

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 325
96TH GENERAL ASSEMBLY

1709L.04C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 338.010, 338.140, 338.150, 338.210, 338.220, 338.240, 338.315, 338.330, 339.190, 429.015, 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, and 516.098, RSMo, and to enact in lieu thereof twenty-seven new sections relating to professional registration, with penalty provisions and an emergency clause for a certain section.

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

Section A. Sections 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 2 338.010, 338.140, 338.150, 338.210, 338.220, 338.240, 338.315, 338.330, 339.190, 429.015, 3 436.405, 436.412, 436.445, 436.450, 436.455, 436.456, and 516.098, RSMo, are repealed and 4 twenty-seven new sections enacted in lieu thereof, to be known as sections 324.014, 332.425, 5 333.041, 333.042, 333.051, 333.061, 333.091, 333.151, 333.171, 335.099, 338.010, 338.140, 6 338.150, 338.210, 338.220, 338.240, 338.315, 338.330, 339.190, 429.015, 436.405, 436.412, 7 436.445, 436.450, 436.455, 436.456, and 516.098, to read as follows:

324.014. Any board, commission, committee, council, or office within the division 2 of professional registration shall notify any known current employer of a change in a 3 licensee's license and discipline status. An employer may provide a list of current licensed 4 employees and make a request in writing to the board, commission, committee, council, or 5 office within the division of professional registration responsible for the licensee's license, 6 to be notified upon a change in the licensing status of any such licensed employee. Nothing 7 in this section shall be construed as requiring the board, commission, committee, council, 8 or office within the division of professional registration to determine the current employer 9 of any person whose license is sanctioned.

332.425. 1. The dental board may issue a limited teaching license to a dentist 2 employed as an instructor in an accredited dental school in Missouri. The holder of a 3 limited teaching license shall be authorized to practice dentistry, in accordance with section

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.

4 **332.071, only within the confines of the accredited dental school programs. A limited**
5 **teaching license shall be renewed every two years and shall be subject to the same renewal**
6 **requirements contained in section 332.181. A limited teaching license shall be subject to**
7 **discipline in accordance with section 332.321 and shall be automatically cancelled and**
8 **nullified if the holder ceases to be employed as an instructor in the accredited dental**
9 **school.**

10 **2. To qualify for a limited teaching license, an applicant shall:**

11 **(1) Be a graduate of and hold a degree from a dental school. An applicant shall not**
12 **be required to be a graduate of an accredited dental school as defined in section 332.011;**

13 **(2) Have passed the National Board Examination in accordance with criteria**
14 **established by the sponsoring body;**

15 **(3) Have passed a state or regional entry level competency examination approved**
16 **by the Missouri dental board for licensure within the previous five years;**

17 **(4) Have passed a written jurisprudence examination given by the board on the**
18 **Missouri dental laws and rules with a grade of at least eighty percent;**

19 **(5) Hold current certification in the American Heart Association's Basic Life**
20 **Support (BLS), Advanced Cardiac Life Support (ACLS), or certification equivalent to BLS**
21 **or ACLS;**

22 **(6) Submit to the board a completed application for licensure on forms provided**
23 **by the board and the applicable license fee; and**

24 **(7) Submit to the board evidence of successful passage of an examination approved**
25 **by the board of spoken and written proficiency in the English language.**

333.041. 1. Each applicant for a license to practice funeral directing shall furnish
2 evidence to establish to the satisfaction of the board that he or she is:

3 **(1) At least eighteen years of age, and possesses a high school diploma, a general**
4 **equivalency diploma, or equivalent thereof, as determined, at its discretion, by the board;**
5 **and**

6 **(2) [Either a citizen or a bona fide resident of the state of Missouri or entitled to a license**
7 **pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of**
8 **Missouri who is employed by a funeral establishment located within the state of Missouri, to**
9 **practice funeral directing upon the grant of a license to do so; and**

10 **(3)] A person of good moral character.**

11 **2. Every person desiring to enter the profession of embalming dead human bodies within**
12 **the state of Missouri and who is enrolled in [an] a program accredited [institution of mortuary**
13 **science education] by the American Board of Funeral Service Education, any successor**
14 **organization, or other accrediting entity as approved by the board, shall register with the**
15 **board as a practicum student upon the form provided by the board. After such registration, a**
16 **student may assist, under the direct supervision of Missouri licensed embalmers and funeral**

17 directors, in Missouri licensed funeral establishments, while serving his or her practicum [for the
18 accredited institution of mortuary science education]. The form for registration as a practicum
19 student shall be accompanied by a fee in an amount established by the board.

20 3. Each applicant for a license to practice embalming shall furnish evidence to establish
21 to the satisfaction of the board that he or she:

22 (1) Is at least eighteen years of age, and possesses a high school diploma, **a general**
23 **equivalency diploma**, or equivalent thereof, **as determined, at its discretion, by the board;**

24 (2) [Is either a citizen or bona fide resident of the state of Missouri or entitled to a license
25 pursuant to section 333.051, or a resident in a county contiguous and adjacent to the state of
26 Missouri who is employed by a funeral establishment located within the state of Missouri, to
27 practice embalming upon the grant of a license to do so;

28 (3)] Is a person of good moral character;

29 [(4)] **(3)** Has [graduated from an institute of mortuary science education] **completed a**
30 **funeral service education program** accredited by the American Board of Funeral Service
31 Education, [or] any successor organization [recognized by the United States Department of
32 Education, for funeral service education] , **or other accrediting entity as approved by the**
33 **board**. If an applicant does not [appear for the final examination before the board] **complete all**
34 **requirements for licensure** within five years from the date of his or her [graduation from]
35 **completion of** an accredited [institution of mortuary science education] **program**, his or her
36 registration as [a student] **an apprentice** embalmer shall be automatically canceled. **The**
37 **applicant shall be required to file a new application and pay applicable fees. No previous**
38 **apprenticeship shall be considered for the new application;**

39 [(5)] **(4)** Upon due examination administered by the board, is possessed of a knowledge
40 of the subjects of embalming, anatomy, pathology, bacteriology, mortuary administration,
41 chemistry, restorative art, together with statutes, rules and regulations governing the care,
42 custody, shelter and disposition of dead human bodies and the transportation thereof or has
43 passed the national board examination of the Conference of Funeral Service Examining Boards.
44 If any applicant fails to pass the state examination, he or she may retake the examination at the
45 next regular examination meeting. The applicant shall notify the board office of his or her desire
46 to retake the examination at least thirty days prior to the date of the examination. Each time the
47 examination is retaken, the applicant shall pay a new examination fee in an amount established
48 by the board;

49 [(6)] **(5)** Has been employed full time in funeral service in a licensed funeral
50 establishment and has personally embalmed at least twenty-five dead human bodies under the
51 personal supervision of an embalmer who holds a current and valid Missouri embalmer's license
52 or an embalmer who holds a current and valid embalmer's license in a state with which the
53 Missouri board has entered into a reciprocity agreement during an apprenticeship of not less than
54 twelve consecutive months. "Personal supervision" means that the licensed embalmer shall be

55 physically present during the entire embalming process in the first six months of the
56 apprenticeship period and physically present at the beginning of the embalming process and
57 available for consultation and personal inspection within a period of not more than one hour in
58 the remaining six months of the apprenticeship period. All transcripts and other records filed
59 with the board shall become a part of the board files.

