principal office of the Commission is located. The
428 Commission may waive venue and jurisdictional defenses to
429 the extent it adopts or consents to participate in
430 alternative dispute resolution proceedings.

431 3. Nothing in this Compact shall be construed to be a
432 waiver of sovereign immunity.

433 B. Membership, Voting, and Meetings

434 1. Each Member State shall have and be limited to one
435 (1) delegate selected by that Member State's Licensing Board.

436 2. The delegate shall be either:

437 a. A current member of the Licensing Board, who is an
438 Occupational Therapist, Occupational Therapy Assistant, or
439 public member; or

440 b. An administrator of the Licensing Board.

441 3. Any delegate may be removed or suspended from
442 office as provided by the law of the State from which the
443 delegate is appointed.

444 4. The Member State board shall fill any vacancy
445 occurring in the Commission within 90 days.

446 5. Each delegate shall be entitled to one (1) vote
447 with regard to the promulgation of Rules and creation of
448 bylaws and shall otherwise have an opportunity to
449 participate in the business and affairs of the Commission.
450 A delegate shall vote in person or by such other means as
451 provided in the bylaws. The bylaws may provide for
452 delegates' participation in meetings by telephone or other
453 means of communication.

454 6. The Commission shall meet at least once during each
455 calendar year. Additional meetings shall be held as set
456 forth in the bylaws.

457 7. The Commission shall establish by Rule a term of
458 office for delegates.

459 C. The Commission shall have the following powers and
460 duties:

461 1. Establish a Code of Ethics for the Commission;

462 2. Establish the fiscal year of the Commission;

463 3. Establish bylaws;

464 4. Maintain its financial records in accordance with
465 the bylaws;

466 5. Meet and take such actions as are consistent with
467 the provisions of this Compact and the bylaws;

468 6. Promulgate uniform Rules to facilitate and
469 coordinate implementation and administration of this
470 Compact. The Rules shall have the force and effect of law
471 and shall be binding in all Member States;

472 7. Bring and prosecute legal proceedings or actions in
473 the name of the Commission, provided that the standing of
474 any State Occupational Therapy Licensing Board to sue or be
475 sued under applicable law shall not be affected;

476 8. Purchase and maintain insurance and bonds;

477 9. Borrow, accept, or contract for services of
478 personnel, including, but not limited to, employees of a
479 Member State;

480 10. Hire employees, elect or appoint officers, fix
481 compensation, define duties, grant such individuals
482 appropriate authority to carry out the purposes of the
483 Compact, and establish the Commission's personnel policies
484 and programs relating to conflicts of interest,
485 qualifications of personnel, and other related personnel
486 matters;

487 11. Accept any and all appropriate donations and
488 grants of money, equipment, supplies, materials and
489 services, and receive, utilize and dispose of the same;
490 provided that at all times the Commission shall avoid any
491 appearance of impropriety and/or conflict of interest;

492 12. Lease, purchase, accept appropriate gifts or
493 donations of, or otherwise own, hold, improve or use, any
494 property, real, personal or mixed; provided that at all
495 times the Commission shall avoid any appearance of
496 impropriety;

497 13. Sell, convey, mortgage, pledge, lease, exchange,
498 abandon, or otherwise dispose of any property real,
499 personal, or mixed;

500 14. Establish a budget and make expenditures;

501 15. Borrow money;

502 16. Appoint committees, including standing committees
503 composed of members, State regulators, State legislators or
504 their representatives, and consumer representatives, and
505 such other interested persons as may be designated in this
506 Compact and the bylaws;

507 17. Provide and receive information from, and
508 cooperate with, law enforcement agencies;

509 18. Establish and elect an Executive Committee; and

510 19. Perform such other functions as may be necessary
511 or appropriate to achieve the purposes of this Compact
512 consistent with the State regulation of Occupational Therapy
513 licensure and practice.

514 D. The Executive Committee

515 The Executive Committee shall have the power to act on
516 behalf of the Commission according to the terms of this
517 Compact.

518 1. The Executive Committee shall be composed of nine
519 members:

520 a. Seven voting members who are elected by the
521 Commission from the current membership of the Commission;

522 b. One ex-officio, nonvoting member from a recognized
523 national Occupational Therapy professional association; and

524 c. One ex-officio, nonvoting member from a recognized
525 national Occupational Therapy certification organization.

526 2. The ex-officio members will be selected by their
527 respective organizations.

528 3. The Commission may remove any member of the
529 Executive Committee as provided in bylaws.

530 4. The Executive Committee shall meet at least
531 annually.

532 5. The Executive Committee shall have the following
533 Duties and responsibilities:

534 a. Recommend to the entire Commission changes to the
535 Rules or bylaws, changes to this Compact legislation, fees
536 paid by Compact Member States such as annual dues, and any
537 Commission Compact fee charged to Licensees for the Compact
538 Privilege;

539 b. Ensure Compact administration services are
540 appropriately provided, contractual or otherwise;

541 c. Prepare and recommend the budget;

542 d. Maintain financial records on behalf of the
543 Commission;

544 e. Monitor Compact compliance of Member States and
545 provide compliance reports to the Commission;

546 f. Establish additional committees as necessary; and

547 g. Perform other duties as provided in Rules or bylaws.

548 E. Meetings of the Commission

549 1. All meetings shall be open to the public, and
550 public notice of meetings shall be given in the same manner
551 as required under the Rulemaking provisions in Section 10.

552 2. The Commission or the Executive Committee or other
553 committees of the Commission may convene in a closed, non-
554 public meeting if the Commission or Executive Committee or
555 other committees of the Commission must discuss:

556 a. Non-compliance of a Member State with its
557 obligations under the Compact;

558 b. The employment, compensation, discipline or other
559 matters, practices or procedures related to specific
560 employees or other matters related to the Commission's
561 internal personnel practices and procedures;

562 c. Current, threatened, or reasonably anticipated
563 litigation;

564 d. Negotiation of contracts for the purchase, lease,
565 or sale of goods, services, or real estate;

566 e. Accusing any person of a crime or formally
567 censuring any person;

568 f. Disclosure of trade secrets or commercial or
569 financial information that is privileged or confidential;

570 g. Disclosure of information of a personal nature
571 where disclosure would constitute a clearly unwarranted
572 invasion of personal privacy;

573 h. Disclosure of investigative records compiled for
574 law enforcement purposes;

575 i. Disclosure of information related to any
576 investigative reports prepared by or on behalf of or for use
577 of the Commission or other committee charged with
578 responsibility of investigation or determination of
579 compliance issues pursuant to the Compact; or

580 j. Matters specifically exempted from disclosure by
581 federal or Member State statute.

582 3. If a meeting, or portion of a meeting, is closed
583 pursuant to this provision, the Commission's legal counsel
584 or designee shall certify that the meeting may be closed and
585 shall reference each relevant exempting provision.

586 4. The Commission shall keep minutes that fully and
587 clearly describe all matters discussed in a meeting and
588 shall provide a full and accurate summary of actions taken,
589 and the reasons therefore, including a description of the
590 views expressed. All documents considered in connection
591 with an action shall be identified in such minutes. All
592 minutes and documents of a closed meeting shall remain under
593 seal, subject to release by a majority vote of the
594 Commission or order of a court of competent jurisdiction.

595 F. Financing of the Commission

596 1. The Commission shall pay, or provide for the
597 payment of, the reasonable expenses of its establishment,
598 organization, and ongoing activities.

599 2. The Commission may accept any and all appropriate
600 revenue sources, donations, and grants of money, equipment,
601 supplies, materials, and services.

602 3. The Commission may levy on and collect an annual
603 assessment from each Member State or impose fees on other
604 parties to cover the cost of the operations and activities
605 of the Commission and its staff, which must be in a total
606 amount sufficient to cover its annual budget as approved by
607 the Commission each year for which revenue is not provided
608 by other sources. The aggregate annual assessment amount
609 shall be allocated based upon a formula to be determined by
610 the Commission, which shall promulgate a Rule binding upon
611 all Member States.

612 4. The Commission shall not incur obligations of any
613 kind prior to securing the funds adequate to meet the same;
614 nor shall the Commission pledge the credit of any of the
615 Member States, except by and with the authority of the
616 Member State.

617 5. The Commission shall keep accurate accounts of all
618 receipts and disbursements. The receipts and disbursements
619 of the Commission shall be subject to the audit and
620 accounting procedures established under its bylaws.
621 However, all receipts and disbursements of funds handled by
622 the Commission shall be audited yearly by a certified or
623 licensed public accountant, and the report of the audit
624 shall be included in and become part of the annual report of
625 the Commission.

626 G. Qualified Immunity, Defense, and Indemnification

627 1. The members, officers, executive director,
628 employees and representatives of the Commission shall be
629 immune from suit and liability, either personally or in
630 their official capacity, for any claim for damage to or loss
631 of property or personal injury or other civil liability
632 caused by or arising out of any actual or alleged act,
633 error, or omission that occurred, or that the person against
634 whom the claim is made had a reasonable basis for believing
635 occurred within the scope of Commission employment, duties
636 or responsibilities; provided that nothing in this paragraph
637 shall be construed to protect any such person from suit
638 and/or liability for any damage, loss, injury, or liability
639 caused by the intentional or willful or wanton misconduct of
640 that person.

641 2. The Commission shall defend any member, officer,
642 executive director, employee, or representative of the
643 Commission in any civil action seeking to impose liability
644 arising out of any actual or alleged act, error, or omission
645 that occurred within the scope of Commission employment,
646 duties, or responsibilities, or that the person against whom
647 the claim is made had a reasonable basis for believing
648 occurred within the scope of Commission employment, duties,
649 or responsibilities; provided that nothing herein shall be
650 construed to prohibit that person from retaining his or her
651 own counsel; and provided further, that the actual or
652 alleged act, error, or omission did not result from that
653 person's intentional or willful or wanton misconduct.

654 3. The Commission shall indemnify and hold harmless
655 any member, officer, executive director, employee, or
656 representative of the Commission for the amount of any
657 settlement or judgment obtained against that person arising
658 out of any actual or alleged act, error, or omission that
659 occurred within the scope of Commission employment, duties,

660 or responsibilities, or that such person had a reasonable
661 basis for believing occurred within the scope of Commission
662 employment, duties, or responsibilities, provided that the
663 actual or alleged act, error, or omission did not result
664 from the intentional or willful or wanton misconduct of that
665 person.

666 SECTION 9. DATA SYSTEM

667 A. The Commission shall provide for the development,
668 maintenance, and utilization of a coordinated database and
669 reporting system containing licensure, Adverse Action, and
670 Investigative Information on all licensed individuals in
671 Member States.

