

CONFERENCE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE NO. 2

FOR

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FOR

HOUSE BILL NO. 273

AN ACT

1
2
3 To repeal sections 324.009, 324.012, 324.200, 324.206,
4 327.011, 327.091, 327.101, 327.131, 327.191, 327.241,
5 327.612, 337.068, 338.010, 339.100, 339.150, 436.218,
6 436.224, 436.227, 436.230, 436.236, 436.242, 436.245,
7 436.248, 436.254, 436.257, 436.260, 436.263, and
8 436.266, RSMo, and to enact in lieu thereof thirty-one
9 new sections relating to professional registration,
10 with penalty provisions.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
14 AS FOLLOWS:

15
16 Section A. Sections 324.009, 324.012, 324.200, 324.206,
17 327.011, 327.091, 327.101, 327.131, 327.191, 327.241, 327.612,
18 337.068, 338.010, 339.100, 339.150, 436.218, 436.224, 436.227,
19 436.230, 436.236, 436.242, 436.245, 436.248, 436.254, 436.257,
20 436.260, 436.263, and 436.266, RSMo, are repealed and thirty-one
21 new sections enacted in lieu thereof, to be known as sections
22 324.009, 324.012, 324.087, 324.200, 324.206, 327.011, 327.091,
23 327.101, 327.131, 327.191, 327.241, 327.612, 329.034, 337.068,
24 338.010, 338.730, 339.100, 339.150, 375.029, 436.218, 436.224,
25 436.227, 436.230, 436.236, 436.242, 436.245, 436.248, 436.254,

1 436.260, 436.263, and 436.266, to read as follows:

2 324.009. 1. For purposes of this section, the following
3 terms mean:

4 (1) "License", a license, certificate, registration,
5 permit, ~~or~~ accreditation, or military occupational speciality
6 that enables a person to legally practice an occupation or
7 profession in a particular jurisdiction;

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

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

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

24 ~~(5)~~ (5) "Resident military spouse", a spouse of an active
25 duty member of the Armed Forces of the United States who has been
26 transferred or is scheduled to be transferred to the state of
27 Missouri or an adjacent state and who is a permanent resident of

1 the state of Missouri, who is domiciled in the state of Missouri,
2 or who has Missouri as his or her home of record.

3 2. Any person who holds a valid current license issued by
4 another state, a branch or unit of the military, a territory of
5 the United States, or the District of Columbia, and who has been
6 licensed for at least one year in such other jurisdiction, may
7 submit an application for a license in Missouri in the same
8 occupation or profession, and at the same practice level, for
9 which he or she holds the current license, along with proof of
10 current licensure and proof of licensure for at least one year in
11 the other jurisdiction, to the relevant oversight body in this
12 state.

13 3. The oversight body in this state shall:

14 (1) Within six months of receiving an application described
15 in subsection 2 of this section, waive any examination,
16 educational, or experience requirements for licensure in this
17 state for the applicant if it determines that there were minimum
18 education requirements and, if applicable, work experience and
19 clinical supervision requirements in effect and the other state
20 verifies that the person met those requirements in order to be
21 licensed or certified in that state. An oversight body that
22 administers an examination on laws of this state as part of its
23 licensing application requirement may require an applicant to
24 take and pass an examination specific to the laws of this state;
25 or

26 (2) Within thirty days of receiving an application
27 described in subsection 2 of this section from a nonresident

1 military spouse or a resident military spouse, waive any
2 examination, educational, or experience requirements for
3 licensure in this state for the applicant and issue such
4 applicant a license under this section if such applicant
5 otherwise meets the requirements of this section.

6 4. (1) The oversight body shall not waive any examination,
7 educational, or experience requirements for any applicant who has
8 had his or her license revoked by an oversight body outside the
9 state; who is currently under investigation, who has a complaint
10 pending, or who is currently under disciplinary action, except as
11 provided in subdivision (2) of this subsection, with an oversight
12 body outside the state; who does not hold a license in good
13 standing with an oversight body outside the state; who has a
14 criminal record that would disqualify him or her for licensure in
15 Missouri; or who does not hold a valid current license in the
16 other jurisdiction on the date the oversight body receives his or
17 her application under this section.

18 (2) If another jurisdiction has taken disciplinary action
19 against an applicant, the oversight body shall determine if the
20 cause for the action was corrected and the matter resolved. If
21 the matter has not been resolved by that jurisdiction, the
22 oversight body may deny a license until the matter is resolved.

23 5. Nothing in this section shall prohibit the oversight
24 body from denying a license to an applicant under this section
25 for any reason described in any section associated with the
26 occupation or profession for which the applicant seeks a license.

27 6. Any person who is licensed under the provisions of this

1 section shall be subject to the applicable oversight body's
2 jurisdiction and all rules and regulations pertaining to the
3 practice of the licensed occupation or profession in this state.

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

8 8. This section shall not apply to business, professional,
9 or occupational licenses issued or required by political
10 subdivisions.

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

14 10. The provisions of this section shall not apply to an
15 oversight body that has entered into a licensing compact with
16 another state for the regulation of practice under the oversight
17 body's jurisdiction. The provisions of this section shall not be
18 construed to alter the authority granted by, or any requirements
19 promulgated pursuant to, any interjurisdictional or interstate
20 compacts adopted by Missouri statute or any reciprocity
21 agreements with other states in effect on August 28, 2018, and
22 whenever possible this section shall be interpreted so as to
23 imply no conflict between it and any compact, or any reciprocity
24 agreements with other states in effect on August 28, 2018.

25 11. Notwithstanding any other provision of law, a license
26 issued under this section shall be valid only in this state and
27 shall not make a licensee eligible to be part of an interstate

1 compact. An applicant who is licensed in another state pursuant
2 to an interstate compact shall not be eligible for licensure by
3 an oversight body under the provisions of this section.

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

7 324.012. 1. This section shall be known and may be cited
8 as the "Fresh Start Act of 2020".

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

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

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

15 (3) "Licensing authority", an agency, examining board,
16 credentialing board, or other office of the state with the
17 authority to impose occupational fees or licensing requirements
18 on any profession. For purposes of the provisions of this
19 section other than subsection 7 of this section, the term
20 "licensing authority" shall not include the state board of
21 education's licensure of teachers pursuant to chapter 168, the
22 Missouri state board of accountant's licensure of accountants
23 pursuant to chapter 326, the board of podiatric medicine's
24 licensure of podiatrists pursuant to chapter 330, the Missouri
25 dental board's licensure of dentists pursuant to chapter 332, the
26 state board of registration for the healing art's licensure of
27 physicians and surgeons pursuant to chapter 334, the Missouri

1 state board of nursing's licensure of nurses pursuant to chapter
2 335, the board of pharmacy's licensure of pharmacists pursuant to
3 chapter 338, the Missouri real estate commission's licensure of
4 real estate brokers, real estate salespersons, or real estate
5 broker-salespersons pursuant to sections 339.010 to 339.205, the
6 Missouri veterinary medical board's licensure of veterinarian's
7 pursuant to chapter 340, the Missouri director of finance
8 appointed pursuant to chapter 361, or the peace officer standards
9 and training commission's licensure of peace officers or other
10 law enforcement personnel pursuant to chapter 590;

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

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

21 4. Beginning August 28, 2020, applicants for examination of
22 licensure who have pleaded guilty to, entered a plea of nolo
23 contendere to, or been found guilty of any of the following
24 offenses or offenses of a similar nature established under the
25 laws of this state, any other state, United States, or any other
26 country, notwithstanding whether sentence is imposed, shall be
27 considered by state licensing authorities to have committed a

1 criminal offense that directly relates to the duties and
2 responsibilities of a licensed profession:

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

8 (2) Any of the following sexual offenses: rape in the
9 first degree, forcible rape, rape, statutory rape in the first
10 degree, statutory rape in the second degree, rape in the second
11 degree, sexual assault, sodomy in the first degree, forcible
12 sodomy, statutory sodomy in the first degree, statutory sodomy in
13 the second degree, child molestation in the first degree, child
14 molestation in the second degree, sodomy in the second degree,
15 deviate sexual assault, sexual misconduct involving a child,
16 sexual misconduct in the first degree under section 566.090 as it
17 existed prior to August 28, 2013, sexual abuse under section
18 566.100 as it existed prior to August 28, 2013, sexual abuse in
19 the first or second degree, enticement of a child, or attempting
20 to entice a child;

