

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 754**  
**95TH GENERAL ASSEMBLY**

3900L.07C

D. ADAM CRUMBLISS, Chief Clerk

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**AN ACT**

To repeal sections 193.145, 193.265, 194.350, 208.010, 214.160, 214.270, 214.276, 214.277, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 324.1124, 324.1126, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1140, 327.031, 327.041, 327.351, 327.411, 332.011, 334.100, 334.506, 334.613, 334.735, 335.081, 337.528, 337.600, 337.603, 337.615, 337.618, 337.643, 337.700, 337.703, 337.706, 337.715, 337.718, 337.727, 337.739, 338.333, 338.335, 338.337, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.710, 344.010, 344.020, 376.717, 376.718, 376.724, 376.725, 376.732, 376.733, 376.734, 376.735, 376.737, 376.738, 376.740, 376.743, 376.758, 383.130, and 383.133, RSMo, and section 324.1100, section 324.1102 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1102 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, sections 324.1110, 324.1112, 324.1114, section 324.1118 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1118 as

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

enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, to enact in lieu thereof one hundred five new sections relating to the licensing of certain professions, with penalty provisions.

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

Section A. Sections 193.145, 193.265, 194.350, 208.010, 214.160, 214.270, 214.276, 214.277, 214.283, 214.290, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 324.1124, 324.1126, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136, 324.1140, 327.031, 327.041, 327.351, 327.411, 332.011, 334.100, 334.506, 334.613, 334.735, 335.081, 337.528, 337.600, 337.603, 337.615, 337.618, 337.643, 337.700, 337.703, 337.706, 337.715, 337.718, 337.727, 337.739, 338.333, 338.335, 338.337, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160, 339.170, 339.710, 344.010, 344.020, 376.717, 376.718, 376.724, 376.725, 376.732, 376.733, 376.734, 376.735, 376.737, 376.738, 376.740, 376.743, 376.758, 383.130, and 383.133, RSMo, and section 324.1100, section 324.1102 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1102 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1106 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, sections 324.1110, 324.1112, 324.1114, section 324.1118 as enacted by conference committee substitute for senate substitute for senate committee substitute for house committee substitute for house bill no. 780, ninety-fourth general assembly, first regular session, section 324.1118 as enacted by conference committee substitute no. 2 for house committee substitute for senate committee substitute for senate bill no. 308, ninety-fourth general assembly, first regular session, are repealed and one hundred five new sections enacted in lieu thereof, to be known as sections 193.145, 193.265, 194.350, 208.010, 214.160, 214.270, 214.276, 214.277, 214.282, 214.283, 214.300, 214.310, 214.320, 214.325, 214.330, 214.335, 214.340, 214.345, 214.360, 214.363, 214.365, 214.367, 214.387, 214.389, 214.392, 214.400, 214.410, 214.500, 214.504, 214.508, 214.512, 214.516, 214.550, 324.1100, 324.1102, 324.1103,

30 324.1106, 324.1110, 324.1112, 324.1114, 324.1118, 324.1124, 324.1126, 324.1128, 324.1132,  
31 324.1134, 324.1136, 324.1140, 324.1147, 327.031, 327.041, 327.351, 327.411, 332.011,  
32 332.098, 334.100, 334.506, 334.613, 334.735, 335.081, 337.528, 337.600, 337.603, 337.615,  
33 337.618, 337.643, 337.700, 337.703, 337.705, 337.706, 337.715, 337.718, 337.727, 337.739,  
34 338.333, 338.335, 338.337, 339.010, 339.020, 339.030, 339.040, 339.080, 339.110, 339.160,  
35 339.170, 339.710, 339.845, 344.010, 344.020, 376.717, 376.718, 376.724, 376.725, 376.732,  
36 376.733, 376.734, 376.735, 376.737, 376.738, 376.740, 376.743, 376.758, 383.130, 383.133, and  
37 1, to read as follows:

193.145. 1. A certificate of death for each death which occurs in this state shall be filed  
2 with the local registrar, or as otherwise directed by the state registrar, within five days after death  
3 and shall be registered if such certificate has been completed and filed pursuant to this section.  
4 **All data providers in the death registration process, including but not limited to the state**  
5 **registrar, local registrars, the state medical examiner, county medical examiners, coroners,**  
6 **funeral directors or persons acting as such, embalmers, sheriffs, attending physicians and**  
7 **resident physicians, and the chief medical officers of licensed health care facilities, and**  
8 **other public or private institutions providing medical care, treatment, or confinement to**  
9 **persons shall be required to utilize any electronic death registration system adopted under**  
10 **subsection 1 of section 193.265 within six months of the system being certified by the**  
11 **director of the department of health and senior services, or the director's designee, to be**  
12 **operational and available to all data providers in the death registration process. Nothing**  
13 **in this subsection shall prevent the state registrar from adopting pilot programs or**  
14 **voluntary electronic death registration programs until such time as the system can be**  
15 **certified; however, no such pilot or voluntary electronic death registration program shall**  
16 **prevent the filing of a death certificate with the local registrar or the ability to obtain**  
17 **certified copies of death certificated under subsection 2 of section 193.265 until six months**  
18 **after such certification that the system is operational. Further, within eighteen months of**  
19 **such certification of the electronic death registration system as being operational, the**  
20 **department shall have in place such systems so as to allow the funeral director filing the**  
21 **death certificate to print certified copies of the certificates, after the certificates have been**  
22 **electronically registered, at a licensed funeral establishment. Any such fees for such**  
23 **certified copies printed at a licensed funeral establishment are to be directed as if the**  
24 **certified copies were obtained from the local registrar where the licensed funeral**  
25 **establishment is located.**

26 2. If the place of death is unknown but the dead body is found in this state, the certificate  
27 of death shall be completed and filed pursuant to the provisions of this section. The place where

28 the body is found shall be shown as the place of death. The date of death shall be the date on  
29 which the remains were found.

30 3. When death occurs in a moving conveyance in the United States and the body is first  
31 removed from the conveyance in this state, the death shall be registered in this state and the place  
32 where the body is first removed shall be considered the place of death. When a death occurs on  
33 a moving conveyance while in international waters or air space or in a foreign country or its air  
34 space and the body is first removed from the conveyance in this state, the death shall be  
35 registered in this state but the certificate shall show the actual place of death if such place may  
36 be determined.

37 4. The funeral director or person in charge of final disposition of the dead body shall file  
38 the certificate of death. The funeral director or person in charge of the final disposition of the  
39 dead body shall obtain or verify:

40 (1) The personal data from the next of kin or the best qualified person or source  
41 available; and

42 (2) The medical certification from the person responsible for such certification.

43 5. The medical certification shall be completed, attested to its accuracy either by  
44 signature or an electronic process approved by the department, and returned to the funeral  
45 director or person in charge of final disposition within seventy-two hours after death by the  
46 physician in charge of the patient's care for the illness or condition which resulted in death. In  
47 the absence of the physician or with the physician's approval the certificate may be completed  
48 and attested to its accuracy either by signature or an approved electronic process by the  
49 physician's associate physician, the chief medical officer of the institution in which death  
50 occurred, or the physician who performed an autopsy upon the decedent, provided such  
51 individual has access to the medical history of the case, views the deceased at or after death and  
52 death is due to natural causes. The state registrar may approve alternate methods of obtaining  
53 and processing the medical certification and filing the death certificate. The Social Security  
54 number of any individual who has died shall be placed in the records relating to the death and  
55 recorded on the death certificate.

56 6. When death occurs from natural causes more than thirty-six hours after the decedent  
57 was last treated by a physician, the case shall be referred to the county medical examiner or  
58 coroner or physician or local registrar for investigation to determine and certify the cause of  
59 death. If the death is determined to be of a natural cause, the medical examiner or coroner or  
60 local registrar shall refer the certificate of death to the attending physician for such physician's  
61 certification. If the attending physician refuses or is otherwise unavailable, the medical examiner  
62 or coroner or local registrar shall attest to the accuracy of the certificate of death either by  
63 signature or an approved electronic process within thirty-six hours.

64           7. If the circumstances suggest that the death was caused by other than natural causes,  
65 the medical examiner or coroner shall determine the cause of death and shall complete and attest  
66 to the accuracy either by signature or an approved electronic process the medical certification  
67 within seventy-two hours after taking charge of the case.

68           8. If the cause of death cannot be determined within seventy-two hours after death, the  
69 attending medical examiner or coroner or attending physician or local registrar shall give the  
70 funeral director, or person in charge of final disposition of the dead body, notice of the reason  
71 for the delay, and final disposition of the body shall not be made until authorized by the medical  
72 examiner or coroner, attending physician or local registrar.

73           9. When a death is presumed to have occurred within this state but the body cannot be  
74 located, a death certificate may be prepared by the state registrar upon receipt of an order of a  
75 court of competent jurisdiction which shall include the finding of facts required to complete the  
76 death certificate. Such a death certificate shall be marked "Presumptive", show on its face the  
77 date of registration, and identify the court and the date of decree.

193.265. 1. For the issuance of a certification or copy of a death record, the applicant  
2 shall pay a fee of thirteen dollars for the first certification or copy and a fee of ten dollars for each  
3 additional copy ordered at that time. For the issuance of a certification or copy of a birth,  
4 marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars. All fees  
5 shall be deposited to the state department of revenue. Beginning August 28, 2004, for each vital  
6 records fee collected, the director of revenue shall credit four dollars to the general revenue fund,  
7 five dollars to the children's trust fund, one dollar shall be credited to the endowed care cemetery  
8 audit fund, and three dollars for the first copy of death records and five dollars for birth,  
9 marriage, divorce, and fetal death records shall be credited to the Missouri public services health  
10 fund established in section 192.900, RSMo. Money in the endowed care cemetery audit fund  
11 shall be available by appropriation to the division of professional registration to pay its expenses  
12 in administering sections 214.270 to 214.410, RSMo. All interest earned on money deposited  
13 in the endowed care cemetery audit fund shall be credited to the endowed care cemetery fund.  
14 Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money placed in the  
15 endowed care cemetery audit fund shall not be transferred and placed to the credit of general  
16 revenue until the amount in the fund at the end of the biennium exceeds three times the amount  
17 of the appropriation from the endowed care cemetery audit fund for the preceding fiscal year.  
18 The money deposited in the public health services fund under this section shall be deposited in  
19 a separate account in the fund, and moneys in such account, upon appropriation, shall be used  
20 to automate and improve the state vital records system, and develop and maintain an electronic  
21 birth and death registration system [which shall be implemented no later than December 31,  
22 2009]. For any search of the files and records, when no record is found, the state shall be entitled

23 to a fee equal to the amount for a certification of a vital record for a five-year search to be paid  
24 by the applicant. For the processing of each legitimation, adoption, court order or recording after  
25 the registrant's twelfth birthday, the state shall be entitled to a fee equal to the amount for a  
26 certification of a vital record. Except whenever a certified copy or copies of a vital record is  
27 required to perfect any claim of any person on relief, or any dependent of any person who was  
28 on relief for any claim upon the government of the state or United States, the state registrar shall,  
29 upon request, furnish a certified copy or so many certified copies as are necessary, without any  
30 fee or compensation therefor.

31 2. For the issuance of a certification of a death record by the local registrar, the applicant  
32 shall pay a fee of thirteen dollars for the first certification or copy and a fee of ten dollars for each  
33 additional copy ordered at that time. For the issuance of a certification or copy of a birth,  
34 marriage, divorce, or fetal death record, the applicant shall pay a fee of fifteen dollars. All fees  
35 shall be deposited to the official city or county health agency. A certified copy of a death record  
36 by the local registrar can only be issued within twenty-four hours of receipt of the record by the  
37 local registrar. Computer-generated certifications of death records may be issued by the local  
38 registrar after twenty-four hours of receipt of the records. The fees paid to the official county  
39 health agency shall be retained by the local agency for local public health purposes.

194.350. A licensed funeral establishment which cremates, or contracts for the cremation  
2 of, a dead human body, whether the cremation occurs before or after August 28, 1989, may  
3 dispose of the cremated remains by:

4 (1) **Disposing the remains in accordance with the cremation contract, except if**  
5 **otherwise prohibited by law;**

6 (2) Delivering the remains to or as directed by another licensed funeral establishment  
7 which contracted for the cremation;

8 [(2)] (3) Delivering the remains to or as directed by the person who contracted for the  
9 cremation; or

10 [(3)] (4) If not delivered pursuant to subdivision [(1) or] (2) **or (3)** of this section, by  
11 scattering, **burying**, or interring the unclaimed cremated remains in a scatter garden or pond,  
12 columbarium or other place formally dedicated for [the burial of dead human bodies] **such**  
13 **purpose or by delivering the remains to any person listed in section 194.119**, provided, at  
14 least ninety days prior to such [scattering or interment] **action** the funeral establishment shall  
15 send a written notice by [certified mail, return receipt requested, to the licensed funeral  
16 establishment or person who] **mail, with confirmation of delivery, to the last known address**  
17 **of the person or establishment that** contracted for the cremation stating that the remains will  
18 be scattered or interred under this subdivision unless the notified establishment or person, or  
19 other person authorized by the notified establishment or person, claims and removes the remains

20 prior to the end of such ninety-day period[, and provided further, if such mailed notice cannot  
21 be delivered, at least thirty days prior to such scattering or interment the funeral establishment  
22 shall publish a notice once in a newspaper in general circulation in the county in which the  
23 funeral establishment is located stating that the remains will be scattered or interred under this  
24 subdivision unless the licensed funeral establishment or person who contracted for the cremation,  
25 or other person authorized by the contracting establishment or person, claims and removes the  
26 remains prior to the end of such thirty-day period].

208.010. 1. In determining the eligibility of a claimant for public assistance pursuant  
2 to this law, it shall be the duty of the division of family services to consider and take into account  
3 all facts and circumstances surrounding the claimant, including his or her living conditions,  
4 earning capacity, income and resources, from whatever source received, and if from all the facts  
5 and circumstances the claimant is not found to be in need, assistance shall be denied. In  
6 determining the need of a claimant, the costs of providing medical treatment which may be  
7 furnished pursuant to sections 208.151 to 208.158 and 208.162 shall be disregarded. The amount  
8 of benefits, when added to all other income, resources, support, and maintenance shall provide  
9 such persons with reasonable subsistence compatible with decency and health in accordance with  
10 the standards developed by the division of family services; provided, when a husband and wife  
11 are living together, the combined income and resources of both shall be considered in  
12 determining the eligibility of either or both. "Living together" for the purpose of this chapter is  
13 defined as including a husband and wife separated for the purpose of obtaining medical care or  
14 nursing home care, except that the income of a husband or wife separated for such purpose shall  
15 be considered in determining the eligibility of his or her spouse, only to the extent that such  
16 income exceeds the amount necessary to meet the needs (as defined by rule or regulation of the  
17 division) of such husband or wife living separately. In determining the need of a claimant in  
18 federally aided programs there shall be disregarded such amounts per month of earned income  
19 in making such determination as shall be required for federal participation by the provisions of  
20 the federal Social Security Act (42 U.S.C.A. 301 et seq.), or any amendments thereto. When  
21 federal law or regulations require the exemption of other income or resources, the division of  
22 family services may provide by rule or regulation the amount of income or resources to be  
23 disregarded.

24 2. Benefits shall not be payable to any claimant who:

25 (1) Has or whose spouse with whom he or she is living has, prior to July 1, 1989, given  
26 away or sold a resource within the time and in the manner specified in this subdivision. In  
27 determining the resources of an individual, unless prohibited by federal statutes or regulations,  
28 there shall be included (but subject to the exclusions pursuant to subdivisions (4) and (5) of this  
29 subsection, and subsection 5 of this section) any resource or interest therein owned by such

30 individual or spouse within the twenty-four months preceding the initial investigation, or at any  
31 time during which benefits are being drawn, if such individual or spouse gave away or sold such  
32 resource or interest within such period of time at less than fair market value of such resource or  
33 interest for the purpose of establishing eligibility for benefits, including but not limited to  
34 benefits based on December, 1973, eligibility requirements, as follows:

35 (a) Any transaction described in this subdivision shall be presumed to have been for the  
36 purpose of establishing eligibility for benefits or assistance pursuant to this chapter unless such  
37 individual furnishes convincing evidence to establish that the transaction was exclusively for  
38 some other purpose;

39 (b) The resource shall be considered in determining eligibility from the date of the  
40 transfer for the number of months the uncompensated value of the disposed of resource is  
41 divisible by the average monthly grant paid or average Medicaid payment in the state at the time  
42 of the investigation to an individual or on his or her behalf under the program for which benefits  
43 are claimed, provided that:

44 a. When the uncompensated value is twelve thousand dollars or less, the resource shall  
45 not be used in determining eligibility for more than twenty-four months; or

46 b. When the uncompensated value exceeds twelve thousand dollars, the resource shall  
47 not be used in determining eligibility for more than sixty months;

48 (2) The provisions of subdivision (1) of this subsection shall not apply to a transfer, other  
49 than a transfer to claimant's spouse, made prior to March 26, 1981, when the claimant furnishes  
50 convincing evidence that the uncompensated value of the disposed of resource or any part thereof  
51 is no longer possessed or owned by the person to whom the resource was transferred;

52 (3) Has received, or whose spouse with whom he or she is living has received, benefits  
53 to which he or she was not entitled through misrepresentation or nondisclosure of material facts  
54 or failure to report any change in status or correct information with respect to property or income  
55 as required by section 208.210. A claimant ineligible pursuant to this subsection shall be  
56 ineligible for such period of time from the date of discovery as the division of family services  
57 may deem proper; or in the case of overpayment of benefits, future benefits may be decreased,  
58 suspended or entirely withdrawn for such period of time as the division may deem proper;

59 (4) Owns or possesses resources in the sum of one thousand dollars or more; provided,  
60 however, that if such person is married and living with spouse, he or she, or they, individually  
61 or jointly, may own resources not to exceed two thousand dollars; and provided further, that in  
62 the case of a temporary assistance for needy families claimant, the provision of this subsection  
63 shall not apply;

64 (5) Prior to October 1, 1989, owns or possesses property of any kind or character,  
65 excluding amounts placed in an irrevocable prearranged funeral or burial contract [pursuant to

66 subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of section 436.053,  
67 RSMO] **under chapter 436**, or has an interest in property, of which he or she is the record or  
68 beneficial owner, the value of such property, as determined by the division of family services,  
69 less encumbrances of record, exceeds twenty-nine thousand dollars, or if married and actually  
70 living together with husband or wife, if the value of his or her property, or the value of his or her  
71 interest in property, together with that of such husband and wife, exceeds such amount;

72 (6) In the case of temporary assistance for needy families, if the parent, stepparent, and  
73 child or children in the home owns or possesses property of any kind or character, or has an  
74 interest in property for which he or she is a record or beneficial owner, the value of such  
75 property, as determined by the division of family services and as allowed by federal law or  
76 regulation, less encumbrances of record, exceeds one thousand dollars, excluding the home  
77 occupied by the claimant, amounts placed in an irrevocable prearranged funeral or burial contract  
78 [pursuant to subsection 2 of section 436.035, RSMo, and subdivision (5) of subsection 1 of  
79 section 436.053, RSMO] **under chapter 436**, one automobile which shall not exceed a value set  
80 forth by federal law or regulation and for a period not to exceed six months, such other real  
81 property which the family is making a good-faith effort to sell, if the family agrees in writing  
82 with the division of family services to sell such property and from the net proceeds of the sale  
83 repay the amount of assistance received during such period. If the property has not been sold  
84 within six months, or if eligibility terminates for any other reason, the entire amount of assistance  
85 paid during such period shall be a debt due the state;

86 (7) Is an inmate of a public institution, except as a patient in a public medical institution.

87 3. In determining eligibility and the amount of benefits to be granted pursuant to  
88 federally aided programs, the income and resources of a relative or other person living in the  
89 home shall be taken into account to the extent the income, resources, support and maintenance  
90 are allowed by federal law or regulation to be considered.

91 4. In determining eligibility and the amount of benefits to be granted pursuant to  
92 federally aided programs, the value of burial lots or any amounts placed in an irrevocable  
93 prearranged funeral or burial contract [pursuant to subsection 2 of section 436.035, RSMo, and  
94 subdivision (5) of subsection 1 of section 436.053, RSMO,] **under chapter 436** shall not be  
95 taken into account or considered an asset of the burial lot owner or the beneficiary of an  
96 irrevocable prearranged funeral or funeral contract. For purposes of this section, "burial lots"  
97 means any burial space as defined in section 214.270, RSMo, and any memorial, monument,  
98 marker, tombstone or letter marking a burial space. If the beneficiary, as defined in chapter 436,  
99 RSMo, of an irrevocable prearranged funeral or burial contract receives any public assistance  
100 benefits pursuant to this chapter and if the purchaser of such contract or his or her successors in  
101 interest [cancel or amend] **transfer, amend, or take any other such actions regarding the**

102 contract so that any person will be entitled to a refund, such refund shall be paid to the state of  
103 Missouri [up to the amount of public assistance benefits provided pursuant to this chapter with  
104 any remainder to be paid to those persons designated in chapter 436, RSMO] **with any amount**  
105 **in excess of the public assistance benefits provided under this chapter to be refunded by**  
106 **the state of Missouri to the purchaser or his or her successors. In determining eligibility**  
107 **and the amount of benefits to be granted under federally aided programs, the value of any**  
108 **life insurance policy where a seller or provider is made the beneficiary or where the life**  
109 **insurance policy is assigned to a seller or provider, either being in consideration for an**  
110 **irrevocable prearranged funeral contract under chapter 436, shall not be taken into**  
111 **account or considered an asset of the beneficiary of the irrevocable prearranged funeral**  
112 **contract.**

113 5. In determining the total property owned pursuant to subdivision (5) of subsection 2  
114 of this section, or resources, of any person claiming or for whom public assistance is claimed,  
115 there shall be disregarded any life insurance policy, or prearranged funeral or burial contract, or  
116 any two or more policies or contracts, or any combination of policies and contracts, which  
117 provides for the payment of one thousand five hundred dollars or less upon the death of any of  
118 the following:

119 (1) A claimant or person for whom benefits are claimed; or

120 (2) The spouse of a claimant or person for whom benefits are claimed with whom he or  
121 she is living. If the value of such policies exceeds one thousand five hundred dollars, then the  
122 total value of such policies may be considered in determining resources; except that, in the case  
123 of temporary assistance for needy families, there shall be disregarded any prearranged funeral  
124 or burial contract, or any two or more contracts, which provides for the payment of one thousand  
125 five hundred dollars or less per family member.

126 6. Beginning September 30, 1989, when determining the eligibility of institutionalized  
127 spouses, as defined in 42 U.S.C. Section 1396r-5, for medical assistance benefits as provided for  
128 in section 208.151 and 42 U.S.C. Sections 1396a et seq., the division of family services shall  
129 comply with the provisions of the federal statutes and regulations. As necessary, the division  
130 shall by rule or regulation implement the federal law and regulations which shall include but not  
131 be limited to the establishment of income and resource standards and limitations. The division  
132 shall require:

133 (1) That at the beginning of a period of continuous institutionalization that is expected  
134 to last for thirty days or more, the institutionalized spouse, or the community spouse, may request  
135 an assessment by the division of family services of total countable resources owned by either or  
136 both spouses;

137 (2) That the assessed resources of the institutionalized spouse and the community spouse  
138 may be allocated so that each receives an equal share;

139 (3) That upon an initial eligibility determination, if the community spouse's share does  
140 not equal at least twelve thousand dollars, the institutionalized spouse may transfer to the  
141 community spouse a resource allowance to increase the community spouse's share to twelve  
142 thousand dollars;

143 (4) That in the determination of initial eligibility of the institutionalized spouse, no  
144 resources attributed to the community spouse shall be used in determining the eligibility of the  
145 institutionalized spouse, except to the extent that the resources attributed to the community  
146 spouse do exceed the community spouse's resource allowance as defined in 42 U.S.C. Section  
147 1396r-5;

148 (5) That beginning in January, 1990, the amount specified in subdivision (3) of this  
149 subsection shall be increased by the percentage increase in the Consumer Price Index for All  
150 Urban Consumers between September, 1988, and the September before the calendar year  
151 involved; and

152 (6) That beginning the month after initial eligibility for the institutionalized spouse is  
153 determined, the resources of the community spouse shall not be considered available to the  
154 institutionalized spouse during that continuous period of institutionalization.

155 7. Beginning July 1, 1989, institutionalized individuals shall be ineligible for the periods  
156 required and for the reasons specified in 42 U.S.C. Section 1396p.

157 8. The hearings required by 42 U.S.C. Section 1396r-5 shall be conducted pursuant to  
158 the provisions of section 208.080.

159 9. Beginning October 1, 1989, when determining eligibility for assistance pursuant to  
160 this chapter there shall be disregarded unless otherwise provided by federal or state statutes, the  
161 home of the applicant or recipient when the home is providing shelter to the applicant or  
162 recipient, or his or her spouse or dependent child. The division of family services shall establish  
163 by rule or regulation in conformance with applicable federal statutes and regulations a definition  
164 of the home and when the home shall be considered a resource that shall be considered in  
165 determining eligibility.

166 10. Reimbursement for services provided by an enrolled Medicaid provider to a recipient  
167 who is duly entitled to Title XIX Medicaid and Title XVIII Medicare Part B, Supplementary  
168 Medical Insurance (SMI) shall include payment in full of deductible and coinsurance amounts  
169 as determined due pursuant to the applicable provisions of federal regulations pertaining to Title  
170 XVIII Medicare Part B, except the applicable Title XIX cost sharing.

171 11. A "community spouse" is defined as being the noninstitutionalized spouse.

172           12. An institutionalized spouse applying for Medicaid and having a spouse living in the  
173 community shall be required, to the maximum extent permitted by law, to divert income to such  
174 community spouse to raise the community spouse's income to the level of the minimum monthly  
175 needs allowance, as described in 42 U.S.C. Section 1396r-5. Such diversion of income shall  
176 occur before the community spouse is allowed to retain assets in excess of the community spouse  
177 protected amount described in 42 U.S.C. Section 1396r-5.

          214.160. The county commission shall invest or loan said trust fund or funds only in  
2 United States government, state, county or municipal bonds, [or] **certificates of deposit**, first  
3 real estate mortgages, or deeds of trust. They shall use the net income from said trust fund or  
4 funds or so much thereof as is necessary to support and maintain and beautify any public or  
5 private cemetery or any particular part thereof which may be designated by the person, persons  
6 or firm or association making said gift or bequest. In maintaining or supporting the cemetery or  
7 any particular part or portion thereof the commission shall as nearly as possible follow the  
8 expressed wishes of the creator of said trust fund.

          214.270. As used in sections 214.270 to 214.410, the following terms mean:

- 2           (1) "Agent" or "authorized agent", any person empowered by the cemetery operator to  
3 represent the operator in dealing with the general public, including owners of the burial space  
4 in the cemetery;
- 5           (2) "Burial space", one or more than one plot, grave, mausoleum, crypt, lawn, surface  
6 lawn crypt, niche or space used or intended for the interment of the human dead;
- 7           (3) "Burial merchandise", a monument, marker, memorial, tombstone, headstone, urn,  
8 outer burial container, or similar article which may contain specific lettering, shape, color, or  
9 design as specified by the purchaser;
- 10          (4) "Cemetery", property restricted in use for the interment of the human dead by formal  
11 dedication or reservation by deed but shall not include any of the foregoing held or operated by  
12 the state or federal government or any political subdivision thereof, any incorporated city or  
13 town, any county or any religious organization, cemetery association or fraternal society holding  
14 the same for sale solely to members and their immediate families;
- 15          (5) "Cemetery association", any number of persons who shall have associated themselves  
16 by articles of agreement in writing as a not-for-profit association or organization, whether  
17 incorporated or unincorporated, formed for the purpose of ownership, preservation, care,  
18 maintenance, adornment and administration of a cemetery. Cemetery associations shall be  
19 governed by a board of directors. Directors shall serve without compensation;
- 20          (6) "Cemetery operator" or "operator", any person who owns, controls, operates or  
21 manages a cemetery;

22 (7) "Cemetery prearranged contract", any contract with a **cemetery or** cemetery operator  
23 for [goods and services covered by this chapter which includes a sale of burial merchandise in  
24 which delivery of merchandise or a valid warehouse receipt under sections 214.270 to 214.550  
25 is deferred pursuant to written instructions from the purchaser. It shall also mean any contract  
26 for goods and services covered by sections 214.270 to 214.550 which includes a sale of burial  
27 services to be performed at a future date] **burial merchandise or burial services covered by**  
28 **sections 214.270 to 214.410 which is entered into before the death of the individual for**  
29 **whom the burial merchandise or burial services are intended;**

30 (8) "Cemetery service" or "burial service", those services performed by a cemetery owner  
31 or operator licensed as an endowed care or nonendowed cemetery including setting a monument  
32 or marker, setting a tent, excavating a grave, interment, entombment, inurnment, setting a vault,  
33 or other related services within the cemetery;

34 (9) "Columbarium", a building or structure for the inurnment of cremated human  
35 remains;

36 (10) "Community mausoleum", a mausoleum containing a substantial area of enclosed  
37 space and having either a heating, ventilating or air conditioning system;

38 (11) "Department", department of insurance, financial institutions and professional  
39 registration;

40 (12) "Developed acreage", the area which has been platted into grave spaces and has  
41 been developed with roads, paths, features, or ornamentations and in which burials can be made;

42 (13) "Director", director of the division of professional registration;

43 (14) "Division", division of professional registration;

44 (15) "Endowed care", the maintenance, repair and care of all burial space subject to the  
45 endowment within a cemetery, including any improvements made for the benefit of such burial  
46 space. Endowed care shall include the general overhead expenses needed to accomplish such  
47 maintenance, repair, care and improvements. Endowed care shall include the terms perpetual  
48 care, permanent care, continual care, eternal care, care of duration, or any like term;

49 (16) "Endowed care cemetery", a cemetery, or a section of a cemetery, which represents  
50 itself as offering endowed care and which complies with the provisions of sections 214.270 to  
51 214.410;

52 (17) "Endowed care fund", "endowed care trust", or "trust", any cash or cash equivalent,  
53 to include any income therefrom, impressed with a trust by the terms of any gift, grant,  
54 contribution, payment, devise or bequest to an endowed care cemetery, or its endowed care trust,  
55 or funds to be delivered to an endowed care cemetery's trust received pursuant to a contract and  
56 accepted by any endowed care cemetery operator or his agent. This definition includes the terms

57 endowed care funds, maintenance funds, memorial care funds, perpetual care funds, or any like  
58 term;

59 (18) "Escrow account", an account established in lieu of an endowed care fund as  
60 provided under section 214.330 or an account used to hold deposits under section 214.387;

61 (19) "Escrow agent", an attorney, title company, certified public accountant or other  
62 person authorized by the division to exercise escrow powers under the laws of this state;

63 (20) "Escrow agreement", an agreement subject to approval by the office between an  
64 escrow agent and a cemetery operator or its agent or related party with common ownership, to  
65 receive and administer payments under cemetery prearranged contracts sold by the cemetery  
66 operator;

67 (21) "Family burial ground", a cemetery in which no burial space is sold to the public  
68 and in which interments are restricted to persons related by blood or marriage;

69 (22) "Fraternal cemetery", a cemetery owned, operated, controlled or managed by any  
70 fraternal organization or auxiliary organizations thereof, in which the sale of burial space is  
71 restricted solely to its members and their immediate families;

72 (23) "Garden mausoleum", a mausoleum without a substantial area of enclosed space  
73 and having its crypt and niche fronts open to the atmosphere. Ventilation of the crypts by forced  
74 air or otherwise does not constitute a garden mausoleum as a community mausoleum;

75 (24) "Government cemetery", or "municipal cemetery", a cemetery owned, operated,  
76 controlled or managed by the federal government, the state or a political subdivision of the state,  
77 including a county or municipality or instrumentality thereof;

78 (25) "Grave" or "plot", a place of ground in a cemetery, used or intended to be used for  
79 burial of human remains;

80 (26) "Human remains", the body of a deceased person in any state of decomposition, as  
81 well as cremated remains;

82 (27) "Inurnment", placing an urn containing cremated remains in a burial space;

83 (28) "Lawn crypt", a burial vault or other permanent container for a casket which is  
84 permanently installed below ground prior to the time of the actual interment. A lawn crypt may  
85 permit single or multiple interments in a grave space;

86 (29) "Mausoleum", a structure or building for the entombment of human remains in  
87 crypts;

88 (30) "Niche", a space in a columbarium used or intended to be used for inurnment of  
89 cremated remains;

90 (31) "Nonendowed care cemetery", or "nonendowed cemetery", a cemetery or a section  
91 of a cemetery for which no endowed care trust fund has been established in accordance with  
92 sections 214.270 to 214.410;

93 (32) "Office", the office of endowed care cemeteries within the division of professional  
94 registration;

95 (33) "Owner of burial space", a person to whom the cemetery operator or his authorized  
96 agent has transferred the right of use of burial space;

97 (34) "Person", an individual, corporation, partnership, joint venture, association, trust  
98 or any other legal entity;

99 (35) "Registry", the list of cemeteries maintained in the division office for public review.  
100 The division may charge a fee for copies of the registry;

101 (36) "Religious cemetery", a cemetery owned, operated, controlled or managed by any  
102 church, convention of churches, religious order or affiliated auxiliary thereof in which the sale  
103 of burial space is restricted solely to its members and their immediate families;

104 (37) "Surface lawn crypt", a sealed burial chamber whose lid protrudes above the land  
105 surface;

106 (38) "Total acreage", the entire tract which is dedicated to or reserved for cemetery  
107 purposes;

108 (39) "Trustee of an endowed care fund", the separate legal entity **qualified under**  
109 **section 214.330** appointed as trustee of an endowed care fund.