60 4. If the applicant does not [appear for oral examination] **complete the application**
61 **process** within the five years after his or her [graduation from an accredited institution of
62 mortuary science education] **completion of an approved program**, then he or she must file a
63 new application and no fees paid previously shall apply toward the license fee.

64 5. Examinations required by this section and section 333.042 shall be held at least twice
65 a year at times and places fixed by the board. The board shall by rule and regulation prescribe
66 the standard for successful completion of the examinations.

67 6. Upon establishment of his or her qualifications as specified by this section or section
68 333.042, the board shall issue to the applicant a license to practice funeral directing or
69 embalming, as the case may require, and shall register the applicant as a duly licensed funeral
70 director or a duly licensed embalmer. Any person having the qualifications required by this
71 section and section 333.042 may be granted both a license to practice funeral directing and to
72 practice embalming.

73 7. The board shall, upon request, waive any requirement of this chapter and issue a
74 temporary funeral director's license, valid for six months, to the surviving spouse or next of kin
75 or the personal representative of a licensed funeral director, or to the spouse, next of kin,
76 employee or conservator of a licensed funeral director disabled because of sickness, mental
77 incapacity or injury.

333.042. 1. Every person desiring to enter the profession of funeral directing in this state
2 shall make application with the state board of embalmers and funeral directors and pay the
3 current application and examination fees. **Except as otherwise provided in section 41.950,**
4 applicants not entitled to a license pursuant to section 333.051 shall serve an apprenticeship for
5 at least twelve **consecutive** months in a funeral establishment licensed for the care and
6 preparation for burial and transportation of the human dead in this state or in another state which
7 has established standards for admission to practice funeral directing equal to, or more stringent
8 than, the requirements for admission to practice funeral directing in this state. The applicant
9 shall devote at least fifteen hours per week to his or her duties as an apprentice under the
10 supervision of a Missouri licensed funeral director. Such applicant shall submit proof to the
11 board, on forms provided by the board, that the applicant has arranged and conducted ten funeral
12 services during the applicant's apprenticeship under the supervision of a Missouri licensed
13 funeral director. Upon completion of the apprenticeship, the applicant shall appear before the
14 board to be tested on the applicant's legal and practical knowledge of funeral directing, funeral
15 home licensing, preneed funeral contracts and the care, custody, shelter, disposition and

16 transportation of dead human bodies. Upon acceptance of the application and fees by the board,
17 an applicant shall have twenty-four months to successfully complete the requirements for
18 licensure found in this section or the application for licensure shall be canceled.

19 2. If a person applies for a limited license to work only in a funeral establishment which
20 is licensed only for cremation, including transportation of dead human bodies to and from the
21 funeral establishment, he or she shall make application, pay the current application and
22 examination fee and successfully complete the Missouri law examination. He or she shall be
23 exempt from the twelve-month apprenticeship **required by subsection 1 of this section** and the
24 practical examination before the board. If a person has a limited license issued pursuant to this
25 subsection, he or she may obtain a full funeral director's license if he or she fulfills the
26 apprenticeship and successfully completes the funeral director practical examination.

27 3. If an individual is a Missouri licensed embalmer or has [graduated from an institute
28 of mortuary science education] **completed a program** accredited by the American Board of
29 Funeral Service Education [or] , any successor organization [recognized by the United States
30 Department of Education for funeral service education], **or other accrediting entity as**
31 **approved by the board** or has successfully completed a course of study in funeral directing
32 offered by [a college] **an institution** accredited by a recognized national, regional or state
33 accrediting body and approved by the state board of embalmers and funeral directors, and desires
34 to enter the profession of funeral directing in this state, the individual shall comply with all the
35 requirements for licensure as a funeral director pursuant to subsection 1 of section 333.041 and
36 subsection 1 of this section; however, the individual is exempt from the twelve-month
37 apprenticeship required by subsection 1 of this section.

333.051. 1. Any [nonresident] individual holding a valid, unrevoked and unexpired
2 license as a funeral director or embalmer in the state of his **or her** residence may be granted a
3 license to practice funeral directing or embalming in this state on application to the board and
4 on providing the board with such evidence as to his **or her** qualifications as is required by the
5 board. [No license shall be granted to a nonresident applicant except one who resides in a county
6 contiguous and adjacent to the state of Missouri and who is regularly engaged in the practice of
7 funeral directing or embalming, as defined by this chapter, at funeral establishments within this
8 state or in an establishment located in a county contiguous and adjacent to the state of Missouri,
9 unless the law of the state of the applicant's residence authorizes the granting of licenses to
10 practice funeral directing in such state to persons licensed as funeral directors under the law of
11 the state of Missouri.]

12 2. Any individual holding a valid, unrevoked and unexpired license as an embalmer or
13 funeral director in another state having requirements substantially similar to those existing in this
14 state [who is or intends to become a resident of this state] may apply for a license to practice in
15 this state by filing with the board a certified statement from the examining board of the state or
16 territory in which the applicant holds his **or her** license showing the grade rating upon which

17 [his] **the** license was granted, together with a recommendation, and the board shall grant the
18 applicant a license upon his **or her** successful completion of an examination over Missouri laws
19 as required in section 333.041 or section 333.042 if the board finds that the applicant's
20 qualifications meet the requirements for funeral directors or embalmers in this state at the time
21 the applicant was originally licensed in the other state.

22 3. A person holding a valid, unrevoked and unexpired license to practice funeral
23 directing or embalming in another state or territory with requirements less than those of this state
24 may, after five consecutive years of active experience as a licensed funeral director or embalmer
25 in that state, apply for a license to practice in this state after passing a test to prove his **or her**
26 proficiency, including but not limited to a knowledge of the laws and regulations of this state as
27 to funeral directing and embalming.