21 (3) Any of the following offenses against the family and
22 related offenses: incest, abandonment of a child in the first
23 degree, abandonment of a child in the second degree, endangering
24 the welfare of a child in the first degree, abuse of a child,
25 using a child in a sexual performance, promoting sexual
26 performance by a child, or trafficking in children; and

27 (4) Any of the following offenses involving child

1 pornography and related offenses: promoting obscenity in the
2 first degree, promoting obscenity in the second degree when the
3 penalty is enhanced to a class E felony, promoting child
4 pornography in the first degree, promoting child pornography in
5 the second degree, possession of child pornography in the first
6 degree, possession of child pornography in the second degree,
7 furnishing child pornography to a minor, furnishing pornographic
8 materials to minors, or coercing acceptance of obscene material;

9 (5) The offense of delivery of a controlled substance, as
10 provided in section 579.020, may be a disqualifying criminal
11 offense for the following occupations: real estate appraisers
12 and appraisal management companies, licensed pursuant to sections
13 339.500 to 339.549; and nursing home administrators, licensed
14 pursuant to chapter 344; and

15 (6) Any offense an essential element of which is fraud may
16 be a disqualifying criminal offense for the following
17 occupations: private investigators, licensed pursuant to
18 sections 324.1100 to 324.1148; accountants, licensed pursuant to
19 chapter 326; architects, licensed pursuant to sections 327.091 to
20 327.172; engineers, licensed pursuant to sections 327.181 to
21 327.271; land surveyors, licensed pursuant to sections 327.272 to
22 327.371; landscape architects, licensed pursuant to sections
23 327.600 to 327.635; chiropractors, licensed pursuant to chapter
24 331; embalmers and funeral directors, licensed pursuant to
25 chapter 333; real estate appraisers and appraisal management
26 companies, licensed pursuant to sections 339.500 to 339.549; and
27 nursing home administrators, licensed pursuant to chapter 344.

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

9 6. (1) ~~[Licensing authorities shall only list criminal
10 convictions that are directly related to the duties and
11 responsibilities for the licensed occupation.~~

12 ~~——(2)]~~ The licensing authority shall determine whether an
13 applicant with a criminal conviction ~~[listed under subdivision
14 (1) of this subsection]~~ will be denied a license based on the
15 following factors:

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

18 (b) The passage of time since the commission of the crime,
19 including consideration of the factors listed under subdivision
20 ~~[(3)]~~ (2) of this subsection;

21 (c) The relationship of the crime to the ability, capacity,
22 and fitness required to perform the duties and discharge the
23 responsibilities of the occupation; and

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

26 ~~[(3)]~~ (2) If an individual has a valid criminal conviction
27 for a criminal offense that could disqualify the individual from

1 receiving a license, the disqualification shall not apply to an
2 individual who has been exonerated for a crime for which he or
3 she has previously been convicted of or incarcerated.

4 7. An individual with a criminal record may petition a
5 licensing authority at any time for a determination of whether
6 the individual's criminal record will disqualify the individual
7 from obtaining a license. This petition shall include details on
8 the individual's criminal record. The licensing authority shall
9 inform the individual of his or her standing within thirty days
10 after the licensing authority has met, but in no event more than
11 four months after receiving the petition from the applicant. The
12 decision shall be binding, unless the individual has subsequent
13 criminal convictions or failed to disclose information in his or
14 her petition. If the decision is that the individual is
15 disqualified, the individual shall be notified in writing of the
16 grounds and reasons for disqualification. The licensing
17 authority may charge a fee by rule to recoup its costs as set by
18 rulemaking authority not to exceed twenty-five dollars for each
19 petition.

20 8. (1) If a licensing authority denies an individual a
21 license solely or in part because of the individual's prior
22 conviction of a crime, the licensing authority shall notify the
23 individual in writing of the following:

24 (a) The grounds and reasons for the denial or
25 disqualification;

26 (b) That the individual has the right to a hearing as
27 provided by chapter 621 to challenge the licensing authority's

1 decision;

2 (c) The earliest date the person may reapply for a license;
3 and

4 (d) That evidence of rehabilitation may be considered upon
5 reapplication.

6 (2) Any written determination by the licensing authority
7 that an applicant's criminal conviction is a specifically listed
8 disqualifying conviction and is directly related to the duties
9 and responsibilities for the licensed occupation shall be
10 documented with written findings for each of the grounds or
11 reasons under paragraph (a) of subdivision (1) of this subsection
12 by clear and convincing evidence sufficient for a reviewing
13 court.

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

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

1 charter definition.

2 324.087. SECTION 1. PURPOSE

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

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

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

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

19 D. Support spouses of relocating military members;

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

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

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

27 SECTION 2. DEFINITIONS

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

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

7 B. "Adverse Action" means any administrative, civil,
8 equitable, or criminal action permitted by a State's laws which
9 is imposed by a Licensing Board or other authority against an
10 Occupational Therapist or Occupational Therapy Assistant,
11 including actions against an individual's license or Compact
12 Privilege such as censure, revocation, suspension, probation,
13 monitoring of the Licensee, or restriction on the Licensee's
14 practice.

15 C. "Alternative Program" means a non-disciplinary
16 monitoring process approved by an Occupational Therapy Licensing
17 Board.

18 D. "Compact Privilege" means the authorization, which is
19 equivalent to a license, granted by a Remote State to allow a
20 Licensee from another Member State to practice as an Occupational
21 Therapist or practice as an Occupational Therapy Assistant in the
22 Remote State under its laws and rules. The Practice of
23 Occupational Therapy occurs in the Member State where the
24 patient/client is located at the time of the patient/client
25 encounter.

26 E. "Continuing Competence/Education" means a requirement,
27 as a condition of license renewal, to provide evidence of

1 participation in, and/or completion of, educational and
2 professional activities relevant to practice or area of work.

3 F. "Current Significant Investigative Information" means
4 Investigative Information that a Licensing Board, after an
5 inquiry or investigation that includes notification and an
6 opportunity for the Occupational Therapist or Occupational
7 Therapy Assistant to respond, if required by State law, has
8 reason to believe is not groundless and, if proved true, would
9 indicate more than a minor infraction.

10 G. "Data System" means a repository of information about
11 Licensees, including but not limited to license status,
12 Investigative Information, Compact Privileges, and Adverse
13 Actions.

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

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

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

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

26 L. "Investigative Information" means information, records,
27 and/or documents received or generated by an Occupational Therapy

1 Licensing Board pursuant to an investigation.

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

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

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

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

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

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

20 S. "Occupational Therapy Compact Commission" or
21 "Commission" means the national administrative body whose
22 membership consists of all States that have enacted the Compact.

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

27 U. "Primary State of Residence" means the state (also known

1 as the Home State) in which an Occupational Therapist or
2 Occupational Therapy Assistant who is not Active Duty Military
3 declares a primary residence for legal purposes as verified by:
4 driver's license, federal income tax return, lease, deed,
5 mortgage or voter registration or other verifying documentation
6 as further defined by Commission Rules.

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

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

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

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

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

22 SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

24 1. License Occupational Therapists and Occupational Therapy
25 Assistants;

26 2. Participate fully in the Commission's Data System,
27 including but not limited to using the Commission's unique

1 identifier as defined in Rules of the Commission;

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

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

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

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

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

27 6. Comply with the Rules of the Commission;

1 7. Utilize only a recognized national examination as a
2 requirement for licensure pursuant to the Rules of the
3 Commission; and

4 8. Have Continuing Competence/Education requirements as a
5 condition for license renewal.

6 B. A Member State shall grant the Compact Privilege to a
7 Licensee holding a valid unencumbered license in another Member
8 State in accordance with the terms of the Compact and Rules.