214.276. 1. The division may refuse to issue or renew any license, required pursuant to  
2 sections 214.270 to 214.516 for one or any combination of causes stated in subsection 2 of this  
3 section. The division shall notify the applicant in writing of the reasons for the refusal and shall  
4 advise the applicant of his or her right to file a complaint with the administrative hearing  
5 commission as provided by chapter 621, RSMo.

6 2. The division may cause a complaint to be filed with the administrative hearing  
7 commission as provided in chapter 621, RSMo, against any holder of any license, required by  
8 sections 214.270 to 214.516 or any person who has failed to surrender his or her license, for any  
9 one or any combination of the following causes:

10 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic  
11 beverage to an extent that such use impairs a person's ability to perform the work of any  
12 profession licensed or regulated by sections 214.270 to 214.516;

13 (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty  
14 or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United  
15 States, for any offense reasonably related to the qualifications, functions or duties of any  
16 profession licensed or regulated pursuant to sections 214.270 to 214.516, for any offense an  
17 essential element of which is fraud, dishonesty or an act of violence, or for any offense involving  
18 moral turpitude, whether or not sentence is imposed;

19 (3) Use of fraud, deception, misrepresentation or bribery in securing any license, issued  
20 pursuant to sections 214.270 to 214.516 or in obtaining permission to take any examination  
21 given or required pursuant to sections 214.270 to 214.516;

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

24 (5) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty  
25 in the performance of the functions or duties of any profession regulated by sections 214.270 to  
26 214.516;

27 (6) Violation of, or assisting or enabling any person to violate, any provision of sections  
28 214.270 to 214.516, or any lawful rule or regulation adopted pursuant to sections 214.270 to  
29 214.516;

30 (7) Impersonation of any person holding a license or allowing any person to use his or  
31 her license;

32 (8) Disciplinary action against the holder of a license or other right to practice any  
33 profession regulated by sections 214.270 to 214.516 granted by another state, territory, federal  
34 agency or country upon grounds for which revocation or suspension is authorized in this state;

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

37 (10) Assisting or enabling any person to practice or offer to practice any profession  
38 licensed or regulated by sections 214.270 to 214.516 who is not registered and currently eligible  
39 to practice pursuant to sections 214.270 to 214.516;

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

41 (12) Failure to display a valid license;

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

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

45 (15) Willfully and through undue influence selling a burial space, cemetery services or  
46 merchandise.

47 3. After the filing of such complaint, the proceedings shall be conducted in accordance  
48 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing  
49 commission that the grounds, provided in subsection 2 of this section, for disciplinary action are  
50 met, the division may singly or in combination, censure or place the person named in the  
51 complaint on probation on such terms and conditions as the division deems appropriate for a  
52 period not to exceed five years, or may suspend, or revoke the license or permit **or may impose**  
53 **a penalty allowed by subsection 4 of section 214.410.** No new license shall be issued to the

54 owner or operator of a cemetery or to any corporation controlled by such owner for three years  
55 after the revocation of the certificate of the owner or of a corporation controlled by the owner.

56 4. [Operators of all existing endowed care or nonendowed care cemeteries shall, prior  
57 to August twenty-eighth following August 28, 2001, apply for a license pursuant to this section.  
58 All endowed care or nonendowed care cemeteries operating in compliance with sections 214.270  
59 to 214.516 prior to August twenty-eighth following August 28, 2001, shall be granted a license  
60 by the division upon receipt of application.

61 5.] The division may settle disputes arising under subsections 2 and 3 of this section by  
62 consent agreement or settlement agreement between the division and the holder of a license.  
63 Within such a settlement agreement, the division may singly or in combination impose any  
64 discipline or penalties allowed by this section or subsection 4 of section 214.410. Settlement of  
65 such disputes shall be entered into pursuant to the procedures set forth in section 621.045,  
66 RSMo.

67 **5. Use of the procedures set out in this section shall not preclude the application of**  
68 **any other remedy provided by this chapter.**

214.277. 1. Upon application by the division, and the necessary burden having been met,  
2 a court of general jurisdiction may grant an injunction, restraining order or other order as may  
3 be appropriate to enjoin a person from:

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

8 (2) Engaging in any practice or business authorized by a certificate of registration or  
9 authority, permit or license issued pursuant to this chapter upon a showing that the holder  
10 presents a substantial probability of serious danger to the health, safety or welfare of any resident  
11 of this state or client or patient of the licensee.

12 2. [Any such action shall be commenced either in the county in which such conduct  
13 occurred or in the county in which the defendant resides.

14 3.] Any action brought pursuant to this section shall be in addition to and not in lieu of  
15 any penalty provided by this chapter and may be brought concurrently with other actions to  
16 enforce this chapter.

**214.282. 1. Each contract sold by a cemetery operator for cemetery services or for**  
2 **grave lots, grave spaces, markers, monuments, memorials, tombstones, crypts, niches,**  
3 **mausoleums, or other receptacles shall be voidable by the purchaser and deemed**  
4 **unenforceable unless:**

5 (1) **It is in writing;**

6           **(2) It is executed by a cemetery operator who is in compliance with the licensing**  
7 **provisions of this chapter;**

8           **(3) It identifies the contract purchaser and identifies the cemetery services or other**  
9 **items to be provided;**

10           **(4) It identifies the name and address of any trustee or escrow agent that will**  
11 **receive payments made pursuant to the contract under the provisions of sections 214.320,**  
12 **214.330, or 214.387, if applicable;**

13           **(5) It contains the name and address of the cemetery operator; and**

14           **(6) It identifies any grounds for cancellation by the purchaser or by the cemetery**  
15 **operator on default of payment.**

16           **2. If a cemetery prearranged contract does not substantially comply with the**  
17 **provisions of this section, all payments made under such contract shall be recoverable by**  
18 **the purchaser, or the purchaser's legal representative, from the contract seller or other**  
19 **payee thereof, together with interest at the rate of ten percent per annum and all**  
20 **reasonable costs of collection, including attorneys' fees.**

          214.283. **1. Any person, entity, association, city, town, village, county or political**  
2 **subdivision that purchases, receives or holds any real estate used for the burial of dead**  
3 **human bodies, excluding a family burial ground, shall notify the office of the endowed care**  
4 **cemeteries of the name, location and address of such real estate on a form approved by the**  
5 **office, before October 1, 2010, or within thirty days of purchasing, receiving or holding**  
6 **such land or of being notified by the office of the requirements of this provision. No fee**  
7 **shall be charged for such notification nor shall any penalty be assessed for failure to**  
8 **register. This section shall not be deemed to exempt any operator of an endowed care**  
9 **cemetery or non-endowed care cemetery from being duly licensed as required by this**  
10 **chapter.**

11           **2. The division shall establish and maintain a registry of cemeteries and the registry shall**  
12 **be available to the public for review at the division office or copied upon request. The division**  
13 **may charge a fee for copies of the register.**

14           **(1) If, in the course of a land survey of property located in this state, a surveyor licensed**  
15 **pursuant to chapter 327, RSMo, locates any cemetery which has not been previously registered,**  
16 **the surveyor shall file a statement with the division regarding the location of the cemetery. The**  
17 **statement shall be filed on a form as defined by division rule. No fee shall be charged to the**  
18 **surveyor for such filing.**

19           **(2) Any person, family, group, association, society or county surveyor may submit to the**  
20 **division, on forms provided by the division, the names and locations of any cemetery located in**  
21 **this state for inclusion in the registry. No fee shall be charged for such submissions.**

214.300. Any cemetery operator may, after October 13, 1961, qualify to operate a  
2 cemetery which has been operated as a nonendowed cemetery for a minimum of two years, as  
3 an endowed care cemetery by:

4 (1) So electing in compliance with section 214.280;

5 (2) Establishing an endowed care **trust** fund in cash of one thousand dollars for each acre  
6 in said cemetery with a minimum of five thousand dollars and a maximum of twenty-five  
7 thousand dollars;

8 (3) Filing the report required by section 214.340.

214.310. 1. Any cemetery operator who elects to operate a new cemetery as an endowed  
2 care cemetery or who represents to the public that perpetual, permanent, endowed, continual,  
3 eternal care, care of duration or similar care will be furnished cemetery property sold shall create  
4 an endowed care **trust** fund and shall deposit a minimum of twenty-five thousand dollars for  
5 cemeteries that have in excess of one hundred burials annually or a minimum of five thousand  
6 dollars for cemeteries that have one hundred or less burials annually in such fund before selling  
7 or disposing of any burial space in said cemetery, or in lieu thereof such cemetery owner may  
8 furnish a surety bond issued by a bonding company or insurance company authorized to do  
9 business in this state in the face amount of thirty thousand dollars, and such bond shall run to the  
10 office of endowed care cemeteries for the benefit of the care **trust** funds held by such cemetery.  
11 This bond shall be for the purpose of guaranteeing an accumulation of twenty-five thousand  
12 dollars in such care **trust** fund and also for the further purpose of assuring that the cemetery  
13 owner shall provide annual perpetual or endowment care in an amount equal to the annual  
14 reasonable return on a secured cash investment of twenty-five thousand dollars until twenty-five  
15 thousand dollars is accumulated in said endowed care **trust** funds, and these shall be the  
16 conditions of such surety bond; provided, however, the liability of the principal and surety on  
17 the bond shall in no event exceed thirty thousand dollars. Provided further, that whenever a  
18 cemetery owner which has made an initial deposit to the endowed care **trust** fund demonstrates  
19 to the satisfaction of the administrator of the office of endowed care cemeteries that more than  
20 twenty-five thousand dollars has been accumulated in the endowed care **trust** fund, the cemetery  
21 owner may petition the administrator of the office of endowed care cemeteries for an order to  
22 dissolve the surety bond requirement, so long as at least twenty-five thousand dollars always  
23 remains in the endowed care **trust** fund.

24 2. Construction of a mausoleum, lawn crypt, columbarium or crematorium as part of a  
25 cemetery then operated as an endowed care cemetery shall not be considered the establishment  
26 of a new cemetery for purposes of this section.

27 3. Any endowed care cemetery which does not maintain a [fully] **adequately** staffed  
28 office in the county in which the cemetery is located shall have prominently displayed on the

29 premises a sign clearly stating the operator's name, address and telephone number. If the  
30 operator does not reside in the county in which the cemetery is located, the sign shall also state  
31 the name, address and telephone number of a resident of the county who is the authorized agent  
32 of the operator or the location of an office of the cemetery which is within ten miles of such  
33 cemetery. In jurisdictions where ordinances require signs to meet certain specifications, a  
34 weatherproof notice containing the information required by this subsection shall be sufficient.

214.320. 1. An operator of an endowed care cemetery shall establish and deposit in an  
2 endowed care **trust** fund not less than the following amounts for burial space sold or disposed  
3 of, with such deposits to the endowed care **trust** fund to be made [semiannually] **monthly** on all  
4 burial space that has been fully paid for to the date of deposit:

5 (1) A minimum of fifteen percent of the gross sales price, or twenty dollars, whichever  
6 is greater, for each grave space sold;

7 (2) A minimum of ten percent of the gross sales price of each crypt or niche sold in a  
8 community mausoleum, or a minimum of one hundred dollars for each crypt or [ten dollars for  
9 each niche sold in a garden mausoleum] **fifty dollars for each niche sold in a community**  
10 **mausoleum, whichever is greater;**

11 (3) **A minimum of ten percent of the gross sales price of each crypt or niche sold in**  
12 **a garden mausoleum, or a minimum of one hundred dollars for each crypt or twenty-five**  
13 **dollars for each niche sold in a garden mausoleum, whichever is greater;**

14 (4) A minimum of [seventy-five dollars per grave space for] **ten percent of the gross**  
15 **sales price of each lawn crypt sold or a minimum of seventy-five dollars, whichever is**  
16 **greater.**

17 2. Notwithstanding the provisions of subdivision (2) of subsection 1 of this section, a  
18 cemetery operator who has made the initial deposit in trust as required by sections 214.270 to  
19 214.410 from his own funds, and not from funds deposited with respect to sales of burial space,  
20 may deposit only one-half the minimum amounts set forth in subdivisions (1) and (2) of  
21 subsection 1 of this section, until he shall have recouped his entire initial deposit. Thereafter,  
22 he shall make the minimum deposits required under subdivisions (1), (2) [and] , (3), **and (4)** of  
23 subsection 1 of this section.

24 3. **As required by section 214.340,** each operator of an endowed care cemetery shall[,  
25 after August 28, 1990,] file with the division of professional registration, on a form provided by  
26 the division, an annual endowed care trust fund report. The operator of any cemetery  
27 representing the cemetery, or any portion of the cemetery, as an endowed care cemetery shall  
28 make available to the division for inspection or audit at any reasonable time only those cemetery  
29 records and trust fund records necessary to determine whether the cemetery's endowed care **trust**  
30 fund is in compliance with sections 214.270 to 214.410. Each cemetery operator who has

31 established a [segregated] **escrow** account pursuant to section [214.385] **214.387** shall make  
32 available to the division for inspection or audit at any reasonable time those cemetery records  
33 and financial institution records necessary to determine whether the cemetery operator is in  
34 compliance with the provisions of section [214.385]. All documents, records, and work product  
35 from any inspections or audits performed by or at the direction of the division shall remain in the  
36 possession of the division of professional registration and shall not be sent to the state board of  
37 embalmers and funeral directors. No charge shall be made for such inspections or audits]  
38 **214.387.**

39 4. [If any endowed care cemetery operator conducts the trust fund accounting and record  
40 keeping outside of this state, then such operator shall maintain current and accurate copies of  
41 such accounting and record keeping within this state and such copies shall be readily available  
42 to the division for inspection or audit purposes.

43 5.] No cemetery operator shall operate or represent to the public by any title, description,  
44 or similar terms that a cemetery provides endowed care unless the cemetery is in compliance  
45 with the provisions of sections 214.270 to 214.410.

46 **5. A cemetery operator shall be exempt from the provisions of chapter 436 for the**  
47 **sale of cemetery services or for grave lots, grave spaces, markers, monuments, memorials,**  
48 **tombstones, crypts, niches or mausoleums, outer burial containers or other receptacle. A**  
49 **cemetery operator shall be prohibited from adjusting or establishing the sales price of**  
50 **items with the intent of evading the trusting or escrow provisions of this chapter.**

214.325. If the deposits to any endowed care **trust** fund [required by sections 214.270  
2 to 214.410] are less than the total sum required to be set aside and deposited since the effective  
3 date of such sections, the cemetery operator shall correct such deficiency by depositing not less  
4 than twenty percent of such deficiency each year for five years [following August 28, 1990,] and  
5 shall file, on the form provided by the division, a statement outlining the date and amount such  
6 deposits were made. If the cemetery operator fails to correct the deficiency **with respect to**  
7 **funds maintained under section 214.330**, the cemetery operator shall thereafter not represent  
8 the cemetery as an endowed care cemetery. Any funds held in the cemetery's endowed care trust  
9 shall continue to be used for endowed care for that cemetery. The cemetery operator shall  
10 remain subject to the provisions of sections 214.270 to 214.410 for any cemetery or any section  
11 of the cemetery for which endowed care payments have been collected, subject to the penalties  
12 contained in section 214.410, and civil actions as well as subject to any regulations promulgated  
13 by the division. **For purposes of this section, the term "deficiency" shall mean a deficiency**  
14 **in the amount required to be deposited pursuant to section 214.320, or a deficiency created**  
15 **by disbursements in excess of what is permitted under section 214.330 and shall not include**  
16 **or be affected by deficiencies or shortages caused by the fluctuating value of investments.**

214.330. 1. [The endowed care fund required by sections 214.270 to 214.410 shall be  
2 permanently set aside in trust or in accordance with the provisions of subsection 2 of this section.  
3 The trustee of the endowed care trust shall be a state- or federally chartered financial institution  
4 authorized to exercise trust powers in Missouri and located in this state. The income from the  
5 endowed care fund shall be distributed to the cemetery operator at least annually or in other  
6 convenient installments. The cemetery operator shall have the duty and responsibility to apply  
7 the income to provide care and maintenance only for that part of the cemetery in which burial  
8 space shall have been sold and with respect to which sales the endowed care fund shall have been  
9 established and not for any other purpose. The principal of such funds shall be kept intact and  
10 appropriately invested by the trustee, or the independent investment advisor. An endowed care  
11 trust agreement may provide that when the principal in an endowed care trust exceeds two  
12 hundred fifty thousand dollars, investment decisions regarding the principal and undistributed  
13 income may be made by a federally registered or Missouri-registered independent qualified  
14 investment advisor designated by the cemetery owner, relieving the trustee of all liability  
15 regarding investment decisions made by such qualified investment advisor. It shall be the duty  
16 of the trustee, or the investment advisor, in the investment of such funds to exercise the diligence  
17 and care men of ordinary prudence, intelligence and discretion would employ, but with a view  
18 to permanency of investment considering probable safety of capital investment, income produced  
19 and appreciation of capital investment. The trustee's duties shall be the maintenance of records  
20 and the accounting for and investment of moneys deposited by the operator to the endowed care  
21 fund. For the purposes of sections 214.270 to 214.410, the trustee or investment advisor shall  
22 not be deemed to be responsible for the care, the maintenance, or the operation of the cemetery,  
23 or for any other matter relating to the cemetery, including, but not limited to, compliance with  
24 environmental laws and regulations. With respect to cemetery property maintained by cemetery  
25 care funds, the cemetery operator shall be responsible for the performance of the care and  
26 maintenance of the cemetery property owned by the cemetery operator and for the opening and  
27 closing of all graves, crypts, or niches for human remains in any cemetery property owned by the  
28 cemetery operator.

29 2. If the endowed care cemetery fund is not permanently set aside in a trust fund as  
30 required by subsection 1 of this section then the funds shall be permanently set aside in a  
31 segregated bank account which requires the signature of the cemetery owner and either the  
32 administrator of the office of endowed care cemeteries, or the signature of a licensed practicing  
33 attorney with escrow powers in this state as joint signatories for any distribution from the trust  
34 fund. No funds shall be expended without the signature of either the administrator of the office  
35 of endowed care cemeteries, or a licensed practicing attorney with escrow powers in this state.  
36 The account shall be insured by the Federal Deposit Insurance Corporation or comparable

37 deposit insurance and held in the state- or federally chartered financial institution authorized to  
38 do business in Missouri and located in this state. The income from the endowed care fund shall  
39 be distributed to the cemetery operator at least in annual or semiannual installments. The  
40 cemetery operator shall have the duty and responsibility to apply the income to provide care and  
41 maintenance only for that part of the cemetery in which burial space shall have been sold and  
42 with respect to which sales the endowed care fund shall have been established and not for any  
43 other purpose. The principal of such funds shall be kept intact and appropriately invested by the  
44 cemetery operator with written approval of either the administrator of the office of endowed care  
45 cemeteries or a licensed practicing attorney with escrow powers in this state. It shall be the duty  
46 of the cemetery owner in the investment of such funds to exercise the diligence and care a person  
47 of reasonable prudence, intelligence and discretion would employ, but with a view to  
48 permanency of investment considering probable safety of capital investment, income produced  
49 and appreciation of capital investment. The cemetery owner's duties shall be the maintenance  
50 of records and the accounting for an investment of moneys deposited by the operator to the  
51 endowed care fund. For purposes of sections 214.270 to 214.410, the administrator of the office  
52 of endowed care cemeteries or the licensed practicing attorney with escrow powers in this state  
53 shall not be deemed to be responsible for the care, maintenance, or operation of the cemetery.  
54 With respect to cemetery property maintained by cemetery care funds, the cemetery operator  
55 shall be responsible for the performance of the care and maintenance of the cemetery property  
56 owned by the cemetery operator and for the opening and closing of all graves, crypts, or niches  
57 for human remains in any cemetery property owned by the cemetery operator.

58         3. The cemetery operator shall be accountable to the owners of burial space in the  
59 cemetery for compliance with sections 214.270 to 214.410.

60         4. All endowed care funds shall be administered in accordance with an endowed care  
61 fund agreement. The endowed care fund agreement shall be subject to review and approval by  
62 the office of endowed care cemeteries or by a licensed practicing attorney with escrow powers  
63 in this state. The endowed care cemetery shall be notified in writing by the office of endowed  
64 care cemeteries or by a licensed practicing attorney with escrow powers in this state regarding  
65 the approval or disapproval of the endowed care fund agreement and regarding any changes  
66 required to be made for compliance with this chapter and the rules and regulations promulgated  
67 thereunder. A copy of the proposed endowed care fund agreement shall be submitted to the  
68 office of endowed care cemeteries. The office of endowed care cemeteries or a licensed  
69 practicing attorney with escrow powers in this state shall notify the endowed care cemetery in  
70 writing of approval and of any required change. Any amendment or change to the endowed care  
71 fund agreement shall be submitted to the office of endowed care cemeteries or to a licensed  
72 practicing attorney with escrow powers in this state for review and approval. Said amendment

73 or change shall not be effective until approved by the office of endowed care cemeteries or by  
74 a licensed practicing attorney with escrow powers in this state. All endowed care cemeteries  
75 shall be under a continuing duty to file with the office of endowed care cemeteries or with a  
76 licensed practicing attorney with escrow powers in this state and to submit for approval any and  
77 all changes, amendment, or revisions of the endowed care fund agreement.

78 5. No principal shall be distributed from an endowed care trust fund except to the extent  
79 that a unitrust election is in effect with respect to such trust under the provisions of section  
80 469.411, RSMo.] **The endowed care trust fund required by sections 214.270 to 214.410 shall**  
81 **be permanently set aside in trust or in accordance with the provisions of subsection 2 of**  
82 **this section. The trustee of the endowed care trust shall be a state or federally chartered**  
83 **financial institution authorized to exercise trust powers in Missouri. The contact**  
84 **information for a trust officer or duly appointed representative of the trustee with**  
85 **knowledge and access to the trust fund accounting and trust fund records must be**  
86 **disclosed to the office or its duly authorized representative upon request.**

87 (1) **The trust fund records, including all trust fund accounting records, shall be**  
88 **maintained in the state of Missouri at all times or shall be electronically stored so that the**  
89 **records may be made available in the state of Missouri within fifteen business days of**  
90 **receipt of a written request. The operator of an endowed care cemetery shall maintain a**  
91 **current name and address of the trustee and the records custodian for the endowed care**  
92 **trust fund and shall supply such information to the office, or its representative, upon**  
93 **request;**

94 (2) **Missouri law shall control all endowed care trust funds and the Missouri courts**  
95 **shall have jurisdiction over endowed care trusts regardless of where records may be kept**  
96 **or various administrative tasks may be performed.**

97 2. **An endowed care trust fund shall be administered in accordance with Missouri**  
98 **law governing trusts, including but not limited to the applicable provisions of chapters 456**  
99 **and 469, except as specifically provided in this subsection or where the provisions of**  
100 **sections 214.270 to 214.410 provide differently, provided that a cemetery operator shall not**  
101 **in any circumstances be authorized to restrict, enlarge, change, or modify the requirements**  
102 **of this section or the provisions of chapters 456 and 469 by agreement or otherwise.**

103 (1) **Income and principal of an endowed care trust fund shall be determined under**  
104 **the provisions of law applicable to trusts, except that the provisions of section 469.405 shall**  
105 **not apply.**

106 (2) **No principal shall be distributed from an endowed care trust fund except to the**  
107 **extent that a unitrust election is in effect with respect to such trust under the provisions of**  
108 **section 469.411.**

109           **(3) No right to transfer jurisdiction from Missouri under section 456.1-108 shall**  
110 **exist for endowed care trusts.**

111           **(4) All endowed care trusts shall be irrevocable.**

112           **(5) No trustee shall have the power to terminate an endowed care trust fund under**  
113 **the provisions of section 456.4-414.**

114           **(6) A unitrust election made in accordance with the provisions of chapter 469 shall**  
115 **be made by the cemetery operator in the terms of the endowed care trust fund agreement**  
116 **itself, not by the trustee.**

117           **(7) No contract of insurance shall be deemed a suitable investment for an endowed**  
118 **care trust fund.**

119           **(8) The income from the endowed care fund may be distributed to the cemetery**  
120 **operator at least annually on a date designated by the cemetery operator, but no later than**  
121 **sixty days following the end of the trust fund year. Any income not distributed within sixty**  
122 **days following the end of the trust's fiscal year shall be added to and held as part of the**  
123 **principal of the trust fund.**

124           **3. The cemetery operator shall have the duty and responsibility to apply the income**  
125 **distributed to provide care and maintenance only for that part of the cemetery designated**  
126 **as an endowed care section and not for any other purpose.**

127           **4. In addition to any other duty, obligation, or requirement imposed by sections**  
128 **214.270 to 214.410 or the endowed care trust agreement, the trustee's duties shall be the**  
129 **maintenance of records related to the trust and the accounting for and investment of**  
130 **moneys deposited by the operator to the endowed care trust fund.**

131           **(1) For the purposes of sections 214.270 to 214.410, the trustee shall not be deemed**  
132 **responsible for the care, the maintenance, or the operation of the cemetery, or for any**  
133 **other matter relating to the cemetery, or the proper expenditure of funds distributed by**  
134 **the trustee to the cemetery operator, including, but not limited to, compliance with**  
135 **environmental laws and regulations.**

136           **(2) With respect to cemetery property maintained by endowed care funds, the**  
137 **cemetery operator shall be responsible for the performance of the care and maintenance**  
138 **of the cemetery property.**

139           **5. If the endowed care cemetery fund is not permanently set aside in a trust fund**  
140 **as required by subsection 1 of this section, then the funds shall be permanently set aside**  
141 **in an escrow account in the state of Missouri. Funds in an escrow account shall be placed**  
142 **in an endowed care trust fund under subsection 1 if the funds in the escrow account exceed**  
143 **three hundred fifty thousand dollars, unless otherwise approved by the division for good**  
144 **cause. The account shall be insured by the Federal Deposit Insurance Corporation or**

145 comparable deposit insurance and held in a state or federally chartered financial  
146 institution authorized to do business in Missouri and located in this state.

147 (1) The interest from the escrow account may be distributed to the cemetery  
148 operator at least in annual or semiannual installments, but not later than six months  
149 following the calendar year. Any interest not distributed within six months following the  
150 end of the calendar year shall be added to and held as part of the principal of the account.

151 (2) The cemetery operator shall have the duty and responsibility to apply the  
152 interest to provide care and maintenance only for that part of the cemetery in which burial  
153 space shall have been sold and with respect to which sales the escrow account shall have  
154 been established and not for any other purpose. The principal of such funds shall be kept  
155 intact. The cemetery operator's duties shall be the maintenance of records and the  
156 accounting for an investment of moneys deposited by the operator to the escrow account.  
157 For purposes of sections 214.270 to 214.410, the administrator of the office of endowed care  
158 cemeteries shall not be deemed to be responsible for the care, maintenance, or operation  
159 of the cemetery. With respect to cemetery property maintained by cemetery care funds,  
160 the cemetery operator shall be responsible for the performance of the care and  
161 maintenance of the cemetery property owned by the cemetery operator.

162 (3) The division may approve an escrow agent if the escrow agent demonstrates the  
163 knowledge, skill, and ability to handle escrow funds and financial transactions and is of  
164 good moral character.

165 6. The cemetery operator shall be accountable to the owners of burial space in the  
166 cemetery for compliance with sections 214.270 to 214.410.

167 7. Excluding funds held in an escrow account, all endowed care trust funds shall  
168 be administered in accordance with an endowed care trust fund agreement, which shall be  
169 submitted to the office by the cemetery operator for review and approval. The endowed  
170 care cemetery shall be notified in writing by the office of endowed care cemeteries  
171 regarding the approval or disapproval of the endowed care trust fund agreement and  
172 regarding any changes required to be made for compliance with sections 214.270 to 214.410  
173 and the rules and regulations promulgated thereunder.

174 8. All endowed care cemeteries shall be under a continuing duty to file with the  
175 office of endowed care cemeteries and to submit for prior approval any and all changes,  
176 amendments, or revisions of the endowed care trust fund agreement, at least thirty days  
177 before the effective date of such change, amendment, or revision.

178 9. If the endowed care trust fund agreement, or any changes, amendments, or  
179 revisions filed with the office, are not disapproved by the office within thirty days after  
180 submission by the cemetery operator, the endowed care trust fund agreement, or the

181 related change, amendment, or revision, shall be deemed approved and may be used by the  
182 cemetery operator and the trustee. Notwithstanding any other provision of this section, the  
183 office may review and disapprove an endowed care trust fund agreement, or any submitted  
184 change, amendment, or revision, after the thirty days provided herein or at any other time  
185 if the agreement is not in compliance with sections 214.270 to 214.410 or the rules  
186 promulgated thereunder. Notice of disapproval by the office shall be in writing and  
187 delivered to the cemetery operator and the trustee within ten days of disapproval.