333.061. 1. No funeral establishment shall be operated in this state unless the owner or
2 operator thereof has a license issued by the board.

3 2. A license for the operation of a funeral establishment shall be issued by the board, if
4 the board finds:

5 (1) That the establishment is under the general management and the supervision of a duly
6 licensed funeral director;

7 (2) That all embalming performed therein is performed by or under the direct supervision
8 of a duly licensed embalmer;

9 (3) That any place in the funeral establishment where embalming is conducted contains
10 a preparation room with a sanitary floor, walls and ceiling, and adequate sanitary drainage and
11 disposal facilities including running water, and complies with the sanitary standard prescribed
12 by the department of health and senior services for the prevention of the spread of contagious,
13 infectious or communicable diseases;

14 (4) Each funeral establishment shall have [available in the preparation or embalming
15 room] a register book or log which shall be available at all times [in full view] for the board's
16 inspector and [the name of each body embalmed, place, if other than at the establishment, the
17 date and time that the embalming took place, the name and signature of the embalmer and the
18 embalmer's license number shall be noted in the book] **that shall contain:**

19 (a) **The name of each body that has been in the establishment;**

20 (b) **The date the body arrived at the establishment;**

21 (c) **If applicable, the place of embalming, if known; and**

22 (d) **If the body was embalmed at the establishment, the date and time that the**
23 **embalming took place, and the name, signature, and license number of the embalmer;** and

24 (5) The establishment complies with all applicable state, county or municipal zoning
25 ordinances and regulations.

26 3. The board shall grant or deny each application for a license pursuant to this section
27 within thirty days after it is filed. The applicant may request in writing up to two thirty-day

28 extensions of the application, provided the request for an extension is received by the board prior
29 to the expiration of the thirty-day application or extension period.

30 4. Licenses shall be issued pursuant to this section upon application and the payment of
31 a funeral establishment fee and shall be renewed at the end of the licensing period on the
32 establishment's renewal date.

33 5. The board may refuse to renew or may suspend or revoke any license issued pursuant
34 to this section if it finds, after hearing, that the funeral establishment does not meet any of the
35 requirements set forth in this section as conditions for the issuance of a license, or for the
36 violation by the owner of the funeral establishment of any of the provisions of section 333.121.
37 No new license shall be issued to the owner of a funeral establishment or to any corporation
38 controlled by such owner for three years after the revocation of the license of the owner or of a
39 corporation controlled by the owner. Before any action is taken pursuant to this subsection the
40 procedure for notice and hearing as prescribed by section 333.121 shall be followed.

333.091. [Each establishment, funeral director or embalmer receiving a license under this
2 chapter shall have recorded in the office of the local registrar of vital statistics of the registration
3 district in which the licensee practices.] All licenses or registrations, or duplicates thereof, issued
4 pursuant to this chapter shall be displayed at each place of business.

333.151. 1. The state board of embalmers and funeral directors shall consist of [ten] **six**
2 members, including one voting public member appointed by the governor with the advice and
3 consent of the senate. Each member, other than the public member, appointed shall possess
4 either a license to practice embalming or a license to practice funeral directing in this state or
5 both said licenses and shall have been actively engaged in the practice of embalming or funeral
6 directing for a period of five years next before his or her appointment. Each member shall be
7 a United States citizen, a resident of this state for a period of at least one year, a qualified voter
8 of this state and shall be of good moral character. Not more than [five] **three** members of the
9 board shall be of the same political party. The nonpublic members shall be appointed by the
10 governor, with the advice and consent of the senate[, one from each of the state's congressional
11 districts be of good moral character and submit an audited financial statement of their funeral
12 establishment by an independent auditor for the previous five years. This audited financial
13 statement must include all at-need and preneed business]. **A majority of the members shall
14 constitute a quorum. Members shall be appointed to represent diversity in gender, race,
15 ethnicity, and the various geographic regions of the state.**

16 2. Each member of the board shall serve for a term of five years. Any vacancy on the
17 board shall be filled by the governor and the person appointed to fill the vacancy shall possess
18 the qualifications required by this chapter and shall serve until the end of the unexpired term of
19 his or her predecessor, if any.

20 3. The public member shall be at the time of his or her appointment a person who is not
21 and never was a member of any profession licensed or regulated pursuant to this chapter or the

22 spouse of such person; and a person who does not have and never has had a material, financial
23 interest in either the providing of the professional services regulated by this chapter, or an
24 activity or organization directly related to any profession licensed or regulated pursuant to this
25 chapter. All members, including public members, shall be chosen from lists submitted by the
26 director of the division of professional registration. The duties of the public member shall not
27 include the determination of the technical requirements to be met for licensure or whether any
28 person meets such technical requirements or of the technical competence or technical judgment
29 of a licensee or a candidate for licensure.

333.171. The board shall hold at least two regular meetings each year for the purpose of
2 administering examinations at times and places fixed by the board. Other meetings shall be held
3 at the times fixed by regulations of the board or on the call of the chairman of the board. Notice
4 of the time and place of each regular or special meeting shall be mailed by the executive
5 secretary to each member of the board at least five days before the date of the meeting. [At all
6 meetings of the board three members constitute a quorum.] The board may adopt and use a
7 common seal.

335.099. Any licensed practical nurse, as defined in section 335.016:

2 **(1) Who is an approved instructor for the level 1 medication aid program shall be**
3 **qualified to teach the insulin administration course under chapter 198;**

4 **(2) Shall be qualified to perform diabetic nail care and monthly onsite reviews of**
5 **basic personal care recipients, as required by the department of social services, of a**
6 **resident of a residential care facility or assisted living facility, as defined in chapter 198;**

7 **(3) Shall be qualified to perform dietary oversight, as required by the department**
8 **of health and senior services, of a resident of a residential care facility or assisted living**
9 **facility, as defined in chapter 198.**

338.010. 1. The "practice of pharmacy" means the interpretation, implementation, and
2 evaluation of medical prescription orders, including **any legend drugs under 21 U.S.C. Section**
3 **353**; receipt, transmission, or handling of such orders or facilitating the dispensing of such
4 orders; the designing, initiating, implementing, and monitoring of a medication therapeutic plan
5 as defined by the prescription order so long as the prescription order is specific to each patient
6 for care by a pharmacist; the compounding, dispensing, labeling, and administration of drugs and
7 devices pursuant to medical prescription orders and administration of viral influenza, pneumonia,
8 shingles and meningitis vaccines by written protocol authorized by a physician for persons
9 twelve years of age or older as authorized by rule or the administration of pneumonia, shingles,
10 and meningitis vaccines by written protocol authorized by a physician for a specific patient as
11 authorized by rule; the participation in drug selection according to state law and participation in
12 drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance
13 of proper records thereof; consultation with patients and other health care practitioners, **and**
14 **veterinarians and their clients about legend drugs**, about the safe and effective use of drugs