672 B. A Member State shall submit a uniform data set to
673 the Data System on all individuals to whom this Compact is
674 applicable (utilizing a unique identifier) as required by
675 the Rules of the Commission, including:

- 676 1. Identifying information;
- 677 2. Licensure data;
- 678 3. Adverse Actions against a license or Compact
679 Privilege;
- 680 4. Non-confidential information related to Alternative
681 Program participation;
- 682 5. Any denial of application for licensure, and the
683 reason(s) for such denial;
- 684 6. Other information that may facilitate the
685 administration of this Compact, as determined by the Rules
686 of the Commission; and
- 687 7. Current Significant Investigative Information.

688 C. Current Significant Investigative Information and
689 other Investigative Information pertaining to a Licensee in
690 any Member State will only be available to other Member
691 States.

692 D. The Commission shall promptly notify all Member
693 States of any Adverse Action taken against a Licensee or an
694 individual applying for a license. Adverse Action
695 information pertaining to a Licensee in any Member State
696 will be available to any other Member State.

697 E. Member States contributing information to the Data
698 System may designate information that may not be shared with
699 the public without the express permission of the
700 contributing State.

701 F. Any information submitted to the Data System that
702 is subsequently required to be expunged by the laws of the
703 Member State contributing the information shall be removed
704 from the Data System.

705 SECTION 10. RULEMAKING

706 A. The Commission shall exercise its Rulemaking powers
707 pursuant to the criteria set forth in this Section and the
708 Rules adopted thereunder. Rules and amendments shall become
709 binding as of the date specified in each Rule or amendment.

710 B. The Commission shall promulgate reasonable rules in
711 order to effectively and efficiently achieve the purposes of
712 the Compact. Notwithstanding the foregoing, in the event
713 the Commission exercises its rulemaking authority in a
714 manner that is beyond the scope of the purposes of the
715 Compact, or the powers granted hereunder, then such an
716 action by the Commission shall be invalid and have no force
717 and effect.

718 C. If a majority of the legislatures of the Member
719 States rejects a Rule, by enactment of a statute or
720 resolution in the same manner used to adopt the Compact
721 within 4 years of the date of adoption of the Rule, then
722 such Rule shall have no further force and effect in any
723 Member State.

724 D. Rules or amendments to the Rules shall be adopted
725 at a regular or special meeting of the Commission.

726 E. Prior to promulgation and adoption of a final Rule
727 or Rules by the Commission, and at least thirty (30) days in
728 advance of the meeting at which the Rule will be considered
729 and voted upon, the Commission shall file a Notice of
730 Proposed Rulemaking:

731 1. On the website of the Commission or other publicly
732 accessible platform; and

733 2. On the website of each Member State Occupational
734 Therapy Licensing Board or other publicly accessible
735 platform or the publication in which each State would
736 otherwise publish proposed Rules.

737 F. The Notice of Proposed Rulemaking shall include:

738 1. The proposed time, date, and location of the
739 meeting in which the Rule will be considered and voted upon;

740 2. The text of the proposed Rule or amendment and the
741 reason for the proposed Rule;

742 3. A request for comments on the proposed Rule from
743 any interested person; and

744 4. The manner in which interested persons may submit
745 notice to the Commission of their intention to attend the
746 public hearing and any written comments.

747 G. Prior to adoption of a proposed Rule, the
748 Commission shall allow persons to submit written data,
749 facts, opinions, and arguments, which shall be made
750 available to the public.

751 H. The Commission shall grant an opportunity for a
752 public hearing before it adopts a Rule or amendment if a
753 hearing is requested by:

754 1. At least twenty five (25) persons;

755 2. A State or federal governmental subdivision or
756 agency; or

757 3. An association or organization having at least
758 twenty five (25) members.

759 I. If a hearing is held on the proposed Rule or
760 amendment, the Commission shall publish the place, time, and
761 date of the scheduled public hearing. If the hearing is
762 held via electronic means, the Commission shall publish the
763 mechanism for access to the electronic hearing.

764 1. All persons wishing to be heard at the hearing
765 shall notify the executive director of the Commission or
766 other designated member in writing of their desire to appear
767 and testify at the hearing not less than five (5) business
768 days before the scheduled date of the hearing.

769 2. Hearings shall be conducted in a manner providing
770 each person who wishes to comment a fair and reasonable
771 opportunity to comment orally or in writing.

772 3. All hearings will be recorded. A copy of the
773 recording will be made available on request.

774 4. Nothing in this section shall be construed as
775 requiring a separate hearing on each Rule. Rules may be
776 grouped for the convenience of the Commission at hearings
777 required by this section.

778 J. Following the scheduled hearing date, or by the
779 close of business on the scheduled hearing date if the
780 hearing was not held, the Commission shall consider all
781 written and oral comments received.

782 K. If no written notice of intent to attend the public
783 hearing by interested parties is received, the Commission
784 may proceed with promulgation of the proposed Rule without a
785 public hearing.

786 L. The Commission shall, by majority vote of all
787 members, take final action on the proposed Rule and shall
788 determine the effective date of the Rule, if any, based on
789 the Rulemaking record and the full text of the Rule.

790 M. Upon determination that an emergency exists, the
791 Commission may consider and adopt an emergency Rule without
792 prior notice, opportunity for comment, or hearing, provided
793 that the usual Rulemaking procedures provided in the Compact
794 and in this section shall be retroactively applied to the
795 Rule as soon as reasonably possible, in no event later than
796 ninety (90) days after the effective date of the Rule. For
797 the purposes of this provision, an emergency Rule is one
798 that must be adopted immediately in order to:

- 799 1. Meet an imminent threat to public health, safety,
800 or welfare;
801 2. Prevent a loss of Commission or Member State funds;
802 3. Meet a deadline for the promulgation of an
803 administrative Rule that is established by federal law or
804 Rule; or
805 4. Protect public health and safety.

806 N. The Commission or an authorized committee of the
807 Commission may direct revisions to a previously adopted Rule
808 or amendment for purposes of correcting typographical
809 errors, errors in format, errors in consistency, or
810 grammatical errors. Public notice of any revisions shall be
811 posted on the website of the Commission. The revision shall
812 be subject to challenge by any person for a period of thirty
813 (30) days after posting. The revision may be challenged
814 only on grounds that the revision results in a material
815 change to a Rule. A challenge shall be made in writing and
816 delivered to the chair of the Commission prior to the end of
817 the notice period. If no challenge is made, the revision
818 will take effect without further action. If the revision is
819 challenged, the revision may not take effect without the
820 approval of the Commission.

821 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND
822 ENFORCEMENT

823 A. Oversight

824 1. The executive, legislative, and judicial branches
825 of State government in each Member State shall enforce this
826 Compact and take all actions necessary and appropriate to
827 effectuate the Compact's purposes and intent. The
828 provisions of this Compact and the Rules promulgated
829 hereunder shall have standing as statutory law.

830 2. All courts shall take judicial notice of the
831 Compact and the Rules in any judicial or administrative
832 proceeding in a Member State pertaining to the subject
833 matter of this Compact which may affect the powers,
834 responsibilities, or actions of the Commission.

835 3. The Commission shall be entitled to receive service
836 of process in any such proceeding, and shall have standing
837 to intervene in such a proceeding for all purposes. Failure
838 to provide service of process to the Commission shall render
839 a judgment or order void as to the Commission, this Compact,
840 or promulgated Rules.

841 B. Default, Technical Assistance, and Termination

842 1. If the Commission determines that a Member State
843 has defaulted in the performance of its obligations or
844 responsibilities under this Compact or the promulgated
845 Rules, the Commission shall:

846 a. Provide written notice to the defaulting State and
847 other Member States of the nature of the default, the
848 proposed means of curing the default and/or any other action
849 to be taken by the Commission; and

850 b. Provide remedial training and specific technical
851 assistance regarding the default.

852 2. If a State in default fails to cure the default,
853 the defaulting State may be terminated from the Compact upon
854 an affirmative vote of a majority of the Member States, and
855 all rights, privileges and benefits conferred by this

Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.

4. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

6. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between member and non-Member States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

889 D. Enforcement

890 1. The Commission, in the reasonable exercise of its
891 discretion, shall enforce the provisions and Rules of this
892 Compact.

893 2. By majority vote, the Commission may initiate legal
894 action in the United States District Court for the District
895 of Columbia or the federal district where the Commission has
896 its principal offices against a Member State in default to
897 enforce compliance with the provisions of the Compact and
898 its promulgated Rules and bylaws. The relief sought may
899 include both injunctive relief and damages. In the event
900 judicial enforcement is necessary, the prevailing member
901 shall be awarded all costs of such litigation, including
902 reasonable attorney's fees.

903 3. The remedies herein shall not be the exclusive
904 remedies of the Commission. The Commission may pursue any
905 other remedies available under federal or State law.

906 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE
907 COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED
908 RULES, WITHDRAWAL, AND AMENDMENT

909 A. The Compact shall come into effect on the date on
910 which the Compact statute is enacted into law in the tenth
911 Member State. The provisions, which become effective at
912 that time, shall be limited to the powers granted to the
913 Commission relating to assembly and the promulgation of
914 Rules. Thereafter, the Commission shall meet and exercise
915 Rulemaking powers necessary to the implementation and
916 administration of the Compact.

917 B. Any State that joins the Compact subsequent to the
918 Commission's initial adoption of the Rules shall be subject
919 to the Rules as they exist on the date on which the Compact
920 becomes law in that State. Any Rule that has been
921 previously adopted by the Commission shall have the full

922 force and effect of law on the day the Compact becomes law
923 in that State.

924 C. Any Member State may withdraw from this Compact by
925 enacting a statute repealing the same.

926 1. A Member State's withdrawal shall not take effect
927 until six (6) months after enactment of the repealing
928 statute.

929 2. Withdrawal shall not affect the continuing
930 requirement of the withdrawing State's Occupational Therapy
931 Licensing Board to comply with the investigative and Adverse
932 Action reporting requirements of this act prior to the
933 effective date of withdrawal.

934 D. Nothing contained in this Compact shall be
935 construed to invalidate or prevent any Occupational Therapy
936 licensure agreement or other cooperative arrangement between
937 a Member State and a non-Member State that does not conflict
938 with the provisions of this Compact.

939 E. This Compact may be amended by the Member States.
940 No amendment to this Compact shall become effective and
941 binding upon any Member State until it is enacted into the
942 laws of all Member States.