9 C. Member States may charge a fee for granting a Compact
10 Privilege.

11 D. A Member State shall provide for the State's delegate to
12 attend all Occupational Therapy Compact Commission meetings.

13 E. Individuals not residing in a Member State shall
14 continue to be able to apply for a Member State's Single-State
15 License as provided under the laws of each Member State.
16 However, the Single-State License granted to these individuals
17 shall not be recognized as granting the Compact Privilege in any
18 other Member State.

19 F. Nothing in this Compact shall affect the requirements
20 established by a Member State for the issuance of a Single-State
21 License.

22 SECTION 4. COMPACT PRIVILEGE

23 A. To exercise the Compact Privilege under the terms and
24 provisions of the Compact, the Licensee shall:

- 25 1. Hold a license in the Home State;
26 2. Have a valid United States Social Security Number or
27 National Practitioner Identification number;

1 3. Have no encumbrance on any State license;

2 4. Be eligible for a Compact Privilege in any Member State
3 in accordance with Section 4D, F, G, and H;

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

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

10 7. Pay any applicable fees, including any State fee, for
11 the Compact Privilege;

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

14 a. The Licensee shall be responsible for the payment of any
15 fee associated with the completion of a criminal background
16 check.

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

20 10. Report to the Commission Adverse Action taken by any
21 non-Member State within 30 days from the date the Adverse Action
22 is taken.

23 B. The Compact Privilege is valid until the expiration date
24 of the Home State license. The Licensee must comply with the
25 requirements of Section 4A to maintain the Compact Privilege in
26 the Remote State.

27 C. A Licensee providing Occupational Therapy in a Remote

1 State under the Compact Privilege shall function within the laws
2 and regulations of the Remote State.

3 D. Occupational Therapy Assistants practicing in a Remote
4 State shall be supervised by an Occupational Therapist licensed
5 or holding a Compact Privilege in that Remote State.

6 E. A Licensee providing Occupational Therapy in a Remote
7 State is subject to that State's regulatory authority. A Remote
8 State may, in accordance with due process and that State's laws,
9 remove a Licensee's Compact Privilege in the Remote State for a
10 specific period of time, impose fines, and/or take any other
11 necessary actions to protect the health and safety of its
12 citizens. The Licensee may be ineligible for a Compact Privilege
13 in any State until the specific time for removal has passed and
14 all fines are paid.

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

- 18 1. The Home State license is no longer encumbered; and
19 2. Two years have elapsed from the date on which the Home
20 State license is no longer encumbered in accordance with Section
21 4(F)(1).

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

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

1 1. The specific period of time for which the Compact
2 Privilege was removed has ended;

3 2. All fines have been paid and all conditions have been
4 met;

5 3. Two years have elapsed from the date of completing
6 requirements for 4(H)(1) and (2); and

7 4. The Compact Privileges are reinstated by the Commission,
8 and the compact Data System is updated to reflect reinstatement.

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

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

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

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

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

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

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

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

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

12 c. submission of any requisite Jurisprudence Requirements
13 of the new Home State.

14 3. The former Home State shall convert the former Home
15 State license into a Compact Privilege once the new Home State
16 has activated the new Home State license in accordance with
17 applicable Rules adopted by the Commission.

18 4. Notwithstanding any other provision of this Compact, if
19 the Occupational Therapist or Occupational Therapy Assistant
20 cannot meet the criteria in Section 4, the new Home State shall
21 apply its requirements for issuing a new Single-State License.

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

25 C. If an Occupational Therapist or Occupational Therapy
26 Assistant changes Primary State of Residence by moving from a
27 Member State to a non-Member State, or from a non-Member State to

1 a Member State, the State criteria shall apply for issuance of a
2 Single-State License in the new State.

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

7 E. Nothing in this Compact shall affect the requirements
8 established by a Member State for the issuance of a Single-State
9 License.

10 SECTION 6. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

11 A. Active Duty Military personnel, or their spouses, shall
12 designate a Home State where the individual has a current license
13 in good standing. The individual may retain the Home State
14 designation during the period the service member is on active
15 duty. Subsequent to designating a Home State, the individual
16 shall only change their Home State through application for
17 licensure in the new State or through the process described in
18 Section 5.

19 SECTION 7. ADVERSE ACTIONS

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

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

27 1. Take Adverse Action against an Occupational Therapist's

1 or Occupational Therapy Assistant's Compact Privilege within that
2 Member State.

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

15 C. For purposes of taking Adverse Action, the Home State
16 shall give the same priority and effect to reported conduct
17 received from a Member State as it would if the conduct had
18 occurred within the Home State. In so doing, the Home State
19 shall apply its own State laws to determine appropriate action.

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

1 shall promptly notify the new Home State of any Adverse Actions.

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

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

10 G. Joint Investigations

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

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

18 H. If an Adverse Action is taken by the Home State against
19 an Occupational Therapist's or Occupational Therapy Assistant's
20 license, the Occupational Therapist's or Occupational Therapy
21 Assistant's Compact Privilege in all other Member States shall be
22 deactivated until all encumbrances have been removed from the
23 State license. All Home State disciplinary orders that impose
24 Adverse Action against an Occupational Therapist's or
25 Occupational Therapy Assistant's license shall include a
26 Statement that the Occupational Therapist's or Occupational
27 Therapy Assistant's Compact Privilege is deactivated in all

1 Member States during the pendency of the order.

2 I. If a Member State takes Adverse Action, it shall
3 promptly notify the administrator of the Data System. The
4 administrator of the Data System shall promptly notify the Home
5 State of any Adverse Actions by Remote States.

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

9 SECTION 8. ESTABLISHMENT OF THE OCCUPATIONAL THERAPY
10 COMPACT COMMISSION

11 A. The Compact Member States hereby create and establish a
12 joint public agency known as the Occupational Therapy Compact
13 Commission:

14 1. The Commission is an instrumentality of the Compact
15 States.

16 2. Venue is proper and judicial proceedings by or against
17 the Commission shall be brought solely and exclusively in a court
18 of competent jurisdiction where the principal office of the
19 Commission is located. The Commission may waive venue and
20 jurisdictional defenses to the extent it adopts or consents to
21 participate in alternative dispute resolution proceedings.

22 3. Nothing in this Compact shall be construed to be a
23 waiver of sovereign immunity.

24 B. Membership, Voting, and Meetings

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

27 2. The delegate shall be either:

1 a. A current member of the Licensing Board, who is an
2 Occupational Therapist, Occupational Therapy Assistant, or public
3 member; or

4 b. An administrator of the Licensing Board.

5 3. Any delegate may be removed or suspended from office as
6 provided by the law of the State from which the delegate is
7 appointed.

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

10 5. Each delegate shall be entitled to one (1) vote with
11 regard to the promulgation of Rules and creation of bylaws and
12 shall otherwise have an opportunity to participate in the
13 business and affairs of the Commission. A delegate shall vote in
14 person or by such other means as provided in the bylaws. The
15 bylaws may provide for delegates' participation in meetings by
16 telephone or other means of communication.

17 6. The Commission shall meet at least once during each
18 calendar year. Additional meetings shall be held as set forth in
19 the bylaws.

20 7. The Commission shall establish by Rule a term of office
21 for delegates.