15 and devices; and the offering or performing of those acts, services, operations, or transactions
16 necessary in the conduct, operation, management and control of a pharmacy. No person shall
17 engage in the practice of pharmacy unless he is licensed under the provisions of this chapter.
18 This chapter shall not be construed to prohibit the use of auxiliary personnel under the direct
19 supervision of a pharmacist from assisting the pharmacist in any of his **or her** duties. This
20 assistance in no way is intended to relieve the pharmacist from his **or her** responsibilities for
21 compliance with this chapter and he **or she** will be responsible for the actions of the auxiliary
22 personnel acting in his **or her** assistance. This chapter shall also not be construed to prohibit or
23 interfere with any legally registered practitioner of medicine, dentistry, **or** podiatry, or veterinary
24 medicine **only for use in animals**, or the practice of optometry in accordance with and as
25 provided in sections 195.070 and 336.220 in the compounding, **administering, prescribing,** or
26 dispensing of his **or her** own prescriptions.

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

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

36 4. Nothing in this section shall be construed to apply to or interfere with the sale of
37 nonprescription drugs and the ordinary household remedies and such drugs or medicines as are
38 normally sold by those engaged in the sale of general merchandise.

39 5. No health carrier as defined in chapter 376 shall require any physician with which they
40 contract to enter into a written protocol with a pharmacist for medication therapeutic services.

41 6. This section shall not be construed to allow a pharmacist to diagnose or independently
42 prescribe pharmaceuticals.

43 7. The state board of registration for the healing arts, under section 334.125, and the state
44 board of pharmacy, under section 338.140, shall jointly promulgate rules regulating the use of
45 protocols for prescription orders for medication therapy services and administration of viral
46 influenza vaccines. Such rules shall require protocols to include provisions allowing for timely
47 communication between the pharmacist and the referring physician, and any other patient
48 protection provisions deemed appropriate by both boards. In order to take effect, such rules shall
49 be approved by a majority vote of a quorum of each board. Neither board shall separately
50 promulgate rules regulating the use of protocols for prescription orders for medication therapy
51 services and administration of viral influenza vaccines. Any rule or portion of a rule, as that term
52 is defined in section 536.010, that is created under the authority delegated in this section shall

53 become effective only if it complies with and is subject to all of the provisions of chapter 536
54 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of
55 the powers vested with the general assembly pursuant to chapter 536 to review, to delay the
56 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the
57 grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be
58 invalid and void.

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

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

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

72 **11. "Veterinarian", "doctor of veterinary medicine", "practitioner of veterinary**
73 **medicine", "DVM", "VMD", "BVSe", "BVMS", "BSe (Vet Science)", "VMB",**
74 **"MRCVS", or an equivalent title means a person who has received a doctor's degree in**
75 **veterinary medicine from an accredited school of veterinary medicine or holds an**
76 **Educational Commission for Foreign Veterinary Graduates (EDFVG) certificate issued by**
77 **the American Veterinary Medical Association (AVMA).**

338.140. 1. The board of pharmacy shall have a common seal, and shall have power to
2 adopt such rules and bylaws not inconsistent with law as may be necessary for the regulation of
3 its proceedings and for the discharge of the duties imposed pursuant to sections 338.010 to
4 338.198, and shall have power to employ an attorney to conduct prosecutions or to assist in the
5 conduct of prosecutions pursuant to sections 338.010 to 338.198.

6 2. The board shall keep a record of its proceedings.

7 3. The board of pharmacy shall make annually to the governor and, upon written request,
8 to persons licensed pursuant to the provisions of this chapter a written report of its proceedings.

9 4. The board of pharmacy shall appoint an advisory committee composed of [five] **six**
10 members, one of whom shall be a representative of pharmacy but who shall not be a member of
11 the pharmacy board, three of whom shall be representatives of wholesale drug distributors as
12 defined in section 338.330, [and] one of whom shall be a representative of drug manufacturers,
13 **and one of whom shall be a licensed veterinarian recommended to the board of pharmacy**

14 **by the board of veterinary medicine.** The committee shall review and make recommendations
15 to the board on the merit of all rules and regulations dealing with pharmacy distributors,
16 wholesale drug distributors [and] , drug manufacturers, **and veterinary legend drugs** which are
17 proposed by the board.

18 5. A majority of the board shall constitute a quorum for the transaction of business.

19 6. Notwithstanding any other provisions of law to the contrary, the board may issue
20 letters of reprimand, censure or warning to any holder of a license or registration required
21 pursuant to this chapter for any violations that could result in disciplinary action as defined in
22 section 338.055.

338.150. Any person authorized by the board of pharmacy is hereby given the right of
2 entry and inspection upon all open premises purporting or appearing to be drug or chemical
3 stores, apothecary shops, pharmacies or places of business for exposing for sale, or the
4 dispensing or selling of drugs, pharmaceuticals, medicines, chemicals or poisons or for the
5 compounding of physicians' **or veterinarians'** prescriptions.

338.210. 1. Pharmacy refers to any location where the practice of pharmacy occurs or
2 such activities are offered or provided by a pharmacist or another acting under the supervision
3 and authority of a pharmacist, including every premises or other place:

4 (1) Where the practice of pharmacy is offered or conducted;

5 (2) Where drugs, chemicals, medicines, **any legend drugs under 21 U.S.C. Section**
6 **353**, prescriptions, or poisons are compounded, prepared, dispensed or sold or offered for sale
7 at retail;

8 (3) Where the words "pharmacist", "apothecary", "drugstore", "drugs", and any other
9 symbols, words or phrases of similar meaning or understanding are used in any form to advertise
10 retail products or services;

11 (4) Where patient records or other information is maintained for the purpose of engaging
12 or offering to engage in the practice of pharmacy or to comply with any relevant laws regulating
13 the acquisition, possession, handling, transfer, sale or destruction of drugs, chemicals, medicines,
14 prescriptions or poisons.

15 2. All activity or conduct involving the practice of pharmacy as it relates to an
16 identifiable prescription or drug order shall occur at the pharmacy location where such
17 identifiable prescription or drug order is first presented by the patient or the patient's authorized
18 agent for preparation or dispensing, unless otherwise expressly authorized by the board.