943 SECTION 13. CONSTRUCTION AND SEVERABILITY

944 This Compact shall be liberally construed so as to
945 effectuate the purposes thereof. The provisions of this
946 Compact shall be severable and if any phrase, clause,
947 sentence or provision of this Compact is declared to be
948 contrary to the constitution of any Member State or of the
949 United States or the applicability thereof to any
950 government, agency, person, or circumstance is held invalid,
951 the validity of the remainder of this Compact and the
952 applicability thereof to any government, agency, person, or
953 circumstance shall not be affected thereby. If this Compact
954 shall be held contrary to the constitution of any Member

State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. A Licensee providing Occupational Therapy in a Remote State under the Compact Privilege shall function within the laws and regulations of the Remote State.

B. Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with the Compact.

C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the conflict.

D. Any lawful actions of the Commission, including all Rules and bylaws promulgated by the Commission, are binding upon the Member States.

E. All agreements between the Commission and the Member States are binding in accordance with their terms.

F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that Member State.

324.200. 1. Sections 324.200 to 324.225 shall be known and may be cited as the "Dietitian Practice Act".

2. As used in sections 324.200 to 324.225, the following terms shall mean:

(1) "Accreditation Council for Education in Nutrition and Dietetics" or "ACEND", the Academy of Nutrition and Dietetics accrediting agency for education programs preparing students for professions as registered dietitians;

(2) "Committee", the state committee of dietitians established in section 324.203;

11 (3) "Dietetics practice", the application of
12 principles derived from integrating knowledge of food,
13 nutrition, biochemistry, physiology, management, and
14 behavioral and social science to achieve and maintain the
15 health of people by providing nutrition assessment and
16 nutrition care services. The primary function of dietetic
17 practice is the provision of nutrition care services that
18 shall include, but not be limited to:

19 (a) Assessing the nutrition needs of individuals and
20 groups and determining resources and constraints in the
21 practice setting;

22 (b) Establishing priorities, goals, and objectives
23 that meet nutrition needs and are consistent with available
24 resources and constraints;

25 (c) Providing nutrition counseling or education in
26 health and disease;

27 (d) Developing, implementing, and managing nutrition
28 care systems;

29 (e) Evaluating, making changes in, and maintaining
30 appropriate standards of quality and safety in food and in
31 nutrition services;

32 (f) Engaged in medical nutritional therapy as defined
33 in subdivision (8) of this section;

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

36 (5) "Director", the director of the division of
37 professional registration;

38 (6) "Division", the division of professional
39 registration;

40 (7) "Licensed dietitian", a person who is licensed
41 pursuant to the provisions of sections 324.200 to 324.225 to
42 engage in the practice of dietetics or medical nutrition
43 therapy;

(8) "Medical nutrition therapy", [nutritional diagnostic, therapy, and counseling services which are furnished by a registered dietitian or registered dietitian nutritionist] the provision of nutrition care services for the treatment or management of a disease or medical condition;

(9) "Registered dietitian" or "registered dietitian nutritionist", a person who:

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

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

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

(d) Accrued seventy-five hours of approved continuing professional units every five years; as determined by the Committee on Dietetic Registration.

324.206. 1. As long as the person involved does not represent or hold himself or herself out as a dietitian as defined by subdivision (4) of subsection 2 of section 324.200, nothing in sections 324.200 to 324.225 is intended to limit, preclude, or otherwise interfere with:

(1) Self-care by a person or gratuitous care by a friend or family member;

(2) Persons in the military services or working in federal facilities from performing any activities described in sections 324.200 to 324.225 during the course of their assigned duties in the military service or a federal facility;

(3) A licensed health care provider performing any activities described in sections 324.200 to 324.225 that are within the scope of practice of the licensee;

(4) A person pursuing an approved educational program leading to a degree or certificate in dietetics at an accredited or approved educational program as long as such person does not provide dietetic services outside the educational program. Such person shall be designated by a title that clearly indicates the person's status as a student;

(5) Individuals who do not hold themselves out as dietitians marketing or distributing food products including dietary supplements as defined by the Food and Drug Administration or engaging in the explanation and education of customers regarding the use of such products;

(6) Any person furnishing general nutrition information as to the use of food, food materials, or dietary supplements, nor prevent in any way the free dissemination of literature;

(7) A person credentialed in the field of nutrition from providing advice, counseling, or evaluations in matters of food, diet, or nutrition to the extent such acts are within the scope of practice listed by the credentialing body and do not constitute medical nutrition therapy;

provided, however, no such individual may call himself or herself a dietitian unless he or she is licensed under this chapter.

2. A credentialed person not representing or holding himself or herself out as a dietitian, who performs any of the acts or services listed in subsection 1 of this section, shall provide, prior to performing such act or service for another, the following:

- (1) The person's name and title;
- (2) The person's business address and telephone number;
- (3) A statement that the person is not a dietitian licensed by the state of Missouri;

49 (4) A statement that the information provided or
50 advice given may be considered alternative care by licensed
51 practitioners in the state of Missouri; and

52 (5) The person's qualifications for providing such
53 information or advice, including educational background,
54 training, and experience.

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

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

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

16 (3) "Accredited school of landscape architecture", any
17 school or other institution which teaches landscape
18 architecture and whose curricula on the subjects in question
19 are or have been at the times in question certified as
20 accredited by the Landscape Architecture Accreditation Board
21 of the American Society of Landscape Architects;

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

26 (5) "Board", the Missouri board for architects,
27 professional engineers, professional land surveyors and
28 professional landscape architects;

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

31 (7) "Design coordination", the review and coordination
32 of technical submissions prepared by others including, as
33 appropriate and without limitation, architects, professional
34 engineers, professional land surveyors, professional
35 landscape architects, and other consultants;

36 (8) "Design survey", a survey which includes all
37 activities required to gather information to support the
38 sound conception, planning, design, construction,
39 maintenance, and operation of design projects, but excludes
40 the surveying of real property for the establishment of land
41 boundaries, rights-of-way, easements, and the dependent or
42 independent surveys or resurveys of the public land survey
43 system;

44 (9) "Incidental practice", the performance of other
45 professional services licensed under chapter 327 that are
46 related to a licensee's professional service, but are
47 secondary and substantially less in scope and magnitude when
48 compared to the professional services usually and normally
49 performed by the licensee practicing in their licensed
50 profession. This incidental professional service shall be
51 safely and competently performed by the licensee without
52 jeopardizing the health, safety, and welfare of the public.
53 The licensee shall be qualified by education, training, and
54 experience as determined by the board and in sections
55 327.091, 327.181, 327.272, and 327.600 and applicable board
56 rules to perform such incidental professional service;

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

(11) "Partnership", any partnership or limited liability partnership;

(12) "Person", any [person] individual, corporation, firm, partnership, association or other entity authorized to do business;

(13) "Professional engineer", any person authorized pursuant to the provisions of this chapter to practice as a professional engineer in Missouri, as the practice of engineering is defined in section 327.181;

(14) "Professional land surveyor", any person authorized pursuant to the provisions of this chapter to practice as a professional land surveyor in Missouri as the practice of land surveying is defined in section 327.272;

(15) "Professional landscape architect", any person authorized pursuant to the provisions of this chapter to practice as a professional landscape architect in Missouri as the practice of landscape architecture is defined in section 327.600;

(16) "Responsible charge", the independent direct control of a licensee's work and personal supervision of such work pertaining to the practice of architecture, engineering, land surveying, or landscape architecture.

327.091. 1. [Any person practices as an architect in Missouri who renders or offers to render or represents himself or herself as willing or able to render service or creative work which requires architectural education, training and experience, including services and work such as consultation, evaluation, planning, aesthetic and structural design, the preparation of drawings, specifications and related documents, and the coordination of services

furnished by structural, civil, mechanical and electrical engineers and other consultants as they relate to architectural work in connection with the construction or erection of any private or public building, building structure, building project or integral part or parts of buildings or of any additions or alterations thereto; or who uses the title "architect" or the terms "architect" or "architecture" or "architectural" alone or together with any words other than "landscape" that indicate or imply that such person is or holds himself or herself out to be an architect]

The practice of architecture is the rendering of or offering to render services in connection with the design and construction of public and private buildings, structures and shelters, site improvements, in whole or part and including any additions or alterations thereto, as well as to the spaces within and the site surrounding such buildings and structures, which have as their principal purpose human occupancy or habitation. The services referred to include consultation, design surveys, feasibility studies, evaluation, planning, aesthetic and structural design, preliminary design, drawings, specifications, technical submissions, and other instruments of service, the administration of construction contracts, construction observation and inspection, and the coordination of any elements of technical submissions prepared by others, including professional engineers, landscape architects, and other consultants that pertain to the practice of architecture. A person shall be considered to be practicing architecture when such person uses the title "architect" or the terms "architect" or "architecture" or "architectural" alone or together with any words other than "landscape" to indicate or imply that such person is or holds himself or herself out to be an architect. Only a person with the

42 required architectural education, practical training,
43 relevant work experience, and licensure may practice as an
44 architect in Missouri.

45 2. Architects shall be in responsible charge of all
46 architectural design of buildings and structures that can
47 affect the health, safety, and welfare of the public within
48 their scope of practice.

327.101. 1. No person shall practice architecture in
2 Missouri as defined in section 327.091 unless and until
3 there is issued to the person a license or a certificate of
4 authority certifying that the person has been duly licensed
5 as an architect or authorized to practice architecture, in
6 Missouri, and unless such license has been renewed as
7 hereinafter specified[; provided, however, that nothing in
8 this chapter shall apply to the following persons]_.