22 C. The Commission shall have the following powers and
23 duties:

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

25 2. Establish the fiscal year of the Commission;

26 3. Establish bylaws;

27 4. Maintain its financial records in accordance with the

1 bylaws;

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

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

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

12 8. Purchase and maintain insurance and bonds;

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

15 10. Hire employees, elect or appoint officers, fix
16 compensation, define duties, grant such individuals appropriate
17 authority to carry out the purposes of the Compact, and establish
18 the Commission's personnel policies and programs relating to
19 conflicts of interest, qualifications of personnel, and other
20 related personnel matters;

21 11. Accept any and all appropriate donations and grants of
22 money, equipment, supplies, materials and services, and receive,
23 utilize and dispose of the same; provided that at all times the
24 Commission shall avoid any appearance of impropriety and/or
25 conflict of interest;

26 12. Lease, purchase, accept appropriate gifts or donations
27 of, or otherwise own, hold, improve or use, any property, real,

1 personal or mixed; provided that at all times the Commission
2 shall avoid any appearance of impropriety;

3 13. Sell, convey, mortgage, pledge, lease, exchange,
4 abandon, or otherwise dispose of any property real, personal, or
5 mixed;

6 14. Establish a budget and make expenditures;

7 15. Borrow money;

8 16. Appoint committees, including standing committees
9 composed of members, State regulators, State legislators or their
10 representatives, and consumer representatives, and such other
11 interested persons as may be designated in this Compact and the
12 bylaws;

13 17. Provide and receive information from, and cooperate
14 with, law enforcement agencies;

15 18. Establish and elect an Executive Committee; and

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

20 D. The Executive Committee

21 The Executive Committee shall have the power to act on
22 behalf of the Commission according to the terms of this Compact.

23 1. The Executive Committee shall be composed of nine
24 members:

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

27 b. One ex-officio, nonvoting member from a recognized

1 national Occupational Therapy professional association; and

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

4 2. The ex-officio members will be selected by their
5 respective organizations.

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

8 4. The Executive Committee shall meet at least annually.

9 5. The Executive Committee shall have the following Duties
10 and responsibilities:

11 a. Recommend to the entire Commission changes to the Rules
12 or bylaws, changes to this Compact legislation, fees paid by
13 Compact Member States such as annual dues, and any Commission
14 Compact fee charged to Licensees for the Compact Privilege;

15 b. Ensure Compact administration services are appropriately
16 provided, contractual or otherwise;

17 c. Prepare and recommend the budget;

18 d. Maintain financial records on behalf of the Commission;

19 e. Monitor Compact compliance of Member States and provide
20 compliance reports to the Commission;

21 f. Establish additional committees as necessary; and

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

23 E. Meetings of the Commission

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

27 2. The Commission or the Executive Committee or other

1 committees of the Commission may convene in a closed, non-public
2 meeting if the Commission or Executive Committee or other
3 committees of the Commission must discuss:

4 a. Non-compliance of a Member State with its obligations
5 under the Compact;

6 b. The employment, compensation, discipline or other
7 matters, practices or procedures related to specific employees or
8 other matters related to the Commission's internal personnel
9 practices and procedures;

10 c. Current, threatened, or reasonably anticipated
11 litigation;

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

14 e. Accusing any person of a crime or formally censuring any
15 person;

16 f. Disclosure of trade secrets or commercial or financial
17 information that is privileged or confidential;

18 g. Disclosure of information of a personal nature where
19 disclosure would constitute a clearly unwarranted invasion of
20 personal privacy;

21 h. Disclosure of investigative records compiled for law
22 enforcement purposes;

23 i. Disclosure of information related to any investigative
24 reports prepared by or on behalf of or for use of the Commission
25 or other committee charged with responsibility of investigation
26 or determination of compliance issues pursuant to the Compact; or

27 j. Matters specifically exempted from disclosure by federal

1 or Member State statute.

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

6 4. The Commission shall keep minutes that fully and clearly
7 describe all matters discussed in a meeting and shall provide a
8 full and accurate summary of actions taken, and the reasons
9 therefore, including a description of the views expressed. All
10 documents considered in connection with an action shall be
11 identified in such minutes. All minutes and documents of a
12 closed meeting shall remain under seal, subject to release by a
13 majority vote of the Commission or order of a court of competent
14 jurisdiction.

15 F. Financing of the Commission

16 1. The Commission shall pay, or provide for the payment of,
17 the reasonable expenses of its establishment, organization, and
18 ongoing activities.

19 2. The Commission may accept any and all appropriate
20 revenue sources, donations, and grants of money, equipment,
21 supplies, materials, and services.

22 3. The Commission may levy on and collect an annual
23 assessment from each Member State or impose fees on other parties
24 to cover the cost of the operations and activities of the
25 Commission and its staff, which must be in a total amount
26 sufficient to cover its annual budget as approved by the
27 Commission each year for which revenue is not provided by other

1 sources. The aggregate annual assessment amount shall be
2 allocated based upon a formula to be determined by the
3 Commission, which shall promulgate a Rule binding upon all Member
4 States.

5 4. The Commission shall not incur obligations of any kind
6 prior to securing the funds adequate to meet the same; nor shall
7 the Commission pledge the credit of any of the Member States,
8 except by and with the authority of the Member State.

9 5. The Commission shall keep accurate accounts of all
10 receipts and disbursements. The receipts and disbursements of
11 the Commission shall be subject to the audit and accounting
12 procedures established under its bylaws. However, all receipts
13 and disbursements of funds handled by the Commission shall be
14 audited yearly by a certified or licensed public accountant, and
15 the report of the audit shall be included in and become part of
16 the annual report of the Commission.

17 G. Qualified Immunity, Defense, and Indemnification

18 1. The members, officers, executive director, employees and
19 representatives of the Commission shall be immune from suit and
20 liability, either personally or in their official capacity, for
21 any claim for damage to or loss of property or personal injury or
22 other civil liability caused by or arising out of any actual or
23 alleged act, error, or omission that occurred, or that the person
24 against whom the claim is made had a reasonable basis for
25 believing occurred within the scope of Commission employment,
26 duties or responsibilities; provided that nothing in this
27 paragraph shall be construed to protect any such person from suit

1 and/or liability for any damage, loss, injury, or liability
2 caused by the intentional or willful or wanton misconduct of that
3 person.

4 2. The Commission shall defend any member, officer,
5 executive director, employee, or representative of the Commission
6 in any civil action seeking to impose liability arising out of
7 any actual or alleged act, error, or omission that occurred
8 within the scope of Commission employment, duties, or
9 responsibilities, or that the person against whom the claim is
10 made had a reasonable basis for believing occurred within the
11 scope of Commission employment, duties, or responsibilities;
12 provided that nothing herein shall be construed to prohibit that
13 person from retaining his or her own counsel; and provided
14 further, that the actual or alleged act, error, or omission did
15 not result from that person's intentional or willful or wanton
16 misconduct.

17 3. The Commission shall indemnify and hold harmless any
18 member, officer, executive director, employee, or representative
19 of the Commission for the amount of any settlement or judgment
20 obtained against that person arising out of any actual or alleged
21 act, error, or omission that occurred within the scope of
22 Commission employment, duties, or responsibilities, or that such
23 person had a reasonable basis for believing occurred within the
24 scope of Commission employment, duties, or responsibilities,
25 provided that the actual or alleged act, error, or omission did
26 not result from the intentional or willful or wanton misconduct
27 of that person.

1 SECTION 9. DATA SYSTEM

2 A. The Commission shall provide for the development,
3 maintenance, and utilization of a coordinated database and
4 reporting system containing licensure, Adverse Action, and
5 Investigative Information on all licensed individuals in Member
6 States.

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

11 1. Identifying information;

12 2. Licensure data;

13 3. Adverse Actions against a license or Compact Privilege;

14 4. Non-confidential information related to Alternative
15 Program participation;

16 5. Any denial of application for licensure, and the
17 reason(s) for such denial;

18 6. Other information that may facilitate the administration
19 of this Compact, as determined by the Rules of the Commission;
20 and

21 7. Current Significant Investigative Information.

22 C. Current Significant Investigative Information and other
23 Investigative Information pertaining to a Licensee in any Member
24 State will only be available to other Member States.

25 D. The Commission shall promptly notify all Member States
26 of any Adverse Action taken against a Licensee or an individual
27 applying for a license. Adverse Action information pertaining to

1 a Licensee in any Member State will be available to any other
2 Member State.

3 E. Member States contributing information to the Data
4 System may designate information that may not be shared with the
5 public without the express permission of the contributing State.

6 F. Any information submitted to the Data System that is
7 subsequently required to be expunged by the laws of the Member
8 State contributing the information shall be removed from the Data
9 System.