19 3. The requirements set forth in subsection 2 of this section shall not be construed to bar
20 the complete transfer of an identifiable prescription or drug order pursuant to a verbal request
21 by or the written consent of the patient or the patient's authorized agent.

22 4. The board is hereby authorized to enact rules waiving the requirements of subsection
23 2 of this section and establishing such terms and conditions as it deems necessary, whereby any

24 activities related to the preparation, dispensing or recording of an identifiable prescription or
25 drug order may be shared between separately licensed facilities.

26 5. If a violation of this chapter or other relevant law occurs in connection with or adjunct
27 to the preparation or dispensing of a prescription or drug order, any permit holder or
28 pharmacist-in-charge at any facility participating in the preparation, dispensing, or distribution
29 of a prescription or drug order may be deemed liable for such violation.

30 6. Nothing in this section shall be construed to supersede the provisions of section
31 197.100.

338.220. 1. It shall be unlawful for any person, copartnership, association, corporation
2 or any other business entity to open, establish, operate, or maintain any pharmacy as defined by
3 statute without first obtaining a permit or license to do so from the Missouri board of pharmacy.
4 A permit shall not be required for an individual licensed pharmacist to perform nondispensing
5 activities outside of a pharmacy, as provided by the rules of the board. A permit shall not be
6 required for an individual licensed pharmacist to administer drugs, vaccines, and biologicals by
7 protocol, as permitted by law, outside of a pharmacy. The following classes of pharmacy permits
8 or licenses are hereby established:

- 9 (1) Class A: Community/ambulatory;
- 10 (2) Class B: Hospital outpatient pharmacy;
- 11 (3) Class C: Long-term care;
- 12 (4) Class D: Nonsterile compounding;
- 13 (5) Class E: Radio pharmaceutical;
- 14 (6) Class F: Renal dialysis;
- 15 (7) Class G: Medical gas;
- 16 (8) Class H: Sterile product compounding;
- 17 (9) Class I: Consultant services;
- 18 (10) Class J: Shared service;
- 19 (11) Class K: Internet;
- 20 (12) Class L: Veterinary.

21 2. Application for such permit or license shall be made upon a form furnished to the
22 applicant; shall contain a statement that it is made under oath or affirmation and that its
23 representations are true and correct to the best knowledge and belief of the person signing same,
24 subject to the penalties of making a false affidavit or declaration; and shall be accompanied by
25 a permit or license fee. The permit or license issued shall be renewable upon payment of a
26 renewal fee. Separate applications shall be made and separate permits or licenses required for
27 each pharmacy opened, established, operated, or maintained by the same owner.

28 3. All permits, licenses or renewal fees collected pursuant to the provisions of sections
29 338.210 to 338.370 shall be deposited in the state treasury to the credit of the Missouri board of
30 pharmacy fund, to be used by the Missouri board of pharmacy in the enforcement of the

31 provisions of sections 338.210 to 338.370, when appropriated for that purpose by the general
32 assembly.

33 4. Class L: veterinary permit shall not be construed to prohibit or interfere with any
34 legally registered practitioner of veterinary medicine in the compounding, **administering,**
35 **prescribing,** or dispensing of their own prescriptions, **or medicine, drug, or pharmaceutical**
36 **product to be used for animals.**

37 5. [Notwithstanding any other law to the contrary] **Except for any legend drugs under**
38 **21 U.S.C. Section 353,** the provisions of this section shall not apply to the sale, dispensing, or
39 filling of a pharmaceutical product or drug used for treating animals.

338.240. **1.** Upon evidence satisfactory to the said Missouri board of pharmacy:

2 (1) That the pharmacy for which a permit, or renewal thereof, is sought, will be
3 conducted in full compliance with sections 338.210 to 338.300, with existing laws, and with the
4 rules and regulations as established hereunder by said board;

5 (2) That the equipment and facilities of such pharmacy are such that it can be operated
6 in a manner not to endanger the public health or safety;

7 (3) That such pharmacy is equipped with proper pharmaceutical and sanitary appliances
8 and kept in a clean, sanitary and orderly manner;

9 (4) That the management of said pharmacy is under the supervision of either a registered
10 pharmacist, or an owner or employee of the owner, who has at his **or her** place of business a
11 registered pharmacist employed for the purpose of compounding physician's **or veterinarian's**
12 prescriptions in the event any such prescriptions are compounded or sold;

13 (5) That said pharmacy is operated in compliance with the rules and regulations legally
14 prescribed with respect thereto by the Missouri board of pharmacy, a permit or renewal thereof
15 shall be issued to such persons as the said board of pharmacy shall deem qualified to conduct
16 such pharmacy.

17 **2. In lieu of a registered pharmacist as required by subdivision (4) of subsection 1**
18 **of this section, a pharmacy permit holder that only holds a class L veterinary permit and**
19 **no other pharmacy permit, may designate a supervising registered pharmacist who shall**
20 **be responsible for reviewing the activities and records of the class L pharmacy permit**
21 **holder as established by the board by rule. The supervising registered pharmacist shall**
22 **not be required to be physically present on site during the business operations of a class**
23 **L pharmacy permit holder identified in subdivision (5) of subsection 1 of this section when**
24 **noncontrolled legend drugs under 21 U.S.C. Section 353 are being dispensed for use in**
25 **animals, but shall be specifically present on site when any noncontrolled drugs for use in**
26 **animals are being compounded.**

338.315. It shall be unlawful for any pharmacist, pharmacy owner or person employed
2 by a pharmacy to knowingly purchase or receive any legend drugs **under 21 U.S.C. Section 353**
3 from other than a licensed or registered drug distributor or licensed pharmacy. Any person who

4 violates the provisions of this section shall, upon conviction, be adjudged guilty of a class A
5 misdemeanor. Any subsequent conviction shall constitute a class D felony.