9 2. Notwithstanding the provisions of subsection 1 of
10 this section, the following persons may engage in actions
11 defined as the practice of architecture in section 327.091,
12 provided that such persons shall not use the title
13 "architect" or the terms "architect" or "architecture" or
14 "architectural" alone or together with any words other than
15 "landscape" that indicate or imply that such person is or
16 holds himself or herself out to be an architect:

17 (1) Any person who is an employee of a person holding
18 a currently valid license as an architect or who is an
19 employee of any person holding a currently valid certificate
20 of authority pursuant to this chapter, and who performs
21 architectural work under the direction and continuing
22 supervision of and is checked by one holding a currently
23 valid license as an architect pursuant to this chapter;

24 (2) Any person who is a regular full-time employee who
25 performs architectural work for the person's employer if and
26 only if all such work and service so performed is in

27 connection with a facility owned or wholly operated by the
28 employer and which is occupied by the employer of the
29 employee performing such work or service, and if and only if
30 such work and service so performed do not endanger the
31 public health or safety;

32 (3) Any holder of a currently valid license or
33 certificate of authority as a professional engineer who
34 performs only such architecture as incidental practice and
35 necessary to the completion of professional services
36 lawfully being performed by such licensed professional
37 engineer;

38 (4) Any person who is a professional landscape
39 architect, city planner or regional planner who performs
40 work consisting only of consultations concerning and
41 preparation of master plans for parks, land areas or
42 communities, or the preparation of plans for and the
43 supervision of the planting and grading or the construction
44 of walks and paving for parks or land areas and such other
45 minor structural features as fences, steps, walls, small
46 decorative pools and other construction not involving
47 structural design or stability and which is usually and
48 customarily included within the area of work of a
49 professional landscape architect or planner;

50 (5) Any person who renders architectural services in
51 connection with the construction, remodeling or repairing of
52 any privately owned building described in paragraphs (a),
53 (b), or (c) [, (d), and (e)] which follow, and who indicates
54 on any drawings, specifications, estimates, reports or other
55 documents furnished in connection with such services that
56 the person is not a licensed architect:

57 (a) A dwelling house; or

58 (b) A multiple family dwelling house, flat or
59 apartment containing not more than two families; or

60 (c) [A commercial or industrial building or structure
61 which provides for the employment, assembly, housing,
62 sleeping or eating of not more than nine persons; or

63 (d) Any one structure containing less than two
64 thousand square feet, except as provided in (b) and (c)
65 above, and which is not a part or a portion of a project
66 which contains more than one structure; or

67 (e) A building or structure used exclusively for farm
68 purposes] Any one building or structure, except for those
69 buildings or structures referenced in subdivision (8) of
70 this subsection, which provides for the employment,
71 assembly, housing, sleeping, or eating of not more than nine
72 persons, contains less than two thousand square feet, and is
73 not part of another building or structure;

74 (6) Any person who renders architectural services in
75 connection with the remodeling or repairing of any privately
76 owned multiple family dwelling house, flat or apartment
77 containing three or four families, provided that the
78 alteration, renovation, or remodeling does not affect
79 architectural or engineering safety features of the building
80 and who indicates on any drawings, specifications,
81 estimates, reports or other documents furnished in
82 connection with such services that the person is not a
83 licensed architect;

84 (7) Any person or corporation who is offering, but not
85 performing or rendering, architectural services if the
86 person or corporation is licensed to practice architecture
87 in the state or country of residence or principal place of
88 business; or

89 (8) Any person who renders architectural services in
90 connection with the construction, remodeling, or repairing
91 of any building or structure used exclusively for
92 agriculture purposes.

327.131. Any person may apply to the board for
2 licensure as an architect who is over the age of twenty-one,
3 has acquired an accredited degree from an accredited degree
4 program from a school of architecture, holds a certified
5 Intern Development Program (IDP) or Architectural Experience
6 Program (AXP) record with the National Council of
7 Architectural Registration Boards, and has taken and passed
8 all divisions of the Architect Registration Examination.

327.191. 1. No person shall practice as a
2 professional engineer in Missouri, as defined in section
3 327.181 unless and until there is issued to such person a
4 professional license or a certificate of authority
5 certifying that such person has been duly licensed as a
6 professional engineer or authorized to practice engineering
7 in Missouri, and unless such license or certificate has been
8 renewed as provided in section 327.261[; provided that
9 section 327.181 shall not be construed to prevent the
10 practice of engineering by the following persons]_.

11 2. Notwithstanding the provisions of subsection 1 of
12 this section, the following persons may engage in actions
13 defined as the practice of professional engineering in
14 section 327.181, provided that such persons shall not use
15 the title "professional engineer" or "consulting engineer"
16 or the word "engineer" alone or preceded by any word
17 indicating or implying that such person is or holds himself
18 or herself out to be a professional engineer, or use any
19 word or words, letters, figures, degrees, titles, or other
20 description indicating or implying that such person is a
21 professional engineer or is willing or able to practice
22 engineering:

23 (1) Any person who is an employee of a person holding
24 a currently valid license as a professional engineer or who
25 is an employee of a person holding a currently valid

26 certificate of authority pursuant to this chapter, and who
27 performs professional engineering work under the direction
28 and continuing supervision of and is checked by one holding
29 a currently valid license as a professional engineer
30 pursuant to this chapter;

31 (2) Any person who is a regular full-time employee of
32 a person or any former employee under contract to a person,
33 who performs professional engineering work for such employer
34 if and only if all such work and service so performed is
35 done solely in connection with a facility owned or wholly
36 operated by the employer and occupied or maintained by the
37 employer of the employee performing such work or service,
38 and does not affect the health, safety, and welfare of the
39 public;

40 (3) Any person engaged in engineering who is a full-
41 time, regular employee of a person engaged in manufacturing
42 operations and which engineering so performed by such person
43 relates to the manufacture, sale or installation of the
44 products of such person, and does not affect the health,
45 safety, and welfare of the public;

46 (4) Any holder of a currently valid license or
47 certificate of authority as an architect, professional land
48 surveyor, or professional landscape architect who performs
49 only such engineering as incidental practice and necessary
50 to the completion of professional services lawfully being
51 performed by such architect, professional land surveyor, or
52 professional landscape architect;

53 (5) Any person who renders engineering services in
54 connection with the construction, remodeling, or repairing
55 of any privately owned building described as follows, and
56 who indicates on any drawings, specifications, estimates,
57 reports, or other documents furnished in connection with

58 such services that the person is not a licensed professional
59 engineer:

60 (a) A dwelling house;

61 (b) A multiple family dwelling house, flat, or
62 apartment containing no more than two families; or

63 (c) Any one building or structure, except for those
64 buildings or structures referenced in subdivision (8) of
65 this subsection, which provides for the employment,
66 assembly, housing, sleeping, or eating of not more than nine
67 persons, contains less than two thousand square feet, and is
68 not part of another building or structure;

69 (6) Any person who renders engineering services in
70 connection with the remodeling or repairing of any privately
71 owned, multiple family dwelling house, flat, or apartment
72 containing three or four families, provided that the
73 alteration, renovation, or remodeling does not affect
74 architectural or engineering safety features of the
75 building, and who indicates on any drawings, specifications,
76 estimates, reports, or other documents furnished in
77 connection with such services that the person is not a
78 licensed professional engineer;

79 (7) Any person or corporation who is offering, but not
80 performing or rendering, professional engineering services
81 if the person or corporation is licensed to practice
82 professional engineering in the state or country of
83 residence or principal place of business;

84 (8) Any person who renders engineering services in
85 connection with the construction, remodeling, or repairing
86 of any building or structure used exclusively for
87 agricultural purposes.

327.241. 1. After it has been determined that an
2 applicant possesses the qualifications entitling the
3 applicant to be examined, each applicant for examination and

4 licensure as a professional engineer in Missouri shall
5 appear before the board or its representatives for
6 examination at the time and place specified.

7 2. The examination or examinations shall be of such
8 form, content and duration as shall be determined by the
9 board to thoroughly test the qualifications of each
10 applicant to practice as a professional engineer in Missouri.

11 3. Any applicant to be eligible for a license must
12 make a grade on each examination of at least seventy percent.

13 4. The engineering examination shall consist of two
14 parts; the first part may be taken by any person after such
15 person has satisfied the educational requirements of section
16 327.221, or who is in his or her final year of study in an
17 accredited school of engineering; and upon passing part one
18 of the examination and providing proof that such person has
19 satisfied the educational requirements of section 327.221
20 and upon payment of the required fee, such person shall be
21 an engineer-intern, subject to the other provisions of this
22 chapter.

23 5. Any engineer-intern, as defined in subsection 4 of
24 this section[, who has acquired at least four years of
25 satisfactory engineering experience,] may take part two of
26 the engineering examination and upon passing it and having
27 acquired at least four years of satisfactory engineering
28 experience shall be entitled to receive a license, subject,
29 however, to the other provisions of this chapter.

30 6. Notwithstanding the provisions of subsections 4 and
31 5 of this section, the board may, in its discretion, provide
32 by rule that any person who has graduated from and holds an
33 engineering degree from an accredited school of engineering
34 may thereupon be eligible to take both parts of the
35 engineering examination and that upon passing said
36 examination and acquiring four years of satisfactory

37 engineering experience, after graduating and receiving a
38 degree as aforesaid, shall be entitled to receive a license
39 to practice as a professional engineer, subject, however, to
40 the other provisions of this chapter.

41 7. Any person who has graduated from and has received
42 a degree in engineering from an accredited school of
43 engineering may [then acquire four years of satisfactory
44 engineering experience and thereafter] take both parts of
45 the examination and upon passing and having acquired four
46 years of satisfactory engineering experience shall be
47 entitled to receive a license to practice as a professional
48 engineer, subject, however, to the other provisions of this
49 chapter.

50 [8. Any person entitled to be licensed as a
51 professional engineer as provided in subsection 5, 6, or 7
52 of this section must be so licensed within four years after
53 the date on which he or she was so entitled, and if one is
54 not licensed within the time he or she is so entitled, the
55 engineering division of the board may require him to take
56 and satisfactorily pass such further examination as provided
57 by rule before issuing to him a license.]

327.612. Any person who [has attained the age of
2 twenty-one years, and] has a degree in landscape
3 architecture from an accredited school of landscape
4 architecture [and], or possesses an education which in the
5 opinion of the board equals or exceeds the education
6 received by a graduate of an accredited school, has acquired
7 at least three years satisfactory landscape architectural
8 experience after acquiring such a degree, and who has taken
9 and passed all sections of the landscape architectural
10 registration examination administered by the Council of
11 Landscape Architectural Registration Boards may apply to the
12 board for licensure as a professional landscape architect.

329.034. Notwithstanding any other provision of law,
2 the division of professional registration shall not require
3 any person who engages solely in shampooing under the
4 supervision of a licensed barber or cosmetologist to be
5 licensed as a barber or cosmetologist. For purposes of this
6 section, "shampooing" means the act of washing or cleansing
7 hair with shampoo for compensation.

337.068. 1. If the [board] committee finds merit to a
2 complaint by an individual incarcerated or under the care
3 and control of the department of corrections or who has been
4 ordered to be taken into custody, detained, or held under
5 sections 632.480 to 632.513, or who has been ordered to be
6 evaluated under chapter 552, and takes further investigative
7 action, no documentation may appear on file or disciplinary
8 action may be taken in regards to the licensee's license
9 unless the provisions of subsection 2 of section 337.035
10 have been violated. Any case file documentation that does
11 not result in the [board] committee filing an action
12 pursuant to subsection 2 of section 337.035 shall be
13 destroyed within three months after the final case
14 disposition by the [board] committee. No notification to
15 any other licensing board in another state or any national
16 registry regarding any investigative action shall be made
17 unless the provisions of subsection 2 of section 337.035
18 have been violated.