10 SECTION 10. RULEMAKING

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

15 B. The Commission shall promulgate reasonable rules in
16 order to effectively and efficiently achieve the purposes of the
17 Compact. Notwithstanding the foregoing, in the event the
18 Commission exercises its rulemaking authority in a manner that is
19 beyond the scope of the purposes of the Compact, or the powers
20 granted hereunder, then such an action by the Commission shall be
21 invalid and have no force and effect.

22 C. If a majority of the legislatures of the Member States
23 rejects a Rule, by enactment of a statute or resolution in the
24 same manner used to adopt the Compact within 4 years of the date
25 of adoption of the Rule, then such Rule shall have no further
26 force and effect in any Member State.

27 D. Rules or amendments to the Rules shall be adopted at a

1 regular or special meeting of the Commission.

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

6 1. On the website of the Commission or other publicly
7 accessible platform; and

8 2. On the website of each Member State Occupational Therapy
9 Licensing Board or other publicly accessible platform or the
10 publication in which each State would otherwise publish proposed
11 Rules.

12 F. The Notice of Proposed Rulemaking shall include:

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

15 2. The text of the proposed Rule or amendment and the
16 reason for the proposed Rule;

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

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

22 G. Prior to adoption of a proposed Rule, the Commission
23 shall allow persons to submit written data, facts, opinions, and
24 arguments, which shall be made available to the public.

25 H. The Commission shall grant an opportunity for a public
26 hearing before it adopts a Rule or amendment if a hearing is
27 requested by:

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

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

3 or

4 3. An association or organization having at least twenty
5 five (25) members.

6 I. If a hearing is held on the proposed Rule or amendment,
7 the Commission shall publish the place, time, and date of the
8 scheduled public hearing. If the hearing is held via electronic
9 means, the Commission shall publish the mechanism for access to
10 the electronic hearing.

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

16 2. Hearings shall be conducted in a manner providing each
17 person who wishes to comment a fair and reasonable opportunity to
18 comment orally or in writing.

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

21 4. Nothing in this section shall be construed as requiring
22 a separate hearing on each Rule. Rules may be grouped for the
23 convenience of the Commission at hearings required by this
24 section.

25 J. Following the scheduled hearing date, or by the close of
26 business on the scheduled hearing date if the hearing was not
27 held, the Commission shall consider all written and oral comments

1 received.

2 K. If no written notice of intent to attend the public
3 hearing by interested parties is received, the Commission may
4 proceed with promulgation of the proposed Rule without a public
5 hearing.

6 L. The Commission shall, by majority vote of all members,
7 take final action on the proposed Rule and shall determine the
8 effective date of the Rule, if any, based on the Rulemaking
9 record and the full text of the Rule.

10 M. Upon determination that an emergency exists, the
11 Commission may consider and adopt an emergency Rule without prior
12 notice, opportunity for comment, or hearing, provided that the
13 usual Rulemaking procedures provided in the Compact and in this
14 section shall be retroactively applied to the Rule as soon as
15 reasonably possible, in no event later than ninety (90) days
16 after the effective date of the Rule. For the purposes of this
17 provision, an emergency Rule is one that must be adopted
18 immediately in order to:

19 1. Meet an imminent threat to public health, safety, or
20 welfare;

21 2. Prevent a loss of Commission or Member State funds;

22 3. Meet a deadline for the promulgation of an
23 administrative Rule that is established by federal law or Rule;
24 or

25 4. Protect public health and safety.

26 N. The Commission or an authorized committee of the
27 Commission may direct revisions to a previously adopted Rule or

1 amendment for purposes of correcting typographical errors, errors
2 in format, errors in consistency, or grammatical errors. Public
3 notice of any revisions shall be posted on the website of the
4 Commission. The revision shall be subject to challenge by any
5 person for a period of thirty (30) days after posting. The
6 revision may be challenged only on grounds that the revision
7 results in a material change to a Rule. A challenge shall be
8 made in writing and delivered to the chair of the Commission
9 prior to the end of the notice period. If no challenge is made,
10 the revision will take effect without further action. If the
11 revision is challenged, the revision may not take effect without
12 the approval of the Commission.

13 SECTION 11. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

14 A. Oversight

15 1. The executive, legislative, and judicial branches of
16 State government in each Member State shall enforce this Compact
17 and take all actions necessary and appropriate to effectuate the
18 Compact's purposes and intent. The provisions of this Compact
19 and the Rules promulgated hereunder shall have standing as
20 statutory law.

21 2. All courts shall take judicial notice of the Compact and
22 the Rules in any judicial or administrative proceeding in a
23 Member State pertaining to the subject matter of this Compact
24 which may affect the powers, responsibilities, or actions of the
25 Commission.

26 3. The Commission shall be entitled to receive service of
27 process in any such proceeding, and shall have standing to

1 intervene in such a proceeding for all purposes. Failure to
2 provide service of process to the Commission shall render a
3 judgment or order void as to the Commission, this Compact, or
4 promulgated Rules.

5 B. Default, Technical Assistance, and Termination

6 1. If the Commission determines that a Member State has
7 defaulted in the performance of its obligations or
8 responsibilities under this Compact or the promulgated Rules, the
9 Commission shall:

10 a. Provide written notice to the defaulting State and other
11 Member States of the nature of the default, the proposed means of
12 curing the default and/or any other action to be taken by the
13 Commission; and

14 b. Provide remedial training and specific technical
15 assistance regarding the default.

16 2. If a State in default fails to cure the default, the
17 defaulting State may be terminated from the Compact upon an
18 affirmative vote of a majority of the Member States, and all
19 rights, privileges and benefits conferred by this Compact may be
20 terminated on the effective date of termination. A cure of the
21 default does not relieve the offending State of obligations or
22 liabilities incurred during the period of default.

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

1 of the Member States.

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

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

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

16 C. Dispute Resolution

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

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

23 D. Enforcement

24 1. The Commission, in the reasonable exercise of its
25 discretion, shall enforce the provisions and Rules of this
26 Compact.

27 2. By majority vote, the Commission may initiate legal

1 action in the United States District Court for the District of
2 Columbia or the federal district where the Commission has its
3 principal offices against a Member State in default to enforce
4 compliance with the provisions of the Compact and its promulgated
5 Rules and bylaws. The relief sought may include both injunctive
6 relief and damages. In the event judicial enforcement is
7 necessary, the prevailing member shall be awarded all costs of
8 such litigation, including reasonable attorney's fees.

9 3. The remedies herein shall not be the exclusive remedies
10 of the Commission. The Commission may pursue any other remedies
11 available under federal or State law.

12 SECTION 12. DATE OF IMPLEMENTATION OF THE INTERSTATE
13 COMMISSION FOR OCCUPATIONAL THERAPY PRACTICE AND ASSOCIATED
14 RULES, WITHDRAWAL, AND AMENDMENT

15 A. The Compact shall come into effect on the date on which
16 the Compact statute is enacted into law in the tenth Member
17 State. The provisions, which become effective at that time,
18 shall be limited to the powers granted to the Commission relating
19 to assembly and the promulgation of Rules. Thereafter, the
20 Commission shall meet and exercise Rulemaking powers necessary to
21 the implementation and administration of the Compact.

22 B. Any State that joins the Compact subsequent to the
23 Commission's initial adoption of the Rules shall be subject to
24 the Rules as they exist on the date on which the Compact becomes
25 law in that State. Any Rule that has been previously adopted by
26 the Commission shall have the full force and effect of law on the
27 day the Compact becomes law in that State.

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

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

5 2. Withdrawal shall not affect the continuing requirement
6 of the withdrawing State's Occupational Therapy Licensing Board
7 to comply with the investigative and Adverse Action reporting
8 requirements of this act prior to the effective date of
9 withdrawal.

10 D. Nothing contained in this Compact shall be construed to
11 invalidate or prevent any Occupational Therapy licensure
12 agreement or other cooperative arrangement between a Member State
13 and a non-Member State that does not conflict with the provisions
14 of this Compact.

15 E. This Compact may be amended by the Member States. No
16 amendment to this Compact shall become effective and binding upon
17 any Member State until it is enacted into the laws of all Member
18 States.