188 **10. Funds in an endowed care trust fund or escrow account may be commingled**  
189 **with endowed care funds for other endowed care cemeteries, provided that the cemetery**  
190 **operator and the trustee shall maintain adequate accounting records of the disbursements,**  
191 **contributions, and income allocated for each cemetery.**

192 **11. By accepting the trusteeship of an endowed care trust or accepting funds as an**  
193 **escrow agent pursuant to sections 214.270 to 214.410, the trustee or escrow agent submits**  
194 **personally to the jurisdiction of the courts of this state and the office of endowed care**  
195 **cemeteries regarding the administration of the trust or escrow account. A trustee or escrow**  
196 **agent shall consent in writing to the jurisdiction of the state of Missouri and the office in**  
197 **regards to the trusteeship or the operation of the escrow account and to the appointment**  
198 **of the office of secretary of state as its agent for service of process regarding any**  
199 **administrative or legal actions relating to the trust or the escrow account, if it has no**  
200 **designated agent for service of process located in this state. Such consent shall be filed with**  
201 **the office prior to accepting funds pursuant to sections 214.270 to 214.410 as trustee or as**  
202 **an escrow agent on a form provided by the office by rule.**

214.335. **1. Any endowed care cemetery may require a contribution to the endowed care**  
2 **fund or to a separate memorial care fund for each memorial or monument installed on a grave**  
3 **in the cemetery. Such contribution, if required by a cemetery, shall not exceed twenty cents per**  
4 **square inch of base area, and shall be charged on every installation regardless of the person**  
5 **performing the installation. Each contribution made pursuant to a contract or agreement entered**  
6 **into after August 28, 1990, shall be entrusted and administered pursuant to sections 214.270 to**  
7 **214.410 for the endowed care fund. Each contribution made pursuant to a contract or agreement**  
8 **entered into before August 28, 1990, shall be governed by the law in effect at the time the**  
9 **contract or agreement was entered into.**

10 **2. If the deposits to any endowed care trust fund are less than the total sum**  
11 **required to be set aside and deposited since the effective date of such sections, the cemetery**  
12 **operator shall correct such deficiency by depositing not less than twenty percent of such**  
13 **deficiency each year for five years and shall file, on the form provided by the division, a**  
14 **statement outlining the date and amount such deposits were made. If the cemetery**

15 operator fails to correct the deficiency with respect to funds maintained under section  
16 214.330, the cemetery operator shall thereafter not represent the cemetery as an endowed  
17 care cemetery. Any funds held in the cemetery's endowed care trust shall continue to be  
18 used for endowed care for that cemetery. The cemetery operator shall remain subject to  
19 the provisions of sections 214.270 to 214.410 for any cemetery or any section of the  
20 cemetery for which endowed care payments have been collected, subject to the penalties  
21 contained in section 214.410, and civil actions, as well as subject to any regulations  
22 promulgated by the division. For purposes of this section, the term "deficiency" shall  
23 mean a deficiency in the amount required to be deposited pursuant to subsection 1 of this  
24 section, or a deficiency created by disbursements in excess of what is permitted under  
25 section 214.330 and shall not include or be affected by deficiencies or shortages caused by  
26 the fluctuating value of investments.

214.340. 1. Each operator of an endowed care cemetery shall maintain at an office in  
2 the cemetery or, if the cemetery has no office in the cemetery, at an office within a reasonable  
3 distance of the cemetery, the reports of the endowed care trust fund's operation for the preceding  
4 seven years. Each report shall contain, at least, the following information:

5 (1) Name and address of the trustee of the endowed care trust fund and the depository,  
6 if different from the trustee;

7 (2) Balance per previous year's report;

8 (3) Principal contributions received since previous report;

9 (4) Total earnings since previous report;

10 (5) Total distribution to the cemetery operator since the previous report;

11 (6) Current balance;

12 (7) A statement of all assets listing cash, real or personal property, stocks, bonds, and  
13 other assets, showing cost, acquisition date and current market value of each asset;

14 (8) Total expenses, excluding distributions to cemetery operator, since previous report;  
15 and

16 (9) A statement of the cemetery's total acreage and of its developed acreage.

17 2. Subdivisions (1) through (7) of the report described in subsection 1 above shall be  
18 certified to under oath as complete and correct by a corporate officer of the trustee. Subdivision  
19 (8) of such report shall be certified under oath as complete and correct by an officer of the  
20 cemetery operator. Both the trustee and cemetery operator or officer shall be subject to the  
21 penalty of making a false affidavit or declaration.

22 3. The report shall be placed in the cemetery's office within ninety days of the close of  
23 the trust's fiscal year. A copy of this report shall be filed by the cemetery operator with the  
24 division of professional registration as condition of license renewal as required by subsection 4

25 of section 214.275. [The report shall not be sent to the state board of embalmers and funeral  
26 directors.]

27 4. Each cemetery operator who establishes [a segregated] **an escrow or trust** account  
28 pursuant to [subsection 1 of section 214.385] **section 214.387** shall file with the report required  
29 under subsection 1 of this section [a segregated] **an escrow or trust** account report that shall  
30 provide the following information:

31 (1) The [number of monuments, markers and memorials] **total face value of all**  
32 **contracts for burial merchandise and services** that have been deferred for delivery by purchase  
33 designation; **and**

34 (2) [The aggregate wholesale cost of all such monuments, markers and memorials; and

35 (3)] The amount on deposit in the [segregated] **escrow or trust** account established  
36 pursuant to section [214.385] **214.387**, and the account number **in the case of an escrow**  
37 **account.**

214.345. 1. Any cemetery operator who negotiates the sale of burial space in any  
2 cemetery located in this state shall provide each prospective owner of burial space a written  
3 statement, which may be a separate form or a part of the sales contract, which states and explains  
4 in plain language that the burial space is part of an endowed care cemetery; that the cemetery has  
5 established and maintains the endowed care **trust** fund required by law; and that the information  
6 regarding the fund described in section 214.340 is available to the prospective purchaser. If the  
7 burial space is in a nonendowed cemetery, or in a nonendowed section of an endowed care  
8 cemetery, the cemetery operator shall state he has elected not to establish an endowed care **trust**  
9 fund.

10 2. The operator of each endowed care cemetery shall, upon request, give to the public  
11 for retention a copy of the endowed care **trust** fund annual report prepared pursuant to the  
12 provisions of subsection 1 of section 214.340.

214.360. No cemetery operator, nor any director, officer or shareholder of any cemetery  
2 may borrow or in any other way make use of the endowed care **trust** funds for his own use,  
3 directly or indirectly, or for furthering or developing his or any other cemetery, nor may any  
4 trustee lend or make such funds available for said purpose or for the use of any operator or any  
5 director, officer or shareholder of any cemetery.

214.363. In the event of a cemetery's bankruptcy, insolvency, or assignment for the  
2 benefit of creditors, the endowed care **trust** funds shall not be available to any creditor as assets  
3 of the cemetery's owner or to pay any expenses of any bankruptcy or similar proceeding, but shall  
4 be retained intact to provide for the future maintenance of the cemetery.

214.365. Prior to any action as provided in subsection 2 of section 214.205, and when  
2 the division has information that a [public] cemetery is not providing maintenance and care, has

3 been abandoned, or has ceased operation, the division may investigate the cemetery to determine  
4 the cemetery's current status. If the division finds evidence that the cemetery is abandoned, is  
5 not conducting business, or is not providing maintenance and care, the division may apply to the  
6 circuit court for appointment as receiver, trustee, or successor in trust.

214.367. **1. Prior to selling or otherwise disposing of a majority of the business  
2 assets of a cemetery, or a majority of its stock or other ownership interest, if a corporation  
3 or other organized business entity, the cemetery operator shall provide written notification  
4 to the division of its intent at least thirty days prior to the date set for the transfer, or the  
5 closing of the sale, or the date set for termination of its business. Such notice is confidential  
6 and shall not be considered a public record subject to the provisions of chapter 610 until  
7 the sale of the cemetery has been effectuated. Upon receipt of the written notification, the  
8 division may take reasonable and necessary action to determine that the cemetery operator  
9 has made proper plans to assure that trust funds or funds held in an escrow account for  
10 or on behalf of the cemetery will be set aside and used as provided in sections 214.270 to  
11 214.410, including, but not limited to, an audit or examination of books and records. The  
12 division may waive the requirements of this subsection or may shorten the period of  
13 notification for good cause or if the division determines in its discretion that compliance  
14 with its provisions are not necessary.**

15 **2. A cemetery operator may complete the sale, transfer, or cessation if the division  
16 does not disapprove the transaction within thirty days after receiving notice. Nothing in  
17 this section shall be construed to restrict any other right or remedy vested in the division  
18 or the attorney general.**

19 **3. A prospective purchaser or transferee of [any endowed care] endowed or unendowed  
20 cemetery, with the written consent of the cemetery operator, may obtain a copy of the cemetery's  
21 most recent audit or inspection report from the division. The division shall inform the  
22 prospective purchaser or transferee, within thirty days, whether the cemetery may continue to  
23 operate and be represented as [an endowed care] a cemetery.**

214.387. **1. [Upon written instructions from the purchaser of burial merchandise or  
2 burial services set forth in a cemetery prearranged contract, a cemetery may defer delivery of  
3 such burial merchandise or a warehouse receipt for the same under section 214.385, or  
4 performance of services, to a date designated by the purchaser, provided the cemetery operator,  
5 after deducting sales and administrative costs not to exceed twenty percent of the purchase price,  
6 deposits the remaining portion of the purchase price into an escrow or trust account as herein  
7 provided, within sixty days following receipt of payment from the purchaser. Funds so deposited  
8 pursuant to this section shall be maintained in such account until delivery of the property or the  
9 performance of services is made or the contract for the purchase of such property or services is**

10 canceled. The account is subject to inspection, examination or audit by the division. No  
11 withdrawals may be made from the escrow or trust account established pursuant to this section  
12 except as herein provided.

13         2. Upon written instructions from the purchaser of an interment, entombment, or  
14 inurnment cemetery service, a cemetery may defer performance of such service to a date  
15 designated by the purchaser, provided the cemetery operator, within forty-five days of the date  
16 the agreement is paid in full, deposits from its own funds an amount equal to eighty percent of  
17 the published retail price into a trustee account. Funds deposited in a trustee account pursuant  
18 to this section and section 214.385 shall be maintained in such account until delivery of the  
19 service is made or the agreement for the purchase of the service is canceled. No withdrawals may  
20 be made from the trustee account established pursuant to this section and section 214.385  
21 except as provided herein. Money in this account shall be invested utilizing the prudent man  
22 theory and is subject to audit by the division. Names and addresses of depositories of such  
23 money shall be submitted with the annual report.

24         3. Upon the delivery of the interment, entombment, or inurnment cemetery service  
25 agreed upon by the cemetery or its agent, or the cancellation of the agreement for the purchase  
26 of such service, the cemetery operator may withdraw from the trustee account an amount equal  
27 to (i) the market value of the trustee account based on the most recent account statement issued  
28 to the cemetery operator, times (ii) the ratio the service's deposit in the account bears to the  
29 aggregate deposit of all services which are paid in full but not delivered. The trustee account  
30 may be inspected or audited by the division.

31         4. The provisions of this section shall apply to all agreements entered into after August  
32 28, 2002.] **With the exception of sales made pursuant to section 214.385, all sales of**  
33 **prearranged burial merchandise and services shall be made pursuant to this section.**

34         **2. Upon written instructions from the purchaser of burial merchandise or burial**  
35 **services set forth in a cemetery prearranged contract, a cemetery may defer delivery of**  
36 **such burial merchandise or a warehouse receipt for the same under section 214.385, or**  
37 **performance of services, to a date designated by the purchaser, provided the cemetery**  
38 **operator, after deducting sales and administrative costs associated with the sale, not to**  
39 **exceed twenty percent of the purchase price, deposits the remaining portion of the**  
40 **purchase price into an escrow or trust account as herein provided, within sixty days**  
41 **following receipt of payment from the purchaser. Funds so deposited pursuant to this**  
42 **section shall be maintained in such account until delivery of the property or the**  
43 **performance of services is made or the contract for the purchase of such property or**  
44 **services is cancelled, and fees and costs associated with the maintenance of the trust or**  
45 **escrow arrangement shall be charged to these funds. The account is subject to inspection,**

46 examination or audit by the division. No withdrawals may be made from the escrow or  
47 trust account established pursuant to this section except as herein provided.

48 **3. Each escrow arrangement must comply with the following:**

49 **(1) The escrow agent shall be located in Missouri, authorized to exercise escrow**  
50 **powers, and shall maintain the escrow records so that they may be accessed and produced**  
51 **for inspection within five business days of the agent's receipt of a written request made by**  
52 **the office or its duly authorized representative. A cemetery operator shall not serve as an**  
53 **escrow agent for the cemetery operator's account nor shall the escrow agent be employed**  
54 **by or under common ownership with the cemetery operator. The cemetery operator shall**  
55 **maintain a current name and address for the escrow agent with the office, and shall obtain**  
56 **written approval from the office before making any change in the name or address of the**  
57 **escrow agent. Notwithstanding any other provision of law, information regarding the**  
58 **escrow agent shall be deemed an open record;**

59 **(2) The escrow account funds shall be maintained in depository accounts at a**  
60 **Missouri financial institution that provides Federal Deposit Insurance Corporation or**  
61 **comparable deposit insurance;**

62 **(3) The escrow arrangement shall be administered by the escrow agent pursuant**  
63 **to an agreement approved by the office under the same filing and approval procedure as**  
64 **that set forth for endowed care trust fund agreements in section 214.330;**

65 **(4) The operator shall establish a separate depository account for each cemetery**  
66 **prearranged contract administered pursuant to this subsection;**

67 **(5) The division may promulgate by rule a form escrow agreement to be used by**  
68 **a cemetery operator operating pursuant to this section.**

69 **4. Each trust must comply with the following:**

70 **(1) The trustee shall be a state or federally chartered financial institution**  
71 **authorized to exercise trust powers in Missouri, provided that a foreign financial**  
72 **institution must be approved by the office;**

73 **(2) The trust fund records, including all trust fund accounting records, shall either**  
74 **be maintained in the state of Missouri or shall be electronically stored so that the records**  
75 **may be made available within fifteen business days of the trustee's receipt of a written**  
76 **request made by the office or its duly authorized representative. The cemetery operator**  
77 **shall maintain a current name and address of the trustee and the records custodian and**  
78 **shall supply such information to the office or its representative upon request;**

79 **(3) The principal of such funds shall be appropriately invested pursuant to the**  
80 **prudent investor rule under chapter 469, provided that no trust funds shall be invested in**  
81 **any term insurance product;**

82           (4) Payments regarding two or more cemetery prearranged contracts may be  
83 deposited into and commingled in the same trust, so long as adequate records are made  
84 available to the trustee to account for cemetery prearranged contracts on an individual  
85 basis with regard to deposits, earnings, distributions, and any taxes;

86           (5) Trust instruments shall be subject to the same filing and approval procedure  
87 as that set forth for endowed care trust fund agreements under section 214.330;

88           (6) A trustee may commingle the funds from trusts of unrelated cemetery operators  
89 for investment purposes if the trustee has adequate accounting for the allocations,  
90 disbursements, payments, and income among the participating trusts.

91           5. The income from escrow accounts, after payment of expenses associated with the  
92 arrangement, shall be distributed to the cemetery operator. All other distributions from  
93 trusts and escrow accounts shall be made pursuant to forms approved by the office. For  
94 performance of a cemetery prearranged contract, a certificate of performance form signed  
95 by the cemetery operator shall be required for distribution. For cancellation of a cemetery  
96 prearranged contract, a certificate of cancellation form signed by the cemetery operator  
97 and the purchaser shall be required for distribution.

98           6. A cemetery prearranged contract is subject to cancellation as follows:

99           (1) At any time before the final disposition of the deceased, or before the services  
100 or merchandise described in this section are provided, the purchaser may cancel the  
101 contract without cause by delivering written notice thereof to the operator. Within fifteen  
102 days after its receipt of such notice, the cemetery operator shall pay to the purchaser a net  
103 amount equal to eighty percent of all payments made under the contract. The cemetery  
104 operator shall be entitled to keep one-half of the interest earned on trust funds. Upon  
105 delivery of the purchaser's receipt for such payment to the escrow agent or trustee, the  
106 escrow agent or trustee shall distribute to the cemetery operator from the escrow account  
107 or trust an amount equal to all deposits made into the escrow account or trust for the  
108 contract;

109           (2) Notwithstanding the provisions of subdivision (1) of this subsection, if a  
110 purchaser is eligible, becomes eligible, or desires to become eligible, to receive public  
111 assistance under chapter 208 or any other applicable state or federal law, the purchaser  
112 may irrevocably waive and renounce his right to cancel the contract pursuant to the  
113 provisions of subdivision (1) of this section, which waiver and renunciation shall be made  
114 in writing and delivered to the cemetery operator;

115           (3) Notwithstanding the provisions of subdivision (1) of this subsection, any  
116 purchaser, within thirty days of receipt of the executed contract, may cancel the contract

117 without cause by delivering written notice thereof to the cemetery operator, and receive a  
118 full refund of all payments made on the contract;

119 (4) Notwithstanding the provisions of subdivision (1) of this subsection, once any  
120 purchase order is entered for the production or manufacture of burial merchandise, per  
121 the purchaser's written request, the purchaser's obligation to pay for said burial  
122 merchandise shall be noncancellable;

123 (5) No funds subject to a purchaser's right of cancellation hereunder shall be  
124 subject to the claims of the cemetery operator's creditors.

125 7. Burial merchandise sold through a contract with a cemetery or cemetery  
126 operator which is entered into after the death of the individual for whom the burial  
127 merchandise is intended shall not be subject to any trusting or escrow requirement of this  
128 section.

129 8. This section shall apply to all agreements entered into after August 28, 2010.

214.389. 1. The division may direct a trustee, financial institution, or escrow agent  
2 to suspend distribution from an endowed care trust fund or escrow account if the cemetery  
3 operator does not have a current and active cemetery operator license, has failed to file an  
4 annual report, or if, after an audit or examination, the division determines there is a  
5 deficiency in an endowed care trust fund or escrow account maintained under section  
6 214.330 and the cemetery operator has failed to file a corrective action plan detailing how  
7 the deficiency shall be remedied. For purposes of this section, a deficiency shall only be  
8 deemed to exist if, after an audit or examination, the division determines a cemetery  
9 operator has failed to deposit the total aggregate of funds required to be deposited in trust  
10 or an escrow account pursuant to section 214.320 or subsection 1 of section 214.335, or has  
11 received disbursements from the trust or escrow account in excess of what is permitted  
12 under section 214.330. No deficiency shall be deemed to be created by fluctuations in the  
13 value of investments held in trust or escrow.

14 2. The division shall provide written notification to the cemetery operator and the  
15 trustee, financial institution, or escrow agent within fourteen days of discovering a  
16 potential violation as described in this section. Upon receipt of written notification from  
17 the division, the cemetery operator shall have sixty days to cure any alleged violations or  
18 deficiencies cited in the notification without a suspension of distribution. If, after the sixty-  
19 day time period, the division feels the cemetery has not cured the alleged violations or  
20 deficiencies cited in the notification, the division may send a notice of suspension to the  
21 cemetery operator that the division is ordering a suspension of distribution as described  
22 in this section. In the event of a suspension of distribution, the amount of any distribution  
23 suspended shall become principal, with credit against the deficiency, unless the cemetery

24 operator files an appeal with a court of competent jurisdiction or with the administrative  
25 hearing commission, as provided herein. In the event of an appeal, a cemetery operator  
26 may request the court or administrative hearing commission stay the suspension of  
27 distribution after a showing of necessity and good cause or authorize payment from the  
28 endowed care trust fund or escrow account for necessary expenses from any amount  
29 subject to distribution.

30 3. Upon receipt of an order from the division suspending distribution pursuant to  
31 this section, a trustee, financial institution, or escrow agent shall immediately suspend  
32 distribution as required by the order. A trustee, financial institution, or escrow agent shall  
33 be exempt from liability for failure to distribute funds as ordered by the division.

34 4. A cemetery operator may appeal an order suspending distribution pursuant to  
35 this section to the administrative hearing commission. The administrative hearing  
36 commission shall receive notice of such appeal within thirty days from the date the notice  
37 of suspension was mailed by certified mail. Failure of a person whose license was  
38 suspended to notify the administrative hearing commission of his or her intent to appeal  
39 waives all rights to appeal the suspension. Upon notice of such person's intent to appeal,  
40 a hearing shall be held before the administrative hearing commission pursuant to chapter  
41 621.

42 5. A cemetery operator may apply for reinstatement of distributions upon  
43 demonstration that the deficiencies or other problems have been cured or that the operator  
44 has otherwise come into compliance.

45 6. The division may promulgate rules to implement the provisions of this section.  
46 Any rule or portion of a rule, as that term is defined in section 536.010, that is created  
47 under the authority delegated in this section shall become effective only if it complies with  
48 and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028.  
49 This section and chapter 536 are nonseverable and if any of the powers vested with the  
50 general assembly pursuant to chapter 536, to review, to delay the effective date, or to  
51 disapprove and annul a rule are subsequently held unconstitutional, then the grant of  
52 rulemaking authority and any rule proposed or adopted after August 28, 2010, shall be  
53 invalid and void.

214.392. 1. The division shall:

2 (1) Recommend prosecution for violations of the provisions of sections 214.270 to  
3 214.410 to the appropriate prosecuting, circuit attorney or to the attorney general;

4 (2) Employ, within limits of the funds appropriated, such employees as are necessary to  
5 carry out the provisions of sections 214.270 to 214.410;

6 (3) Be allowed to convey full authority to each city or county governing body the use of  
7 inmates controlled by the department of corrections and the board of probation and parole to care  
8 for abandoned cemeteries located within the boundaries of each city or county;

9 (4) Exercise all budgeting, purchasing, reporting and other related management  
10 functions;

11 (5) **Be authorized, within the limits of the funds appropriated to conduct**  
12 **investigations, examinations, or audits to determine compliance with sections 214.270 to**  
13 **214.410;**

14 (6) The division may promulgate rules necessary to implement the provisions of sections  
15 214.270 to 214.516, including but not limited to:

16 (a) Rules setting the amount of fees authorized pursuant to sections 214.270 to 214.516.  
17 The fees shall be set at a level to produce revenue that shall not substantially exceed the cost and  
18 expense of administering sections 214.270 to 214.516. All moneys received by the division  
19 pursuant to sections 214.270 to 214.516 shall be collected by the director who shall transmit such  
20 moneys to the department of revenue for deposit in the state treasury to the credit of the endowed  
21 care cemetery audit fund created in section 193.265, RSMo;

22 (b) Rules to administer the inspection and audit provisions of the endowed care cemetery  
23 law;

24 (c) Rules for the establishment and maintenance of the cemetery registry pursuant to  
25 section 214.283.

26 2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that  
27 is created under the authority delegated in this section shall become effective only if it complies  
28 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section  
29 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers  
30 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the  
31 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the  
32 grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be  
33 invalid and void.

214.400. Sections 214.270 to 214.410 shall be known as the "Cemetery Endowed Care  
2 **Trust Fund Law**".

214.410. 1. Any cemetery operator who shall willfully violate any provisions of sections  
2 214.270 to 214.410 for which no penalty is otherwise prescribed shall be deemed guilty of a  
3 misdemeanor and upon conviction thereof shall be fined a sum not to exceed five hundred  
4 dollars or shall be confined not more than six months or both.

5 2. Any cemetery operator who shall willfully violate any provision of [section] **sections**  
6 214.320, 214.330, 214.335, 214.340, 214.360 [or], 214.385, **or 214.387** shall be deemed guilty

7 of a class D felony and upon conviction thereof shall be fined a sum not to exceed ten thousand  
8 dollars or shall be confined not more than five years or both. This section shall not apply to  
9 cemeteries or cemetery associations which do not sell lots in the cemetery.

10 3. Any trustee who shall willfully violate any applicable provisions of sections 214.270  
11 to 214.410 shall have committed an unsafe and unsound banking practice and shall be penalized  
12 as authorized by chapters 361 and 362, RSMo. This subsection shall be enforced exclusively by  
13 the Missouri division of finance for state chartered institutions and the Missouri attorney general  
14 for federally chartered institutions.

15 4. Any person who shall willfully violate any provision of section 214.320, 214.330,  
16 214.335, 214.340, 214.360 or 214.385 or violates any rule, regulation or order of the division  
17 may, in accordance with the regulations issued by the division, be assessed an administrative  
18 penalty by the division. The penalty shall not exceed five thousand dollars for each violation and  
19 each day of the continuing violation shall be deemed a separate violation for purposes of  
20 administrative penalty assessment. However, no administrative penalty may be assessed until  
21 the person charged with the violation has been given the opportunity for a hearing on the  
22 violation. Penalty assessments received shall be deposited in the endowed care cemetery audit  
23 fund created in section 193.265, RSMo.

214.500. Any cemetery located in a city [not within a county,] which has become the  
2 property of such city pursuant to section 214.205 or a public tax sale may be sold to another  
3 cemetery operator or a not-for-profit corporation which is unrelated to the previous cemetery  
4 operator.

214.504. Any cemetery operator who purchases a cemetery from a city [not within a  
2 county] pursuant to sections 214.500 to 214.516 shall not be liable for any wrongful interments  
3 or errors made in the sale of plots prior to the cemetery operator's purchase of the cemetery, nor  
4 shall such cemetery operator be liable for multiple ownership of plots sold by such cemetery  
5 operator due to a lack of adequate records in such cemetery operator's possession at the time of  
6 such cemetery operator's purchase of such cemetery from the city, provided the cemetery  
7 operator offers a plot of equal value for the interment, if such party can prove ownership of the  
8 right to bury a person by presenting a contract for the right to burial.

214.508. Any cemetery operator who purchases a cemetery from a city [not within a  
2 county] shall not be held liable or responsible for any conditions existing or actions taken which  
3 occurred prior to the cemetery operator's purchase from such city; except that, the exemption  
4 provided in this section shall not relieve any previous owner or wrongdoer for their actions  
5 related to such cemetery.

214.512. Any subsequent cemetery owner after a city [not within a county] shall be  
2 exempt from the provisions of section 214.325 and section 214.410 for any deficiency existing

3 prior to such city's ownership; except that, such exemption shall not relieve any previous  
4 cemetery owners or wrongdoers from the provisions of such sections.

214.516. Any cemetery owner subsequent to a city [not within a county], regardless of  
2 whether such cemetery was previously registered as an endowed care cemetery, held itself out  
3 to be an endowed care cemetery or was a nonendowed care cemetery, shall comply with section  
4 214.310 and register such cemetery as an endowed care cemetery as if it were a newly created  
5 cemetery with no interments at the time of such registration. Any contracts for the right of burial  
6 sold after compliance with section 214.310 and all subsequent action of a subsequent cemetery  
7 owner shall comply fully with the provisions of sections 214.270 to 214.410.

214.550. 1. For purposes of this section, the following terms mean:

2 (1) "Cremains", the [ashes that remain after cremation of a human corpse] **remains of**  
3 **a human corpse after cremation;**

4 (2) "Operator", a church that owns and maintains a religious cemetery;

5 (3) "Religious cemetery", a cemetery owned, operated, controlled, or managed by any  
6 church that has or would qualify for federal tax-exempt status as a nonprofit religious  
7 organization pursuant to section 501(c) of the Internal Revenue Code as amended;

8 (4) "Scatter garden", a location for the spreading of cremains set aside within a cemetery.

9 2. It shall be lawful for any operator of a religious cemetery adjacent to a church building  
10 or other building regularly used as a place of worship to establish a scatter garden for the purpose  
11 of scattering human cremains.

12 3. The operator of any religious cemetery containing a scatter garden shall maintain,  
13 protect, and supervise the scatter garden, and shall be responsible for all costs incurred for such  
14 maintenance, protection, and supervision. Such operator shall also maintain a record of all  
15 cremains scattered in the scatter garden that shall include the name, date of death, and Social  
16 Security number of each person whose cremains are scattered, and the date the cremains were  
17 scattered.

18 4. A scatter garden established pursuant to this section shall be maintained by the  
19 operator of the religious cemetery for as long as such operator is in existence. Upon dissolution  
20 of such operator, all records of cremains shall be transferred to the clerk of the city, town, or  
21 village in which the scatter garden is located, or if the scatter garden is located in any  
22 unincorporated area, to the county recorder.

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

2 (1) "Board", the board of private investigator examiners established in section 324.1102;

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

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

- 6 (4) **"Director", the director of the division of professional registration;**  
7 (5) **"Division", the division of professional registration;**  
8 (6) "Law enforcement officer", a law enforcement officer as defined in section 556.061,  
9 RSMo;
- 10 [(5)] (7) "Organization", a corporation, trust, estate, partnership, cooperative, or  
11 association;
- 12 [(6)] (8) "Person", an individual or organization;
- 13 [(7)] (9) "Private investigator", any person who receives any consideration, either directly  
14 or indirectly, for engaging in the private investigator business;
- 15 [(8)] (10) "Private investigator agency", a person who regularly employs any other  
16 person, other than an organization, to engage in the private investigator business;
- 17 [(9)] (11) "Private investigator business", the furnishing of, making of, or agreeing to  
18 make, any investigation for the purpose of obtaining information pertaining to:
- 19 (a) Crimes or wrongs done or threatened against the United States or any state or territory  
20 of the United States;
- 21 (b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility,  
22 knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations,  
23 associations, transactions, acts, reputation, or character of any person;
- 24 (c) The location, disposition, or recovery of lost or stolen property;
- 25 (d) Securing evidence to be used before any court, board, officer, or investigating  
26 committee;
- 27 (e) Sale of personal identification information to the public; or
- 28 (f) The cause of responsibility for libel, losses, accident, or damage or injury to persons  
29 or property or protection of life or property.

324.1102. 1. The "Board of Private Investigator Examiners" is hereby created within the  
2 division of professional registration. The board shall be a body corporate and may sue and be  
3 sued.

4 2. The board shall be composed of five members, including two public members,  
5 appointed by the governor with the advice and consent of the senate. Except for the public  
6 members, each member of the board shall be a citizen of the United States, a resident of Missouri  
7 **for at least one year, a registered voter**, at least thirty years of age, and shall have been actively  
8 engaged in the private investigator business for the previous five years. No more than one  
9 private investigator board member may be employed by, or affiliated with, the same private  
10 investigator agency. The initial private investigator board members shall not be required to be  
11 licensed but shall obtain a license within one hundred eighty days after the effective date of the  
12 rules promulgated under sections 324.1100 to 324.1148 regarding licensure. The public

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

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

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

31 5. There is hereby created in the state treasury the "Board of Private Investigator  
32 Examiners Fund", which shall consist of money collected under sections 324.1100 to 324.1148.  
33 The state treasurer shall be custodian of the fund and shall approve disbursements from the fund  
34 in accordance with the provisions of sections 30.170 and 30.180, RSMo. Upon appropriation,  
35 money in the fund shall be used solely for the administration of sections 324.1100 to 324.1148.  
36 The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund  
37 shall not be transferred and placed to the credit of general revenue until the amount in the fund  
38 at the end of the biennium exceeds two times the amount of the appropriation from the board's  
39 funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently  
40 than yearly, then three times the appropriation from the board's funds for the preceding fiscal  
41 year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds  
42 the appropriate multiple of the appropriations from the board's funds for the preceding fiscal  
43 year.

2 [324.1102. 1. The "Board of Private Investigator Examiners" is hereby  
3 created within the division of professional registration. The board shall be a body  
4 corporate and may sue and be sued.