338.330. As used in sections 338.300 to 338.370, the following terms mean:

2 (1) "Out-of-state wholesale drug distributor", a wholesale drug distributor with no
3 physical facilities located in the state;

4 (2) "Pharmacy distributor", any licensed pharmacy, as defined in section 338.210,
5 engaged in the delivery or distribution of legend drugs to any other licensed pharmacy where
6 such delivery or distribution constitutes at least five percent of the total gross sales of such
7 pharmacy;

8 (3) "**Legend drug**":

9 (a) **Any drug or biological product:**

10 **a. Subject to Section 503(b) of the Federal Food, Drug and Cosmetic Act, including**
11 **finished dosage forms and active ingredients subject to such section;**

12 **b. Required under federal law to be labeled with one of the following statements**
13 **prior to being dispensed or delivered:**

14 (i) "**Caution: Federal law prohibits dispensing without prescription**";

15 (ii) "**Caution: Federal law restricts this drug to use by or on the order of a licensed**
16 **veterinarian**"; or

17 (iii) "**Rx only**";

18 **c. Required by any applicable federal or state law or regulation to be dispensed by**
19 **prescription only or that is restricted to use or dispensed by practitioners only;**

20 (b) **The term "drug", "prescription drug", or "legend drug" shall not include:**

21 **a. An investigational new drug, as defined in 21 CFR 312.3(b), that is being utilized**
22 **for the purposes of conducting a clinical trial or investigation of such drug or product that**
23 **is governed by and being conducted under 21 CFR 312, et seq.;**

24 **b. Any drug product being utilized for the purposes of conducting a clinical trial**
25 **or investigation that is governed by and being conducted under 21 CFR 312, et seq.;**

26 **c. Any drug product being utilized for the purposes of conducting a clinical trial**
27 **or investigation that is governed or approved by an institutional review board subject to**
28 **21 CFR Part 56 or 45 CFR Part 46;**

29 (4) "Wholesale drug distributor", anyone engaged in the delivery or distribution of
30 legend drugs from any location and who is involved in the actual, constructive or attempted
31 transfer of a drug or drug-related device in this state, other than to the ultimate consumer. This
32 shall include, but not be limited to, drug wholesalers, repackagers and manufacturers which are
33 engaged in the delivery or distribution of drugs in this state, with facilities located in this state
34 or in any other state or jurisdiction. A wholesale drug distributor shall not include any common
35 carrier or individual hired solely to transport legend drugs. Any locations where drugs are
36 delivered on a consignment basis, as defined by the board, shall be exempt from licensure as a

37 drug distributor, and those standards of practice required of a drug distributor but shall be open
38 for inspection by board of pharmacy representatives as provided for in section 338.360.

339.190. 1. A real estate licensee shall be immune from liability for statements made
2 by engineers, land surveyors, geologists, environmental hazard experts, wood- destroying
3 inspection and control experts, termite inspectors, mortgage brokers, home inspectors, or other
4 home inspection experts unless:

5 (1) The statement was made by a person employed by the licensee or the broker with
6 whom the licensee is associated;

7 (2) The person making the statement was selected by and engaged by the licensee. **For**
8 **purposes of this section, the ordering of a report or inspection alone shall not constitute**
9 **selecting or engaging a person;** or

10 (3) The licensee knew prior to closing that the statement was false or the licensee acted
11 in reckless disregard as to whether the statement was true or false.

12 2. A real estate licensee shall not be the subject of any action and no action shall be
13 instituted against a real estate licensee for any information contained in a seller's disclosure for
14 residential, commercial, industrial, farm, or vacant real estate furnished to a buyer, unless the real
15 estate licensee is a signatory to such or the licensee knew prior to closing that the statement was
16 false or the licensee acted in reckless disregard as to whether the statement was true or false.

17 3. A real estate licensee acting as a courier of documents referenced in this section shall
18 not be considered to be making the statements contained in such documents.

429.015. 1. Every registered architect or corporation registered to practice architecture,
2 every registered professional engineer or corporation registered to practice professional
3 engineering, every registered landscape architect or corporation registered to practice landscape
4 architecture, and every registered land surveyor or corporation registered to practice land
5 surveying, who does any landscape architectural, architectural, engineering or land surveying
6 work upon or performs any landscape architectural, architectural, engineering or land surveying
7 service directly connected with the erection or repair of any building or other improvement upon
8 land under or by virtue of any contract with the owner or lessee thereof, or such owner's or
9 lessee's agent, trustee, contractor or subcontractor, or without a contract if ordered by a city,
10 town, village or county having a charter form of government to abate the conditions that caused
11 a structure on that property to be deemed a dangerous building under local ordinances pursuant
12 to section 67.410, upon complying with the provisions of this chapter, shall have for such
13 person's landscape architectural, architectural, engineering or land surveying work or service so
14 done or performed, a lien upon the building or other improvements and upon the land belonging
15 to the owner or lessee on which the building or improvements are situated, to the extent of [one
16 acre] **three acres**. If the building or other improvement is upon any lot of land in any town, city
17 or village, then the lien shall be upon such building or other improvements, and the lot or land
18 upon which the building or other improvements are situated, to secure the payment for the

19 landscape architectural, architectural, engineering or land surveying work or service so done or
20 performed. For purposes of this section, a corporation engaged in the practice of architecture,
21 engineering, landscape architecture, or land surveying, shall be deemed to be registered if the
22 corporation itself is registered under the laws of this state to practice architecture, engineering
23 or land surveying.

24 2. Every mechanic or other person who shall do or perform any work or labor upon or
25 furnish any material or machinery for the digging of a well to obtain water under or by virtue of
26 any contract with the owner or lessee thereof, or such owner's or lessee's agent, trustee,
27 contractor or subcontractor, upon complying with the provisions of sections 429.010 to 429.340
28 shall have for such person's work or labor done, or materials or machinery furnished, a lien upon
29 the land belonging to such owner or lessee on which the same are situated, to the extent of [one
30 acre] **three acres**, to secure the payment of such work or labor done, or materials or machinery
31 furnished as aforesaid.

32 3. Every mechanic or other person who shall do or perform any work or labor upon, or
33 furnish any material, fixtures, engine, boiler or machinery, for the purpose of demolishing or
34 razing a building or structure under or by virtue of any contract with the owner or lessee thereof,
35 or such owner's or lessee's agent, trustee, contractor or subcontractor, or without a contract if
36 ordered by a city, town, village or county having a charter form of government to abate the
37 conditions that caused a structure on that property to be deemed a dangerous building under local
38 ordinances pursuant to section 67.410, upon complying with the provisions of sections 429.010
39 to 429.340, shall have for such person's work or labor done, or materials, fixtures, engine, boiler
40 or machinery furnished, a lien upon the land belonging to such owner or lessee on which the
41 same are situated, to the extent of [one acre] **three acres**. If the building or buildings to be
42 demolished or razed are upon any lot of land in any town, city or village, then the lien shall be
43 upon the lot or lots or land upon which the building or other improvements are situated, to secure
44 the payment for the labor and materials performed.

45 4. The provisions of sections 429.030 to 429.060 and sections 429.080 to 429.430
46 applicable to liens of mechanics and other persons shall apply to and govern the procedure with
47 respect to the liens provided for in subsections 1, 2 and 3 of this section.