19 SECTION 13. CONSTRUCTION AND SEVERABILITY

20 This Compact shall be liberally construed so as to
21 effectuate the purposes thereof. The provisions of this Compact
22 shall be severable and if any phrase, clause, sentence or
23 provision of this Compact is declared to be contrary to the
24 constitution of any Member State or of the United States or the
25 applicability thereof to any government, agency, person, or
26 circumstance is held invalid, the validity of the remainder of
27 this Compact and the applicability thereof to any government,

1 agency, person, or circumstance shall not be affected thereby.
2 If this Compact shall be held contrary to the constitution of any
3 Member State, the Compact shall remain in full force and effect
4 as to the remaining Member States and in full force and effect as
5 to the Member State affected as to all severable matters.

6 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

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

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

24 324.200. 1. Sections 324.200 to 324.225 shall be known and
25 may be cited as the "Dietitian Practice Act".

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

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

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

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

14 (a) Assessing the nutrition needs of individuals and groups
15 and determining resources and constraints in the practice
16 setting;

17 (b) Establishing priorities, goals, and objectives that
18 meet nutrition needs and are consistent with available resources
19 and constraints;

20 (c) Providing nutrition counseling or education in health
21 and disease;

22 (d) Developing, implementing, and managing nutrition care
23 systems;

24 (e) Evaluating, making changes in, and maintaining
25 appropriate standards of quality and safety in food and in
26 nutrition services;

27 (f) Engaged in medical nutritional therapy as defined in

1 subdivision (8) of this section;

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

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

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

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

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

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

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

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

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

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

27 324.206. 1. As long as the person involved does not

1 represent or hold himself or herself out as a dietitian as
2 defined by subdivision (4) of subsection 2 of section 324.200,
3 nothing in sections 324.200 to 324.225 is intended to limit,
4 preclude, or otherwise interfere with:

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

7 (2) Persons in the military services or working in federal
8 facilities from performing any activities described in sections
9 324.200 to 324.225 during the course of their assigned duties in
10 the military service or a federal facility;

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

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

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

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

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

6
7 provided, however, no such individual may call himself or herself
8 a dietitian unless he or she is licensed under this chapter.

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

14 (1) The person's name and title;

15 (2) The person's business address and telephone number;

16 (3) A statement that the person is not a dietitian licensed
17 by the state of Missouri;

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

21 (5) The person's qualifications for providing such
22 information or advice, including educational background,
23 training, and experience.

24 327.011. As used in this chapter, the following words and
25 terms shall have the meanings indicated:

26 (1) "Accredited degree program from a school of
27 architecture", a degree from any school or other institution

1 which teaches architecture and whose curricula for the degree in
2 question have been, at the time in question, certified as
3 accredited by the National Architectural Accrediting Board;

4 (2) "Accredited school of engineering", any school or other
5 institution which teaches engineering and whose curricula on the
6 subjects in question are or have been, at the time in question
7 certified as accredited by the engineering accreditation
8 commission of the accreditation board for engineering and
9 technology or its successor organization;

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

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

19 (5) "Board", the Missouri board for architects,
20 professional engineers, professional land surveyors and
21 professional landscape architects;

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

24 (7) "Design coordination", the review and coordination of
25 technical submissions prepared by others including, as
26 appropriate and without limitation, architects, professional
27 engineers, professional land surveyors, professional landscape

1 architects, and other consultants;

2 (8) "Design survey", a survey which includes all activities
3 required to gather information to support the sound conception,
4 planning, design, construction, maintenance, and operation of
5 design projects, but excludes the surveying of real property for
6 the establishment of land boundaries, rights-of-way, easements,
7 and the dependent or independent surveys or resurveys of the
8 public land survey system;

9 (9) "Incidental practice", the performance of other
10 professional services licensed under chapter 327 that are related
11 to a licensee's professional service, but are secondary and
12 substantially less in scope and magnitude when compared to the
13 professional services usually and normally performed by the
14 licensee practicing in their licensed profession. This
15 incidental professional service shall be safely and competently
16 performed by the licensee without jeopardizing the health,
17 safety, and welfare of the public. The licensee shall be
18 qualified by education, training, and experience as determined by
19 the board and in sections 327.091, 327.181, 327.272, and 327.600
20 and applicable board rules to perform such incidental
21 professional service;

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

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

27 (12) "Person", any ~~[person]~~ individual, corporation, firm,

1 partnership, association or other entity authorized to do
2 business;

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

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

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

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

19 327.091. 1. ~~Any person practices as an architect in~~
20 ~~Missouri who renders or offers to render or represents himself or~~
21 ~~herself as willing or able to render service or creative work~~
22 ~~which requires architectural education, training and experience,~~
23 ~~including services and work such as consultation, evaluation,~~
24 ~~planning, aesthetic and structural design, the preparation of~~
25 ~~drawings, specifications and related documents, and the~~
26 ~~coordination of services furnished by structural, civil,~~
27 ~~mechanical and electrical engineers and other consultants as they~~

1 ~~relate to architectural work in connection with the construction~~
2 ~~or erection of any private or public building, building~~
3 ~~structure, building project or integral part or parts of~~
4 ~~buildings or of any additions or alterations thereto; or who uses~~
5 ~~the title "architect" or the terms "architect" or "architecture"~~
6 ~~or "architectural" alone or together with any words other than~~
7 ~~"landscape" that indicate or imply that such person is or holds~~
8 ~~himself or herself out to be an architect]~~ The practice of
9 architecture is the rendering of or offering to render services
10 in connection with the design and construction of public and
11 private buildings, structures and shelters, site improvements, in
12 whole or part and including any additions or alterations thereto,
13 as well as to the spaces within and the site surrounding such
14 buildings and structures, which have as their principal purpose
15 human occupancy or habitation. The services referred to include
16 consultation, design surveys, feasibility studies, evaluation,
17 planning, aesthetic and structural design, preliminary design,
18 drawings, specifications, technical submissions, and other
19 instruments of service, the administration of construction
20 contracts, construction observation and inspection, and the
21 coordination of any elements of technical submissions prepared by
22 others, including professional engineers, landscape architects,
23 and other consultants that pertain to the practice of
24 architecture. A person shall be considered to be practicing
25 architecture when such person uses the title "architect" or the
26 terms "architect" or "architecture" or "architectural" alone or
27 together with any words other than "landscape" to indicate or

1 imply that such person is or holds himself or herself out to be
2 an architect. Only a person with the required architectural
3 education, practical training, relevant work experience, and
4 licensure may practice as an architect in Missouri.

5 2. Architects shall be in responsible charge of all
6 architectural design of buildings and structures that can affect
7 the health, safety, and welfare of the public within their scope
8 of practice.

9 327.101. 1. No person shall practice architecture in
10 Missouri as defined in section 327.091 unless and until there is
11 issued to the person a license or a certificate of authority
12 certifying that the person has been duly licensed as an architect
13 or authorized to practice architecture, in Missouri, and unless
14 such license has been renewed as hereinafter specified[~~7~~
15 ~~provided, however, that nothing in this chapter shall apply to~~
16 ~~the following persons]~~ .