5 2. The board shall be composed of five members, including two public  
6 members, appointed by the governor with the advice and consent of the senate.  
Except for the public members, each member of the board shall be a citizen of the

7 United States, a resident of Missouri, at least thirty years of age, and shall have  
8 been actively engaged in the private investigator business for the previous five  
9 years. No more than one private investigator board member may be employed  
10 by, or affiliated with, the same private investigator agency. The initial private  
11 investigator board members shall not be required to be licensed but shall obtain  
12 a license within one hundred eighty days after the effective date of the rules  
13 promulgated under sections 324.1100 to 324.1148 regarding licensure. The  
14 public members shall each be a registered voter and a person who is not and  
15 never was a member of any profession licensed or regulated under sections  
16 324.1100 to 324.1148 or the spouse of such person; and a person who does not  
17 have and never has had a material, financial interest in either the providing of the  
18 professional services regulated by sections 324.1100 to 324.1148, or an activity  
19 or organization directly related to any profession licensed or regulated under  
20 sections 324.1100 to 324.1148. The duties of the public members shall not  
21 include the determination of the technical requirements to be met for licensure  
22 or whether any person meets such technical requirements or of the technical  
23 competence or technical judgment of a licensee or a candidate for licensure.

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

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

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

45

**324.1103. For the purposes of sections 324.1100 to 324.1148, the division shall:**

- 2 (1) **Employ board personnel, within the limits of the appropriations for that**
- 3 **purpose as established in sections 324.1100 to 324.1148;**
- 4 (2) **Exercise all administrative functions;**

5           **(3) Deposit all fees collected under sections 324.1100 to 324.1148 by transmitting**  
6 **such funds to the department of revenue for deposition to the state treasury to the credit**  
7 **of the board of private investigators examiners fund.**

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

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

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

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

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

13          **(5) A certified public accountant, performing duties as a certified public**  
14 **accountant, who holds an active license issued by any state and the employees of such**  
15 **certified public accountant or certified public accounting firm assisting in the performance**  
16 **of duties or investigation on behalf of such certified public accountant or certified public**  
17 **accounting firm;**

18          [(5)] (6) A collection agency or an employee thereof while acting within the scope of  
19 employment, while making an investigation incidental to the business of the agency, including  
20 an investigation of the location of a debtor or a debtor's property where the contract with an  
21 assignor creditor is for the collection of claims owed or due, or asserted to be owed or due, or  
22 the equivalent thereof;

23          [(6)] (7) Insurers and insurance producers licensed by the state, performing duties in  
24 connection with insurance transacted by them;

25          [(7)] (8) Any bank subject to the jurisdiction of the director of the division of finance of  
26 the state of Missouri or the comptroller of currency of the United States;

27          [(8)] (9) An insurance adjuster. For the purposes of sections 324.1100 to 324.1148, an  
28 "insurance adjuster" means any person who receives any consideration, either directly or  
29 indirectly, for adjusting in the disposal of any claim under or in connection with a policy of  
30 insurance or engaging in soliciting insurance adjustment business;

31          [(9)] (10) Any private fire investigator whose primary purpose of employment is the  
32 determination of the origin, nature, cause, or calculation of losses relevant to a fire;

33 [(10)] (11) Employees of [a not-for-profit] **an organization whether for-profit or not-**  
34 **for-profit** or its affiliate or subsidiary, whether for-profit or not-for-profit, whose investigatory  
35 activities are limited to making and processing requests for criminal history records and other  
36 background information from state, federal, or local databases, including requests for employee  
37 background check information under section 660.317, RSMo;

38 [(11)] (12) Any real estate broker, real estate salesperson, or real estate appraiser acting  
39 within the scope of his or her license;

40 [(12)] (13) Expert witnesses who have been certified or accredited by a national or state  
41 association associated with the expert's scope of expertise;

42 [(13)] (14) Any person who does not hold themselves out to the public as a private  
43 investigator [but is under] **and is exclusively employed by or under exclusive** contract with a  
44 state agency or political subdivision;

45 [(14)] (15) Any person performing duties or [conducting investigations] **activities**  
46 relating to serving legal process when such person's [investigation is] **duties or activities are**  
47 incidental to the serving of legal process; or

48 [(15)] (16) A consumer reporting agency is defined in 15 U.S.C. Section 1681(a) and its  
49 contract and salaried employees.

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

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

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

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

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

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

20 (6) Insurers and insurance producers licensed by the state, performing  
21 duties in connection with insurance transacted by them;  
22

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

26 (8) An insurance adjuster. For the purposes of sections 324.1100 to  
27 324.1148, an "insurance adjuster" means any person who receives any  
28 consideration, either directly or indirectly, for adjusting in the disposal of any  
29 claim under or in connection with a policy of insurance or engaging in soliciting  
30 insurance adjustment business;

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

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

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

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

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

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

48 (15) A consumer reporting agency as defined in 15 U.S.C. Section  
49 1681(a) and its contract and salaried employees.]

50

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

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

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

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

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

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

324.1112. **1.** The board of private investigator examiners may deny a request for a  
2 license if the applicant:

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

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

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

9           [(b)] **(3)** Has been convicted of or entered a plea of guilty or nolo contendere to a  
10 misdemeanor offense involving moral turpitude, **including receiving a suspended imposition**  
11 **of sentence following a plea of guilty to a misdemeanor offense;**

12           **(4) Been refused a license under sections 324.1100 to 324.1148 or had a license**  
13 **revoked or denied in this state or any other state;**

14           [(c)] **(5)** Has falsified or willfully misrepresented information in an employment  
15 application, records of evidence, or in testimony under oath;

16           [(d)] **(6)** Has been dependent on or abused alcohol or drugs; or

17           [(e)] **(7)** Has used, possessed, or trafficked in any illegal substance;

18           **[(3)] (8)** Has been refused a license under the provisions of sections 324.1100 to  
19 324.1148 or had a license revoked in this state or in any other state;

20           **[(4)] (9)** While unlicensed, committed or aided and abetted the commission of any act  
21 for which a license is required by sections 324.1100 to 324.1148 after August 28, 2007; or

22           **[(5)] (10)** Knowingly made any false statement in the application.

23           **2. The board shall consider any evidence of the applicant's rehabilitation when**  
24 **considering a request for licensure.**

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

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

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

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

10           3. The fees prescribed by sections 324.1100 to 324.1148 shall be exclusive and  
11 notwithstanding any other provision of law. No municipality may require any person licensed  
12 under sections 324.1100 to 324.1148 to furnish any bond, pass any examination, or pay any  
13 license fee or occupational tax relative to practicing the person's profession.

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

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

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

6           (2) Within two years prior to the hiring date:

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

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

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

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

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

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

18          (4) While unlicensed, committed or aided and abetted the commission  
19 of any act for which a license is required by sections 324.1100 to 324.1148 after  
20 August 28, 2007; or

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

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

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

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

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

9 (b) Has been convicted of or entered a plea of guilty or nolo contendere to a  
10 misdemeanor offense involving moral turpitude, **including receiving a suspended imposition**  
11 **of sentence following a plea of guilty to a misdemeanor offense;**

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

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

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

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

18 (4) While unlicensed, committed or aided and abetted the commission of any act for  
19 which a license is required by sections 324.1100 to 324.1148 after August 28, 2007; or

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

324.1124. 1. The [board of private investigator examiners] **division** shall determine the  
2 form of the license [which shall include the:

3 (1) Name of the licensee;

4 (2) Name under which the licensee is to operate; and

5 (3) Number and date of the license].

6 2. The license shall be posted at all times in a conspicuous place in the principal place  
7 of business of the licensee. Upon the issuance of a license, a pocket card of such size, design,  
8 and content as determined by the division shall be issued without charge to each licensee. Such  
9 card shall be evidence that the licensee is licensed under sections 324.1100 to 324.1148. When  
10 any person to whom a card is issued terminates such person's position, office, or association with  
11 the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be  
12 mailed or delivered by the licensee to the board of private investigator examiners for  
13 cancellation. Within thirty days after any change of address, a licensee shall notify the board of  
14 the address change. The principal place of business may be at a residence or at a business  
15 address, but it shall be the place at which the licensee maintains a permanent office.

324.1126. 1. Any license issued under sections 324.1100 to 324.1148 shall [expire two  
2 years after the date of its issuance. Renewal of any such license shall be made in the manner  
3 prescribed for obtaining an original license, including payment of the appropriate fee, except  
4 that:

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

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

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

12 (4) Additional information may be required by rules and regulations adopted by the  
13 board of private investigator examiners] **be valid for two years. An application for renewal  
14 of license shall be mailed to every person to whom a license was issued or renewed during  
15 the current licensing period. The applicant shall complete the application and return it to  
16 the board by the renewal date with a renewal fee in an amount to be set by the board and  
17 evidence of continuing education under section 324.1122. Any licensee who practices  
18 during the time the license has expired shall be considered engaging in prohibited acts  
19 under section 324.1104 and shall be subject to the penalties provided for violation of the  
20 provisions of sections 324.1100 to 324.1148. If a person is otherwise eligible to renew the  
21 person's certification or license, the person may renew an expired certification or license  
22 within two years from the date of expiration. To renew such expired certification or  
23 license, the person shall submit an application for renewal, pay the renewal fee, pay a  
24 delinquent renewal fee as established by the board, and present evidence in the form  
25 prescribed by the board of having completed the continuing education requirements for  
26 renewal specified in section 324.1122. Upon a finding of extenuating circumstances, the  
27 commission may waive the payment of the delinquent fee. If a person has failed to renew  
28 the person's license within two years of its expiration, the license shall be void. A new  
29 photograph shall be submitted with the application for renewal only if the photograph on  
30 file with the board has been on file for more than two years.**

31 2. A licensee shall at all times be legally responsible for the good conduct of each of the  
32 licensee's employees or agents while engaged in the business of the licensee and the licensee is  
33 legally responsible for any acts committed by such licensee's employees or agents which are in  
34 violation of sections 324.1100 to 324.1148. A person receiving an agency license shall directly  
35 manage the agency and employees.

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

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

10 **board, any law enforcement officer, prosecuting attorney, or other such person's**  
11 **representative related to a criminal offense if the client is the victim of the criminal offense.**

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

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

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

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

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

24 (5) Manufacture false evidence; or

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

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

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

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

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

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

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

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

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

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

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

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

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

41 (9) **Violation if, or assisting or enabling any person to violate any provision of this**  
42 **chapter or any lawful rule or regulation adopted pursuant to authority granted in this**  
43 **chapter; or**

44 (10) Committing any act which is grounds for denial of an application for a license under  
45 section 324.1112.

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

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

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

324.1136. 1. **Each licensee shall maintain a record containing such information**  
2 **relative to the licensee's employees as may be prescribed by the board of private**  
3 **investigator examiners. Such licensee shall file with the board the complete address of the**  
4 **location of the licensee's principal place of business. The board may require the filing of**  
5 **other information for the purpose of identifying such principal place of business.**

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

17 registration to act as a gatherer of information and facts to present to the board regarding any  
18 complaint or inspection under investigation.

19 [2.] **3.** For the purpose of enforcing the provisions of sections 324.1100 to 324.1148, and  
20 in making investigations relating to any violation thereof, the board shall have the power to  
21 subpoena and bring before the board any person in this state and require the production of any  
22 books, records, or papers which the board deems relevant to the inquiry. The board also may  
23 administer an oath to and take the testimony of any person, or cause such person's deposition to  
24 be taken, except that any applicant or licensee or officer, director, partner, or associate thereof  
25 shall not be entitled to any fees or mileage. A subpoena issued under this section shall be  
26 governed by the Missouri rules of civil procedure and shall comply with any confidentiality  
27 standards or legal limitations imposed by privacy or open records acts, fair credit reporting acts,  
28 polygraph acts, driver privacy protection acts, judicially recognized privileged communications,  
29 and the bill of rights of both the United States and Missouri Constitutions. Any person duly  
30 subpoenaed who fails to obey such subpoena without reasonable cause, or without such cause  
31 refuses to be examined or to answer any legal or pertinent question as to the character or  
32 qualification of such applicant or licensee or such applicant's alleged unlawful or deceptive  
33 practices or methods, shall be guilty of a class A misdemeanor. The testimony of witnesses in  
34 any investigative proceeding shall be under oath.

35 **4. Any licensee who is required by fully executed written contract or court order**  
36 **to destroy, seal, or return to a party to a lawsuit, or to the court, records related to work**  
37 **performed under that contract or court order shall maintain in his or her files, a fully**  
38 **executed copy of the contract or court order requiring destruction, sealing, or return of the**  
39 **records. Maintenance of the contract or court order shall fulfill the requirements of this**  
40 **section.**

324.1140. 1. The board of private investigator examiners shall [certify] **license** persons  
2 who are qualified to train private investigators.

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

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

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

7 (3) Be personally licensed as a private investigator under sections 324.1100 to 324.1148  
8 and qualified to train private investigators.

9 3.] Persons wishing to become [certified] **licensed** trainers shall make application to the  
10 board of private investigator examiners on a form prescribed by the board and accompanied by  
11 a fee determined by the board. The application shall contain a statement of the plan of operation

12 of the training offered by the applicant and the materials and aids to be used and any other  
13 information required by the board.

14 [4.] **3.** A [certificate] **license** shall be granted to a trainer if the board finds that the  
15 applicant:

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

17 (2)] Has sufficient knowledge of private investigator business in order to train private  
18 investigators sufficiently;

19 [(3)] **(2)** Has supplied all [required] information to the board; and

20 [(4)] **(3)** Has paid the required fee.

21 [5.] **4.** The [certificate] **license** issued under this section shall [expire on the third year  
22 after the year in which it is issued and shall be renewable triennially upon application and  
23 payment of a fee] **be valid for two years and shall be renewable biennially upon application  
24 and payment of the renewal fee established by the board. An application for renewal of  
25 license shall be mailed to every person to whom a license was issued or renewed during the  
26 current licensing period. The applicant shall complete the application and return it to the  
27 board by the renewal date with a renewal fee in an amount to be set by the board and  
28 evidence of continuing education under section 324.1122. Any licensee who practices  
29 during the time the license has expired shall be considered engaging in prohibited acts  
30 under section 324.1104 and shall be subject to the penalties provided for the violation of  
31 the provisions of sections 324.1100 to 324.1148. If a person is otherwise eligible to renew  
32 the person's certification or license, the person may renew an expired certification or  
33 license within two years from the date of expiration. To renew such expired certificate or  
34 license, the person shall submit an application for renewal, pay the renewal fee, pay a  
35 delinquent renewal fee as established by the board, and present evidence in the form  
36 prescribed by the board of having completed the continuing education requirements for  
37 renewal specified in section 324.1122. Upon a finding of extenuating circumstances, the  
38 commission may waive the payment of the delinquent fee. If a person has failed to renew  
39 the person's license within two years of its expiration, the license shall be void.**

**324.1147. The provisions of sections 324.1100 to 324.1148 shall not be construed to  
2 release any person from civil liability or criminal prosecution under any other law of this  
3 state.**

327.031. 1. The "Missouri Board for Architects, Professional Engineers, Professional  
2 Land Surveyors and Landscape Architects" is hereby established and shall consist of [fourteen]  
3 **fifteen** members: a chairperson, who may be either an architect, a professional engineer [or] ,  
4 a professional land surveyor, **or a landscape architect**; three architects, who shall constitute the  
5 architectural division of the board; [three] **four** professional engineers, who shall constitute its

6 professional engineering division; three professional land surveyors, who shall constitute its  
7 professional land surveying division; three landscape architects, who shall constitute its  
8 landscape [architecture] **architectural** division; and a voting public member.

9         2. After receiving his or her commission and before entering upon the discharge of his  
10 or her official duties, each member of the board shall take, subscribe to and file in the office of  
11 the secretary of state the official oath required by the constitution.

12         3. The chairperson shall be the administrative and executive officer of the board, and it  
13 shall be his or her duty to supervise and expedite the work of the board and its divisions, and,  
14 at his or her election, when a tie exists between the divisions of the board, to break the tie by  
15 recording his or her vote for or against the action upon which the divisions are in disagreement.  
16 Each member of the architectural division shall have one vote when voting on an action pending  
17 before the board; each member of the professional engineering division shall have one vote when  
18 voting on an action pending before the board; [the chairperson of the landscape architecture  
19 division or the chairperson's designee] **each member of the professional land surveying**  
20 **division shall have one vote when voting on an action pending before the board; and each**  
21 **member of the landscape architectural division** shall have one vote when voting on an action  
22 pending before the board[; and each member of the professional land surveying division shall  
23 have one vote when voting on an action pending before the board]. Every motion or proposed  
24 action upon which the divisions of the board are tied shall be deemed lost, and the chairperson  
25 shall so declare, unless the chairperson shall elect to break the tie as provided in this section.  
26 [Seven] **Eight** voting members of the board [and two members] **including at least one member**  
27 of each division shall constitute a quorum, respectively, for the transaction of **board** business.

28         4. Each division of the board shall, at its first meeting in each even-numbered year, elect  
29 one of its members as division chairperson for a term of two years. **Two voting members of**  
30 **each division of the board shall constitute a quorum for the transaction of division**  
31 **business.** The chairpersons of the architectural division, professional engineering division [and  
32 the] , professional land surveying division, **and landscape architectural division** so elected  
33 shall be vice chairpersons of the board, and when the chairperson of the board is an architect, the  
34 chairperson of the architectural division shall be the ranking vice chairperson, and when the  
35 chairperson of the board is a professional engineer, the chairperson of the professional  
36 engineering division shall be the ranking vice chairperson, [and] when the chairperson of the  
37 board is a professional land surveyor, the chairperson of the professional land surveying division  
38 shall be the ranking vice chairperson, **and when the chairperson of the board is a landscape**  
39 **architect, the chairperson of the landscape architectural division shall be the ranking vice**  
40 **chairperson.** The chairperson of each division shall be the administrative and executive officer  
41 of his or her division, and it shall be his or her duty to supervise and expedite the work of the

42 division, and, in case of a tie vote on any matter, the chairperson shall, at his or her election,  
43 break the tie by his or her vote. Every motion or question pending before the division upon  
44 which a tie exists shall be deemed lost, and so declared by the chairperson of the division, unless  
45 the chairperson shall elect to break such tie by his or her vote.

46 5. Any person appointed to the board, except a public member, shall be a currently  
47 licensed architect, licensed professional engineer, licensed professional land surveyor or  
48 registered or licensed landscape architect in Missouri, as the vacancy on the board may require,  
49 who has been a resident of Missouri for at least five years, who has been engaged in active  
50 practice as an architect, professional engineer, professional land surveyor or landscape architect,  
51 as the case may be, for at least ten consecutive years immediately preceding such person's  
52 appointment and who is and has been a citizen of the United States for at least five years  
53 immediately preceding such person's appointment. Active service as a faculty member while  
54 holding the rank of assistant professor or higher in an accredited school of engineering shall be  
55 regarded as active practice of engineering, for the purposes of this chapter. Active service as a  
56 faculty member, after meeting the qualifications required by section 327.314, while holding the  
57 rank of assistant professor or higher in an accredited school of engineering and teaching land  
58 surveying courses shall be regarded [an] as active practice of land surveying for the purposes of  
59 this chapter. **Active service as a faculty member while holding the rank of assistant**  
60 **professor or higher in an accredited school of landscape architecture shall be regarded as**  
61 **active practice of landscape architecture, for the purposes of this chapter.** Active service  
62 as a faculty member while holding the rank of assistant professor or higher in an accredited  
63 school of architecture shall be regarded as active practice of architecture for the purposes of this  
64 chapter; provided, however, that no faculty member of an accredited school of architecture shall  
65 be eligible for appointment to the board unless such person has had at least three years'  
66 experience in the active practice of architecture other than in teaching. The public member shall  
67 be, at the time of appointment, a citizen of the United States; a resident of this state for a period  
68 of one year and a registered voter; a person who is not and never was a member of any profession  
69 licensed or regulated pursuant to this chapter or the spouse of such person; and a person who  
70 does not have and never has had a material, financial interest in either the providing of the  
71 professional services regulated by this chapter, or an activity or organization directly related to  
72 any profession licensed or regulated pursuant to this chapter. All members, including public  
73 members, shall be chosen from lists submitted by the director of the division of professional  
74 registration. The duties of the public member shall not include the determination of the technical  
75 requirements to be met for licensure or whether any person meets such technical requirements  
76 or of the technical competence or technical judgment of a licensee or a candidate for licensure.

77 6. The governor shall appoint the chairperson and the other members of the board when

78 a vacancy occurs either by the expiration of a term or otherwise, and each board member shall  
79 serve until such member's successor is appointed and has qualified. **Beginning August 28,**  
80 **2010,** the position of chairperson shall [alternate among an architect, a professional engineer and  
81 a professional land surveyor] **rotate sequentially with an architect, then professional**  
82 **engineer, then professional land surveyor, then landscape architect, and shall be a licensee**  
83 **who has previously served as a member of the board. The appointment of the chairperson**  
84 **shall be for a term of four years which shall be deemed to have begun on the date of his or**  
85 **her appointment and shall end upon the appointment of the chairperson's successor. The**  
86 **chairperson shall not serve more than one term.** All other appointments, except to fill an  
87 unexpired term, shall be for terms of four years; but no person shall serve on the board for more  
88 than two consecutive four-year terms, and each four-year term shall be deemed to have begun  
89 on the date of the expiration of the term of the board member who is being replaced or  
90 reappointed, as the case may be. Any appointment to the board which is made when the senate  
91 is not in session shall be submitted to the senate for its advice and consent at its next session  
92 following the date of the appointment.

93 7. In the event that a vacancy is to occur on the board because of the expiration of a term,  
94 then ninety days prior to the expiration, or as soon as feasible after a vacancy otherwise occurs,  
95 the president of the American Institute of Architects/Missouri if the vacancy to be filled requires  
96 the appointment of an architect, [the president of the Missouri Association of Landscape  
97 Architects if the vacancy to be filled requires the appointment of a landscape architect,] the  
98 president of the Missouri Society of Professional Engineers if the vacancy to be filled requires  
99 the appointment of an engineer, [and] the president of the Missouri Society of Professional  
100 Surveyors if the vacancy to be filled requires the appointment of a land surveyor, **and the**  
101 **president of the Missouri Association of Landscape Architects if the vacancy to be filled**  
102 **requires the appointment of a landscape architect,** shall submit to the director of the division  
103 of professional registration a list of five architects or five professional engineers, [five landscape  
104 architects] or five professional land surveyors, **or five landscape architects** as the case may  
105 require, qualified and willing to fill the vacancy in question, with the recommendation that the  
106 governor appoint one of the five persons so listed; and with the list of names so submitted, the  
107 president of the appropriate organization shall include in a letter of transmittal a description of  
108 the method by which the names were chosen. This subsection shall not apply to public member  
109 vacancies.

110 8. The board may sue and be sued as the Missouri board for architects, professional  
111 engineers, professional land surveyors and landscape architects, and its members need not be  
112 named as parties. Members of the board shall not be personally liable either jointly or severally  
113 for any act or acts committed in the performance of their official duties as board members, nor

114 shall any board member be personally liable for any court costs which accrue in any action by  
115 or against the board.

116 9. Upon appointment by the governor and confirmation by the senate of the landscape  
117 [architecture] **architectural** division, the landscape architectural council is hereby abolished and  
118 all of its powers, duties and responsibilities are transferred to and imposed upon the Missouri  
119 board for architects, professional engineers, professional land surveyors and landscape architects  
120 established pursuant to this section. Every act performed by or under the authority of the  
121 Missouri board for architects, professional engineers, professional land surveyors and landscape  
122 architects shall be deemed to have the same force and effect as if performed by the landscape  
123 architectural council pursuant to sections 327.600 to 327.635. All rules and regulations of the  
124 landscape architectural council shall continue in effect and shall be deemed to be duly adopted  
125 rules and regulations of the Missouri board [of] **for** architects, professional engineers,  
126 professional [landscape architects and land surveyors] **land surveyors and landscape architects**  
127 until such rules and regulations are revised, amended or repealed by the board as provided by  
128 law, such action to be taken by the board on or before January 1, 2002.

129 10. Upon appointment by the governor and confirmation by the senate of the landscape  
130 [architecture] **architectural** division, all moneys deposited in the landscape architectural council  
131 fund created in section 327.625 shall be transferred to the state board for architects, professional  
132 engineers, professional land surveyors and landscape architects fund created in section 327.081.  
133 The landscape architectural council fund shall be abolished upon the transfer of all moneys in  
134 it to the state board [of] **for** architects, professional engineers, **professional** land surveyors and  
135 landscape architects.

327.041. 1. The board shall have the duty and the power to carry out the purposes and  
2 to enforce and administer the provisions of this chapter, to require, by summons or subpoena,  
3 with [the advice of the attorney general and upon] the vote of two-thirds of the voting board  
4 members, the attendance and testimony of witnesses, and the production of drawings, plans,  
5 plats, specifications, books, papers or any document representing any matter under hearing or  
6 investigation, pertaining to the issuance, probation, suspension or revocation of certificates of  
7 registration or certificates of authority provided for in this chapter, or pertaining to the unlawful  
8 practice of architecture, professional engineering, professional land surveying or landscape  
9 architecture.

10 2. The board shall, within the scope and purview of the provisions of this chapter,  
11 prescribe the duties of its officers and employees and adopt, publish and enforce the rules and  
12 regulations of professional conduct which shall establish and maintain appropriate standards of  
13 competence and integrity in the professions of architecture, professional engineering,  
14 professional land surveying and landscape architecture, and adopt, publish and enforce

15 procedural rules and regulations as may be considered by the board to be necessary or proper for  
16 the conduct of the board's business and the management of its affairs, and for the effective  
17 administration and interpretation of the provisions of this chapter. Any rule or portion of a rule,  
18 as that term is defined in section 536.010, RSMo, that is created under the authority delegated  
19 in this chapter shall become effective only if it complies with and is subject to all of the  
20 provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and  
21 chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly  
22 pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul  
23 a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule  
24 proposed or adopted after August 28, 2001, shall be invalid and void.

25         3. Rules promulgated by the board pursuant to sections 327.272 to 327.635 shall be  
26 consistent with and shall not supersede the rules promulgated by the department of natural  
27 resources pursuant to chapter 60, RSMo.

327.351. 1. The professional license issued to every professional land surveyor in  
2 Missouri, including certificates of authority issued to corporations as provided in section  
3 327.401, shall be renewed on or before the license or certificate renewal date provided that the  
4 required fee is paid. The license of any professional land surveyor or the certificate of authority  
5 of any such corporation which is not renewed within three months of the renewal date shall be  
6 suspended automatically, subject to the right of the holder of such suspended license or  
7 certificate to have it reinstated within nine months of the date of suspension, if the reinstatement  
8 fee is paid. Any license or certificate of authority suspended and not reinstated within nine  
9 months of the suspension date shall expire and be void and the holder of such expired license or  
10 certificate shall have no rights or privileges thereunder, but any person or corporation whose  
11 license or certificate has expired may, within the discretion of the board and upon payment of  
12 the required fee, be reregistered or relicensed under such person's or corporation's original license  
13 number.

14         2. Each application for the renewal of a license or of a certificate of authority shall be  
15 on a form furnished to the applicant and shall be accompanied by the required fee; but no  
16 renewal fee need be paid by any professional land surveyor over the age of seventy-five.

17         3. Beginning January 1, 1996, as a condition for renewal of a license issued pursuant to  
18 section 327.314, a license holder shall be required to successfully complete twenty units of  
19 professional development that meet the standards established by the board regulations within the  
20 preceding two calendar years. Any license holder who completes more than twenty units of  
21 professional development within the preceding two calendar years may have the excess, not to  
22 exceed ten units, applied to the requirement for the next two-year period.

23 4. The board shall not renew the license of any license holder who has failed to complete  
24 the professional development requirements pursuant to subsection 3 of this section, unless such  
25 license holder can show good cause why he or she was unable to comply with such requirements.  
26 If the board determines that good cause was shown, the board shall permit the license holder to  
27 make up all outstanding required units of professional development.

28 5. A license holder may at any time prior to the termination of his or her license request  
29 to be classified as inactive. Inactive licenses may be maintained by payment of an annual fee  
30 determined by the board. Holders of inactive licenses shall not be required to complete  
31 professional development as required in subsection 3 of this section. Holders of inactive licenses  
32 shall not practice as professional land surveyors **within this state, but may continue to use the**  
33 **title "professional land surveyor" or the initials "PLS" after such person's name.** If the  
34 board determines that good cause was shown, the board shall permit the professional land  
35 surveyor to make up all outstanding required units of professional development.

36 6. A holder of an inactive license may return such license to an active license to practice  
37 professional land surveying by paying the required fee, and either:

38 (1) Completing one-half of the two-year requirement for professional development  
39 multiplied by the number of years of lapsed or inactive status. The maximum requirement for  
40 professional development units shall be two and one-half times the two-year requirement. The  
41 minimum requirement for professional development units shall be no less than the two-year  
42 requirement. Such requirement shall be satisfied within the two years prior to the date of  
43 reinstatement; or

44 (2) Taking such examination as the board deems necessary to determine such person's  
45 qualifications. Such examination shall cover areas designed to demonstrate the applicant's  
46 proficiency in current methods of land surveying practice.

47 7. Exemption to the required professional development units shall be granted to  
48 registrants during periods of serving honorably on full-time active duty in the military service.

49 8. At the time of application for license renewal, each licensee shall report, on a form  
50 provided by the board, the professional development activities undertaken during the preceding  
51 renewal period to satisfy the requirements pursuant to subsection 3 of this section. The licensee  
52 shall maintain a file in which records of activities are kept, including dates, subjects, duration  
53 of program, and any other appropriate documentation, for a period of four years after the program  
54 date.

327.411. 1. Each architect and each professional engineer and each professional land  
2 surveyor and each landscape architect shall have a personal seal in a form prescribed by the  
3 board, and he or she shall affix the seal to all final documents including, but not limited to, plans,  
4 specifications, estimates, plats, reports, surveys, proposals and other documents or instruments

5 prepared by the licensee, or under such licensee's immediate personal supervision. **Such licensee**  
6 **shall either prepare or personally supervise the preparation of all documents sealed by the**  
7 **licensee**, and such licensee shall be held personally responsible for the contents of all such  
8 documents sealed by such licensee, **whether prepared or drafted by another licensee or not.**

9         2. The personal seal of an architect or professional engineer or professional land surveyor  
10 or landscape architect shall be the legal equivalent of the licensee's signature whenever and  
11 wherever used, and the owner of the seal shall be responsible for the architectural, engineering,  
12 surveying, or landscape architectural documents, as the case may be, when the licensee places  
13 his or her personal seal on such plans, specifications, estimates, plats, reports, surveys or other  
14 documents or instruments for, or to be used in connection with, any architectural or engineering  
15 project, survey, or landscape architectural project. **Licensees shall undertake to perform**  
16 **architectural, professional engineering, professional land surveying and landscape**  
17 **architectural services only when they are qualified by education, training, and experience**  
18 **in the specific technical areas involved.**

19         3. **Notwithstanding any provision of this section**, any architect, professional engineer,  
20 professional land surveyor, or landscape architect may, but is not required to, attach a statement  
21 over his or her signature, authenticated by his or her personal seal, specifying the particular plans,  
22 specifications, plats, reports, surveys or other documents or instruments, or portions thereof,  
23 intended to be authenticated by the seal, and disclaiming any responsibility for all other plans,  
24 specifications, estimates, reports, or other documents or instruments relating to or intended to  
25 be used for any part or parts of the architectural or engineering project or survey or landscape  
26 architectural project.