48 5. Any design professional or corporation authorized to have lien rights under subsection
49 1 of this section shall have a lien upon the building or other improvement and upon the land,
50 whether or not actual construction of the planned work or improvement has commenced if:

51 (1) The owner or lessee thereof, or such owner's or lessee's agent or trustee, contracted
52 for such professional services directly with the design professional or corporation asserting the
53 lien; and

54 (2) The owner or lessee is the owner or lessee of such real property either at the time the
55 contract is made or at the time the lien is filed.

56 6. Priority between a design professional or corporation lien claimant and any other
57 mechanic's lien claimant shall be determined pursuant to the provisions of section 429.260 on
58 a pro rata basis.

59 7. In any civil action, the owner or lessee may assert defenses which include that the
60 actual construction of the planned work or improvement has not been performed in compliance
61 with the professional services contract, is impracticable or is economically infeasible.

62 8. The agreement is in writing.

436.405. 1. As used in sections 436.400 to 436.520, unless the context otherwise
2 requires, the following terms shall mean:

3 (1) "Beneficiary", the individual who is to be the subject of the disposition or who will
4 receive funeral services, facilities, or merchandise described in a preneed contract;

5 (2) **"Board", the board of embalmers and funeral directors;**

6 (3) "Guaranteed contract", a preneed contract in which the seller promises, assures, or
7 guarantees to the purchaser that all or any portion of the costs for the disposition, services,
8 facilities, or merchandise identified in a preneed contract will be no greater than the amount
9 designated in the contract upon the preneed beneficiary's death or that such costs will be
10 otherwise limited or restricted;

11 [(3)] (4) "Insurance-funded preneed contract", a preneed contract which is designated
12 to be funded by payments or proceeds from an insurance policy or [single premium] **a deferred**
13 **annuity contract that is not classified as a variable annuity and has death benefit proceeds**
14 **that are never less than the sum of premiums paid;**

15 [(4)] (5) "Joint account-funded preneed contract", a preneed contract which designates
16 that payments for the preneed contract made by or on behalf of the purchaser will be deposited
17 and maintained in a joint account in the names of the purchaser and seller, as provided in this
18 chapter;

19 [(5)] (6) "Market value", a fair market value:

20 (a) As to cash, the amount thereof;

21 (b) As to a security as of any date, the price for the security as of that date obtained from
22 a generally recognized source, or to the extent no generally recognized source exists, the price
23 to sell the security in an orderly transaction between unrelated market participants at the
24 measurement date; and

25 (c) As to any other asset, the price to sell the asset in an orderly transaction between
26 unrelated market participants at the measurement date consistent with statements of financial
27 accounting standards;

28 [(6)] (7) "Nonguaranteed contract", a preneed contract in which the seller does not
29 promise, assure, or guarantee that all or any portion of the costs for the disposition, facilities,
30 service, or merchandise identified in a preneed contract will be limited to the amount designated

31 in the contract upon the preneed beneficiary's death or that such costs will be otherwise limited
32 or restricted;

33 [(7)] (8) "Preneed contract", any contract or other arrangement which provides for the
34 final disposition in Missouri of a dead human body, funeral or burial services or facilities, or
35 funeral merchandise, where such disposition, services, facilities, or merchandise are not
36 immediately required. Such contracts include, but are not limited to, agreements providing for
37 a membership fee or any other fee for the purpose of furnishing final disposition, funeral or
38 burial services or facilities, or funeral merchandise at a discount or at a future date;

39 [(8)] (9) "Preneed trust", a trust to receive deposits of, administer, and disburse payments
40 received under preneed contracts, together with income thereon;

41 [(9)] (10) "Purchaser", the person who is obligated to pay under a preneed contract;

42 [(10)] (11) "Trustee", the trustee of a preneed trust, including successor trustees;

43 [(11)] (12) "Trust-funded preneed contract", a preneed contract which provides that
44 payments for the preneed contract shall be deposited and maintained in trust.

45 2. All terms defined in chapter 333 shall be deemed to have the same meaning when
46 used in sections 436.400 to 436.520.

436.412. Each preneed contract made before August 28, 2009, and all payments and
2 disbursements under such contract shall continue to be governed by this chapter as the chapter
3 existed at the time the contract was made. Any licensee or registrant of the board may be
4 disciplined for violation of any provision of sections 436.005 to 436.071 within the applicable
5 statute of limitations. [In addition, the provisions of section 436.031, as it existed on August 27,
6 2009, shall continue to govern disbursements to the seller from the trust and payment of trust
7 expenses.] Joint accounts in existence as of August 27, 2009, shall continue to be governed by
8 the provisions of section 436.053, as that section existed on August 27, 2009.

436.445. A trustee of any preneed trust, including trusts established before August 28,
2 2009, shall not after August 28, 2009, make any decisions to invest any trust fund with:

3 (1) The spouse of the trustee;

4 (2) The descendants, siblings, parents, or spouses of a seller or an officer, manager,
5 director or employee of a seller, provider, or preneed agent;

6 (3) Agents, **other than authorized external investment advisors as authorized by**
7 **section 436.440**, or attorneys of a trustee, seller, or provider; or

8 (4) A corporation or other person or enterprise in which the trustee, seller, or provider
9 owns a controlling interest or has an interest that might affect the trustee's judgment.

436.450. 1. An insurance-funded preneed contract shall comply with sections 436.400
2 to 436.520 and the specific requirements of this section.

3 2. A seller, provider, or any preneed agent shall not receive or collect from the purchaser
4 of an insurance-funded preneed contract any amount in excess of what is required to pay the
5 premiums on the insurance policy as assessed or required by the insurer as premium payments

6 for the insurance policy except for any amount required or authorized by this chapter or by rule.
7 A seller shall not receive or collect any administrative or other fee from the purchaser for or in
8 connection with an insurance-funded preneed contract, other than those fees or amounts assessed
9 by the insurer. As of August 29, 2009, no preneed seller, provider, or agent shall use any
10 existing preneed contract as collateral or security pledged for a loan or take preneed funds of any
11 existing preneed contract as a loan for any purpose other than as authorized by this chapter.

12 3. Payments collected by or on behalf of a seller for an insurance-funded preneed
13 contract shall be promptly remitted to the insurer or the insurer's designee as required by the
14 insurer; provided that payments shall not be retained or held by the seller or preneed agent for
15 more than thirty days from the date of receipt.

16 4. It is unlawful for a seller, provider, or preneed agent to procure or accept a loan
17 against any insurance contract used to fund a preneed contract.