17 2. Notwithstanding the provisions of subsection 1 of this
18 section, the following persons may engage in actions defined as
19 the practice of architecture in section 327.091, provided that
20 such persons shall not use the title "architect" or the terms
21 "architect" or "architecture" or "architectural" alone or
22 together with any words other than "landscape" that indicate or
23 imply that such person is or holds himself or herself out to be
24 an architect:

25 (1) Any person who is an employee of a person holding a
26 currently valid license as an architect or who is an employee of
27 any person holding a currently valid certificate of authority

1 pursuant to this chapter, and who performs architectural work
2 under the direction and continuing supervision of and is checked
3 by one holding a currently valid license as an architect pursuant
4 to this chapter;

5 (2) Any person who is a regular full-time employee who
6 performs architectural work for the person's employer if and only
7 if all such work and service so performed is in connection with a
8 facility owned or wholly operated by the employer and which is
9 occupied by the employer of the employee performing such work or
10 service, and if and only if such work and service so performed do
11 not endanger the public health or safety;

12 (3) Any holder of a currently valid license or certificate
13 of authority as a professional engineer who performs only such
14 architecture as incidental practice and necessary to the
15 completion of professional services lawfully being performed by
16 such licensed professional engineer;

17 (4) Any person who is a professional landscape architect,
18 city planner or regional planner who performs work consisting
19 only of consultations concerning and preparation of master plans
20 for parks, land areas or communities, or the preparation of plans
21 for and the supervision of the planting and grading or the
22 construction of walks and paving for parks or land areas and such
23 other minor structural features as fences, steps, walls, small
24 decorative pools and other construction not involving structural
25 design or stability and which is usually and customarily included
26 within the area of work of a professional landscape architect or
27 planner;

1 (5) Any person who renders architectural services in
2 connection with the construction, remodeling or repairing of any
3 privately owned building described in paragraphs (a), (b), or
4 (c) [~~7, (d), and (e)~~] which follow, and who indicates on any
5 drawings, specifications, estimates, reports or other documents
6 furnished in connection with such services that the person is not
7 a licensed architect:

8 (a) A dwelling house; or

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

11 (c) [~~A commercial or industrial building or structure which~~
12 ~~provides for the employment, assembly, housing, sleeping or~~
13 ~~eating of not more than nine persons; or~~

14 ~~— (d) Any one structure containing less than two thousand~~
15 ~~square feet, except as provided in (b) and (c) above, and which~~
16 ~~is not a part or a portion of a project which contains more than~~
17 ~~one structure; or~~

18 ~~— (e) A building or structure used exclusively for farm~~
19 ~~purposes] Any one building or structure, except for those~~

20 buildings or structures referenced in subdivision (8) of this

21 subsection, which provides for the employment, assembly, housing,

22 sleeping, or eating of not more than nine persons, contains less

23 than two thousand square feet, and is not part of another

24 building or structure;

25 (6) Any person who renders architectural services in
26 connection with the remodeling or repairing of any privately
27 owned multiple family dwelling house, flat or apartment

1 containing three or four families, provided that the alteration,
2 renovation, or remodeling does not affect architectural or
3 engineering safety features of the building and who indicates on
4 any drawings, specifications, estimates, reports or other
5 documents furnished in connection with such services that the
6 person is not a licensed architect;

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

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

14 327.131. Any person may apply to the board for licensure as
15 an architect who is over the age of twenty-one, has acquired an
16 accredited degree from an accredited degree program from a school
17 of architecture, holds a certified Intern Development Program
18 (IDP) or Architectural Experience Program (AXP) record with the
19 National Council of Architectural Registration Boards, and has
20 taken and passed all divisions of the Architect Registration
21 Examination.

22 327.191. 1. No person shall practice as a professional
23 engineer in Missouri, as defined in section 327.181 unless and
24 until there is issued to such person a professional license or a
25 certificate of authority certifying that such person has been
26 duly licensed as a professional engineer or authorized to
27 practice engineering in Missouri, and unless such license or

1 certificate has been renewed as provided in section 327.261~~[7~~
2 ~~provided that section 327.181 shall not be construed to prevent~~
3 ~~the practice of engineering by the following persons]~~ .

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

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

22 (2) Any person who is a regular full-time employee of a
23 person or any former employee under contract to a person, who
24 performs professional engineering work for such employer if and
25 only if all such work and service so performed is done solely in
26 connection with a facility owned or wholly operated by the
27 employer and occupied or maintained by the employer of the

1 employee performing such work or service, and does not affect the
2 health, safety, and welfare of the public;

3 (3) Any person engaged in engineering who is a full-time,
4 regular employee of a person engaged in manufacturing operations
5 and which engineering so performed by such person relates to the
6 manufacture, sale or installation of the products of such person,
7 and does not affect the health, safety, and welfare of the
8 public;

9 (4) Any holder of a currently valid license or certificate
10 of authority as an architect, professional land surveyor, or
11 professional landscape architect who performs only such
12 engineering as incidental practice and necessary to the
13 completion of professional services lawfully being performed by
14 such architect, professional land surveyor, or professional
15 landscape architect;

16 (5) Any person who renders engineering services in
17 connection with the construction, remodeling, or repairing of any
18 privately owned building described as follows, and who indicates
19 on any drawings, specifications, estimates, reports, or other
20 documents furnished in connection with such services that the
21 person is not a licensed professional engineer:

22 (a) A dwelling house;

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

25 (c) Any one building or structure, except for those
26 buildings or structures referenced in subdivision (8) of this
27 subsection, which provides for the employment, assembly, housing,

1 sleeping, or eating of not more than nine persons, contains less
2 than two thousand square feet, and is not part of another
3 building or structure;

4 (6) Any person who renders engineering services in
5 connection with the remodeling or repairing of any privately
6 owned, multiple family dwelling house, flat, or apartment
7 containing three or four families, provided that the alteration,
8 renovation, or remodeling does not affect architectural or
9 engineering safety features of the building, and who indicates on
10 any drawings, specifications, estimates, reports, or other
11 documents furnished in connection with such services that the
12 person is not a licensed professional engineer;

13 (7) Any person or corporation who is offering, but not
14 performing or rendering, professional engineering services if the
15 person or corporation is licensed to practice professional
16 engineering in the state or country of residence or principal
17 place of business;

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

21 327.241. 1. After it has been determined that an applicant
22 possesses the qualifications entitling the applicant to be
23 examined, each applicant for examination and licensure as a
24 professional engineer in Missouri shall appear before the board
25 or its representatives for examination at the time and place
26 specified.

27 2. The examination or examinations shall be of such form,

1 content and duration as shall be determined by the board to
2 thoroughly test the qualifications of each applicant to practice
3 as a professional engineer in Missouri.

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

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

15 5. Any engineer-intern, as defined in subsection 4 of
16 this section, [~~who has acquired at least four years of~~
17 ~~satisfactory engineering experience,~~] may take part two of the
18 engineering examination and upon passing it and having acquired
19 at least four years of satisfactory engineering experience shall
20 be entitled to receive a license, subject, however, to the other
21 provisions of this chapter.

22 6. Notwithstanding the provisions of subsections 4 and 5 of
23 this section, the board may, in its discretion, provide by rule
24 that any person who has graduated from and holds an engineering
25 degree from an accredited school of engineering may thereupon be
26 eligible to take both parts of the engineering examination and
27 that upon passing said examination and acquiring four years of

1 satisfactory engineering experience, after graduating and
2 receiving a degree as aforesaid, shall be entitled to receive a
3 license to practice as a professional engineer, subject, however,
4 to the other provisions of this chapter.

5 7. Any person who has graduated from and has received a
6 degree in engineering from an accredited school of engineering
7 may ~~[then acquire four years of satisfactory engineering~~
8 ~~experience and thereafter]~~ take both parts of the examination and
9 upon passing and having acquired four years of satisfactory
10 engineering experience shall be entitled to receive a license to
11 practice as a professional engineer, subject, however, to the
12 other provisions of this chapter.

13 ~~[8. Any person entitled to be licensed as a professional~~
14 ~~engineer as provided in subsection 5, 6, or 7 of this section~~
15 ~~must be so licensed within four years after the date on which he~~
16 ~~or she was so entitled, and if one is not licensed within the~~
17 ~~time he or she is so entitled, the engineering division of the~~
18 ~~board may require him to take and satisfactorily pass such~~
19 ~~further examination as provided by rule before issuing to him a~~
20 ~~license.]~~

21 327.612. Any person who ~~[has attained the age of twenty-one~~
22 ~~years, and]~~ has a degree in landscape architecture from an
23 accredited school of landscape architecture ~~[and]~~ , or possesses
24 an education which in the opinion of the board equals or exceeds
25 the education received by a graduate of an accredited school, has
26 acquired at least three years satisfactory landscape
27 architectural experience after acquiring such a degree, and who

1 has taken and passed all sections of the landscape architectural
2 registration examination administered by the Council of Landscape
3 Architectural Registration Boards may apply to the board for
4 licensure as a professional landscape architect.