27         4. Nothing in this section, or any rule or regulation of the board shall require any  
28 professional to seal preliminary or incomplete documents.

332.011. As used in this chapter, the following words and terms mean:

2         (1) "Accredited dental hygiene school", any program which teaches a course in dental  
3 hygiene which is accredited by the Commission on Dental Accreditation of the American Dental  
4 Association and which shall have a minimum of two academic years of curriculum provided in  
5 a college or institution of higher education;

6         (2) "Accredited dental school", any college, university, school, or other institution which  
7 teaches dentistry which has been certified by the American Dental Association;

8         (3) "Board", the Missouri dental board;

9         (4) "Certified dental assistant", a dental assistant who is currently certified by the Dental  
10 Assisting National Board, Inc.;

11         (5) "Dental assistant", an employee of a duly registered and currently licensed dentist in  
12 Missouri, other than either a dental hygienist or a certified dental assistant;

13 (6) "Expanded-functions dental assistant", any dental assistant who has passed a basic  
14 dental assisting skills mastery examination or a certified dental assistant, either of whom has  
15 successfully completed a board-approved expanded-functions course, passed a competency  
16 examination, and [can show proof of competency in a specific expanded function to the] **has**  
17 **obtained a permit authorizing them to perform expanded-functions duties from the**  
18 Missouri dental board;

19 (7) "Expanded-functions duties", reversible acts that would be considered the  
20 practice of dentistry as defined in section 332.071 that the board specifies by rule may be  
21 delegated to a dental assistant or dental hygienist who possesses an expanded-functions  
22 permit.

**332.098. 1. Dentists delegating expanded-functions duties to dental assistants or**  
2 **dental hygienists shall do so in accordance with rules set forth by the board. No person**  
3 **shall perform expanded-functions duties in this state except under his or her own name**  
4 **and unless the board has issued to such person a permit to perform expanded-functions**  
5 **duties in this state; however, no provision of this section or this chapter shall be construed**  
6 **to make it unlawful for a duly registered and currently licensed dentist in this state to**  
7 **perform dental services that would be considered expanded-functions duties in this state**  
8 **or to make it unlawful for dental assistants, certified dental assistants, or expanded-**  
9 **functions dental assistants to perform polishing of teeth. Under section 332.093, the board**  
10 **shall not promulgate any rule allowing the delegation of acts to a dental assistant that**  
11 **would conflict with the practice of dental hygiene as defined in section 332.091. Expanded-**  
12 **functions permits shall be renewed every five years. The board may promulgate rules**  
13 **specifying the criteria by which expanded-functions permits may be issued and renewed.**  
14 **Expanded-functions permits shall be subject to discipline as provided in section 332.321.**

15 **2. Any rule or portion of a rule, as that term is defined in section 536.010, that is**  
16 **created under the authority delegated in this section shall become effective only if it**  
17 **complies with and is subject to all of the provisions of chapter 536 and, if applicable,**  
18 **section 536.028. This section and chapter 536 are nonseverable and if any of the powers**  
19 **vested with the general assembly pursuant to chapter 536 to review, to delay the effective**  
20 **date, or to disapprove and annul a rule are subsequently held unconstitutional, then the**  
21 **grant of rulemaking authority and any rule proposed or adopted after August 28, 2010,**  
22 **shall be invalid and void.**

334.100. 1. The board may refuse to issue or renew any certificate of registration or  
2 authority, permit or license required pursuant to this chapter for one or any combination of  
3 causes stated in subsection 2 of this section. The board shall notify the applicant in writing of  
4 the reasons for the refusal and shall advise the applicant of the applicant's right to file a

5 complaint with the administrative hearing commission as provided by chapter 621, RSMo. As  
6 an alternative to a refusal to issue or renew any certificate, registration or authority, the board  
7 may, at its discretion, issue a license which is subject to probation, restriction or limitation to an  
8 applicant for licensure for any one or any combination of causes stated in subsection 2 of this  
9 section. The board's order of probation, limitation or restriction shall contain a statement of the  
10 discipline imposed, the basis therefor, the date such action shall become effective, and a  
11 statement that the applicant has thirty days to request in writing a hearing before the  
12 administrative hearing commission. If the board issues a probationary, limited or restricted  
13 license to an applicant for licensure, either party may file a written petition with the  
14 administrative hearing commission within thirty days of the effective date of the probationary,  
15 limited or restricted license seeking review of the board's determination. If no written request  
16 for a hearing is received by the administrative hearing commission within the thirty-day period,  
17 the right to seek review of the board's decision shall be considered as waived.

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

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

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

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

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

38 (a) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by  
39 fraud, deception or misrepresentation; willfully and continually overcharging or overtreating  
40 patients; or charging for visits to the physician's office which did not occur unless the services

41 were contracted for in advance, or for services which were not rendered or documented in the  
42 patient's records;

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

45 (c) Willfully and continually performing inappropriate or unnecessary treatment,  
46 diagnostic tests or medical or surgical services;

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

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

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

53 (g) Final disciplinary action by any professional medical or osteopathic association or  
54 society or licensed hospital or medical staff of such hospital in this or any other state or territory,  
55 whether agreed to voluntarily or not, and including, but not limited to, any removal, suspension,  
56 limitation, or restriction of the person's license or staff or hospital privileges, failure to renew  
57 such privileges or license for cause, or other final disciplinary action, if the action was in any way  
58 related to unprofessional conduct, professional incompetence, malpractice or any other violation  
59 of any provision of this chapter;

60 (h) Signing a blank prescription form; or dispensing, prescribing, administering or  
61 otherwise distributing any drug, controlled substance or other treatment without sufficient  
62 examination, or for other than medically accepted therapeutic or experimental or investigative  
63 purposes duly authorized by a state or federal agency, or not in the course of professional  
64 practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical  
65 infirmity or disease, except as authorized in section 334.104;

66 (i) Exercising influence within a physician-patient relationship for purposes of engaging  
67 a patient in sexual activity;

68 (j) Terminating the medical care of a patient without adequate notice or without making  
69 other arrangements for the continued care of the patient;

70 (k) Failing to furnish details of a patient's medical records to other treating physicians  
71 or hospitals upon proper request; or failing to comply with any other law relating to medical  
72 records;

73 (l) Failure of any applicant or licensee, other than the licensee subject to the  
74 investigation, to cooperate with the board during any investigation;

75 (m) Failure to comply with any subpoena or subpoena duces tecum from the board or  
76 an order of the board;

- 77 (n) Failure to timely pay license renewal fees specified in this chapter;
- 78 (o) Violating a probation agreement with this board or any other licensing agency;
- 79 (p) Failing to inform the board of the physician's current residence and business address;
- 80 (q) Advertising by an applicant or licensee which is false or misleading, or which
- 81 violates any rule of the board, or which claims without substantiation the positive cure of any
- 82 disease, or professional superiority to or greater skill than that possessed by any other physician.
- 83 An applicant or licensee shall also be in violation of this provision if the applicant or licensee
- 84 has a financial interest in any organization, corporation or association which issues or conducts
- 85 such advertising;
- 86 (5) Any conduct or practice which is or might be harmful or dangerous to the mental or
- 87 physical health of a patient or the public; or incompetency, gross negligence or repeated
- 88 negligence in the performance of the functions or duties of any profession licensed or regulated
- 89 by this chapter. For the purposes of this subdivision, "repeated negligence" means the failure,
- 90 on more than one occasion, to use that degree of skill and learning ordinarily used under the
- 91 same or similar circumstances by the member of the applicant's or licensee's profession;
- 92 (6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling
- 93 any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted
- 94 pursuant to this chapter;
- 95 (7) Impersonation of any person holding a certificate of registration or authority, permit
- 96 or license or allowing any person to use his or her certificate of registration or authority, permit,
- 97 license or diploma from any school;
- 98 (8) Revocation, suspension, restriction, modification, limitation, reprimand, warning,
- 99 censure, probation or other final disciplinary action against the holder of or applicant for a
- 100 license or other right to practice any profession regulated by this chapter by another state,
- 101 territory, federal agency or country, whether or not voluntarily agreed to by the licensee or
- 102 applicant, including, but not limited to, the denial of licensure, surrender of the license, allowing
- 103 the license to expire or lapse, or discontinuing or limiting the practice of medicine while subject
- 104 to an investigation or while actually under investigation by any licensing authority, medical
- 105 facility, branch of the armed forces of the United States of America, insurance company, court,
- 106 agency of the state or federal government, or employer;
- 107 (9) A person is finally adjudged incapacitated or disabled by a court of competent
- 108 jurisdiction;
- 109 (10) Assisting or enabling any person to practice or offer to practice any profession
- 110 licensed or regulated by this chapter who is not registered and currently eligible to practice
- 111 pursuant to this chapter; or knowingly performing any act which in any way aids, assists,
- 112 procures, advises, or encourages any person to practice medicine who is not registered and

113 currently eligible to practice pursuant to this chapter. A physician who works in accordance with  
114 standing orders or protocols or in accordance with the provisions of section 334.104 shall not be  
115 in violation of this subdivision;

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

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

120 (13) Violation of the drug laws or rules and regulations of this state, any other state or  
121 the federal government;

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

125 (15) Soliciting patronage in person or by agents or representatives, or by any other means  
126 or manner, under the person's own name or under the name of another person or concern, actual  
127 or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or  
128 necessity for or appropriateness of health care services for all patients, or the qualifications of  
129 an individual person or persons to diagnose, render, or perform health care services;

130 (16) Using, or permitting the use of, the person's name under the designation of  
131 "Doctor", "Dr.", "M.D.", or "D.O.", or any similar designation with reference to the commercial  
132 exploitation of any goods, wares or merchandise;

133 (17) Knowingly making or causing to be made a false statement or misrepresentation of  
134 a material fact, with intent to defraud, for payment pursuant to the provisions of chapter 208,  
135 RSMo, or chapter 630, RSMo, or for payment from Title XVIII or Title XIX of the federal  
136 Medicare program;

137 (18) Failure or refusal to properly guard against contagious, infectious or communicable  
138 diseases or the spread thereof; maintaining an unsanitary office or performing professional  
139 services under unsanitary conditions; or failure to report the existence of an unsanitary condition  
140 in the office of a physician or in any health care facility to the board, in writing, within thirty  
141 days after the discovery thereof;

142 (19) Any candidate for licensure or person licensed to practice as a physical therapist,  
143 paying or offering to pay a referral fee or, notwithstanding section 334.010 to the contrary,  
144 practicing or offering to practice professional physical therapy independent of the prescription  
145 and direction of a person licensed and registered as a physician and surgeon pursuant to this  
146 chapter, as a dentist pursuant to chapter 332, RSMo, as a podiatrist pursuant to chapter 330,  
147 RSMo, **as an advanced practice registered nurse under chapter 335**, or any licensed and

148 registered physician, dentist, [or] podiatrist, **or advanced practice registered nurse** practicing  
149 in another jurisdiction, whose license is in good standing;

150 (20) Any candidate for licensure or person licensed to practice as a physical therapist,  
151 treating or attempting to treat ailments or other health conditions of human beings other than by  
152 professional physical therapy and as authorized by sections 334.500 to 334.620;

153 (21) Any person licensed to practice as a physician or surgeon, requiring, as a condition  
154 of the physician-patient relationship, that the patient receive prescribed drugs, devices or other  
155 professional services directly from facilities of that physician's office or other entities under that  
156 physician's ownership or control. A physician shall provide the patient with a prescription which  
157 may be taken to the facility selected by the patient and a physician knowingly failing to disclose  
158 to a patient on a form approved by the advisory commission for professional physical therapists  
159 as established by section 334.625 which is dated and signed by a patient or guardian  
160 acknowledging that the patient or guardian has read and understands that the physician has a  
161 pecuniary interest in a physical therapy or rehabilitation service providing prescribed treatment  
162 and that the prescribed treatment is available on a competitive basis. This subdivision shall not  
163 apply to a referral by one physician to another physician within a group of physicians practicing  
164 together;

165 (22) A pattern of personal use or consumption of any controlled substance unless it is  
166 prescribed, dispensed or administered by another physician who is authorized by law to do so;

167 (23) Revocation, suspension, limitation or restriction of any kind whatsoever of any  
168 controlled substance authority, whether agreed to voluntarily or not;

169 (24) For a physician to operate, conduct, manage, or establish an abortion facility, or for  
170 a physician to perform an abortion in an abortion facility, if such facility comes under the  
171 definition of an ambulatory surgical center pursuant to sections 197.200 to 197.240, RSMo, and  
172 such facility has failed to obtain or renew a license as an ambulatory surgical center;

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

177 (a) In enforcing this subdivision the board shall, after a hearing by the board, upon a  
178 finding of probable cause, require a physician to submit to a reexamination for the purpose of  
179 establishing his or her competency to practice as a physician or surgeon or with a specialty  
180 conducted in accordance with rules adopted for this purpose by the board, including rules to  
181 allow the examination of the pattern and practice of such physician's or surgeon's professional  
182 conduct, or to submit to a mental or physical examination or combination thereof by at least three  
183 physicians, one selected by the physician compelled to take the examination, one selected by the

184 board, and one selected by the two physicians so selected who are graduates of a professional  
185 school approved and accredited as reputable by the association which has approved and  
186 accredited as reputable the professional school from which the licentiate graduated. However,  
187 if the physician is a graduate of a medical school not accredited by the American Medical  
188 Association or American Osteopathic Association, then each party shall choose any physician  
189 who is a graduate of a medical school accredited by the American Medical Association or the  
190 American Osteopathic Association;

191 (b) For the purpose of this subdivision, every physician licensed pursuant to this chapter  
192 is deemed to have consented to submit to a mental or physical examination when directed in  
193 writing by the board and further to have waived all objections to the admissibility of the  
194 examining physician's testimony or examination reports on the ground that the examining  
195 physician's testimony or examination is privileged;

196 (c) In addition to ordering a physical or mental examination to determine competency,  
197 the board may, notwithstanding any other law limiting access to medical or other health data,  
198 obtain medical data and health records relating to a physician or applicant without the physician's  
199 or applicant's consent;

200 (d) Written notice of the reexamination or the physical or mental examination shall be  
201 sent to the physician, by registered mail, addressed to the physician at the physician's last known  
202 address. Failure of a physician to designate an examining physician to the board or failure to  
203 submit to the examination when directed shall constitute an admission of the allegations against  
204 the physician, in which case the board may enter a final order without the presentation of  
205 evidence, unless the failure was due to circumstances beyond the physician's control. A  
206 physician whose right to practice has been affected under this subdivision shall, at reasonable  
207 intervals, be afforded an opportunity to demonstrate that the physician can resume the competent  
208 practice as a physician and surgeon with reasonable skill and safety to patients;

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

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

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

218 4. After the filing of such complaint before the administrative hearing commission, the  
219 proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon

220 a finding by the administrative hearing commission that the grounds, provided in subsection 2  
221 of this section, for disciplinary action are met, the board may, singly or in combination, warn,  
222 censure or place the person named in the complaint on probation on such terms and conditions  
223 as the board deems appropriate for a period not to exceed ten years, or may suspend the person's  
224 license, certificate or permit for a period not to exceed three years, or restrict or limit the person's  
225 license, certificate or permit for an indefinite period of time, or revoke the person's license,  
226 certificate, or permit, or administer a public or private reprimand, or deny the person's  
227 application for a license, or permanently withhold issuance of a license or require the person to  
228 submit to the care, counseling or treatment of physicians designated by the board at the expense  
229 of the individual to be examined, or require the person to attend such continuing educational  
230 courses and pass such examinations as the board may direct.

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

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

238 7. In any investigation, hearing or other proceeding to determine a licensee's or  
239 applicant's fitness to practice, any record relating to any patient of the licensee or applicant shall  
240 be discoverable by the board and admissible into evidence, regardless of any statutory or  
241 common law privilege which such licensee, applicant, record custodian or patient might  
242 otherwise invoke. In addition, no such licensee, applicant, or record custodian may withhold  
243 records or testimony bearing upon a licensee's or applicant's fitness to practice on the ground of  
244 privilege between such licensee, applicant or record custodian and a patient.

334.506. 1. As used in this section, "approved health care provider" means a person  
2 holding a current and active license as a physician and surgeon under this chapter, a chiropractor  
3 under chapter 331, RSMo, a dentist under chapter 332, RSMo, a podiatrist under chapter 330,  
4 RSMo, a physician assistant under this chapter, **an advanced practice registered nurse under**  
5 **chapter 335**, or any licensed and registered physician, chiropractor, dentist, or podiatrist  
6 practicing in another jurisdiction whose license is in good standing.

7 2. A physical therapist shall not initiate treatment for a new injury or illness without a  
8 prescription from an approved health care provider.

9 3. A physical therapist may provide educational resources and training, develop fitness  
10 or wellness programs for asymptomatic persons, or provide screening or consultative services

11 within the scope of physical therapy practice without the prescription and direction of an  
12 approved health care provider.

13 4. A physical therapist may examine and treat without the prescription and direction of  
14 an approved health care provider any person with a recurring self-limited injury within one year  
15 of diagnosis by an approved health care provider or a chronic illness that has been previously  
16 diagnosed by an approved health care provider. The physical therapist shall:

17 (1) Contact the patient's current approved health care provider within seven days of  
18 initiating physical therapy services under this subsection;

19 (2) Not change an existing physical therapy referral available to the physical therapist  
20 without approval of the patient's current approved health care provider;

21 (3) Refer to an approved health care provider any patient whose medical condition at the  
22 time of examination or treatment is determined to be beyond the scope of practice of physical  
23 therapy;

24 (4) Refer to an approved health care provider any patient whose condition for which  
25 physical therapy services are rendered under this subsection has not been documented to be  
26 progressing toward documented treatment goals after six visits or fourteen days, whichever first  
27 occurs;

28 (5) Notify the patient's current approved health care provider prior to the continuation  
29 of treatment if treatment rendered under this subsection is to continue beyond thirty days. The  
30 physical therapist shall provide such notification for each successive period of thirty days.

31 5. The provision of physical therapy services of evaluation and screening pursuant to this  
32 section shall be limited to a physical therapist, and any authority for evaluation and screening  
33 granted within this section may not be delegated. Upon each reinitiation of physical therapy  
34 services, a physical therapist shall provide a full physical therapy evaluation prior to the  
35 reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the  
36 provisions of subsection 4 of this section may be delegated by physical therapists to physical  
37 therapist assistants only if the patient's current approved health care provider has been so  
38 informed as part of the physical therapist's seven-day notification upon reinitiation of physical  
39 therapy services as required in subsection 4 of this section. Nothing in this subsection shall be  
40 construed as to limit the ability of physical therapists or physical therapist assistants to provide  
41 physical therapy services in accordance with the provisions of this chapter, and upon the referral  
42 of an approved health care provider. Nothing in this subsection shall prohibit an approved health  
43 care provider from acting within the scope of their practice as defined by the applicable chapters  
44 of RSMo.

45 6. No person licensed to practice, or applicant for licensure, as a physical therapist or  
46 physical therapist assistant shall make a medical diagnosis.

47           7. A physical therapist shall only delegate physical therapy treatment to a physical  
48 therapist assistant or to a person in an entry level of a professional education program approved  
49 by the Commission for Accreditation of Physical Therapists and Physical Therapist Assistant  
50 Education (CAPTE) who satisfies supervised clinical education requirements related to the  
51 person's physical therapist or physical therapist assistant education. The entry-level person shall  
52 be under on-site supervision of a physical therapist.

          334.613. 1. The board may refuse to issue or renew a license to practice as a physical  
2 therapist or physical therapist assistant for one or any combination of causes stated in subsection  
3 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and  
4 shall advise the applicant of the applicant's right to file a complaint with the administrative  
5 hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue  
6 or renew a license to practice as a physical therapist or physical therapist assistant, the board  
7 may, at its discretion, issue a license which is subject to probation, restriction, or limitation to  
8 an applicant for licensure for any one or any combination of causes stated in subsection 2 of this  
9 section. The board's order of probation, limitation, or restriction shall contain a statement of the  
10 discipline imposed, the basis therefor, the date such action shall become effective, and a  
11 statement that the applicant has thirty days to request in writing a hearing before the  
12 administrative hearing commission. If the board issues a probationary, limited, or restricted  
13 license to an applicant for licensure, either party may file a written petition with the  
14 administrative hearing commission within thirty days of the effective date of the probationary,  
15 limited, or restricted license seeking review of the board's determination. If no written request  
16 for a hearing is received by the administrative hearing commission within the thirty-day period,  
17 the right to seek review of the board's decision shall be considered as waived.

18           2. The board may cause a complaint to be filed with the administrative hearing  
19 commission as provided by chapter 621, RSMo, against any holder of a license to practice as a  
20 physical therapist or physical therapist assistant who has failed to renew or has surrendered his  
21 or her license for any one or any combination of the following causes:

22           (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic  
23 beverage to an extent that such use impairs a person's ability to perform the work of a physical  
24 therapist or physical therapist assistant;

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

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

34 (4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or  
35 unprofessional conduct in the performance of the functions or duties of a physical therapist or  
36 physical therapist assistant, including but not limited to the following:

37 (a) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by  
38 fraud, deception, or misrepresentation; willfully and continually overcharging or overtreating  
39 patients; or charging for sessions of physical therapy which did not occur unless the services  
40 were contracted for in advance, or for services which were not rendered or documented in the  
41 patient's records;

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

44 (c) Willfully and continually performing inappropriate or unnecessary treatment or  
45 services;

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

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

50 (f) Performing services which have been declared by board rule to be of no physical  
51 therapy value;

52 (g) Final disciplinary action by any professional association, professional society,  
53 licensed hospital or medical staff of the hospital, or physical therapy facility in this or any other  
54 state or territory, whether agreed to voluntarily or not, and including but not limited to any  
55 removal, suspension, limitation, or restriction of the person's professional employment,  
56 malpractice, or any other violation of any provision of this chapter;

57 (h) Administering treatment without sufficient examination, or for other than medically  
58 accepted therapeutic or experimental or investigative purposes duly authorized by a state or  
59 federal agency, or not in the course of professional physical therapy practice;

60 (i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual,  
61 while a physical therapist or physical therapist assistant/patient relationship exists; making sexual  
62 advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of  
63 a sexual nature with patients or clients;

64 (j) Terminating the care of a patient without adequate notice or without making other  
65 arrangements for the continued care of the patient;

66 (k) Failing to furnish details of a patient's physical therapy records to treating physicians,  
67 other physical therapists, or hospitals upon proper request; or failing to comply with any other  
68 law relating to physical therapy records;

69 (l) Failure of any applicant or licensee, other than the licensee subject to the  
70 investigation, to cooperate with the board during any investigation;

71 (m) Failure to comply with any subpoena or subpoena duces tecum from the board or  
72 an order of the board;

73 (n) Failure to timely pay license renewal fees specified in this chapter;

74 (o) Violating a probation agreement with this board or any other licensing agency;

75 (p) Failing to inform the board of the physical therapist's or physical therapist assistant's  
76 current telephone number, residence, and business address;

77 (q) Advertising by an applicant or licensee which is false or misleading, or which  
78 violates any rule of the board, or which claims without substantiation the positive cure of any  
79 disease, or professional superiority to or greater skill than that possessed by any other physical  
80 therapist or physical therapist assistant. An applicant or licensee shall also be in violation of this  
81 provision if the applicant or licensee has a financial interest in any organization, corporation, or  
82 association which issues or conducts such advertising;

83 (5) Any conduct or practice which is or might be harmful or dangerous to the mental or  
84 physical health of a patient or the public; or incompetency, gross negligence, or repeated  
85 negligence in the performance of the functions or duties of a physical therapist or physical  
86 therapist assistant. For the purposes of this subdivision, "repeated negligence" means the failure,  
87 on more than one occasion, to use that degree of skill and learning ordinarily used under the  
88 same or similar circumstances by the member of the applicant's or licensee's profession;

89 (6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling  
90 any person to violate, any provision of this chapter, or of any lawful rule adopted under this  
91 chapter;

92 (7) Impersonation of any person licensed as a physical therapist or physical therapist  
93 assistant or allowing any person to use his or her license or diploma from any school;

94 (8) Revocation, suspension, restriction, modification, limitation, reprimand, warning,  
95 censure, probation, or other final disciplinary action against a physical therapist or physical  
96 therapist assistant for a license or other right to practice as a physical therapist or physical  
97 therapist assistant by another state, territory, federal agency or country, whether or not voluntarily  
98 agreed to by the licensee or applicant, including but not limited to the denial of licensure,  
99 surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the  
100 practice of physical therapy while subject to an investigation or while actually under  
101 investigation by any licensing authority, medical facility, branch of the armed forces of the

102 United States of America, insurance company, court, agency of the state or federal government,  
103 or employer;

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

106 (10) Assisting or enabling any person to practice or offer to practice who is not licensed  
107 and currently eligible to practice under this chapter; or knowingly performing any act which in  
108 any way aids, assists, procures, advises, or encourages any person to practice physical therapy  
109 who is not licensed and currently eligible to practice under this chapter;

110 (11) Issuance of a license to practice as a physical therapist or physical therapist assistant  
111 based upon a material mistake of fact;

112 (12) Failure to display a valid license pursuant to practice as a physical therapist or  
113 physical therapist assistant;

114 (13) Knowingly making, or causing to be made, or aiding, or abetting in the making of,  
115 a false statement in any document executed in connection with the practice of physical therapy;

116 (14) Soliciting patronage in person or by agents or representatives, or by any other means  
117 or manner, under the person's own name or under the name of another person or concern, actual  
118 or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or  
119 necessity for or appropriateness of physical therapy services for all patients, or the qualifications  
120 of an individual person or persons to render, or perform physical therapy services;

121 (15) Using, or permitting the use of, the person's name under the designation of "physical  
122 therapist", "physiotherapist", "registered physical therapist", "P.T.", "Ph.T.", "P.T.T.", "D.P.T.",  
123 "M.P.T." or "R.P.T.", "physical therapist assistant", "P.T.A.", "L.P.T.A.", "C.P.T.A.", or any  
124 similar designation with reference to the commercial exploitation of any goods, wares or  
125 merchandise;

126 (16) Knowingly making or causing to be made a false statement or misrepresentation of  
127 a material fact, with intent to defraud, for payment under chapter 208, RSMo, or chapter 630,  
128 RSMo, or for payment from Title XVIII or Title XIX of the federal Medicare program;

129 (17) Failure or refusal to properly guard against contagious, infectious, or communicable  
130 diseases or the spread thereof; maintaining an unsanitary facility or performing professional  
131 services under unsanitary conditions; or failure to report the existence of an unsanitary condition  
132 in any physical therapy facility to the board, in writing, within thirty days after the discovery  
133 thereof;

134 (18) Any candidate for licensure or person licensed to practice as a physical therapist or  
135 physical therapist assistant paying or offering to pay a referral fee or, notwithstanding section  
136 334.010 to the contrary, practicing or offering to practice professional physical therapy  
137 independent of the prescription and direction of a person licensed and registered as a physician

138 and surgeon under this chapter, as a physician assistant under this chapter, as a chiropractor  
139 under chapter 331, RSMo, as a dentist under chapter 332, RSMo, as a podiatrist under chapter  
140 330, RSMo, **an advanced practice registered nurse under chapter 335**, or any licensed and  
141 registered physician, chiropractor, dentist, or podiatrist practicing in another jurisdiction, whose  
142 license is in good standing;

143 (19) Any candidate for licensure or person licensed to practice as a physical therapist or  
144 physical therapist assistant treating or attempting to treat ailments or other health conditions of  
145 human beings other than by professional physical therapy and as authorized by sections 334.500  
146 to 334.685;

147 (20) A pattern of personal use or consumption of any controlled substance unless it is  
148 prescribed, dispensed, or administered by a physician who is authorized by law to do so;

149 (21) Failing to maintain adequate patient records under 334.602;

150 (22) Attempting to engage in conduct that subverts or undermines the integrity of the  
151 licensing examination or the licensing examination process, including but not limited to utilizing  
152 in any manner recalled or memorized licensing examination questions from or with any person  
153 or entity, failing to comply with all test center security procedures, communicating or attempting  
154 to communicate with any other examinees during the test, or copying or sharing licensing  
155 examination questions or portions of questions;

156 (23) Any candidate for licensure or person licensed to practice as a physical therapist or  
157 physical therapist assistant who requests, receives, participates or engages directly or indirectly  
158 in the division, transferring, assigning, rebating or refunding of fees received for professional  
159 services or profits by means of a credit or other valuable consideration such as wages, an  
160 unearned commission, discount or gratuity with any person who referred a patient, or with any  
161 relative or business associate of the referring person;

162 (24) Being unable to practice as a physical therapist or physical therapist assistant with  
163 reasonable skill and safety to patients by reasons of incompetency, or because of illness,  
164 drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical  
165 condition. The following shall apply to this subdivision:

166 (a) In enforcing this subdivision the board shall, after a hearing by the board, upon a  
167 finding of probable cause, require a physical therapist or physical therapist assistant to submit  
168 to a reexamination for the purpose of establishing his or her competency to practice as a physical  
169 therapist or physical therapist assistant conducted in accordance with rules adopted for this  
170 purpose by the board, including rules to allow the examination of the pattern and practice of such  
171 physical therapist's or physical therapist assistant's professional conduct, or to submit to a mental  
172 or physical examination or combination thereof by a facility or professional approved by the  
173 board;

174 (b) For the purpose of this subdivision, every physical therapist and physical therapist  
175 assistant licensed under this chapter is deemed to have consented to submit to a mental or  
176 physical examination when directed in writing by the board;

177 (c) In addition to ordering a physical or mental examination to determine competency,  
178 the board may, notwithstanding any other law limiting access to medical or other health data,  
179 obtain medical data and health records relating to a physical therapist, physical therapist assistant  
180 or applicant without the physical therapist's, physical therapist assistant's or applicant's consent;

181 (d) Written notice of the reexamination or the physical or mental examination shall be  
182 sent to the physical therapist or physical therapist assistant, by registered mail, addressed to the  
183 physical therapist or physical therapist assistant at the physical therapist's or physical therapist  
184 assistant's last known address. Failure of a physical therapist or physical therapist assistant to  
185 submit to the examination when directed shall constitute an admission of the allegations against  
186 the physical therapist or physical therapist assistant, in which case the board may enter a final  
187 order without the presentation of evidence, unless the failure was due to circumstances beyond  
188 the physical therapist's or physical therapist assistant's control. A physical therapist or physical  
189 therapist assistant whose right to practice has been affected under this subdivision shall, at  
190 reasonable intervals, be afforded an opportunity to demonstrate that the physical therapist or  
191 physical therapist assistant can resume the competent practice as a physical therapist or physical  
192 therapist assistant with reasonable skill and safety to patients;

193 (e) In any proceeding under this subdivision neither the record of proceedings nor the  
194 orders entered by the board shall be used against a physical therapist or physical therapist  
195 assistant in any other proceeding. Proceedings under this subdivision shall be conducted by the  
196 board without the filing of a complaint with the administrative hearing commission;

197 (f) When the board finds any person unqualified because of any of the grounds set forth  
198 in this subdivision, it may enter an order imposing one or more of the disciplinary measures set  
199 forth in subsection 3 of this section.