2. Upon written request of the psychologist subject to
20 a complaint, prior to August 28, 1999, by an individual
21 incarcerated or under the care and control of the department
22 of corrections or prior to August 28, 2008, by an individual
23 who has been ordered to be taken into custody, detained, or
24 held under sections 632.480 to 632.513, or prior to August
25 28, 2021, by an individual who has been ordered to be
26 evaluated under chapter 552, that did not result in the

27 [board] committee filing an action pursuant to subsection 2
28 of section 337.035, the [board] committee and the division
29 of professional registration, shall in a timely fashion:

30 (1) Destroy all documentation regarding the complaint;

31 (2) Notify any other licensing board in another state
32 or any national registry regarding the [board's] committee's
33 actions if they have been previously notified of the
34 complaint; and

35 (3) Send a letter to the licensee that clearly states
36 that the [board] committee found the complaint to be
37 unsubstantiated, that the [board] committee has taken the
38 requested action, and notify the licensee of the provisions
39 of subsection 3 of this section.

40 3. Any person who has been the subject of an
41 unsubstantiated complaint as provided in subsection 1 or 2
42 of this section shall not be required to disclose the
43 existence of such complaint in subsequent applications or
44 representations relating to their psychology professions.

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

16 records and papers bearing on the complaint. The commission
17 shall have the power to issue a subpoena and to compel any
18 person in this state to come before the commission to offer
19 testimony or any material specified in the subpoena.

20 Subpoenas and subpoenas duces tecum issued pursuant to this
21 section shall be served in the same manner as subpoenas in a
22 criminal case. The fees and mileage of witnesses shall be
23 the same as that allowed in the circuit court in civil cases.

24 2. The commission may cause a complaint to be filed
25 with the administrative hearing commission as provided by
26 the provisions of chapter 621 against any person or entity
27 licensed under this chapter or any licensee who has failed
28 to renew or has surrendered his or her individual or entity
29 license for any one or any combination of the following acts:

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

38 (2) Making substantial misrepresentations or false
39 promises or suppression, concealment or omission of material
40 facts in the conduct of his or her business or pursuing a
41 flagrant and continued course of misrepresentation through
42 agents, salespersons, advertising or otherwise in any
43 transaction;

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

47 (4) Representing to any lender, guaranteeing agency,
48 or any other interested party, either verbally or through

49 the preparation of false documents, an amount in excess of
50 the true and actual sale price of the real estate or terms
51 differing from those actually agreed upon;

52 (5) Failure to timely deliver a duplicate original of
53 any and all instruments to any party or parties executing
54 the same where the instruments have been prepared by the
55 licensee or under his or her supervision or are within his
56 or her control, including, but not limited to, the
57 instruments relating to the employment of the licensee or to
58 any matter pertaining to the consummation of a lease,
59 listing agreement or the purchase, sale, exchange or lease
60 of property, or any type of real estate transaction in which
61 he or she may participate as a licensee;

62 (6) Acting for more than one party in a transaction
63 without the knowledge of all parties for whom he or she
64 acts, or accepting a commission or valuable consideration
65 for services from more than one party in a real estate
66 transaction without the knowledge of all parties to the
67 transaction;

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

71 (8) Guaranteeing or having authorized or permitted any
72 licensee to guarantee future profits which may result from
73 the resale of real property;

74 (9) Having been finally adjudicated and been found
75 guilty of the violation of any state or federal statute
76 which governs the sale or rental of real property or the
77 conduct of the real estate business as defined in subsection
78 1 of section 339.010;

79 (10) Obtaining a certificate or registration of
80 authority, permit or license for himself or herself or

81 anyone else by false or fraudulent representation, fraud or
82 deceit;

83 (11) Representing a real estate broker other than the
84 broker with whom associated without the express written
85 consent of the broker with whom associated;

86 (12) Accepting a commission or valuable consideration
87 for the performance of any of the acts referred to in
88 section 339.010 from any person except the broker with whom
89 associated at the time the commission or valuable
90 consideration was earned;

91 (13) Using prizes, money, gifts or other valuable
92 consideration as inducement to secure customers or clients
93 to purchase, lease, sell or list property when the awarding
94 of such prizes, money, gifts or other valuable consideration
95 is conditioned upon the purchase, lease, sale or listing; or
96 soliciting, selling or offering for sale real property by
97 offering free lots, or conducting lotteries or contests, or
98 offering prizes for the purpose of influencing a purchaser
99 or prospective purchaser of real property;

100 (14) Placing a sign on or advertising any property
101 offering it for sale or rent without the written consent of
102 the owner or his or her duly authorized agent;

103 (15) Violation of, or attempting to violate, directly
104 or indirectly, or assisting or enabling any person to
105 violate, any provision of sections 339.010 to 339.180 and
106 sections 339.710 to 339.860, or of any lawful rule adopted
107 pursuant to sections 339.010 to 339.180 and sections 339.710
108 to 339.860;

109 (16) Committing any act which would otherwise be
110 grounds for the commission to refuse to issue a license
111 under section 339.040;

112 (17) Failure to timely inform seller of all written
113 offers unless otherwise instructed in writing by the seller;

114 (18) Been finally adjudicated and found guilty, or
115 entered a plea of guilty or nolo contendere, in a criminal
116 prosecution under the laws of this state or any other state
117 or of the United States, for any offense reasonably related
118 to the qualifications, functions or duties of any profession
119 licensed or regulated under this chapter, or for any offense
120 an essential element of which is fraud, dishonesty or an act
121 of violence, whether or not sentence is imposed;

122 (19) Any other conduct which constitutes
123 untrustworthy, improper or fraudulent business dealings,
124 demonstrates bad faith or incompetence, misconduct, or gross
125 negligence;

126 (20) Disciplinary action against the holder of a
127 license or other right to practice any profession regulated
128 under sections 339.010 to 339.180 and sections 339.710 to
129 339.860 granted by another state, territory, federal agency,
130 or country upon grounds for which revocation, suspension, or
131 probation is authorized in this state;

132 (21) Been found by a court of competent jurisdiction
133 of having used any controlled substance, as defined in
134 chapter 195, to the extent that such use impairs a person's
135 ability to perform the work of any profession licensed or
136 regulated by sections 339.010 to 339.180 and sections
137 339.710 to 339.860;

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

140 (23) Assisting or enabling any person to practice or
141 offer to practice any profession licensed or regulated under
142 sections 339.010 to 339.180 and sections 339.710 to 339.860
143 who is not registered and currently eligible to practice
144 under sections 339.010 to 339.180 and sections 339.710 to
145 339.860;

146 (24) Use of any advertisement or solicitation which:

147 (a) Is knowingly false, misleading or deceptive to the
148 general public or persons to whom the advertisement or
149 solicitation is primarily directed; or

150 (b) Includes a name or team name that uses the terms
151 "realty", "brokerage", "company", or any other terms that
152 can be construed to advertise a real estate company other
153 than the licensee or a business entity licensed under this
154 chapter with whom the licensee is associated. The context
155 of the advertisement or solicitation may be considered by
156 the commission when determining whether a licensee has
157 committed a violation of this paragraph;

158 (25) Making any material misstatement,
159 misrepresentation, or omission with regard to any
160 application for licensure or license renewal. As used in
161 this section, "material" means important information about
162 which the commission should be informed and which may
163 influence a licensing decision;

164 (26) Engaging in, committing, or assisting any person
165 in engaging in or committing mortgage fraud, as defined in
166 section 443.930.

167 3. After the filing of such complaint, the proceedings
168 will be conducted in accordance with the provisions of law
169 relating to the administrative hearing commission. A
170 finding of the administrative hearing commissioner that the
171 licensee has performed or attempted to perform one or more
172 of the foregoing acts shall be grounds for the suspension or
173 revocation of his license by the commission, or the placing
174 of the licensee on probation on such terms and conditions as
175 the real estate commission shall deem appropriate, or the
176 imposition of a civil penalty by the commission not to
177 exceed two thousand five hundred dollars for each offense.
178 Each day of a continued violation shall constitute a
179 separate offense.

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

187 5. Notwithstanding other provisions of this section, a
188 broker or salesperson's license shall be revoked, or in the
189 case of an applicant, shall not be issued, if the licensee
190 or applicant has pleaded guilty to, entered a plea of nolo
191 contendere to, or been found guilty of any of the following
192 offenses or offenses of a similar nature established under
193 the laws of this, any other state, the United States, or any
194 other country, notwithstanding whether sentence is imposed:

195 (1) Any dangerous felony as defined under section
196 556.061 or murder in the first degree;

197 (2) Any of the following sexual offenses: rape in the
198 first degree, forcible rape, rape, statutory rape in the
199 first degree, statutory rape in the second degree, rape in
200 the second degree, sexual assault, sodomy in the first
201 degree, forcible sodomy, statutory sodomy in the first
202 degree, statutory sodomy in the second degree, child
203 molestation in the first degree, child molestation in the
204 second degree, sodomy in the second degree, deviate sexual
205 assault, sexual misconduct involving a child, sexual
206 misconduct in the first degree under section 566.090 as it
207 existed prior to August 28, 2013, sexual abuse under section
208 566.100 as it existed prior to August 28, 2013, sexual abuse
209 in the first or second degree, enticement of a child, or
210 attempting to entice a child;

211 (3) Any of the following offenses against the family
212 and related offenses: incest, abandonment of a child in the

213 first degree, abandonment of a child in the second degree,
214 endangering the welfare of a child in the first degree,
215 abuse of a child, using a child in a sexual performance,
216 promoting sexual performance by a child, or trafficking in
217 children;

218 (4) Any of the following offenses involving child
219 pornography and related offenses: promoting obscenity in
220 the first degree, promoting obscenity in the second degree
221 when the penalty is enhanced to a class E felony, promoting
222 child pornography in the first degree, promoting child
223 pornography in the second degree, possession of child
224 pornography in the first degree, possession of child
225 pornography in the second degree, furnishing child
226 pornography to a minor, furnishing pornographic materials to
227 minors, or coercing acceptance of obscene material; and

228 (5) Mortgage fraud as defined in section 570.310.

229 6. A person whose license was revoked under subsection
230 5 of this section may appeal such revocation to the
231 administrative hearing commission. Notice of such appeal
232 must be received by the administrative hearing commission
233 within ninety days of mailing, by certified mail, the notice
234 of revocation. Failure of a person whose license was
235 revoked to notify the administrative hearing commission of
236 his or her intent to appeal waives all rights to appeal the
237 revocation. Upon notice of such person's intent to appeal,
238 a hearing shall be held before the administrative hearing
239 commission.