18 5. Laws regulating insurance shall not apply to preneed contracts, but shall apply to any
19 insurance or [single premium] annuity sold with a preneed contract; provided, however, the
20 provisions of [this act] sections 436.400 to 436.520 shall not apply to [single premium] annuities
21 or insurance policies regulated by chapters 374, 375, and 376 used to fund preneed funeral
22 agreements, contracts, or programs.

23 6. This section shall apply to all preneed contracts including those entered into before
24 August 28, 2009.

25 7. For any insurance-funded preneed contract sold after August 28, 2009, the following
26 shall apply:

27 (1) The purchaser or beneficiary shall be the owner of the insurance policy purchased
28 to fund a preneed contract; and

29 (2) An insurance-funded preneed contract shall be valid and enforceable only if the seller
30 or provider is named as the beneficiary or assignee of the life insurance policy funding the
31 contract.

32 8. If the proceeds of the life insurance policy exceed the actual cost of the goods and
33 services provided pursuant to the nonguaranteed preneed contract, any overage shall be paid to
34 the estate of the beneficiary, or, if the beneficiary received public assistance, to the state of
35 Missouri.

436.455. 1. A joint account-funded preneed contract shall comply with sections 436.400
2 to 436.520 and the specific requirements of this section.

3 2. In lieu of a trust-funded or insurance-funded preneed contract, the seller and the
4 purchaser may agree in writing that all funds paid by the purchaser or beneficiary for the preneed
5 contract shall be deposited with a financial institution chartered and regulated by the federal or
6 state government authorized to do business in Missouri in an account in the joint names and
7 under the joint control of the seller and purchaser, beneficiary or party holding power of attorney
8 over the beneficiary's estate, **or in an account titled in the beneficiary's name and payable**

9 **on the beneficiary's death to the seller.** There shall be a separate joint account established for
10 each preneed contract sold or arranged under this section. Funds shall only be withdrawn or paid
11 from the account upon the signatures of both the seller and the purchaser or under a pay-on-death
12 designation or as required to pay reasonable expenses of administering the account.

13 3. All consideration paid by the purchaser under a joint account-funded contract shall
14 be deposited into a joint account as authorized by this section within ten days of receipt of
15 payment by the seller.

16 4. The financial institution shall hold, invest, and reinvest funds deposited under this
17 section in other accounts offered to depositors by the financial institutions as provided in the
18 written agreement of the purchaser and the seller, provided the financial institution shall not
19 invest or reinvest any funds deposited under this section in term life insurance or any investment
20 that does not reasonably have the potential to gain income or increase in value.

21 5. Income generated by preneed funds deposited under this section shall be used to pay
22 the reasonable expenses of administering the account as charged by the financial institution and
23 the balance of the income shall be distributed or reinvested upon fulfillment of the contract,
24 cancellation or transfer pursuant to the provisions of this chapter.

25 6. Within fifteen days after a provider [and a witness certify to the financial institution
26 in writing] **delivers a copy of a certificate of performance to the seller, signed by the**
27 **provider and the person authorized to make arrangements on behalf of the beneficiary,**
28 **certifying** that the provider has furnished the final disposition, funeral, and burial services and
29 facilities, and merchandise as required by the preneed contract, or has provided alternative
30 funeral benefits for the beneficiary under special arrangements made with the purchaser, the
31 [financial institution shall distribute the deposited funds to the seller if the certification has been
32 approved by the purchaser] **seller shall take whatever steps are required by the financial**
33 **institution to secure payment of the funds from the financial institution.** The seller shall pay
34 the provider within ten days of receipt of funds.

35 7. Any seller, provider, or preneed agent shall not procure or accept a loan against any
36 investment, or asset of, or belonging to a joint account. As of August 28, 2009, it shall be
37 prohibited to use any existing preneed contract as collateral or security pledged for a loan, or take
38 preneed funds of any existing preneed contract as a loan or for any purpose other than as
39 authorized by this chapter.

436.456. At any time before final disposition, or before the funeral or burial services,
2 facilities, or merchandise described in a preneed contract are furnished, the purchaser may cancel
3 the contract, if designated as revocable, without cause. In order to cancel the contract the
4 purchaser shall:

5 (1) In the case of a joint account-funded preneed contract, deliver written notice of the
6 cancellation to the seller [and the financial institution]. Within fifteen days of receipt of notice
7 of the cancellation, the [financial institution shall distribute all deposited funds to the purchaser]

8 **seller shall take whatever steps may be required by the financial institution to obtain the**
9 **funds from the financial institution. Upon receipt of the funds from the financial**
10 **institution, the seller shall distribute the principal to the purchaser.** Interest shall be
11 distributed as provided in the agreement with the seller and purchaser;

12 (2) In the case of an insurance-funded preneed contract, deliver written notice of the
13 cancellation to the seller. Within fifteen days of receipt of notice of the cancellation, the seller
14 shall notify the purchaser that the cancellation of the contract shall not cancel any life insurance
15 funding the contract and that insurance cancellation is required to be made in writing to the
16 insurer;

17 (3) In the case of a trust-funded preneed contract, deliver written notice of the
18 cancellation to the seller and trustee. Within fifteen days of receipt of notice of the cancellation,
19 the trustee shall distribute one hundred percent of the trust property including any percentage of
20 the total payments received on the trust-funded contract that have been withdrawn from the
21 account under subsection 4 of section 436.430 but excluding the income, to the purchaser of the
22 contract;

23 (4) In the case of a guaranteed installment payment contract where the beneficiary dies
24 before all installments have been paid, the purchaser shall pay the seller the amount remaining
25 due under the contract in order to receive the goods and services set out in the contract, otherwise
26 the purchaser or their estate will receive full credit for all payments the purchaser has made
27 towards the cost of the beneficiary's funeral at the provider current prices.

516.098. [1.] Except where fraud is involved, no action to recover damages for an error
2 or omission in the survey of land, nor any action for contribution or indemnity for damages
3 sustained on account of an error or omission may be brought against any person performing the
4 survey more than [five years after the discovery of the error or omission] **ten years from the**
5 **completion of the survey.**

6 [2. This section shall become effective January 1, 1990.]

Section B. Because immediate action is necessary to ensure the continuance of clinical
2 trials in this state, the repeal and reenactment of section 338.330 of section A of this act is
3 deemed necessary for the immediate preservation of the public health, welfare, peace, and safety,
4 and is hereby declared to be an emergency act within the meaning of the constitution, and the
5 repeal and reenactment of section 338.330 of section A of this act shall be in full force and effect
6 upon its passage and approval.

✓