200 3. After the filing of such complaint before the administrative hearing commission, the  
201 proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon  
202 a finding by the administrative hearing commission that the grounds provided in subsection 2  
203 of this section for disciplinary action are met, the board may, singly or in combination:

204 (1) Warn, censure or place the physical therapist or physical therapist assistant named  
205 in the complaint on probation on such terms and conditions as the board deems appropriate for  
206 a period not to exceed ten years;

207 (2) Suspend the physical therapist's or physical therapist assistant's license for a period  
208 not to exceed three years;

209 (3) Restrict or limit the physical therapist's or physical therapist assistant's license for an  
210 indefinite period of time;

211 (4) Revoke the physical therapist's or physical therapist assistant's license;

212 (5) Administer a public or private reprimand;

213 (6) Deny the physical therapist's or physical therapist assistant's application for a license;

214 (7) Permanently withhold issuance of a license;

215 (8) Require the physical therapist or physical therapist assistant to submit to the care,  
216 counseling or treatment of physicians designated by the board at the expense of the physical  
217 therapist or physical therapist assistant to be examined;

218 (9) Require the physical therapist or physical therapist assistant to attend such continuing  
219 educational courses and pass such examinations as the board may direct.

220 4. In any order of revocation, the board may provide that the physical therapist or  
221 physical therapist assistant shall not apply for reinstatement of the physical therapist's or physical  
222 therapist assistant's license for a period of time ranging from two to seven years following the  
223 date of the order of revocation. All stay orders shall toll this time period.

224 5. Before restoring to good standing a license issued under this chapter which has been  
225 in a revoked, suspended, or inactive state for any cause for more than two years, the board may  
226 require the applicant to attend such continuing medical education courses and pass such  
227 examinations as the board may direct.

228 6. In any investigation, hearing or other proceeding to determine a physical therapist's,  
229 physical therapist assistant's or applicant's fitness to practice, any record relating to any patient  
230 of the physical therapist, physical therapist assistant, or applicant shall be discoverable by the  
231 board and admissible into evidence, regardless of any statutory or common law privilege which  
232 such physical therapist, physical therapist assistant, applicant, record custodian, or patient might  
233 otherwise invoke. In addition, no such physical therapist, physical therapist assistant, applicant,  
234 or record custodian may withhold records or testimony bearing upon a physical therapist's,  
235 physical therapist assistant's, or applicant's fitness to practice on the [ground] **grounds** of  
236 privilege between such physical therapist, physical therapist assistant, applicant, or record  
237 custodian and a patient.

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

2 (1) "Applicant", any individual who seeks to become licensed as a physician assistant;

3 (2) "Certification" or "registration", a process by a certifying entity that grants  
4 recognition to applicants meeting predetermined qualifications specified by such certifying  
5 entity;

6 (3) "Certifying entity", the nongovernmental agency or association which certifies or  
7 registers individuals who have completed academic and training requirements;

- 8 (4) "Department", the department of insurance, financial institutions and professional  
9 registration or a designated agency thereof;
- 10 (5) "License", a document issued to an applicant by the board acknowledging that the  
11 applicant is entitled to practice as a physician assistant;
- 12 (6) "Physician assistant", a person who has graduated from a physician assistant program  
13 accredited by the American Medical Association's Committee on Allied Health Education and  
14 Accreditation or by its successor agency, who has passed the certifying examination administered  
15 by the National Commission on Certification of Physician Assistants and has active certification  
16 by the National Commission on Certification of Physician Assistants who provides health care  
17 services delegated by a licensed physician. A person who has been employed as a physician  
18 assistant for three years prior to August 28, 1989, who has passed the National Commission on  
19 Certification of Physician Assistants examination, and has active certification of the National  
20 Commission on Certification of Physician Assistants;
- 21 (7) "Recognition", the formal process of becoming a certifying entity as required by the  
22 provisions of sections 334.735 to 334.749;
- 23 (8) "Supervision", control exercised over a physician assistant working within the same  
24 facility as the supervising physician sixty-six percent of the time a physician assistant provides  
25 patient care, except a physician assistant may make follow-up patient examinations in hospitals,  
26 nursing homes, patient homes, and correctional facilities, each such examination being reviewed,  
27 approved and signed by the supervising physician, except as provided by subsection 2 of this  
28 section. For the purposes of this section, the percentage of time a physician assistant provides  
29 patient care with the supervising physician on-site shall be measured each calendar quarter. The  
30 supervising physician must be readily available in person or via telecommunication during the  
31 time the physician assistant is providing patient care. The board shall promulgate rules pursuant  
32 to chapter 536, RSMo, for documentation of joint review of the physician assistant activity by  
33 the supervising physician and the physician assistant. The physician assistant shall be limited  
34 to practice at locations where the supervising physician is no further than thirty miles by road  
35 using the most direct route available, or in any other fashion so distanced as to create an  
36 impediment to effective intervention and supervision of patient care or adequate review of  
37 services. Any other provisions of this chapter notwithstanding, for up to ninety days following  
38 the effective date of rules promulgated by the board to establish the waiver process under  
39 subsection 2 of this section, any physician assistant practicing in a health professional shortage  
40 area as of April 1, 2007, shall be allowed to practice under the on-site requirements stipulated  
41 by the supervising physician on the supervising physician form that was in effect on April 1,  
42 2007.

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

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

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

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

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

64           (5) Nothing in this section shall be construed to require a physician-physician assistant  
65 team to increase their on-site requirement allowed in their initial waiver in order to qualify for  
66 renewal of such waiver;

67           (6) If a waiver has been granted by the board of healing arts **on or after August 28,**  
68 **2009,** to a **physician-physician assistant team** working in a rural health clinic under the federal  
69 Rural Health Clinic Services Act, P.L. 95-210, as amended, no additional waiver shall be  
70 required **for the physician-physician assistant team,** so long as the rural health clinic maintains  
71 its status as a rural health clinic under such federal act, and such [physician assistant and  
72 supervising physician] **physician-physician assistant team** comply with federal supervision  
73 requirements. **No supervision requirements in addition to the minimum federal law shall**  
74 **be required for the physician-physician assistant team in a rural health clinic if a waiver**  
75 **has been granted by the board. However, the board shall be able to void a current waiver**  
76 **after conducting a hearing and upon a finding of fact that the physician-physician assistant**  
77 **team has failed to comply with such federal act or either member of the team has violated**  
78 **a provision of this chapter;**

79 (7) A physician assistant shall only be required to seek a renewal of a waiver every five  
80 years or when his or her supervising physician is a different physician than the physician shown  
81 on the waiver application or they move their primary practice location more than ten miles from  
82 the location shown on the waiver application.

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

85 (1) Taking patient histories;

86 (2) Performing physical examinations of a patient;

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

89 (4) Performing routine therapeutic procedures;

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

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

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

97 (8) Assisting in surgery;

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

100 (10) Physician assistants shall not perform abortions.

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

110 (1) A physician assistant shall only prescribe controlled substances in accordance with  
111 section 334.747;

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

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

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

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

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

125 5. A physician assistant shall clearly identify himself or herself as a physician assistant  
126 and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr."  
127 or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician  
128 assistant shall practice or attempt to practice without physician supervision or in any location  
129 where the supervising physician is not immediately available for consultation, assistance and  
130 intervention, except as otherwise provided in this section, and in an emergency situation, nor  
131 shall any physician assistant bill a patient independently or directly for any services or procedure  
132 by the physician assistant.

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

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

149 8. When a physician assistant supervision agreement is utilized to provide health care  
150 services for conditions other than acute self-limited or well-defined problems, the supervising

151 physician or other physician designated in the supervision agreement shall see the patient for  
152 evaluation and approve or formulate the plan of treatment for new or significantly changed  
153 conditions as soon as practical, but in no case more than two weeks after the patient has been  
154 seen by the physician assistant.

155 9. At all times the physician is responsible for the oversight of the activities of, and  
156 accepts responsibility for, health care services rendered by the physician assistant.

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

161 11. No contract or other agreement shall require a physician to act as a supervising  
162 physician for a physician assistant against the physician's will. A physician shall have the right  
163 to refuse to act as a supervising physician, without penalty, for a particular physician assistant.  
164 No contract or other agreement shall limit the supervising physician's ultimate authority over any  
165 protocols or standing orders or in the delegation of the physician's authority to any physician  
166 assistant, but this requirement shall not authorize a physician in implementing such protocols,  
167 standing orders, or delegation to violate applicable standards for safe medical practice  
168 established by hospital's medical staff.

169 12. Physician assistants shall file with the board a copy of their supervising physician  
170 form.

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

335.081. So long as the person involved does not represent or hold himself or herself out  
2 as a nurse licensed to practice in this state, no provision of sections 335.011 to 335.096 shall be  
3 construed as prohibiting:

4 (1) The practice of any profession for which a license is required and issued pursuant to  
5 the laws of this state by a person duly licensed to practice that profession;

6 (2) The services rendered by technicians, nurses' aides or their equivalent trained and  
7 employed in public or private hospitals and licensed long-term care facilities except the services  
8 rendered in licensed long-term care facilities shall be limited to administering medication,  
9 excluding injectable other than insulin;

10 (3) The providing of nursing care by friends or members of the family of the person  
11 receiving such care;

- 12 (4) The incidental care of the sick, aged, or infirm by domestic servants or persons  
13 primarily employed as housekeepers;
- 14 (5) The furnishing of nursing assistance in the case of an emergency situation;
- 15 (6) The practice of nursing under proper supervision:
- 16 (a) As a part of the course of study by students enrolled in approved schools of  
17 professional nursing or in schools of practical nursing;
- 18 (b) By graduates of accredited nursing programs pending the results of the first licensing  
19 examination or ninety days after graduation, whichever first occurs;
- 20 (c) A graduate nurse who is prevented from attending the first licensing examination  
21 following graduation by reason of active duty in the military may practice as a graduate nurse  
22 pending the results of the first licensing examination scheduled by the board following the  
23 release of such graduate nurse from active military duty or pending the results of the first  
24 licensing examination taken by the graduate nurse while involved in active military service  
25 whichever comes first;
- 26 (7) The practice of nursing in this state by any legally qualified nurse duly licensed to  
27 practice in another state whose engagement requires such nurse to accompany and care for a  
28 patient temporarily residing in this state for a period not to exceed six months;
- 29 (8) The practice of any legally qualified nurse who is employed by the government of  
30 the United States or any bureau, division or agency thereof, while in the discharge of his or her  
31 official duties or to the practice of any legally qualified nurse serving in the armed forces of the  
32 United States while stationed within this state;
- 33 (9) Nonmedical nursing care of the sick with or without compensation when done in  
34 connection with the practice of the religious tenets of any church by adherents thereof, as long  
35 as they do not engage in the practice of nursing as defined in sections 335.011 to 335.096;
- 36 **(10) The practice of any legally qualified and licensed nurse of another state,**  
37 **territory, or foreign country whose responsibilities include transporting patients into, out**  
38 **of, or through this state while actively engaged in patient transport does not exceed forty-**  
39 **eight hours in this state.**

337.528. 1. If the committee finds merit to a complaint by an individual incarcerated or  
2 under the care and control of the department of corrections **or by an individual who has been**  
3 **ordered to be taken into custody, detained, or held under sections 632.480 to 632.513** and  
4 takes further investigative action, no documentation may appear on file or disciplinary action  
5 may be taken in regards to the licensee's license unless the provisions of subsection 2 of section  
6 337.525 have been violated. Any case file documentation that does not result in the committee  
7 filing an action under subsection 2 of section 337.525 shall be destroyed within three months  
8 after the final case disposition by the board. No notification to any other licensing board in

9 another state or any national registry regarding any investigative action shall be made unless the  
10 provisions of subsection 2 of section 337.525 have been violated.

11 2. Upon written request of the licensed professional counselor subject to a complaint,  
12 prior to August 28, 2007, by an individual incarcerated or under the care and control of the  
13 department of corrections **or prior to August 28, 2010, by an individual who has been**  
14 **ordered to be taken into custody, detained, or held under sections 632.480 to 632.513** that  
15 did not result in the committee filing an action under subsection 2 of section 337.525, the  
16 committee and the division of professional registration shall in a timely fashion:

17 (1) Destroy all documentation regarding the complaint;

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

20 (3) Send a letter to the licensee that clearly states that the committee found the complaint  
21 to be unsubstantiated, that the committee has taken the requested action, and notify the licensee  
22 of the provisions of subsection 3 of this section.

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

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

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

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

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

20 (4) "Department", the Missouri department of insurance, financial institutions and  
21 professional registration;

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

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

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

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

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

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

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

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

56 advocacy, community organization and development, planning, evaluation, implementation and  
57 administration of policies, programs, and activities. Under supervision as provided in this  
58 section, the practice of master social work may include the practices reserved to clinical social  
59 workers or advanced macro social workers **for no more than forty-eight consecutive calendar**  
60 **months for the purpose of obtaining licensure under section 337.615 or 337.645;**

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

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

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

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

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

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

86 (a) Practiced in the field of **social work as a licensed social worker** for which he or she  
87 is supervising the applicant for a minimum [uninterrupted period] of five years;

88 (b) Successfully completed a minimum of sixteen hours of supervisory training from the  
89 Association of Social Work Boards, the National Association of Social Workers, an accredited  
90 university, or a program approved by the state committee for social workers. All organizations

91 providing the supervisory training shall adhere to the basic content and quality standards outlined  
92 by the state committee on social work; and

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

95 [(19)] (18) "Qualified baccalaureate supervisor", any licensed social worker who meets  
96 the qualifications of a qualified clinical supervisor, qualified master supervisor, qualified  
97 advanced macro supervisor, or a licensed baccalaureate social worker who has:

98 (a) Practiced in the field of **social work as a licensed social worker** for which he or she  
99 is supervising the applicant for a minimum [uninterrupted period] of five years;

100 (b) Successfully completed a minimum of sixteen hours of supervisory training from the  
101 Association of Social Work Boards, the National Association of Social Workers, an accredited  
102 university, or a program approved by the state committee for social workers. All organizations  
103 providing the supervisory training shall adhere to the basic content and quality standards outlined  
104 by the state committee on social workers; and

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

107 [(20)] (19) "Qualified clinical supervisor", any licensed clinical social worker who has:

108 (a) Practiced in the field of **social work as a licensed social worker** for which he or she  
109 is supervising the applicant [uninterrupted since August 28, 2004, or] **for** a minimum of five  
110 years;

111 (b) Successfully completed a minimum of sixteen hours of supervisory training from the  
112 Association of Social Work Boards, the National Association of Social Workers, an accredited  
113 university, or a program approved by the state committee for social workers. All organizations  
114 providing the supervisory training shall adhere to the basic content and quality standards outlined  
115 by the state committee on social work; and

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

118 [(21)] (20) "Social worker", any individual that has:

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

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

122 (c) A current social worker license as set forth in sections 337.600 to 337.689.

337.603. No person shall use the title of "licensed clinical social worker"[,] **or** "clinical  
2 social worker" [or "provisional licensed clinical social worker"], or engage in the practice of  
3 clinical social work in this state, unless the person is licensed as required by the provisions of

4 sections 337.600 to 337.689. Only individuals who are licensed clinical social workers shall  
5 practice clinical social work. Sections 337.600 to 337.689 shall not apply to:

6 (1) Any person registered, certificated, or licensed by this state, another state, or any  
7 recognized national certification agent acceptable to the committee to practice any other  
8 occupation or profession while rendering services similar in nature to clinical social work in the  
9 performance of the occupation or profession which the person is registered, certificated, or  
10 licensed; and

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

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

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

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

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

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

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

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

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

26 3. The committee shall issue a license to each person who files an application and fee  
27 as required by the provisions of sections 337.600 to 337.689 and who furnishes evidence

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

337.618. Each license issued pursuant to the provisions of sections 337.600 to 337.689  
2 shall expire on a renewal date established by the director. The term of licensure shall be  
3 twenty-four months. The committee shall require a minimum number of thirty clock hours of  
4 continuing education for renewal of a license issued pursuant to sections 337.600 to 337.689.  
5 The committee shall renew any license[, other than a provisional license,] upon application for  
6 a renewal, completion of the required continuing education hours and upon payment of the fee  
7 established by the committee pursuant to the provisions of section 337.612. As provided by rule,  
8 the board may waive or extend the time requirements for completion of continuing education for  
9 reasons related to health, military service, foreign residency, or for other good cause. All  
10 requests for waivers or extensions of time shall be made in writing and submitted to the board  
11 before the renewal date.

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

4 2. A licensed master social worker shall be deemed qualified to practice the applications  
5 of social work theory, knowledge, methods and ethics and the professional use of self to restore  
6 or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families,  
7 groups, organizations, and communities. "Master social work practice" includes the applications  
8 of specialized knowledge and advanced practice skills in the management, information and  
9 referral, counseling, supervision, consultation, education, research, advocacy, community  
10 organization, and the development, implementation, and administration of policies, programs,  
11 and activities. Under supervision as provided in sections 337.600 to 337.689, the practice of  
12 master social work may include the practices reserved to clinical social workers or advanced  
13 macro social workers **for no more than forty-eight consecutive calendar months for the**  
14 **purpose of obtaining licensure under section 337.615 or 337.645.**

337.700. As used in sections 337.700 to 337.739, the following terms mean:

2 (1) "Committee", the state committee for [family and] marital **and family** therapists;

- 3 (2) "Department", the Missouri department of insurance, financial institutions and  
4 professional registration;
- 5 (3) "Director", the director of the division of professional registration;
- 6 (4) "Division", the division of professional registration;
- 7 (5) "Fund", the marital and family therapists' fund created in section 337.712;
- 8 (6) "Licensed marital and family therapist", a person to whom a license has been issued  
9 pursuant to the provisions of sections 337.700 to 337.739, whose license is in force and not  
10 suspended or revoked;
- 11 (7) "Marital and family therapy", the use of scientific and applied marriage and family  
12 theories, methods and procedures for the purpose of describing, diagnosing, evaluating and  
13 modifying marital, family and individual behavior within the context of marital and family  
14 systems, including the context of marital formation and dissolution. Marriage and family therapy  
15 is based on systems theories, marriage and family development, normal and dysfunctional  
16 behavior, human sexuality and psychotherapeutic, marital and family therapy theories and  
17 techniques and includes the use of marriage and family therapy theories and techniques in the  
18 diagnosis, evaluation, assessment and treatment of intrapersonal or interpersonal dysfunctions  
19 within the context of marriage and family systems. Marriage and family therapy may also  
20 include clinical research into more effective methods for the treatment and prevention of the  
21 above-named conditions;
- 22 (8) "Practice of marital and family therapy", the rendering of professional marital and  
23 family therapy services to individuals, family groups and marital pairs, singly or in groups,  
24 whether such services are offered directly to the general public or through organizations, either  
25 public or private, for a fee, monetary or otherwise;
- 26 (9) **"Provisional licensed marital and family therapist", any person who is a**  
27 **graduate of an acceptable education institution described in subsection 1 of section 337.715**  
28 **with at least a master's degree in marital and family therapy, or its equivalent, and meets**  
29 **all requirements of a licensed marital and family therapist other than the supervised**  
30 **clinical experience set forth in section 337.715, and who is supervised by a person who is**  
31 **qualified to be a supervisor, as defined by rule of the division.**

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

- 5 (1) Any person registered, certificated or licensed by this state, another state or any  
6 recognized national certification agent acceptable to the division to practice any other occupation  
7 or profession while rendering services similar in nature to marital and family therapy in the

8 performance of the occupation or profession in which the person is registered, certificated or  
9 licensed, so long as the person does not use the title of "licensed marital and family therapist",  
10 "marital and family therapist", or "provisional **licensed** marital and family therapist";

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

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

**337.705. No official, employee, board, commission, or agency of the state of  
2 Missouri, any county, municipality, school district, or other political subdivision of this  
3 state shall discriminate between persons licensed under sections 337.700 to 337.739 when  
4 promulgating rules or when requiring or recommending services that legally may be  
5 performed by persons licensed under sections 337.700 to 337.739.**

337.706. 1. For a period of six months from September 1, 1995, a person may apply for  
2 licensure without examination and shall be exempt from the academic requirements of sections  
3 337.700 to 337.739 if the division is satisfied that the applicant:

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

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

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

8 3. [After March 1, 1996,] No person may engage in marital and family therapy for  
9 compensation or hold himself or herself out as a "licensed marital and family therapist", "marital  
10 and family therapist", [or] "provisional **licensed** marital and family therapist", or "**supervised  
11 marital and family therapist**" unless the person complies with all educational and examination  
12 requirements and is licensed in accordance with the provisions of sections 337.700 to 337.739.

337.715. 1. Each applicant for licensure or **provisional licensure** as a marital and  
2 family therapist shall furnish evidence to the committee that:

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

7 (2) The applicant **for licensure as a marital and family therapist** has twenty-four  
8 months of postgraduate supervised clinical experience acceptable to the [division, as the  
9 division] **state committee as the state committee** determines by rule;

10 (3) After August 28, 2008, the applicant shall have completed a minimum of three  
11 semester hours of graduate-level course work in diagnostic systems either within the curriculum

12 leading to a degree as defined in subdivision (1) of this subsection or as post-master's  
13 graduate-level course work. Each applicant shall demonstrate supervision of diagnosis as a core  
14 component of the postgraduate supervised clinical experience as defined in subdivision (2) of  
15 this subsection;

16 (4) Upon examination, the applicant is possessed of requisite knowledge of the  
17 profession, including techniques and applications research and its interpretation and professional  
18 affairs and ethics;

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

22 2. Any person otherwise qualified for licensure holding a current license, certificate of  
23 registration, or permit from another state or territory of the United States or the District of  
24 Columbia to practice marriage and family therapy may be granted a license without examination  
25 to engage in the practice of marital and family therapy in this state upon application to the state  
26 committee, payment of the required fee as established by the state committee, and satisfaction  
27 of the following:

28 (1) Determination by the state committee that the requirements of the other state or  
29 territory are substantially the same as Missouri;

30 (2) Verification by the applicant's licensing entity that the applicant has a current license;  
31 and

32 (3) Consent by the applicant to examination of any disciplinary history in any state.

33 3. The state committee shall issue a license to each person who files an application and  
34 fee as required by the provisions of sections 337.700 to 337.739.

337.718. 1. Each license issued pursuant to the provisions of sections 337.700 to  
2 337.739 shall expire on a renewal date established by the director. The term of licensure shall  
3 be twenty-four months; however, the director may establish a shorter term for the first licenses  
4 issued pursuant to sections 337.700 to 337.739. The division shall renew any license upon  
5 application for a renewal and upon payment of the fee established by the division pursuant to the  
6 provisions of section 337.712. Effective August 28, 2008, as a prerequisite for renewal, each  
7 [licensee] **licensed marital and family therapist** shall furnish to the committee satisfactory  
8 evidence of the completion of the requisite number of hours of continuing education as defined  
9 by rule, which shall be no more than forty contact hours biennially. The continuing education  
10 requirements may be waived by the committee upon presentation to the committee of satisfactory  
11 evidence of illness or for other good cause.

12 2. The committee may issue temporary permits to practice under extenuating  
13 circumstances as determined by the committee and defined by rule.

337.727. The committee shall promulgate rules and regulations pertaining to:

- 2 (1) The form and content of license applications required by the provisions of sections  
3 337.700 to 337.739 and the procedures for filing an application for an initial or renewal license  
4 in this state;
- 5 (2) Fees required by the provisions of sections 337.700 to 337.739;
- 6 (3) The content, conduct and administration of the licensing examination required by  
7 section 337.715;
- 8 (4) The characteristics of supervised clinical experience as that term is used in section  
9 337.715;
- 10 (5) The equivalent of the basic educational requirements set forth in section 337.715;
- 11 (6) The standards and methods to be used in assessing competency as a [licensed] marital  
12 and family therapist;
- 13 (7) Establishment and promulgation of procedures for investigating, hearing and  
14 determining grievances and violations occurring under the provisions of sections 337.700 to  
15 337.739;
- 16 (8) Development of an appeal procedure for the review of decisions and rules of  
17 administrative agencies existing under the constitution or laws of this state;
- 18 (9) Establishment of a policy and procedure for reciprocity with other states, including  
19 states which do not have marital and family therapist licensing laws or states whose licensing  
20 laws are not substantially the same as those of this state; and
- 21 (10) Any other policies or procedures necessary to the fulfillment of the requirements  
22 of sections 337.700 to 337.739.

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

11 2. Each nonpublic committee member shall be a resident of the state of Missouri for one  
12 year, shall be a United States citizen, and shall meet all the requirements for licensing  
13 enumerated in sections 337.700 to 337.739, shall be licensed [pursuant to] **as a licensed marital  
14 and family therapist under** sections 337.700 to 337.739, except the members of the first

15 committee, who shall be licensed within six months of their appointment, and are actively  
16 engaged in the practice of marital and family therapy. If a member of the committee shall, during  
17 the member's term as a committee member, remove the member's domicile from the state of  
18 Missouri, then the committee shall immediately notify the governor, and the seat of that  
19 committee member shall be declared vacant. All such vacancies shall be filled by appointment  
20 as in the same manner as the first appointment, and the member so appointed shall serve for the  
21 unexpired term of the member whose seat has been declared vacant. The public members shall  
22 be at the time of each member's appointment a citizen of the United States; a resident of this state  
23 for a period of one year and a registered voter; a person who is not and never was a member of  
24 any profession licensed or regulated pursuant to this chapter or the spouse of such person; a  
25 person who does not have and never has had a material, financial interest in either the provision  
26 of the professional services regulated by this chapter, or an activity or organization directly  
27 related to any profession licensed or regulated pursuant to this chapter.

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

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

38         5. The governor may remove any member of the committee for misconduct, inefficiency,  
39 incompetency or neglect of office.

338.333. 1. No person or distribution outlet shall act as a wholesale drug distributor or  
2 pharmacy distributor without first obtaining license to do so from the Missouri board of  
3 pharmacy and paying the required fee. The board may grant temporary licenses when the  
4 wholesale drug distributor or pharmacy distributor first applies for a license to operate within the  
5 state. Temporary licenses shall remain valid until such time as the board shall find that the  
6 applicant meets or fails to meet the requirements for regular licensure. No license shall be issued  
7 or renewed for a wholesale drug distributor or pharmacy distributor to operate unless the same  
8 shall be operated in a manner prescribed by law and according to the rules and regulations  
9 promulgated by the board of pharmacy with respect thereto. Separate licenses shall be required  
10 for each distribution site owned or operated by a wholesale drug distributor or pharmacy

11 distributor, **unless such drug distributor meets the requirements of subsection 2 of section**  
12 **338.335.**

13         2. An agent or employee of any licensed or registered wholesale drug distributor or  
14 pharmacy distributor need not seek licensure under this section and may lawfully possess  
15 pharmaceutical drugs, if he is acting in the usual course of his business or employment.

16         3. The board may permit out-of-state wholesale drug distributors or out-of-state  
17 pharmacy distributors to be licensed as required by sections 338.210 to 338.370 on the basis of  
18 reciprocity to the extent that an out-of-state wholesale drug distributor or out-of-state pharmacy  
19 distributor both:

20             (1) Possesses a valid license granted by another state pursuant to legal standards  
21 comparable to those which must be met by a wholesale drug distributor or pharmacy distributor  
22 of this state as prerequisites for obtaining a license under the laws of this state; and

23             (2) Distributes into Missouri from a state which would extend reciprocal treatment under  
24 its own laws to a wholesale drug distributor or pharmacy distributor of this state.

338.335. **1.** Separate licenses shall be required for each distribution site owned or  
2 operated by a wholesale drug distributor or pharmacy distributor unless drugs are delivered only  
3 on a consignment basis as defined by the board.

4         **2. A wholesale drug distributor distributing drug-related devices in this state shall**  
5 **not be required to obtain a license from the board for out-of-state distribution sites owned**  
6 **by the wholesale drug distributor if:**

7             **(1) The wholesale drug distributor has one or more distribution sites located in this**  
8 **state, and all such in-state distribution sites receiving shipments of medical devices are**  
9 **licensed by the board as a distributor;**

10             **(2) The wholesale drug distributor's out-of-state distribution sites shipping to the**  
11 **in-state distribution site or sites are in compliance with the licensing laws of their**  
12 **respective states; and**

13             **(3) The wholesale drug distributor's out-of-state distribution sites that deliver drug-**  
14 **related devices regulated by the board into this state for patient use deliver such devices**  
15 **to the licensed wholesale drug distributor's in-state distribution site or sites.**

16         **3. A Missouri wholesale drug distributor receiving shipments of drug-related**  
17 **devices from an out-of-state facility that is not required to be licensed as a distributor**  
18 **under subsection 2 of this section is responsible for all shipments received.**

338.337. It shall be unlawful for any out-of-state wholesale drug distributor or  
2 out-of-state pharmacy acting as a distributor to do business in this state without first obtaining  
3 a license to do so from the board of pharmacy and paying the required fee, **except as otherwise**  
4 **provided by law.** Application for an out-of-state wholesale drug distributor's license under this

5 section shall be made on a form furnished by the board. The issuance of a license under sections  
6 338.330 to 338.370 shall not change or affect tax liability imposed by the Missouri department  
7 of revenue on any out-of-state wholesale drug distributor or out-of-state pharmacy. Any  
8 out-of-state wholesale drug distributor that is a drug manufacturer and which produces and  
9 distributes from a facility which has been inspected and approved by the Food and Drug  
10 Administration, maintains current approval by the federal Food and Drug Administration, and  
11 has provided a copy of the most recent Food and Drug Administration Establishment Inspection  
12 Report to the board, and which is licensed by the state in which the distribution facility is  
13 located, or, if located within a foreign jurisdiction, is authorized and in good standing to operate  
14 as a drug manufacturer within such jurisdiction, need not be licensed as provided in this section  
15 but such out-of-state distributor shall register its business name and address with the board of  
16 pharmacy and pay a filing fee in an amount established by the board.

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

- 5 (1) Sells, exchanges, purchases, rents, or leases real estate;
- 6 (2) Offers to sell, exchange, purchase, rent or lease real estate;
- 7 (3) Negotiates or offers or agrees to negotiate the sale, exchange, purchase, rental or  
8 leasing of real estate;
- 9 (4) Lists or offers or agrees to list real estate for sale, lease, rental or exchange;
- 10 (5) Buys, sells, offers to buy or sell or otherwise deals in options on real estate or  
11 improvements thereon;
- 12 (6) Advertises or holds himself or herself out as a licensed real estate broker while  
13 engaged in the business of buying, selling, exchanging, renting, or leasing real estate;
- 14 (7) Assists or directs in the procuring of prospects, calculated to result in the sale,  
15 exchange, leasing or rental of real estate;
- 16 (8) Assists or directs in the negotiation of any transaction calculated or intended to result  
17 in the sale, exchange, leasing or rental of real estate;
- 18 (9) Engages in the business of charging to an unlicensed person an advance fee in  
19 connection with any contract whereby the real estate broker undertakes to promote the sale of  
20 that person's real estate through its listing in a publication issued for such purpose intended to  
21 be circulated to the general public;
- 22 (10) Performs any of the foregoing acts on behalf of the owner of real estate, or interest  
23 therein, or improvements affixed thereon, for compensation.

24           2. A "real estate salesperson" is any person, **partnership, limited partnership, limited**  
25 **liability company, association, professional corporation, or corporation, domestic or**  
26 **foreign** who for a compensation or valuable consideration becomes associated, either as an  
27 independent contractor or employee, either directly or indirectly, with a real estate broker to do  
28 any of the things above mentioned. The provisions of sections 339.010 to 339.180 and sections  
29 339.710 to 339.860 shall not be construed to deny a real estate salesperson who is compensated  
30 solely by commission the right to be associated with a broker as an independent contractor.