339.150. 1. No real estate broker shall knowingly
2 employ or engage any person to perform any service to the
3 broker for which licensure as a real estate broker or a real
4 estate salesperson is required pursuant to sections 339.010
5 to 339.180 and sections 339.710 to 339.860, unless such a
6 person is:

7 (1) A licensed real estate salesperson or a licensed
8 real estate broker as required by section 339.020; or

9 (2) For a transaction involving commercial real estate
10 as defined in section 339.710, a person regularly engaged in
11 the real estate brokerage business outside the state of
12 Missouri who has, in such forms as the commission may adopt
13 by rule:

14 (a) Executed a brokerage agreement with the Missouri
15 real estate broker;

16 (b) Consented to the jurisdiction of Missouri and the
17 commission;

18 (c) Consented to disciplinary procedures under section
19 339.100; and

20 (d) Appointed the commission as his or her agent for
21 service of process regarding any administrative or legal
22 actions relating to the conduct in Missouri; or

23 (3) For any other transaction, a person regularly
24 engaged in the real estate brokerage business outside of the
25 state of Missouri.

26 Any such action shall be unlawful as provided by section
27 339.100 and shall be grounds for investigation, complaint,
28 proceedings and discipline as provided by section 339.100.

29 2. No real estate licensee shall pay any part of a
30 fee, commission or other compensation received by the
31 licensee to any person for any service rendered by such
32 person to the licensee in buying, selling, exchanging,
33 leasing, renting or negotiating a loan upon any real estate,
34 unless such a person is a licensed real estate salesperson
35 regularly associated with such a broker, or a licensed real
36 estate broker, or a person regularly engaged in the real
37 estate brokerage business outside of the state of Missouri.

38 3. Notwithstanding the provisions of subsections 1 and
39 2 of this section, any real estate broker who shall refuse

to pay any person for services rendered by such person to the broker, with the consent, knowledge and acquiescence of the broker that such person was not licensed as required by section 339.020, in buying, selling, exchanging, leasing, renting or negotiating a loan upon any real estate for which services a license is required, and who is employed or engaged by such broker to perform such services, shall be liable to such person for the reasonable value of the same or similar services rendered to the broker, regardless of whether or not the person possesses or holds any particular license, permit or certification at the time the service was performed. Any such person may bring a civil action for the reasonable value of his services rendered to a broker notwithstanding the provisions of section 339.160.

4. Notwithstanding provisions of this chapter to the contrary, a broker may pay compensation directly to a business entity owned by a licensee that has been formed for the purpose of receiving compensation earned by such licensee. A business entity that receives compensation from a broker as provided for in this subsection shall not be required to be licensed under this chapter and shall be owned:

(1) Solely by the licensee;

(2) By the licensee together with the licensee's spouse, but only if the spouse and licensee are both licensed and associated with the same broker, or the spouse is not also licensed; or

(3) By the licensee and one or more other licensees, but only if all such owners are licensees which are associated with the same broker.

5. For purposes of subsection 4 of this section, the following terms shall mean:

72 (1) "Business entity", any corporation, partnership,
73 limited partnership, limited liability company, professional
74 corporation, or association;

75 (2) "Licensee", any real estate broker-salesperson or
76 real estate salesperson, as such terms are defined under
77 section 339.010.

375.029. 1. As used in this section, the following
2 terms mean:

3 (1) "Director", the director of the department of
4 commerce and insurance;

5 (2) "Insurance producer", a person required to be
6 licensed under the laws of this state to sell, solicit, or
7 negotiate insurance.

8 2. (1) Subject to approval by the director, an
9 insurance producer's active participation as an individual
10 member or employee of a business entity producer member of a
11 local, regional, state, or national professional insurance
12 association may be approved for up to four hours of
13 continuing education credit per each biennial reporting
14 period.

15 (2) An insurance producer shall not use continuing
16 education credit granted under this section to satisfy
17 continuing education hours required to be completed in a
18 classroom or classroom-equivalent setting or to satisfy any
19 continuing education ethics requirements.

20 (3) The continuing education hours referenced in
21 subdivision (1) of this subsection shall be credited upon
22 the timely filing with the director by the insurance
23 producer of an appropriate written statement in a form
24 acceptable to the director or by a certification from the
25 local, regional, state, or national professional insurance
26 association through written form or electronic filing
27 acceptable to the director.

28 3. The director may promulgate all necessary rules and
29 regulations for the administration of this section. Any
30 rule or portion of a rule, as that term is defined in
31 section 536.010, that is created under the authority
32 delegated in this section shall become effective only if it
33 complies with and is subject to all of the provisions of
34 chapter 536 and, if applicable, section 536.028. This
35 section and chapter 536 are nonseverable, and if any of the
36 powers vested with the general assembly pursuant to chapter
37 536 to review, to delay the effective date, or to disapprove
38 and annul a rule are subsequently held unconstitutional,
39 then the grant of rulemaking authority and any rule proposed
40 or adopted after August 28, 2021, shall be invalid and void.

436.218. As used in sections 436.215 to 436.272, the
2 following terms mean:

3 (1) "Agency contract", an agreement in which a student
4 athlete authorizes a person to negotiate or solicit on
5 behalf of the student athlete a professional sports services
6 contract or an endorsement contract;

7 (2) "Athlete agent", [an individual who enters into an
8 agency contract with a student athlete or directly or
9 indirectly recruits or solicits a student athlete to enter
10 into an agency contract. The term does not include a
11 spouse, parent, sibling, grandparent, or guardian of the
12 student athlete or an individual acting solely on behalf of
13 a professional sports team or professional sports
14 organization. The term includes an individual who
15 represents to the public that the individual is an athlete
16 agent]:

17 (a) An individual, registered or unregistered under
18 sections 436.215 to 436.272, who:

19 a. Directly or indirectly recruits or solicits a
20 student athlete to enter into an agency contract or, for

compensation, procures employment or offers, promises,
attempts, or negotiates to obtain employment for a student
athlete as a professional athlete or member of a
professional sports team or organization;

b. For compensation or in anticipation of compensation
related to a student athlete's participation in athletics:

(i) Serves the student athlete in an advisory capacity
on a matter related to finances, business pursuits, or
career management decisions, unless the individual is an
employee of an educational institution acting exclusively as
an employee of the institution for the benefit of the
institution; or

(ii) Manages the business affairs of the student
athlete by providing assistance with bills, payments,
contracts, or taxes; or

c. In anticipation of representing a student athlete
for a purpose related to the student athlete's participation
in athletics:

(i) Gives consideration to the student athlete or
another person;

(ii) Serves the student athlete in an advisory
capacity on a matter related to finances, business pursuits,
or career management decisions; or

(iii) Manages the business affairs of the student
athlete by providing assistance with bills, payments,
contracts, or taxes;

(b) "Athlete agent" does not include an individual who:

a. Acts solely on behalf of a professional sports team
or organization; or

b. Is a licensed, registered, or certified
professional and offers or provides services to a student
athlete customarily provided by members of the profession,
unless the individual:

54 (i) Recruits or solicits the student athlete to enter
55 into an agency contract;

56 (ii) For compensation, procures employment or offers,
57 promises, attempts, or negotiates to obtain employment for
58 the student athlete as a professional athlete or member of a
59 professional sports team or organization; or

60 (iii) Receives consideration for providing the
61 services calculated using a different method than for an
62 individual who is not a student athlete;

63 (3) "Athletic director", an individual responsible for
64 administering the overall athletic program of an educational
65 institution or if an educational institution has separately
66 administered athletic programs for male students and female
67 students, the athletic program for males or the athletic
68 program for females, as appropriate;

69 (4) ["Contact", a direct or indirect communication
70 between an athlete agent and a student athlete to recruit or
71 solicit the student athlete to enter into an agency contract;

72 (5)] "Director", the director of the division of
73 professional registration;

74 [(6)] (5) "Division", the division of professional
75 registration;

76 (6) "Educational institution", a public or private
77 elementary school, secondary school, technical or vocational
78 school, community college, college, or university;

79 (7) "Endorsement contract", an agreement under which a
80 student athlete is employed or receives consideration to use
81 on behalf of the other party any value that the student
82 athlete may have because of publicity, reputation,
83 following, or fame obtained because of athletic ability or
84 performance;

85 (8) "Enrolled" or "enrolls", the act of registering,
86 or having already registered, for courses at an educational

institution and attending or planning to attend athletic practice or class;

[(8)] (9) "Intercollegiate sport", a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association for the promotion or regulation of collegiate athletics;

(10) "Interscholastic sport", a sport played between educational institutions that are not community colleges, colleges, or universities;

(11) "Licensed, registered, or certified professional", an individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, accountant, or member of a profession, other than that of athlete agent, who is licensed, registered, or certified by the state or a nationally recognized organization that licenses, registers, or certifies members of the profession on the basis of experience, education, or testing;

[(9)] (12) "Person", an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity;

[(10)] (13) "Professional sports services contract", an agreement under which an individual is employed [or] as a professional athlete and agrees to render services as a player on a professional sports team[,] or with a professional sports organization[, or as a professional athlete];

118 [(11)] (14) "Record", information that is inscribed on
119 a tangible medium or that is stored in an electronic or
120 other medium and is retrievable in perceivable form;

121 (15) "Recruit or solicit", an attempt to influence the
122 choice of an athlete agent by a student athlete or, if the
123 student athlete is a minor, a parent or guardian of the
124 student athlete. "Recruit or solicit" does not include
125 giving advice on the selection of a particular agent in a
126 family, coaching, or social situation unless the individual
127 giving the advice does so because of the receipt or
128 anticipated receipt of an economic benefit, directly or
129 indirectly, from the agent;

130 [(12)] (16) "Registration", registration as an athlete
131 agent under sections 436.215 to 436.272;

132 (17) "Sign", the intent to authenticate or adopt a
133 record:

134 (a) To execute or adopt a tangible symbol; or

135 (b) To attach to or logically associate with the
136 record an electronic symbol, sound, or process;

137 [(13)] (18) "State", a state of the United States, the
138 District of Columbia, Puerto Rico, the United States Virgin
139 Islands, or any territory or insular possession subject to
140 the jurisdiction of the United States;

141 [(14)] (19) "Student athlete", [a current student who
142 engages in, has engaged in, is eligible to engage in, or may
143 be eligible in the future to engage in, any] an individual
144 who is eligible to attend an educational institution and
145 engages in, is eligible to engage in, or may be eligible in
146 the future to engage in any interscholastic or
147 intercollegiate sport. "Student athlete" does not include
148 an individual permanently ineligible to participate in a
149 particular interscholastic or intercollegiate sport.

436.224. 1. Except as otherwise provided in
subsection 2 of this section, an individual may not act as
an athlete agent in this state ~~before~~ without being issued
a certificate of registration under section 436.230 or
436.236.