31           3. A "real estate broker-salesperson" is any person, **partnership, limited**  
32 **partnership, limited liability company, association, professional corporation, or**  
33 **corporation, domestic or foreign, who has a real estate broker license in good standing,**  
34 **who for a compensation or valuable consideration becomes associated, either as an**  
35 **independent contractor or employee, either directly or indirectly, with a real estate broker**  
36 **to do any of the things above mentioned. A real estate broker-salesperson may not also**  
37 **operate as a real estate broker. The provisions of sections 339.010 to 339.180 and sections**  
38 **339.710 to 339.860 shall not be construed to deny a real estate salesperson who is**  
39 **compensated solely by commission the right to be associated with a broker as an**  
40 **independent contractor.**

41           [3.] 4. The term "commission" as used in sections 339.010 to 339.180 and sections  
42 339.710 to 339.860 means the Missouri real estate commission.

43           [4.] 5. "Real estate" for the purposes of sections 339.010 to 339.180 and sections  
44 339.710 to 339.860 shall mean, and include, leaseholds, as well as any other interest or estate in  
45 land, whether corporeal, incorporeal, freehold or nonfreehold, and the real estate is situated in  
46 this state.

47           [5.] 6. "Advertising" shall mean any communication, whether oral or written, between  
48 a licensee or other entity acting on behalf of one or more licensees and the public, and shall  
49 include, but not be limited to, business cards, signs, insignias, letterheads, radio, television,  
50 newspaper and magazine ads, Internet advertising, websites, display or group ads in telephone  
51 directories, and billboards.

52           [6.] 7. The provisions of sections 339.010 to 339.180 and sections 339.710 to 339.860  
53 shall not apply to:

54           (1) Any person, partnership, **limited partnership, limited liability company,**  
55 association, **professional corporation,** or corporation who as owner, lessor, or lessee shall  
56 perform any of the acts described in subsection 1 of this section with reference to property owned  
57 or leased by them, or to the regular employees thereof;

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

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

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

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

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

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

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

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

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

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

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

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

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

91 (9) Any newspaper, magazine, periodical, Internet site, Internet communications, or any  
92 form of communications regulated or licensed by the Federal Communications Commission or  
93 any successor agency or commission whereby the advertising of real estate is incidental to its  
94 operation;

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

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

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

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

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

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

339.020. It shall be unlawful for any person, partnership, **limited partnership, limited liability company**, association, **professional corporation**, or corporation, foreign or domestic, to act as a real estate broker, **real estate broker-salesperson**, or real estate salesperson, or to advertise or assume to act as such without a license first procured from the commission.

339.030. A corporation, partnership, **limited partnership, limited liability company, professional corporation**, or association shall be granted a **broker's, broker-salesperson's, or salesperson's** license when **the required fee is paid and:**

4 (1) **For a real estate broker** individual licenses have been issued to every member,  
 5 **general partner, associate, manager, member**, or officer of such partnership, **limited partnership, limited liability company**, association, **professional corporation**, or corporation  
 6 who actively participates in its brokerage business and to every person, **partnership, limited partnership, limited liability company, professional corporation, or corporation** who acts  
 7 as a salesperson for such partnership, **limited partnership, limited liability company**,  
 8 association, **professional corporation**, or corporation [and when the required fee is paid.] ; or

11 (2) **For a real estate broker-salesperson when an individual broker-salesperson license has been issued to every general partner, associate, manager, member, or officers of such partnership, limited partnership, limited liability company, association, professional corporation, or corporation who acts as a broker-salesperson, and individual salesperson licenses have been issued to all general partners, associates, managers,**

16 **members, or officers of such partnership, limited partnership, limited liability company,**  
17 **association, professional corporation, or corporation who act as salesperson; or**

18 **(3) For a real estate salesperson when individual salesperson licenses have been**  
19 **issued to all general partners, associates, managers, members, or officers of such**  
20 **partnership, limited partnership, limited liability company, association, professional**  
21 **corporation, or corporation who act as a salesperson.**

339.040. 1. Licenses shall be granted only to persons who present, and corporations,  
2 associations, [or] partnerships, **limited partnerships and limited liability companies** whose  
3 officers, **professional corporations, managers, associates, [or] general partners, or members**  
4 **who actively participate in such entity's brokerage, broker-salesperson, or salesperson**  
5 **business** present, satisfactory proof to the commission that they:

6 (1) Are persons of good moral character; and

7 (2) Bear a good reputation for honesty, integrity, and fair dealing; and

8 (3) Are competent to transact the business of a broker or salesperson in such a manner  
9 as to safeguard the interest of the public.

10 2. In order to determine an applicant's qualifications to receive a license under sections  
11 339.010 to 339.180 and sections 339.710 to 339.860, the commission shall hold oral or written  
12 examinations at such times and places as the commission may determine.

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

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

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

29 6. Each application for a salesperson license shall include a certificate from a school  
30 accredited by the commission under the provisions of section 339.045 that the applicant has,

31 within six months prior to the date of application, successfully completed the prescribed  
32 salesperson curriculum or salesperson correspondence course offered by such school, except that  
33 the commission may waive all or part of the educational requirements set forth in this subsection  
34 when an applicant presents proof of other educational background or experience acceptable to  
35 the commission.

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

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

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

52 10. In the event of the death or incapacity of a licensed broker, or of one or more of the  
53 licensed **general** partners, officers, **managers, members** or associates of a real estate  
54 partnership, **limited partnership, limited liability company, professional corporation,**  
55 corporation, or association whereby the affairs of the broker, partnership, [or] **limited**  
56 **partnership, limited liability company, professional corporation,** corporation, **or association**  
57 cannot be carried on, the commission may issue, without examination or fee, to the legal  
58 representative or representatives of the deceased or incapacitated individual, or to another  
59 individual approved by the commission, a temporary broker license which shall authorize such  
60 individual to continue for a period to be designated by the commission to transact business for  
61 the sole purpose of winding up the affairs of the broker, partnership [or] , **limited partnership,**  
62 **limited liability company, professional corporation,** corporation, **or association** under the  
63 supervision of the commission.

339.080. 1. The commission may refuse to examine or issue a license to any person  
2 known by it to be guilty of any of the acts or practices specified in subsection 2 of section  
3 339.100, or to any person previously licensed whose license has been revoked, or may refuse to

4 issue a license to any association [or] , partnership, **corporation, professional corporation,**  
5 **limited partnership, or limited liability company** of which such person is a [member]  
6 **manager, officer or general partner, or in which as a member, partner or associates such**  
7 **person has or exercises a controlling interest either directly or indirectly,** or to any  
8 corporation of which such person is an officer or in which as a stockholder such person has or  
9 exercises a controlling interest either directly or indirectly.

10 2. Any person denied a license or the right to be examined shall be so notified by the  
11 commission in writing stating the reasons for denial or refusal to examine and informing the  
12 person so denied of his right to file a complaint with the administrative hearing commission in  
13 accordance with the applicable provisions of sections 621.015 to 621.198, RSMo, and the rules  
14 promulgated thereunder. All notices hereunder shall be sent by registered or certified mail to the  
15 last known address of the applicant.

339.110. The commission may refuse to issue a license to any person who is known by  
2 it to have been found guilty of forgery, embezzlement, obtaining money under false pretenses,  
3 extortion, criminal conspiracy to defraud, or other like offense, or to any association [or] ,  
4 partnership, **corporation, professional corporation, limited partnership, or limited liability**  
5 **company** of which [the person is a member] **such person is a manager, officer or general**  
6 **partner, or in which as a member, partner or associate such person has or exercises a**  
7 **controlling interest either directly or indirectly,** or to any corporation of which [the] **such**  
8 person is an officer or in which as a stockholder [the] **such** person has or exercises a controlling  
9 interest either directly or indirectly.

339.160. No person, partnership, **limited partnership, limited liability company,**  
2 **professional corporations,** corporation, or association engaged within this state in the business  
3 or acting in the capacity of a real estate broker, **real estate broker-salesperson** or real estate  
4 salesperson shall bring or maintain an action in any court in this state for the recovery of  
5 compensation for services rendered in the buying, selling, exchanging, leasing, renting or  
6 negotiating a loan upon any real estate without alleging and proving that such person,  
7 partnership, **limited partnership, limited liability company, professional corporation,**  
8 corporation, or association, **or its member, manager, officer, general partner or associate,**  
9 **as applicable,** was a licensed real estate broker, **broker-salesperson** or salesperson at the time  
10 when the alleged cause of action arose.

339.170. Any person or corporation, **professional corporation, partnership, limited**  
2 **partnership, limited liability company or association** knowingly violating any provision of  
3 sections 339.010 to 339.180 and sections 339.710 to 339.860 shall be guilty of a class B  
4 misdemeanor. Any officer or agent of a corporation, or **any member, manager, officer,**  
5 **associate, general partner** or agent of a partnership [or] , association, **corporation,**

6 **professional corporation, limited partnership, or limited liability company who actively**  
7 **participate in such entity's brokerage business**, who shall knowingly and personally  
8 participate in or be an accessory to any violation of sections 339.010 to 339.180 and sections  
9 339.710 to 339.860, shall be guilty of a class B misdemeanor. This section shall not be  
10 construed to release any person from civil liability or criminal prosecution under any other law  
11 of this state. The commission may cause complaint to be filed for violation of section 339.020  
12 in any court of competent jurisdiction, and perform such other acts as may be necessary to  
13 enforce the provisions hereof.

339.710. For purposes of sections 339.010 to 339.180, and sections 339.710 to 339.860,  
2 the following terms mean:

- 3 (1) "Adverse material fact", a fact related to the property not reasonably ascertainable  
4 or known to a party which negatively affects the value of the property. Adverse material facts  
5 may include matters pertaining to:
- 6 (a) Environmental hazards affecting the property;
  - 7 (b) Physical condition of the property which adversely affects the value of the property;
  - 8 (c) Material defects in the property;
  - 9 (d) Material defects in the title to the property;
  - 10 (e) Material limitation of the party's ability to perform under the terms of the contract;
- 11 (2) "Affiliated licensee", any broker or salesperson who works under the supervision of  
12 a designated broker;
- 13 (3) "Agent", a person or entity acting pursuant to the provisions of this chapter;
- 14 (4) "Broker disclosure form", the current form prescribed by the commission for  
15 presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement  
16 for brokerage services;
- 17 (5) "Brokerage relationship", the relationship created between a designated broker, the  
18 broker's affiliated licensees, and a client relating to the performance of services of a broker as  
19 defined in section 339.010, and sections 339.710 to 339.860. If a designated broker makes an  
20 appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such  
21 brokerage relationships are created between the appointed licensee or licensees and the client.  
22 Nothing in this subdivision shall:
- 23 (a) Alleviate the designated broker from duties of supervision of the appointed licensee  
24 or licensees; or
  - 25 (b) Alter the designated broker's underlying contractual agreement with the client;
  - 26 (6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage  
27 relationship with a licensee pursuant to sections 339.710 to 339.860;

28 (7) "Commercial real estate", any real estate other than real estate containing one to four  
29 residential units or real estate classified as agricultural and horticultural property for assessment  
30 purposes pursuant to section 137.016, RSMo. Commercial real estate does not include single  
31 family residential units including condominiums, townhouses, or homes in a subdivision when  
32 that real estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though the  
33 units may be part of a larger building or parcel of real estate containing more than four units;

34 (8) "Commission", the Missouri real estate commission;

35 (9) "Confidential information", information obtained by the licensee from the client and  
36 designated as confidential by the client, information made confidential by sections 339.710 to  
37 339.860 or any other statute or regulation, or written instructions from the client unless the  
38 information is made public or becomes public by the words or conduct of the client to whom the  
39 information pertains or by a source other than the licensee;

40 (10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real estate  
41 transaction in which a licensee is involved but who has not entered into a brokerage relationship  
42 with the licensee;

43 (11) "Designated agent", a licensee named by a designated broker as the limited agent  
44 of a client as provided for in section 339.820;

45 (12) "Designated broker", any individual licensed as a broker who is operating pursuant  
46 to the definition of real estate broker as defined in section 339.010, or any individual licensed  
47 as a broker who is appointed by a partnership, **limited partnership**, association, limited liability  
48 corporation, **professional corporation**, or a corporation engaged in the real estate brokerage  
49 business to be responsible for the acts of the partnership, **limited partnership**, association,  
50 limited liability [corporation,] **company, professional corporation** or corporation. Every real  
51 estate **broker** partnership, **limited partnership**, association, [or] limited liability [corporation]  
52 **company, professional corporation** or corporation shall appoint a designated broker;

53 (13) "Designated transaction broker", a licensee named by a designated broker or deemed  
54 appointed by a designated broker as the transaction broker for a client pursuant to section  
55 339.820;

56 (14) "Dual agency", a form of agency which may result when an agent licensee or  
57 someone affiliated with the agent licensee represents another party to the same transaction;

58 (15) "Dual agent", a limited agent who, with the written consent of all parties to a  
59 contemplated real estate transaction, has entered into an agency brokerage relationship, and not  
60 a transaction brokerage relationship, with and therefore represents both the seller and buyer or  
61 both the landlord and tenant;

62 (16) "Exclusive brokerage agreement", means a written brokerage agreement which  
63 provides that the broker has the sole right, through the broker or through one or more affiliated

64 licensees, to act as the exclusive limited agent, representative, or transaction broker of the client  
65 or customer that meets the requirements of section 339.780;

66 (17) "Licensee", a real estate broker or salesperson as defined in section 339.010;

67 (18) "Limited agent", a licensee whose duties and obligations to a client are those set  
68 forth in sections 339.730 to 339.750;

69 (19) "Ministerial acts", those acts that a licensee may perform for a person or entity that  
70 are informative in nature and do not rise to the level which requires the creation of a brokerage  
71 relationship. Examples of these acts include, but are not limited to:

72 (a) Responding to telephone inquiries by consumers as to the availability and pricing of  
73 brokerage services;

74 (b) Responding to telephone inquiries from a person concerning the price or location of  
75 property;

76 (c) Attending an open house and responding to questions about the property from a  
77 consumer;

78 (d) Setting an appointment to view property;

79 (e) Responding to questions of consumers walking into a licensee's office concerning  
80 brokerage services offered on particular properties;

81 (f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to  
82 a property;

83 (g) Describing a property or the property's condition in response to a person's inquiry;

84 (h) Showing a customer through a property being sold by an owner on his or her own  
85 behalf; or

86 (i) Referral to another broker or service provider;

87 (20) "Residential real estate", all real property improved by a structure that is used or  
88 intended to be used primarily for residential living by human occupants and that contains not  
89 more than four dwelling units or that contains single dwelling units owned as a condominium  
90 or in a cooperative housing association, and vacant land classified as residential property. The  
91 term "cooperative housing association" means an association, whether incorporated or  
92 unincorporated, organized for the purpose of owning and operating residential real property in  
93 Missouri, the shareholders or members of which, by reason of their ownership of a stock or  
94 membership certificate, a proprietary lease, or other evidence of membership, are entitled to  
95 occupy a dwelling unit pursuant to the terms of a proprietary lease or occupancy agreement;

96 (21) "Single agent", a licensee who has entered into a brokerage relationship with and  
97 therefore represents only one party in a real estate transaction. A single agent may be one of the  
98 following:

99 (a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate  
100 transaction;

101 (b) "Landlord's agent", which shall mean a licensee who represents a landlord in a  
102 leasing transaction;

103 (c) "Seller's agent", which shall mean a licensee who represents the seller in a real estate  
104 transaction; and

105 (d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing  
106 transaction;

107 (22) "Subagent", a designated broker, together with the broker's affiliated licensees,  
108 engaged by another designated broker, together with the broker's affiliated or appointed affiliated  
109 licensees, to act as a limited agent for a client, or a designated broker's unappointed affiliated  
110 licensees engaged by the designated broker, together with the broker's appointed affiliated  
111 licensees, to act as a limited agent for a client. A subagent owes the same obligations and  
112 responsibilities to the client pursuant to sections 339.730 to 339.740 as does the client's  
113 designated broker;

114 (23) "Transaction broker", any licensee acting pursuant to sections 339.710 to 339.860,  
115 who:

116 (a) Assists the parties to a transaction without an agency or fiduciary relationship to  
117 either party and is, therefore, neutral, serving neither as an advocate or advisor for either party  
118 to the transaction;

119 (b) Assists one or more parties to a transaction and who has not entered into a specific  
120 written agency agreement to represent one or more of the parties; or

121 (c) Assists another party to the same transaction either solely or through licensee  
122 affiliates. Such licensee shall be deemed to be a transaction broker and not a dual agent,  
123 provided that, notice of assumption of transaction broker status is provided to the buyer and  
124 seller immediately upon such default to transaction broker status, to be confirmed in writing prior  
125 to execution of the contract.

**339.845. If the commission receives a notice of delinquent taxes from the director  
2 of revenue under the provisions of section 324.010 regarding a real estate broker or  
3 salesperson, the commission shall immediately send a copy of such notice to the real estate  
4 broker with which the real estate broker or salesperson is associated.**

344.010. As used in this chapter the following words or phrases mean:

2 (1) "Board", the Missouri board of nursing home administrators;

3 (2) "Long-term care facility", any residential care facility, assisted living facility,  
4 intermediate care facility or skilled nursing facility, as defined in section 198.006, RSMo, or  
5 similar facility licensed by states other than Missouri;

6 (3) "Nursing home", any institution or facility defined as an assisted living facility,  
 7 **residential care facility**, intermediate care facility, or skilled nursing facility for licensing  
 8 purposes by section 198.006, RSMo, whether proprietary or nonprofit;

9 (4) "Nursing home administrator", a person who administers, manages, supervises, or  
 10 is in general administrative charge of a nursing home, whether such individual has an ownership  
 11 interest in the home, and whether his functions and duties are shared with one or more  
 12 individuals.

344.020. No person shall act or serve in the capacity of a nursing home administrator  
 2 without first procuring a license from the Missouri board of nursing home administrators as  
 3 provided in sections 344.010 to 344.108. The board may issue a separate license to  
 4 administrators of **residential care facilities that were licensed as a residential care facility II**  
 5 **on or before August 27, 2006, that continues to meet the licensure standards for a**  
 6 **residential care facility II in effect on August 27, 2006, and** assisted living facilities, as  
 7 defined in section 198.006, RSMo. Any individual who receives a license to operate a  
 8 **residential care facility or** an assisted living facility is not thereby authorized to operate any  
 9 intermediate care facility or skilled nursing facility as those terms are defined in section 198.006,  
 10 RSMo.

376.717. 1. Sections 376.715 to 376.758 shall provide coverage for the policies and  
 2 contracts specified in subsection 2 of this section:

3 (1) To persons who, regardless of where they reside, except for nonresident certificate  
 4 holders under group policies or contracts, are the beneficiaries, assignees or payees of the persons  
 5 covered under subdivision (2) of this subsection; and

6 (2) To persons who are owners of or certificate holders under such policies or contracts  
 7 [and], **other than structured settlement annuities**, who:

8 (a) Are residents of this state; or

9 (b) Are not residents, but only under all of the following conditions:

10 a. The insurers which issued such policies or contracts are domiciled in this state;

11 b. [Such insurers never held a license or certificate of authority in the states in which  
 12 such persons reside;] **The persons are not eligible for coverage by an association in any other**  
 13 **state due to the fact that the insurer was not licensed in such state at the time specified in**  
 14 **such state's guaranty association law; and**

15 c. [Such] **The states in which the persons reside** have associations similar to the  
 16 association created by sections 376.715 to 376.758[; and

17 d. Such persons are not eligible for coverage by such associations].

18 (3) **For structured settlement annuities specified in subsection 2 of this section,**  
 19 **subdivisions (1) and (2) of subsection 1 of this section shall not apply, and sections 376.715**

20 to 376.758 shall, except as provided in subdivisions (4) and (5) of this subsection, provide  
21 coverage to a person who is a payee under a structured settlement annuity, or beneficiary  
22 of a payee if the payee is deceased, if the payee:

23 (a) Is a resident, regardless of where the contract owner resides; or

24 (b) Is not a resident, but only under both of the following conditions:

25 a. (i) The contract owner of the structured settlement annuity is a resident; or

26 (ii) The contract owner of the structure settlement annuity is not a resident, but:

27 i. The insurer that issued the structured settlement annuity is domiciled in this  
28 state; and

29 ii. The state in which the contract owner resides has an association similar to the  
30 association created under sections 376.715 to 376.758; and

31 b. Neither the payee or beneficiary nor the contract owner is eligible for coverage  
32 by the association of the state in which the payee or contract owner resides.

33 (4) Sections 376.715 to 376.758 shall not provide to a person who is a payee or  
34 beneficiary of a contract owner resident of this state, if the payee or beneficiary is afforded  
35 any coverage by such an association of another state.

36 (5) Sections 376.715 to 376.758 is intended to provide coverage to a person who is  
37 a resident of this state and, in special circumstances, to a nonresident. In order to avoid  
38 duplicate coverage, if a person who would otherwise receive coverage under sections  
39 376.715 to 376.758 is provided coverage under the laws of any other state, the person shall  
40 not be provided coverage under sections 376.715 to 376.758. In determining the  
41 application of the provisions of this subdivision in situations where a person could be  
42 covered by such an association of more than one state, whether as an owner, payee,  
43 beneficiary, or assignee, sections 376.715 to 376.758 shall be construed in conjunction with  
44 the other state's laws to result in coverage by only one association.

45 2. Sections 376.715 to 376.758 shall provide coverage to the persons specified in  
46 subsection 1 of this section for direct, nongroup life, health, annuity [and supplemental] policies  
47 or contracts, and supplemental contracts to any such policies or contracts, and for  
48 certificates under direct group policies and contracts, except as limited by the provisions of  
49 sections 376.715 to 376.758. Annuity contracts and certificates under group annuity  
50 contracts include allocated funding agreements, structured settlement annuities, and any  
51 immediate or deferred annuity contracts.

52 3. Sections 376.715 to 376.758 shall not provide coverage for:

53 (1) Any portion of a policy or contract not guaranteed by the insurer, or under which the  
54 risk is borne by the policy or contract holder;

55 (2) Any policy or contract of reinsurance, unless assumption certificates have been  
56 issued;

57 (3) Any portion of a policy or contract to the extent that the rate of interest on which it  
58 is based, **or the interest rate, crediting rate, or similar factor determined by use of an index**  
59 **or other external reference stated in the policy or contract employed in calculating returns**  
60 **or changes in value:**

61 (a) Averaged over the period of four years prior to the date on which the association  
62 becomes obligated with respect to such policy or contract, exceeds the rate of interest determined  
63 by subtracting three percentage points from Moody's Corporate Bond Yield Average averaged  
64 for that same four-year period or for such lesser period if the policy or contract was issued less  
65 than four years before the association became obligated; and

66 (b) On and after the date on which the association becomes obligated with respect to  
67 such policy or contract exceeds the rate of interest determined by subtracting three percentage  
68 points from Moody's Corporate Bond Yield Average as most recently available;

69 (4) Any **portion of a policy or contract issued to a** plan or program of an employer,  
70 association or [similar entity] **other person** to provide life, health, or annuity benefits to its  
71 employees or members to the extent that such plan or program is self-funded or uninsured,  
72 including but not limited to benefits payable by an employer, association or [similar entity] **other**  
73 **person** under:

74 (a) A "multiple employer welfare arrangement" as defined in [section 514 of the  
75 Employee Retirement Income Security Act of 1974] **29 U.S.C. Section 1144**, as amended;

76 (b) A minimum premium group insurance plan;

77 (c) A stop-loss group insurance plan; or

78 (d) An administrative services only contract;

79 (5) Any portion of a policy or contract to the extent that it provides dividends or  
80 experience rating credits, **voting rights**, or provides that any fees or allowances be paid to any  
81 person, including the policy or contract holder, in connection with the service to or  
82 administration of such policy or contract; [and]

83 (6) Any policy or contract issued in this state by a member insurer at a time when it was  
84 not licensed or did not have a certificate of authority to issue such policy or contract in this state;

85 (7) **A portion of a policy or contract to the extent that the assessments required by**  
86 **section 376.735 with respect to the policy or contract are preempted by federal or state law;**

87 (8) **An obligation that does not arise under the express written terms of the policy**  
88 **or contract issued by the insurer to the contract owner or policy owner, including without**  
89 **limitation:**

90 (a) **Claims based on marketing materials;**

91 (b) **Claims based on side letters, riders, or other documents that were issued by the**  
92 **insurer without meeting applicable policy form filing or approval requirements;**

93 (c) **Misrepresentations of or regarding policy benefits;**

94 (d) **Extra-contractual claims;**

95 (e) **A claim for penalties or consequential or incidental damages;**

96 (9) **A contractual agreement that establishes the member insurer's obligations to**  
97 **provide a book value accounting guaranty for defined contribution benefit plan**  
98 **participants by reference to a portfolio of assets that is owned by the benefit plan or its**  
99 **trustee, which in each case is not an affiliate of the member insurer;**

100 (10) **An unallocated annuity contract;**

101 (11) **A portion of a policy or contract to the extent it provides for interest or other**  
102 **changes in value to be determined by the use of an index or other external reference stated**  
103 **in the policy or contract, but which have not been credited to the policy or contract, or as**  
104 **to which the policy or contract owner's rights are subject to forfeiture, as of the date the**  
105 **member insurer becomes an impaired or insolvent insurer under sections 376.715 to**  
106 **376.758, whichever is earlier. If a policy's or contract's interest or changes in value are**  
107 **credited less frequently than annually, for purposes of determining the value that have**  
108 **been credited and are not subject to forfeiture under this subdivision, the interest or**  
109 **change in value determined by using the procedures defined in the policy or contract will**  
110 **be credited as if the contractual date of crediting interest or changing values was the date**  
111 **of impairment or insolvency, whichever is earlier, and will not be subject to forfeiture;**

112 (12) **A policy or contract providing any hospital, medical, prescription drug or**  
113 **other health care benefit under Part C or Part D of Subchapter XVIII, Chapter 7 of Title**  
114 **42 of the United States Code, Medicare Part C & D, or any regulations issued thereunder.**

115 4. The benefits for which the association may become liable shall in no event exceed the  
116 lesser of:

117 (1) The contractual obligations for which the insurer is liable or would have been liable  
118 if it were not an impaired or insolvent insurer; or

119 (2) With respect to any one life, regardless of the number of policies or contracts:

120 (a) Three hundred thousand dollars in life insurance death benefits, but not more than  
121 one hundred thousand dollars in net cash surrender and net cash withdrawal values for life  
122 insurance;

123 (b) One hundred thousand dollars in health insurance benefits, including any net cash  
124 surrender and net cash withdrawal values;

125 (c) One hundred thousand dollars in the present value of annuity benefits, including net  
126 cash surrender and net cash withdrawal values.

127 Provided, however, that in no event shall the association be liable to expend more than three  
128 hundred thousand dollars in the aggregate with respect to any one life under paragraphs (a), (b),  
129 and (c) of this subdivision.

130 **5. The limitations set forth in subsection 4 of this section are limitations on the**  
131 **benefits for which the association is obligated before taking into account either its**  
132 **subrogation and assignment rights or the extent to which such benefits could be provided**  
133 **out of the assets of the impaired or insolvent insurer attributable to covered policies. The**  
134 **costs of the association's obligations under sections 376.715 to 376.758 may be met by the**  
135 **use of assets attributable to covered policies or reimbursed to the association under its**  
136 **subrogation and assignment rights.**

376.718. As used in sections 376.715 to 376.758, the following terms shall mean:

2 (1) "Account", any of the [four] accounts created under section 376.720;

3 (2) ["Annuity or annuity contract", any annuity contract or group annuity certificate  
4 which is issued to and owned by an individual. This definition of "annuity or annuity contract"  
5 does not include any form of unallocated annuity contract;

6 (3)] "Association", the Missouri life and health insurance guaranty association created  
7 under section 376.720;

8 **(3) "Benefit plan", a specific employee, union, or association of natural persons**  
9 **benefit plan;**

10 (4) "Contractual obligation", any obligation under a policy or contract or certificate under  
11 a group policy or contract, or portion thereof for which coverage is provided under the provisions  
12 of section 376.717;

13 (5) "Covered policy", any policy or contract [within the scope of sections 376.715 to  
14 376.758] **or portion of a policy or contract for which coverage is provided** under the  
15 provisions of section 376.717;

16 (6) "Director", the director of the department of insurance, financial institutions and  
17 professional registration of this state;

18 (7) **"Extra-contractual claims", includes but is not limited to claims relating to bad**  
19 **faith in the payment of claims, punitive or exemplary damages, or attorneys fees and costs;**

20 **(8) "Impaired insurer", a member insurer which, after August 13, 1988, is not an**  
21 **insolvent insurer, and is [deemed by the director to be potentially unable to fulfill its contractual**  
22 **obligations, or is] placed under an order of rehabilitation or conservation by a court of competent**  
23 **jurisdiction;**

24 **[(8)] (9) "Insolvent insurer", a member insurer which, after August 13, 1988, is placed**  
25 **under an order of liquidation by a court of competent jurisdiction with a finding of insolvency;**

26            [(9)] (10) "Member insurer", any insurer or health services corporation licensed or which  
27 holds a certificate of authority to transact in this state any kind of insurance for which coverage  
28 is provided under section 376.717, and includes any insurer whose license or certificate of  
29 authority in this state may have been suspended, revoked, not renewed or voluntarily withdrawn,  
30 but does not include:

31            (a) A health maintenance organization;

32            (b) A fraternal benefit society;

33            (c) A mandatory state pooling plan;

34            (d) A mutual assessment company or any entity that operates on an assessment basis;

35            (e) An insurance exchange; [or]

36            (f) **An organization that issues qualified charitable gift annuities, as defined in**  
37 **section 352.500, and does not hold a certificate or license to transact insurance business;**  
38 **or**

39            (g) Any entity similar to any of the entities listed in paragraphs (a) to [(e)] (f) of this  
40 subdivision;

41            [(10)] (11) "Moody's Corporate Bond Yield Average", the monthly average corporates  
42 as published by Moody's Investors Service, Inc., or any successor thereto;

43            (12) **"Owner", "policy owner", or "contract owner", the person who is identified**  
44 **as the legal owner under the terms of the policy or contract or who is otherwise vested with**  
45 **legal title to the policy or contract through a valid assignment completed in accordance**  
46 **with the terms of the policy or contract and properly recorded as the owner on the books**  
47 **of the insurer. Owner, contract owner, and policy owner shall not include persons with a**  
48 **mere beneficial interest in a policy or contract;**

49            [(11)] (13) "Person", any individual, corporation, partnership, association or voluntary  
50 organization;

51            [(12)] (14) "Premiums", amounts received on covered policies or contracts, less  
52 premiums, considerations and deposits returned thereon, and less dividends and experience  
53 credits thereon. The term does not include any amounts received for any policies or contracts  
54 or for the portions of any policies or contracts for which coverage is not provided under  
55 subsection 3 of section 376.717, except that assessable premium shall not be reduced on account  
56 of subdivision (3) of subsection 3 of section 376.717 relating to interest limitations and  
57 subdivision (2) of subsection 4 of section 376.717 relating to limitations with respect to any one  
58 life, **any one participant**, and any one contract holder. **Premiums shall not include:**

59            (a) **Premiums on an unallocated annuity contract; or**

60            (b) **With respect to multiple nongroup policies of life insurance owned by one**  
61 **owner, whether the policy owner is an individual, firm, corporation, or other person, and**

62 whether the persons insured are officers, managers, employees, or other persons, premiums  
63 in excess of five million dollars with respect to such policies or contracts, regardless of the  
64 number of policies or contracts held by the owner;

65 (15) "Principal place of business", for a person other than a natural person, the  
66 single state in which the natural persons who establish policy for the direction, control, and  
67 coordination of the operations of the entity as a whole primarily exercise that function,  
68 determined by the association in its reasonable judgment by considering the following  
69 factors:

70 (a) The state in which the primary executive and administrative headquarters of  
71 the entity is located;

72 (b) The state in which the principal office of the chief executive officer of the entity  
73 is located;

74 (c) The state in which the board of directors, or similar governing person or  
75 persons, of the entity conducts the majority of its meetings;

76 (d) The state in which the executive or management committee of the board of  
77 directors, or similar governing person or persons, of the entity conducts the majority of its  
78 meetings; and

79 (e) The state from which the management of the overall operations of the entity is  
80 directed;

81 (16) "Receivership court", the court in the insolvent or impaired insurer's state  
82 having jurisdiction over the conservation, rehabilitation, or liquidation of the insurer;

83 [(13)] (17) "Resident", any person who resides in this state [at the time a member insurer  
84 is determined to be an impaired or insolvent insurer] on the date of entry of a court order that  
85 determines a member insurer to be an impaired insurer or a court order that determines  
86 a member insurer to be an insolvent insurer, whichever first occurs, and to whom a  
87 contractual obligation is owed. A person may be a resident of only one state, which in the case  
88 of a person other than a natural person shall be its principal place of business. **Citizens of the  
89 United States that are either residents of foreign countries or residents of the United States  
90 possessions, territories, or protectorates that do not have an association similar to the  
91 association created under sections 376.715 to 376.758 shall be deemed residents of the state  
92 of domicile of the insurer that issued the policies or contracts;**

93 (18) "Structure settlement annuity", an annuity purchased in order to fund  
94 periodic payments for a plaintiff or other claimant in payment for or with respect to  
95 personal injury suffered by the plaintiff or other claimant;

96 (19) "State", a state, the District of Columbia, Puerto Rico, and a United States  
97 possession, territory, or protectorate;

98 [(14)] (20) "Supplemental contract", any **written** agreement entered into for the  
99 distribution of **proceeds under a life, health, or annuity** policy or contract [proceeds];

100 [(15)] (21) "Unallocated annuity contract", any annuity contract or group annuity  
101 certificate which is not issued to and owned by an individual, except to the extent of any annuity  
102 **benefits** guaranteed to an individual by an insurer under such contract or certificate.