2. ~~[An individual with a temporary license]~~ Before
being issued a certificate of registration under section
436.236, an individual may act as an athlete agent ~~[before~~
~~being issued a certificate of registration]~~ for all purposes
except signing an agency contract if:

(1) A student athlete or another acting on behalf of
the student athlete initiates communication with the
individual; and

(2) Within seven days after an initial act ~~[as an~~
~~athlete agent]~~ that requires the individual to register as
an athlete agent, the individual submits an application to
register as an athlete agent in this state.

3. An agency contract resulting from conduct in
violation of this section is void. The athlete agent shall
return any consideration received under the contract.

436.227. 1. An applicant for registration shall
submit an application for registration to the director in a
form prescribed by the director. The application ~~[must]~~
shall be in the name of an individual and signed by the
applicant under penalty of perjury and ~~[must]~~ shall state or
contain at least the following:

(1) The name, date of birth, and place of birth of the
applicant ~~[and];~~

(2) The address and telephone numbers of the
applicant's principal place of business;

(3) The applicant's mobile telephone numbers and any
means of communicating electronically, including a facsimile

number, email address, and personal, business, or employer websites, as applicable;

[(2)] (4) The name of the applicant's business or employer, if applicable, including for each business or employer, the mailing address, telephone number, organization form, and the nature of the business;

(5) Each social media account with which the applicant or the applicant's business or employer is affiliated;

[(3)] (6) Any business or occupation engaged in by the applicant for the five years [next] preceding the date of submission of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;

[(4)] (7) A description of the applicant's:

(a) Formal training as an athlete agent;

(b) Practical experience as an athlete agent; and

(c) Educational background relating to the applicant's activities as an athlete agent;

[(5) The names and addresses of three individuals not related to the applicant who are willing to serve as references;

(6)] (8) The name[, sport, and last known team for each individual] of each student athlete for whom the applicant [provided services] acted as an athlete agent during the five years [next] preceding the date of submission of the application or, if the student athlete is a minor, the name of the parent or guardian of the minor, together with the student athlete's sport and last known team;

[(7)] (9) The names and addresses of all persons who are:

45 (a) With respect to the athlete agent's business if it
46 is not a corporation, the partners, officers, managers,
47 associates, or profit-sharers, or persons who directly or
48 indirectly hold an equity interest of five percent or
49 greater; and

50 (b) With respect to a corporation employing the
51 [athlete agent] applicant, the officers, directors, and any
52 shareholder of the corporation with a five percent or
53 greater interest;

54 (10) A description of the status of any application by
55 the applicant, or any person named under subdivision (9) of
56 this subsection, for a state or federal business,
57 professional, or occupational license, other than as an
58 athlete agent, from a state or federal agency, including any
59 denial, refusal to renew, suspension, withdrawal, or
60 termination of the license and any reprimand or censure
61 related to the license;

62 [(8)] (11) Whether the applicant or any other person
63 named under subdivision [(7)] (9) of this [section]
64 subsection has [been convicted] pled guilty to or been found
65 guilty of a crime that if committed in this state would be a
66 felony or other crime involving moral turpitude, and [a
67 description of the crime] information regarding the crime,
68 including the crime, the law enforcement agency involved,
69 and, if applicable, the date of the verdict and the penalty
70 imposed;

71 (12) Whether, within fifteen years before the date of
72 application, the applicant or any person named under
73 subdivision (9) of this subsection has been a defendant or
74 respondent in a civil proceeding, including a proceeding
75 seeking an adjudication of legal incompetence and, if so,
76 the date and a full explanation of each proceeding;

77 (13) Whether the applicant or any person named under
78 subdivision (9) of this subsection has an unsatisfied
79 judgment or a judgment of continuing effect, including
80 alimony or a domestic order in the nature of child support,
81 that is not current on the date of the application;

82 (14) Whether, within ten years before the date of
83 application, the applicant or any person named under
84 subdivision (9) of this subsection was adjudicated bankrupt
85 or was an owner of a business that was adjudicated bankrupt;

86 [(9)] (15) Whether there has been any administrative
87 or judicial determination that the applicant or any other
88 person named under subdivision [(7)] (9) of this [section]
89 subsection has made a false, misleading, deceptive, or
90 fraudulent representation;

91 [(10)] (16) Any instance in which the prior conduct of
92 the applicant or any other person named under subdivision
93 [(7)] (9) of this [section] subsection resulted in the
94 imposition of a sanction, suspension, or declaration of
95 ineligibility to participate in an interscholastic or
96 intercollegiate athletic event on a student athlete or
97 educational institution;

98 [(11)] (17) Any sanction, suspension, or disciplinary
99 action taken against the applicant or any other person named
100 under subdivision [(7)] (9) of this [section] subsection
101 arising out of occupational or professional conduct; and

102 [(12)] (18) Whether there has been any denial of an
103 application for, suspension or revocation of, or refusal to
104 renew the registration or licensure of the applicant or any
105 other person named under subdivision [(7)] (9) of this
106 [section] subsection as an athlete agent in any state.

107 (19) Each state in which the applicant is currently
108 registered as an athlete agent or has applied to be
109 registered as an athlete agent;

110 (20) If the applicant is certified or registered by a
111 professional league or players association:

112 (a) The name of the league or association;

113 (b) The date of certification or registration, and the
114 date of expiration of the certification or registration, if
115 any; and

116 (c) If applicable, the date of any denial of an
117 application for, suspension or revocation of, refusal to
118 renew, withdrawal of, or termination of the certification or
119 registration or any reprimand or censure related to the
120 certification or registration; and

121 (21) Any additional information as required by the
122 director.

123 2. In lieu of submitting the application and
124 information required under subsection 1 of this section, an
125 applicant who is registered as an athlete agent in another
126 state may apply for registration as an athlete agent by
127 submitting the following:

128 (1) A copy of the application for registration in the
129 other state;

130 (2) A statement that identifies any material change in
131 the information on the application or verifies there is no
132 material change in the information, signed under penalty of
133 perjury; and

134 (3) A copy of the certificate of registration from the
135 other state.

136 3. The director shall issue a certificate of
137 registration to an applicant who applies for registration
138 under subsection 2 of this section if the director
139 determines:

140 (1) The application and registration requirements of
141 the other state are substantially similar to or more

142 restrictive than the requirements provided under sections
143 436.215 to 436.272; and

144 (2) The registration has not been revoked or suspended
145 and no action involving the applicant's conduct as an
146 athlete agent is pending against the applicant or the
147 applicant's registration in any state.

148 4. For purposes of implementing subsection 3 of this
149 section, the director shall:

150 (1) Cooperate with national organizations concerned
151 with athlete agent issues and agencies in other states that
152 register athlete agents to develop a common registration
153 form and determine which states have laws that are
154 substantially similar to or more restrictive than sections
155 436.215 to 436.272; and

156 (2) Exchange information, including information
157 related to actions taken against registered athlete agents
158 or their registrations, with those organizations and
159 agencies.

436.230. 1. Except as otherwise provided in
2 subsection 2 of this section, the director shall issue a
3 certificate of registration to an individual who complies
4 with section 436.227.

5 2. The director may refuse to issue a certificate of
6 registration if the director determines that the applicant
7 has engaged in conduct that has a significant adverse effect
8 on the applicant's fitness to serve as an athlete agent. In
9 making the determination, the director may consider whether
10 the applicant has:

11 (1) Been finally adjudicated and found guilty, or
12 entered a plea of guilty or nolo contendere, in a criminal
13 prosecution under the laws of any state, of the United
14 States, or of any country, for any offense directly related
15 to the duties and responsibilities of the occupation, as set

16 forth in section 324.012, regardless of whether or not
17 sentence is imposed;

18 (2) Made a materially false, misleading, deceptive, or
19 fraudulent representation as an athlete agent or in the
20 application;

21 (3) Engaged in conduct that would disqualify the
22 applicant from serving in a fiduciary capacity;

23 (4) Engaged in conduct prohibited by section 436.254;

24 (5) Had a registration or licensure as an athlete
25 agent suspended, revoked, or denied or been refused renewal
26 of registration or licensure in any state;

27 (6) Engaged in conduct or failed to engage in conduct
28 the consequence of which was that a sanction, suspension, or
29 declaration of ineligibility to participate in an
30 interscholastic or intercollegiate athletic event was
31 imposed on a student athlete or educational institution; or

32 (7) Engaged in conduct that significantly adversely
33 reflects on the applicant's credibility, honesty, or
34 integrity.

35 3. In making a determination under subsection 2 of
36 this section, the director shall consider:

37 (1) How recently the conduct occurred;

38 (2) The nature of the conduct and the context in which
39 it occurred; and

40 (3) Any other relevant conduct of the applicant.

41 4. An athlete agent may apply to renew a registration
42 by submitting an application for renewal in a form
43 prescribed by the director. The application for renewal
44 **[must]** shall be signed by the applicant under penalty of
45 perjury under section 575.040 and shall contain current
46 information on all matters required in an original
47 registration.

48 5. An athlete agent registered under subsection 3 of
49 section 436.227 may renew the registration by proceeding
50 under subsection 4 of this section or, if the registration
51 in the other state has been renewed, by submitting to the
52 director copies of the application for renewal in the other
53 state and the renewed registration from the other state.
54 The director shall renew the registration if the director
55 determines:

56 (1) The registration requirements of the other state
57 are substantially similar to or more restrictive than the
58 requirements provided under sections 436.215 to 436.272; and

59 (2) The renewed registration has not been suspended or
60 revoked and no action involving the individual's conduct as
61 an athlete agent is pending against the individual or the
62 individual's registration in any state.

63 6. A certificate of registration or a renewal of a
64 registration is valid for two years.

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

436.242. 1. An agency contract [must] shall be in a
2 record signed by the parties.

3 2. An agency contract [must] shall state or contain:

4 (1) A statement that the athlete agent is registered
5 as an athlete agent in this state and a list of any other
6 states in which the agent is registered as an athlete agent;

7 (2) The amount and method of calculating the
8 consideration to be paid by the student athlete for services
9 to be provided by the athlete agent under the contract and
10 any other consideration the athlete agent has received or
11 will receive from any other source for entering into the
12 contract or for providing the services;

13 ~~[(2)]~~ (3) The name of any person not listed in the
14 application for registration or renewal who will be
15 compensated because the student athlete signed the agency
16 contract;

17 ~~[(3)]~~ (4) A description of any expenses that the
18 student athlete agrees to reimburse;

19 ~~[(4)]~~ (5) A description of the services to be provided
20 to the student athlete;

21 ~~[(5)]~~ (6) The duration of the contract; and

22 ~~[(6)]~~ (7) The date of execution.