376.724. 1. If a member insurer is an impaired [domestic] insurer, the association may,  
2 in its discretion, and subject to any conditions imposed by the association that do not impair the  
3 contractual obligations of the impaired insurer, that are approved by the director[, and that are,  
4 except in cases of court ordered conservation or rehabilitation, also approved by the impaired  
5 insurer]:

6 (1) Guarantee, assume or reinsure, or cause to be guaranteed, assumed, or reinsured, any  
7 or all of the policies or contracts of the impaired insurer; **or**

8 (2) Provide such moneys, pledges, notes, **loans**, guarantees, or other means as are proper  
9 to effectuate subdivision (1) of this subsection and assure payment of the contractual obligations  
10 of the impaired insurer pending action under subdivision (1) of this subsection[; or

11 (3) Loan money to the impaired insurer].

12 2. [If a member insurer is an impaired insurer, whether domestic, foreign or alien and  
13 the insurer is not paying claims in a timely fashion, then subject to the preconditions specified  
14 in subsection 3 of this section, the association shall, in its discretion, either:

15 (1) Take any of the actions specified in subsection 1 of this section, subject to the  
16 conditions therein; or

17 (2) Provide substitute benefits in lieu of the contractual obligations of the impaired  
18 insurer solely for: health claims; periodic annuity benefit payments; death benefits; supplemental  
19 benefits; and cash withdrawals for policy or contract owners who petition therefor under claims  
20 of emergency or hardship in accordance with standards proposed by the association and approved  
21 by the director.

22 3. The association shall be subject to the requirements of subsection 2 of this section  
23 only if:

24 (1) The laws of the impaired insurer's state of domicile provide that until all payments  
25 of or on account of the impaired insurer's contractual obligations by all guaranty associations,  
26 along with all expenses thereof and interest on all such payments and expenses, shall have been  
27 repaid to the guaranty associations or a plan of repayment by the impaired insurer shall have been  
28 approved by the guaranty associations:

29 (a) The delinquency proceedings shall not be dismissed;

30 (b) Neither the impaired insurer nor its assets shall be returned to the control of its  
31 shareholders or private management; and

32 (c) It shall not be permitted to solicit or accept new business or have any suspended or  
33 revoked license restored; and

34 (2) (a) If the impaired insurer is a domestic insurer, it has been placed under an order  
35 of rehabilitation by a court of competent jurisdiction in this state; or

36 (b) If the impaired insurer is a foreign or alien insurer:

37 a. It has been prohibited from soliciting or accepting new business in this state;

38 b. Its certificate of authority has been suspended or revoked in this state; and

39 c. A petition for rehabilitation or liquidation has been filed in a court of competent  
40 jurisdiction in its state of domicile by the commissioner of that state.

41 4. (1)] If a member insurer is an insolvent insurer, the association shall, in its discretion,  
42 either:

43 (1) (a) a. Guarantee, assume or reinsure, or cause to be guaranteed, assumed or  
44 reinsured, the policies or contracts of the insolvent insurer; or

45 [(b)] b. Assure payment of the contractual obligations of the insolvent insurer; and

46 [(c)] (b) Provide such moneys, pledges, **loans, notes**, guarantees, or other means as are  
47 reasonably necessary to discharge such duties; or

48 (2) [With respect only to life and health policies,] Provide benefits and coverages in  
49 accordance with [subsection 5 of this section.

50 5. When proceeding under subsection 2 or 4 of this section, the association shall,] **the**  
51 **following provisions:**

52 (a) With respect to [only] life and health insurance policies[:

53 (1)] **and annuities**, assure payment of benefits for premiums identical to the premiums  
54 and benefits, except for terms of conversion and renewability, that would have been payable  
55 under the policies of the insolvent insurer, for claims incurred:

56 [(a)] a. With respect to group policies **and contracts**, not later than the earlier of the next  
57 renewal date under such policies or contracts or forty-five days, but in no event less than thirty  
58 days, after the date on which the association becomes obligated with respect to such policies **and**  
59 **contracts;**

60 [(b)] b. With respect to individual policies, **contracts, and annuities**, not later than the  
61 earlier of the next renewal date, if any, under such policies **or contracts** or one year, but in no  
62 event less than thirty days, from the date on which the association becomes obligated with  
63 respect to such policies **and contracts;**

64 [(2)] (b) Make diligent efforts to provide all known insureds **or annuitants for**  
65 **individual policies and contracts**, or group policyholders with respect to group policies **or**  
66 **contracts**, thirty days notice of the termination, **under paragraph (a) of this subdivision**, of  
67 the benefits provided; [and]

68 [(3)] (c) With respect to individual policies, make available to each known insured,  
69 **annuitant**, or owner if other than the insured **or annuitant**, and with respect to an individual  
70 formerly insured **or formerly an annuitant** under a group policy who is not eligible for  
71 replacement group coverage, make available substitute coverage on an individual basis in  
72 accordance with the provisions of [subsection 6 of this section] **paragraph (d) of this**  
73 **subdivision**, if the insureds **or annuitants** had a right under law or the terminated policy to  
74 convert coverage to individual coverage or to continue an individual policy in force until a  
75 specified age or for a specified time, during which the insurer had no right unilaterally to make  
76 changes in any provision of the policy or had a right only to make changes in premium by class[.]  
77 ;

78 [6. (1)] (d) a. In providing the substitute coverage required under [subdivision (3) of  
79 subsection 5 of this section] **paragraph (c) of this subdivision**, the association may offer either  
80 to reissue the terminated coverage or to issue an alternative policy.

81 [(2)] b. Alternative or reissued policies shall be offered without requiring evidence of  
82 insurability, and shall not provide for any waiting period or exclusion that would not have  
83 applied under the terminated policy.

84 [(3)] c. The association may reinsure any alternative or reissued policy[.] ;

85 [7. (1)] (e) a. Alternative policies adopted by the association shall be subject to the  
86 approval of the director. The association may adopt alternative policies of various types for  
87 future issuance without regard to any particular impairment or insolvency.

88 [(2)] b. Alternative policies shall contain at least the minimum statutory provisions  
89 required in this state and provide benefits that shall not be unreasonable in relation to the  
90 premium charged. The association shall set the premium in accordance with a table of rates  
91 which it shall adopt. The premium shall reflect the amount of insurance to be provided and the  
92 age and class of risk of each insured, but shall not reflect any changes in the health of the insured  
93 after the original policy was last underwritten.

94 [(3)] c. Any alternative policy issued by the association shall provide coverage of a type  
95 similar to that of the policy issued by the impaired or insolvent insurer, as determined by the  
96 association;

97 (f) **In carrying out its duties in connection with guaranteeing, assuming, or**  
98 **reinsuring policies or contracts under this subsection, the association may, subject to**  
99 **approval of the receivership court, issue substitute coverage for a policy or contract that**  
100 **provides an interest rate, crediting rate, or similar factor determined by use of an index or**  
101 **other external reference stated in the policy or contract employed in calculating returns**  
102 **or changes in value by issuing an alternative policy or contract in accordance with the**  
103 **following provisions:**

104           **a. In lieu of the index or other external reference provided for in the original policy**  
105 **or contract, the alternative policy or contract provides for a fixed interest rate, payment**  
106 **of dividends with minimum guarantees, or a different method for calculating interest or**  
107 **changes in value;**

108           **b. There is no requirement for evidence of insurability, waiting period, or other**  
109 **exclusion that would not have applied under the replaced policy or contract; and**

110           **c. The alternative policy or contract is substantially similar to the replaced policy**  
111 **or contract in all other terms.**

376.725. 1. If the association elects to reissue terminated coverage at a premium rate  
2 different from that charged under the terminated policy, the premium shall be set by the  
3 association in accordance with the amount of insurance provided and the age and class of risk  
4 of the insured, subject to approval of the director or by a court of competent jurisdiction.

5           **2. The association's obligations with respect to coverage under any policy of the**  
6 **impaired or insolvent insurer or under any reissued or alternative policy shall cease on the**  
7 **date the coverage or policy is replaced by another similar policy by the policy owner, the**  
8 **insured, or the association.**

9           **3. When proceeding under subdivision (2) of subsection 2 of section 376.724 with**  
10 **respect to a policy or contract carrying guaranteed minimum interest rates, the association**  
11 **shall assure the payment or crediting of a rate of interest consistent with subdivision (3)**  
12 **of subsection 3 of section 376.717.**

376.732. 1. If the association fails to act within a reasonable period of time when  
2 authorized to do so, the director shall have the powers and duties of the association under  
3 sections 376.715 to 376.758 with respect to [impaired or] **the** insolvent insurers.

4           2. The association may render assistance and advice to the director, upon his request,  
5 concerning rehabilitation, payment of claims, continuance of coverage, or the performance of  
6 other contractual obligations of any impaired or insolvent insurer.

7           3. The association shall have standing to appear **or intervene** before any court **or agency**  
8 in this state with jurisdiction over an impaired or insolvent insurer concerning which the  
9 association is or may become obligated under sections 376.715 to 376.758, **or with jurisdiction**  
10 **over any person or property against which the association may have rights through**  
11 **subrogation or otherwise.** Such standing shall extend to all matters germane to the powers and  
12 duties of the association, including, but not limited to, proposals for reinsuring, modifying or  
13 guaranteeing the policies or contracts of the impaired or insolvent insurer and the determination  
14 of the policies or contracts and contractual obligations. The association shall have the right to  
15 appear or intervene before a court **or agency** in another state with jurisdiction over an impaired  
16 or insolvent insurer for which the association is or may become obligated or with jurisdiction

17 over [a third party] **any person or property** against whom the association may have rights  
18 through subrogation [of the insurer's policyholders] **or otherwise**.

376.733. 1. Any person receiving benefits under sections 376.715 to 376.758 shall be  
2 deemed to have assigned the rights under, and any causes of action **against any person for**  
3 **losses arising under, resulting from, or otherwise** relating to, the covered policy or contract  
4 to the association to the extent of the benefits received because of the provisions of sections  
5 376.715 to 376.758, whether the benefits are payments of or on account of contractual  
6 obligations, continuation of coverage or provision of substitute or alternative coverages. The  
7 association may require an assignment to it of such rights and cause of action by any payee,  
8 policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt  
9 of any right or benefits conferred by sections 376.715 to 376.758 upon such person.

10 2. The subrogation rights of the association under this section have the same priority  
11 against the assets of the impaired or insolvent insurer as that possessed by the person entitled to  
12 receive benefits under sections 376.715 to 376.758.

13 3. In addition to subsections 1 and 2 of this section, the association shall have all  
14 common law rights of subrogation and any other equitable or legal remedy which would have  
15 been available to the impaired or insolvent insurer or [holder] **owner, beneficiary, or payee** of  
16 a policy or contract with respect to such policy or contracts, **including, without limitation in**  
17 **the case of a structured settlement annuity, any rights of the owner, beneficiary, or payee**  
18 **of the annuity, to the extent of benefits received under sections 376.715 to 376.758, against**  
19 **a person, originally or by succession, responsible for the losses arising from the personal**  
20 **injury relating to the annuity or payment thereof, excepting any such person responsible**  
21 **solely by reason of serving as an assignee in respect of a qualified assignment under Section**  
22 **130 of the Internal Revenue Code of 1986, as amended.**

376.734. 1. **In addition to any other rights and powers under sections 376.715 to**  
2 **376.758**, the association may:

3 (1) Enter into such contracts as are necessary or proper to carry out the provisions and  
4 purposes of sections 376.715 to 376.758;

5 (2) Sue or be sued, including taking any legal actions necessary or proper for recovery  
6 of any unpaid assessments under subsections 1 and 2 of section 376.735 **and to settle claims or**  
7 **potential claims against it;**

8 (3) Borrow money to effect the purposes of sections 376.715 to 376.758. Any notes or  
9 other evidence of indebtedness of the association not in default shall be legal investments for  
10 domestic insurers and may be carried as admitted assets;

11 (4) Employ or retain such persons as are necessary to handle the financial transactions  
12 of the association, and to perform such other functions as become necessary or proper under  
13 sections 376.715 to 376.758;

14 (5) Take such legal action as may be necessary to avoid **or recover** payment of improper  
15 claims;

16 (6) Exercise, for the purposes of sections 376.715 to 376.758 and to the extent approved  
17 by the director, the powers of a domestic life or health insurer, but in no case may the association  
18 issue insurance policies or annuity contracts other than those issued to perform its obligations  
19 under sections 376.715 to 376.758;

20 **(7) Request information from a person seeking coverage from the association in**  
21 **order to aid the association in determining its obligations under sections 376.715 to 376.758**  
22 **with respect to the person, and the person shall promptly comply with the request;**

23 **(8) Take other necessary or appropriate action to discharge its duties and**  
24 **obligations or to exercise its powers under sections 376.715 to 376.758; and**

25 **(9) With respect to covered policies for which the association becomes obligated**  
26 **after an entry of an order of liquidation or rehabilitation, elect to succeed to the rights of**  
27 **the insolvent insurer arising after the order of liquidation or rehabilitation under any**  
28 **contract of reinsurance to which the insolvent insurer was a party, to the extent that such**  
29 **contract provides coverage for losses occurring after the date of the order of liquidation**  
30 **or rehabilitation. As a condition to making this election, the association shall pay all**  
31 **unpaid premiums due under the contract for coverage relating to periods before and after**  
32 **the date of the order of liquidation or rehabilitation.**

33 **2. The board of directors of the association may exercise reasonable business**  
34 **judgment to determine the means by which the association is to provide the benefits of**  
35 **sections 376.715 to 376.758 in an economical and efficient manner.**

36 **3. Where the association has arranged for or offered to provide the benefits of**  
37 **sections 376.715 to 376.758 to a covered person under a plan or arrangement that fulfills**  
38 **the association's obligations under sections 376.715 to 376.758, the person shall not be**  
39 **entitled to benefits from the association in addition to or other than those provided under**  
40 **the plan or arrangement.**

41 [2.] **4. The association may join an organization of one or more other state associations**  
42 **of similar purposes, to further the purposes and administer the powers and duties of the**  
43 **association.**

44 [3. Whenever it is necessary for the association to retain the services of legal counsel,  
45 the association shall retain persons licensed to practice law in this state, and whose principal  
46 place of business is in this state or who are employed by or are partners of a professional

47 corporation, corporation, copartnership or association having its principal place of business in  
48 this state; provided however, that if, after a good faith search, such persons cannot be found, the  
49 association may retain the legal services of such other persons as it chooses.]

376.735. 1. For the purpose of providing the funds necessary to carry out the powers and  
2 duties of the association, the board of directors shall assess the member insurers, separately for  
3 each account, at such time and for such amounts as the board finds necessary. Assessments shall  
4 be due not less than thirty days after prior written notice to the member insurers and shall accrue  
5 interest at ten percent per annum on and after the due date.

6 2. There shall be two assessments, as follows:

7 (1) Class A assessments [shall] **may** be made for the purpose of meeting administrative  
8 and legal costs and other expenses [and examinations conducted under the authority of  
9 subsections 4 and 5 of section 376.742]. Class A assessments may be made whether or not  
10 related to a particular impaired or insolvent insurer;

11 (2) Class B assessments [shall] **may** be made to the extent necessary to carry out the  
12 powers and duties of the association under [section 376.724] **sections 376.715 to 376.758** with  
13 regard to an impaired or an insolvent insurer.

14 3. The amount of any class A assessment shall be determined by the board and may be  
15 made on a pro rata or nonpro rata basis. If pro rata, the board may provide that it be credited  
16 against future class B assessments. A nonpro rata assessment shall not exceed one hundred fifty  
17 dollars per member insurer in any one calendar year. The amount of any class B assessment shall  
18 be allocated for assessment purposes among the accounts pursuant to an allocation formula  
19 which may be based on the premiums or reserves of the impaired or insolvent insurer or any  
20 other standard deemed by the board in its sole discretion as being fair and reasonable under the  
21 circumstances.

22 4. Class B assessments against member insurers for each account shall be in the  
23 proportion that the premiums received on business in this state by each assessed member insurer  
24 [or] **on** policies or contracts covered by each account for the three most recent calendar years for  
25 which information is available preceding the year in which the insurer became impaired or  
26 insolvent, as the case may be, bears to such premiums received on business in this state for such  
27 calendar years by all assessed member insurers.

28 5. Assessments for funds to meet the requirements of the association with respect to an  
29 impaired or insolvent insurer shall not be made until necessary to implement the purposes of  
30 sections 376.715 to 376.758. Classification of assessments under [subsections 1 and]  
31 **subdivisions (1) and (2) of subsection 2** of this section and computation of assessments under  
32 this [subsection] **section** shall be made with a reasonable degree of accuracy, recognizing that  
33 exact determinations may not always be possible. In no case shall a member insurer be liable

34 under class A or class B for assessments in any account enumerated in section 376.720, for  
35 which such insurer is not licensed by the department of insurance, financial institutions and  
36 professional registration to transact business.

376.737. 1. The association may abate or defer, in whole or in part, the assessment of  
2 a member insurer if, in the opinion of the board, payment of the assessment would endanger the  
3 ability of the member insurer to fulfill its contractual obligations. In the event an assessment  
4 against a member insurer is abated, or deferred in whole or in part, the amount by which such  
5 assessment is abated or deferred may be assessed against the other member insurers in a manner  
6 consistent with the basis for assessments set forth in this section. **Once the conditions that  
7 caused a deferral have been removed or rectified, the member insurer shall pay all  
8 assessments that were deferred under a repayment plan approved by the association.**

9 2. (1) **Subject to the provisions of subdivision (2) of this subsection,** the total of all  
10 assessments upon a member insurer for each account shall not in any one calendar year exceed  
11 two percent of such insurer's average **annual** premiums received in this state on the policies and  
12 contracts covered by the account during the three calendar years preceding the year in which the  
13 insurer became an impaired or insolvent insurer. If the maximum assessment, together with the  
14 other assets of the association in any account, does not provide in any one year in [either] **the**  
15 account an amount sufficient to carry out the responsibilities of the association, the necessary  
16 additional funds shall be assessed as soon thereafter as permitted by sections 376.715 to 376.758.

17 (2) **If two or more assessments are made in one calendar year with respect to  
18 insurers that become impaired or insolvent in different calendar years, the average annual  
19 premiums for purposes of the aggregate assessment percentage limitation referenced in  
20 subdivision (1) of this subsection shall be equal and limited to the higher of the three-year  
21 average annual premiums for the applicable account as calculated under this section.**

22 3. The board may provide in the plan of operation a method of allocating funds among  
23 claims, whether relating to one or more impaired or insolvent insurers, when the maximum  
24 assessment will be insufficient to cover anticipated claims.

25 4. The board may, by an equitable method as established in the plan of operation, refund  
26 to member insurers, in proportion to the contribution of each insurer to that account, the amount  
27 by which the assets of the account exceed the amount the board finds is necessary to carry out  
28 during the coming year the obligations of the association with regard to that account, including  
29 assets accruing from assignment, subrogation net realized gains and income from investments.  
30 A reasonable amount may be retained in any account to provide funds for the continuing  
31 expenses of the association and for future losses.

32 5. It shall be proper for any member insurer, in determining its premium rates and policy  
33 owner dividends as to any kind of insurance within the scope of sections 376.715 to 376.758, to

34 consider the amount reasonably necessary to meet its assessment obligations under the provisions  
35 of sections 376.715 to 376.758.

376.738. The association shall issue to each insurer paying an assessment under the  
2 provisions of sections 376.715 to 376.758, other than class A assessment, a certificate of  
3 contribution, in a form prescribed by the director, for the amount of the assessment so paid. All  
4 outstanding certificates shall be of equal dignity and priority without reference to amounts or  
5 dates of issue. A certificate of contribution [issued before September 1, 1991,] may be shown  
6 by the insurer in its financial statement as an asset in such form and for such amount, if any, and  
7 period of time as the director may approve[, provided that a certificate issued before September  
8 1, 1991, shall not be shown as an admitted asset for a longer period of time or greater amount  
9 than that described in subdivisions (1) to (4) of subsection 2 of section 375.774, RSMo].

376.740. 1. The association shall submit a plan of operation and any amendments  
2 thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the  
3 association to the director. The plan of operation and any amendments thereto shall become  
4 effective upon the director's written approval or unless he has not disapproved it within thirty  
5 days.

6 2. If the association fails to submit a suitable plan of operation within one hundred  
7 twenty days following the effective date, August 13, 1988, of sections 376.715 to 376.758 or if  
8 at any time thereafter the association fails to submit suitable amendments to the plan, the director  
9 shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or  
10 advisable to effectuate the provisions of sections 376.715 to 376.758. Such rules shall continue  
11 in force until modified by the director or superseded by a plan submitted by the association and  
12 approved by him.

13 3. All member insurers shall comply with the plan of operation.

14 4. The plan of operation shall, in addition to requirements enumerated in sections  
15 376.715 to 376.758:

16 (1) Establish procedures for handling the assets of the association;

17 (2) Establish the amount and method of reimbursing members of the board of directors;

18 (3) Establish regular places and times for meetings including telephone conference calls  
19 of the board of directors;

20 (4) Establish procedures for records to be kept of all financial transactions of the  
21 association, its agents, and the board of directors;

22 (5) Establish the procedures whereby selections for the board of directors will be made  
23 and submitted to the director;

24 (6) Establish any additional procedures for assessments which may be necessary;

25 (7) Contain additional provisions necessary or proper for the execution of the powers and  
26 duties of the association;

27 **(8) Establish procedures whereby a director may be removed for cause, including**  
28 **in the case where a member insurer director becomes an impaired or insolvent insurer;**

29 **(9) Establish procedures for the initial handling of any appeals against the actions**  
30 **of the board, subject to the rights of appeal in subsection 3 of section 376.742.**

31 5. The plan of operation may provide that any or all powers and duties of the association  
32 except those pursuant to provisions of [subsection 3 of section 376.733 and subsections 1 and  
33 2 of] **subdivision (3) of subsection 1 of section 376.734 and** section 376.735 are delegated to  
34 a corporation, association, or other organization which performs or will perform functions  
35 similar to those of this association, or its equivalent, in two or more states. Such a corporation,  
36 association, or organization shall be reimbursed for any payments made on behalf of the  
37 association and shall be paid for its performance of any function of the association. A delegation  
38 under this subsection shall take effect only with the approval of both the board of directors and  
39 the director, and may be made only to a corporation, association, or organization which extends  
40 protection not substantially less favorable and effective than that provided by sections 376.715  
41 to 376.758.

376.743. 1. The board of directors may, upon majority vote, make reports and  
2 recommendations to the director upon any matter germane to the solvency, liquidation,  
3 rehabilitation or conservation of any member insurer or germane to the solvency of any company  
4 seeking to do an insurance business in this state. Such reports and recommendations shall not  
5 be considered public documents.

6 2. The board of directors shall, upon majority vote, notify the director of any information  
7 indicating any member insurer may be an impaired or insolvent insurer.

8 [3. The board of directors may, upon majority vote, request that the director order an  
9 examination of any member insurer which the board in good faith believes may be an impaired  
10 or insolvent insurer. Within thirty days of the receipt of such request, he shall begin such  
11 examination. The examination may be conducted as a National Association of Insurance  
12 Commissioners examination or may be conducted by such persons as the director designates.  
13 The cost of such examination shall be paid by the association and the examination report shall  
14 be treated as are other examination reports. In no event shall such examination report be released  
15 to the board of directors prior to its release to the public, but this shall not preclude the director  
16 from complying with subsections 1 to 4 of section 376.742. The director shall notify the board  
17 of directors when the examination is completed. The request for an examination shall be kept  
18 on file by the director but it shall not be open to public inspection prior to the release of the  
19 examination report to the public.

20 4.] The board of directors may, upon majority vote, make recommendations to the  
21 director for the detection and prevention of insurer insolvencies.

22 [5. The board of directors shall, at the conclusion of any insurer insolvency in which the  
23 association was obligated to pay covered claims, prepare a report to the director containing such  
24 information as it may have in its possession bearing on the history and causes of such insolvency.  
25 The board shall cooperate with the boards of directors of guaranty associations in other states in  
26 preparing a report on the history and causes of insolvency of a particular insurer, and may adopt  
27 by reference any report prepared by such other associations.]

376.758. 1. Sections 376.715 to 376.758 shall not apply to any insurer which is  
2 insolvent or unable to fulfill its contractual obligations on August 13, 1988.

3 2. Sections 376.715 to 376.758 shall be liberally construed to effect the purpose under  
4 subsection 2 of section 376.715 which shall constitute an aid and guide to interpretation.

5 **3. The amendments to sections 376.715 to 376.758 which become effective on**  
6 **August 28, 2010, shall not apply to any member insurer that is an impaired or insolvent**  
7 **insurer prior to August 28, 2010.**

383.130. As used in sections 383.130 and 383.133, the following terms shall mean:

2 (1) "Disciplinary action", any final action taken by the board of trustees or similarly  
3 empowered officials of a hospital or ambulatory surgical center, or owner or operator of a  
4 temporary nursing staffing agency, **home health agency as defined in section 197.400, nursing**  
5 **home or any nursing facility as defined in chapter 198, or any entity that employs or**  
6 **contracts with licensed health care professionals to provide healthcare services to**  
7 **individuals** to reprimand, discipline or restrict the practice of a health care professional. Only  
8 such reprimands, discipline, or restrictions in response to activities which are also grounds for  
9 disciplinary actions according to the professional licensing law for that health care professional  
10 shall be considered disciplinary actions for the purposes of this definition;

11 (2) "Health care professional", a physician or surgeon licensed under the provisions of  
12 chapter 334, RSMo, a dentist licensed under the provisions of chapter 332, RSMo, or a podiatrist  
13 licensed under the provisions of chapter 330, RSMo, or a pharmacist licensed under the  
14 provisions of chapter 338, RSMo, a psychologist licensed under the provisions of chapter 337,  
15 RSMo, or a nurse licensed under the provisions of chapter 335, RSMo, while acting within their  
16 scope of practice;

17 (3) "Hospital", a place devoted primarily to the maintenance and operation of facilities  
18 for the diagnosis, treatment or care for not less than twenty-four hours in any week of three or  
19 more nonrelated individuals suffering from illness, disease, injury, deformity or other abnormal  
20 physical conditions; or a place devoted primarily to provide for not less than twenty-four hours  
21 in any week medical or nursing care for three or more nonrelated individuals. The term

22 "hospital" does not include convalescent, nursing, shelter or boarding homes as defined in  
23 chapter 198, RSMo;

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

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

383.133. 1. The chief executive office or similarly empowered official of any hospital,  
2 ambulatory surgical center, as such terms are defined in chapter 197, RSMo, [or] temporary  
3 nursing staffing agency, **home health agency as defined in section 197.400, nursing home or**  
4 **any nursing facility as defined in chapter 198, or any entity that employs or contracts with**  
5 **licensed health care professionals to provide healthcare services to individuals** shall report  
6 to the appropriate health care professional licensing authority any disciplinary action against any  
7 health care professional or the voluntary resignation of any health care professional against  
8 whom any complaints or reports have been made which might have led to disciplinary action.

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

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

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

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

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

19 3. Upon request, the licensing authority may furnish a report of any disciplinary action  
20 received by it under the provisions of this section to any entity required to report under this  
21 section. Such licensing authority may also furnish, upon request, a report of disciplinary action  
22 taken by the licensing authority to any other administrative or law enforcement agency acting  
23 within the scope of its statutory authority.

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

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

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

32 **Section 1. 1. Before hiring a registered nurse, licensed practical nurse, or advanced**  
33 **practice registered nurse in this state, an employer shall verify that the applicant has a**  
34 **current valid license to practice nursing under chapter 335. This section shall not apply**  
35 **for employment which does not require the possession of a current valid license to practice**  
36 **nursing.**

37 **2. Employers shall have a system in place to verify licensure status of each**  
38 **registered nurse, licensed practical nurse, or advanced practice registered nurse coinciding**  
39 **with the license renewal.**

2 [214.290. Any cemetery operator who within ninety days from the  
3 effective date of sections 214.270 to 214.410 elects to operate a cemetery which  
4 exists on the effective date of sections 214.270 to 214.410 as an endowed care  
5 cemetery or who represents to the public that perpetual, permanent, endowed,  
6 continual, eternal care, care of duration or similar care will be furnished cemetery  
7 property sold, shall before selling or disposing of any interment space or lots in  
8 said cemetery after the date of such election, establish a minimum endowed care  
9 and maintenance fund in cash in the amount required by section 214.300 unless  
10 an endowed care fund is already in existence to which regular deposits have been  
11 made (whether or not the fund then existing shall be in the minimum amount  
12 required under section 214.300).]

2 [324.1130. Each licensee shall maintain a record containing such  
3 information relative to the licensee's employees as may be prescribed by the  
4 board of private investigator examiners. Such licensee shall file with the board  
5 the complete address of the location of the licensee's principal place of business.  
6 The board may require the filing of other information for the purpose of  
identifying such principal place of business.]