23 3. An agency contract shall contain in close proximity
24 to the signature of the student athlete a conspicuous notice
25 in boldface type in capital letters stating:

26 "WARNING TO STUDENT ATHLETE IF YOU SIGN THIS CONTRACT:

27 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A
28 STUDENT ATHLETE IN YOUR SPORT;

29 (2) BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO
30 TELL YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC
31 DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO AN AGENCY
32 CONTRACT OR BEFORE THE NEXT ATHLETIC EVENT IN WHICH YOU
33 PARTICIPATE, WHICHEVER OCCURS FIRST, AND PROVIDE THE NAME
34 AND CONTACT INFORMATION OF THE ATHLETE AGENT; AND

35 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
36 SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE
37 YOUR ELIGIBILITY."

38 4. An agency contract shall be accompanied by a
39 separate record signed by the student athlete or, if the
40 student athlete is a minor, the parent or guardian of the
41 student athlete acknowledging that signing the contract may
42 result in the loss of the student athlete's eligibility to
43 participate in the student athlete's sport.

44 5. An agency contract that does not conform to this
45 section is voidable by the student athlete or, if the

46 student athlete is a minor, by the parent or guardian of the
47 student athlete. If the contract is voided, any
48 consideration received by the student athlete from the
49 athlete agent under the contract to induce entering into the
50 contract is not required to be returned.

51 [5.] 6. The athlete agent shall give a copy of the
52 signed agency contract to the student athlete or, if the
53 student athlete is a minor, to the parent or guardian of the
54 student athlete [at the time of signing].

55 7. If a student athlete is a minor, an agency contract
56 shall be signed by the parent or guardian of the minor, and
57 the notice required by subsection 3 of this section shall be
58 revised accordingly.

436.245. 1. As used in this section, "communicating
2 or attempting to communicate" shall mean contacting or
3 attempting to contact by an in-person meeting, a record, or
4 any other method that conveys or attempts to convey a
5 message.

6 2. Within seventy-two hours after entering into an
7 agency contract or before the next scheduled athletic event
8 in which the student athlete may participate, whichever
9 occurs first, the athlete agent shall give notice in
10 [writing] a record of the existence of the contract to the
11 athletic director of the educational institution at which
12 the student athlete is enrolled or the athlete agent has
13 reasonable grounds to believe the student athlete intends to
14 enroll.

15 3. If an athlete agent enters into an agency contract
16 with a student athlete and the student athlete subsequently
17 enrolls at an educational institution, the athlete agent
18 shall notify the athletic director of the educational
19 institution of the existence of the contract within seventy-

20 two hours after the agent knows or should have known the
21 student athlete enrolled.

22 4. If an athlete agent has a relationship with a
23 student athlete before the student athlete enrolls in an
24 educational institution and receives an athletic scholarship
25 from the educational institution, the athlete agent shall
26 notify the athletic director of the educational institution
27 of the relationship no later than ten days after the
28 enrollment if the athlete agent knows or should have known
29 of the enrollment and:

30 (1) The relationship was motivated in whole or in part
31 by the intention of the athlete agent to recruit or solicit
32 the student athlete to enter an agency contract in the
33 future; or

34 (2) The athlete agent directly or indirectly recruited
35 or solicited the student athlete to enter an agency contract
36 before the enrollment.

37 5. An athlete agent shall give notice in a record to
38 the athletic director of any educational institution at
39 which a student athlete is enrolled before the agent
40 communicates or attempts to communicate with:

41 (1) The student athlete or, if the student athlete is
42 a minor, a parent or guardian of the student athlete to
43 influence the student athlete or parent or guardian to enter
44 into an agency contract; or

45 (2) Another individual to have that individual
46 influence the student athlete or, if the student athlete is
47 a minor, the parent or guardian of the student athlete to
48 enter into an agency contract.

49 6. If a communication or attempted communication with
50 an athlete agent is initiated by a student athlete or
51 another individual on behalf of the student athlete, the
52 athlete agent shall give notice in a record to the athletic

53 director of any educational institution at which the student
54 athlete is enrolled. The notification shall be made no
55 later than ten days after the communication or attempted
56 communication.

57 7. An educational institution that becomes aware of a
58 violation of sections 436.215 to 436.272 by an athlete agent
59 shall notify the director of the violation and any
60 professional league or players' association with which the
61 educational institution is aware the agent is licensed or
62 registered.

63 [2.] 8. Within seventy-two hours after entering into
64 an agency contract or before the next athletic event in
65 which the student athlete may participate, whichever occurs
66 first, the student athlete shall in [writing] a record
67 inform the athletic director of the educational institution
68 at which the student athlete is enrolled that he or she has
69 entered into an agency contract and the name and contact
70 information of the athlete agent.

436.248. 1. A student athlete or, if the student
2 athlete is a minor, the parent or guardian of the student
3 athlete may cancel an agency contract by giving notice in
4 writing to the athlete agent of the cancellation within
5 fourteen days after the contract is signed.

6 2. A student athlete or, if the student athlete is a
7 minor, the parent or guardian of the student athlete may not
8 waive the right to cancel an agency contract.

9 3. If a student athlete, parent, or guardian cancels
10 an agency contract within fourteen days of signing the
11 contract, the student athlete, parent, or guardian is not
12 required to pay any consideration under the contract or to
13 return any consideration received from the agent to induce
14 the student athlete to enter into the contract.

436.254. [1.] An athlete agent ~~[may]~~ shall not
intentionally [do any of the following with the intent to
induce a student athlete to enter into an agency contract]:

(1) Give ~~[any]~~ a student athlete or, if the student
athlete is a minor, a parent or guardian of the student
athlete materially false or misleading information or make a
materially false promise or representation with the intent
to influence the student athlete, parent, or guardian to
enter into an agency contract;

(2) Furnish anything of value to a student athlete
[before the student athlete enters into the agency
contract;] or another individual, if to do so may result in
loss of the student athlete's eligibility to participate in
the student athlete's sport, unless:

(a) The athlete agent notifies the athletic director
of the educational institution at which the student athlete
is enrolled or at which the athlete agent has reasonable
grounds to believe the student athlete intends to enroll, no
later than seventy-two hours after giving the thing of
value; and

(b) The student athlete or, if the student athlete is
a minor, a parent or guardian of the student athlete
acknowledges to the athlete agent in a record that receipt
of the thing of value may result in loss of the student
athlete's eligibility to participate in the student
athlete's sport;

(3) [Furnish anything of value to any individual other
than the student athlete or another registered athlete agent.

2. An athlete agent may not intentionally:

(1)] Initiate contact, directly or indirectly, with a
student athlete or, if the student athlete is a minor, a
parent or guardian of the student athlete to recruit or
solicit the student athlete, parent, or guardian to enter

into an agency contract unless registered under sections 436.215 to 436.272;

[(2) Refuse or willfully] (4) Fail to create, retain, or permit inspection of the records required by section 436.251;

[(3) Violate section 436.224 by failing] (5) Fail to register if required under section 436.224;

[(4)] (6) Provide materially false or misleading information in an application for registration or renewal of registration;

[(5)] (7) Predate or postdate an agency contract; [or (6)] (8) Fail to notify a student athlete or, if the student athlete is a minor, a parent or guardian of the student athlete [prior to] before the student [athlete's] athlete, parent, or guardian [signing] signs an agency contract for a particular sport that the signing [by the student athlete] may [make the student athlete ineligible] result in loss of the student athlete's eligibility to participate [as a student athlete in that] in the student athlete's sport;

(9) Encourage another individual to do any of the acts described in subdivisions (1) to (8) of this section on behalf of the athlete agent; or

(10) Encourage another individual to assist any other individual in doing any of the acts described in subdivisions (1) to (8) of this section on behalf of the athlete agent.

436.260. 1. An educational institution [has a right of] or a student athlete may bring an action for damages against an athlete agent [or a former student athlete for damages caused by a] if the institution or student athlete is adversely affected by an act or omission of the athlete agent in violation of sections 436.215 to 436.272. [In an

7 action under this section, the court may award to the
8 prevailing party costs and reasonable attorney's fees.]

9 (1) In order for a student athlete to qualify as
10 "adversely affected by an act or omission of the athlete
11 agent" under this section, the student athlete shall
12 demonstrate that he or she was a student athlete and
13 enrolled at the institution at the time the act or omission
14 of the athlete agent occurred and that he or she:

15 (a) Was suspended or disqualified from participation
16 in an interscholastic or intercollegiate sports event by a
17 state or national federation or association that promotes or
18 regulates interscholastic or intercollegiate sports; or

19 (b) Suffered financial damage.

20 (2) In order for an educational institution to qualify
21 as "adversely affected by an act or omission of the athlete
22 agent" under this section, the institution shall demonstrate
23 that the institution:

24 (a) Was disqualified from participation in an
25 interscholastic or intercollegiate sports event by a state
26 or national federation or association that promotes or
27 regulates interscholastic or intercollegiate sports; or

28 (b) Suffered financial damage.

29 2. [Damages of an educational institution under
30 subsection 1 of this section include losses and expenses
31 incurred because as a result of the activities of an athlete
32 agent or former student athlete the educational institution
33 was injured by a violation of sections 436.215 to 436.272 or
34 was penalized, disqualified, or suspended from participation
35 in athletics by a national association for the promotion and
36 regulation of athletics, by an athletic conference, or by
37 reasonable self-imposed disciplinary action taken to
38 mitigate sanctions.] A plaintiff who prevails in an action
39 under this section may recover actual damages, costs, and

40 reasonable attorney's fees. An athlete agent found liable
41 under this section forfeits any right of payment for
42 anything of benefit or value provided to the student athlete
43 and shall refund any consideration paid to the athlete agent
44 by or on behalf of the student athlete.

45 3. [A right of action under this section does not
46 accrue until the educational institution discovers or by the
47 exercise of reasonable diligence would have discovered the
48 violation by the athlete agent or former student athlete.

49 4. Any liability of the athlete agent or the former
50 student athlete under this section is several and not joint.

51 5. Sections 436.215 to 436.272 do not restrict rights,
52 remedies, or defenses of any person under law or equity.] A
53 violation of any provision of sections 436.215 to 436.272 is
54 an unfair trade practice for purposes of sections 375.930 to
55 375.948.

436.263. 1. Any [person] individual who violates any
2 [provisions] provision of sections 436.215 to [436.269]
3 436.272 is guilty of a class A misdemeanor and liable for a
4 civil penalty not to exceed one hundred thousand dollars.

5 2. Any individual who knowingly violates any provision
6 of sections 436.215 to 436.272 is guilty of a class E felony
7 and liable for a civil penalty not to exceed one hundred
8 dollars.

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

2 [436.257. The commission of any act
3 prohibited by section 436.254 by an athlete
agent is a class B misdemeanor.]