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

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

1 2. Upon written request of the psychologist subject to a
2 complaint, prior to August 28, 1999, by an individual
3 incarcerated or under the care and control of the department of
4 corrections or prior to August 28, 2008, by an individual who has
5 been ordered to be taken into custody, detained, or held under
6 sections 632.480 to 632.513, or prior to August 28, 2021, by an
7 individual who has been ordered to be evaluated under chapter
8 552, that did not result in the ~~[board]~~ committee filing an
9 action pursuant to subsection 2 of section 337.035, the ~~[board]~~
10 committee and the division of professional registration, shall in
11 a timely fashion:

12 (1) Destroy all documentation regarding the complaint;

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

16 (3) Send a letter to the licensee that clearly states that
17 the ~~[board]~~ committee found the complaint to be unsubstantiated,
18 that the ~~[board]~~ committee has taken the requested action, and
19 notify the licensee of the provisions of subsection 3 of this
20 section.

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

26 338.010. 1. The "practice of pharmacy" means the
27 interpretation, implementation, and evaluation of medical

1 prescription orders, including any legend drugs under 21 U.S.C.
2 Section 353; receipt, transmission, or handling of such orders or
3 facilitating the dispensing of such orders; the designing,
4 initiating, implementing, and monitoring of a medication
5 therapeutic plan as defined by the prescription order so long as
6 the prescription order is specific to each patient for care by a
7 pharmacist; the compounding, dispensing, labeling, and
8 administration of drugs and devices pursuant to medical
9 prescription orders and administration of viral influenza,
10 pneumonia, shingles, hepatitis A, hepatitis B, diphtheria,
11 tetanus, pertussis, and meningitis vaccines by written protocol
12 authorized by a physician for persons at least seven years of age
13 or the age recommended by the Centers for Disease Control and
14 Prevention, whichever is higher, or the administration of
15 pneumonia, shingles, hepatitis A, hepatitis B, diphtheria,
16 tetanus, pertussis, meningitis, and viral influenza vaccines by
17 written protocol authorized by a physician for a specific patient
18 as authorized by rule; the participation in drug selection
19 according to state law and participation in drug utilization
20 reviews; the proper and safe storage of drugs and devices and the
21 maintenance of proper records thereof; consultation with patients
22 and other health care practitioners, and veterinarians and their
23 clients about legend drugs, about the safe and effective use of
24 drugs and devices; the prescribing and dispensing of any nicotine
25 replacement therapy product under section 338.665; the dispensing
26 of HIV postexposure prophylaxis pursuant to section 338.730; and
27 the offering or performing of those acts, services, operations,

1 or transactions necessary in the conduct, operation, management
2 and control of a pharmacy. No person shall engage in the
3 practice of pharmacy unless he or she is licensed under the
4 provisions of this chapter. This chapter shall not be construed
5 to prohibit the use of auxiliary personnel under the direct
6 supervision of a pharmacist from assisting the pharmacist in any
7 of his or her duties. This assistance in no way is intended to
8 relieve the pharmacist from his or her responsibilities for
9 compliance with this chapter and he or she will be responsible
10 for the actions of the auxiliary personnel acting in his or her
11 assistance. This chapter shall also not be construed to prohibit
12 or interfere with any legally registered practitioner of
13 medicine, dentistry, or podiatry, or veterinary medicine only for
14 use in animals, or the practice of optometry in accordance with
15 and as provided in sections 195.070 and 336.220 in the
16 compounding, administering, prescribing, or dispensing of his or
17 her own prescriptions.

18 2. Any pharmacist who accepts a prescription order for a
19 medication therapeutic plan shall have a written protocol from
20 the physician who refers the patient for medication therapy
21 services. The written protocol and the prescription order for a
22 medication therapeutic plan shall come from the physician only,
23 and shall not come from a nurse engaged in a collaborative
24 practice arrangement under section 334.104, or from a physician
25 assistant engaged in a collaborative practice arrangement under
26 section 334.735.

27 3. Nothing in this section shall be construed as to prevent

1 any person, firm or corporation from owning a pharmacy regulated
2 by sections 338.210 to 338.315, provided that a licensed
3 pharmacist is in charge of such pharmacy.

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

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

13 6. This section shall not be construed to allow a
14 pharmacist to diagnose or independently prescribe
15 pharmaceuticals.

16 7. The state board of registration for the healing arts,
17 under section 334.125, and the state board of pharmacy, under
18 section 338.140, shall jointly promulgate rules regulating the
19 use of protocols for prescription orders for medication therapy
20 services and administration of viral influenza vaccines. Such
21 rules shall require protocols to include provisions allowing for
22 timely communication between the pharmacist and the referring
23 physician, and any other patient protection provisions deemed
24 appropriate by both boards. In order to take effect, such rules
25 shall be approved by a majority vote of a quorum of each board.
26 Neither board shall separately promulgate rules regulating the
27 use of protocols for prescription orders for medication therapy

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

13 8. The state board of pharmacy may grant a certificate of
14 medication therapeutic plan authority to a licensed pharmacist
15 who submits proof of successful completion of a board-approved
16 course of academic clinical study beyond a bachelor of science in
17 pharmacy, including but not limited to clinical assessment
18 skills, from a nationally accredited college or university, or a
19 certification of equivalence issued by a nationally recognized
20 professional organization and approved by the board of pharmacy.

21 9. Any pharmacist who has received a certificate of
22 medication therapeutic plan authority may engage in the
23 designing, initiating, implementing, and monitoring of a
24 medication therapeutic plan as defined by a prescription order
25 from a physician that is specific to each patient for care by a
26 pharmacist.

27 10. Nothing in this section shall be construed to allow a

1 pharmacist to make a therapeutic substitution of a pharmaceutical
2 prescribed by a physician unless authorized by the written
3 protocol or the physician's prescription order.

4 11. "Veterinarian", "doctor of veterinary medicine",
5 "practitioner of veterinary medicine", "DVM", "VMD", "BVSe",
6 "BVMS", "BSe (Vet Science)", "VMB", "MRCVS", or an equivalent
7 title means a person who has received a doctor's degree in
8 veterinary medicine from an accredited school of veterinary
9 medicine or holds an Educational Commission for Foreign
10 Veterinary Graduates (EDFVG) certificate issued by the American
11 Veterinary Medical Association (AVMA).

12 12. In addition to other requirements established by the
13 joint promulgation of rules by the board of pharmacy and the
14 state board of registration for the healing arts:

15 (1) A pharmacist shall administer vaccines by protocol in
16 accordance with treatment guidelines established by the Centers
17 for Disease Control and Prevention (CDC);

18 (2) A pharmacist who is administering a vaccine shall
19 request a patient to remain in the pharmacy a safe amount of time
20 after administering the vaccine to observe any adverse reactions.
21 Such pharmacist shall have adopted emergency treatment protocols;

22 (3) In addition to other requirements by the board, a
23 pharmacist shall receive additional training as required by the
24 board and evidenced by receiving a certificate from the board
25 upon completion, and shall display the certification in his or
26 her pharmacy where vaccines are delivered.

27 13. A pharmacist shall inform the patient that the

1 administration of the vaccine will be entered into the ShowMeVax
2 system, as administered by the department of health and senior
3 services. The patient shall attest to the inclusion of such
4 information in the system by signing a form provided by the
5 pharmacist. If the patient indicates that he or she does not
6 want such information entered into the ShowMeVax system, the
7 pharmacist shall provide a written report within fourteen days of
8 administration of a vaccine to the patient's [~~primary~~] health
9 care provider, if provided by the patient, containing:

- 10 (1) The identity of the patient;
- 11 (2) The identity of the vaccine or vaccines administered;
- 12 (3) The route of administration;
- 13 (4) The anatomic site of the administration;
- 14 (5) The dose administered; and
- 15 (6) The date of administration.

16 338.730. 1. Notwithstanding any other law to the contrary,
17 a pharmacist may dispense HIV postexposure prophylaxis in
18 accordance with this section. Such prophylaxis shall be
19 dispensed only if the pharmacist follows a written protocol
20 authorized by a licensed physician.

21 2. For purposes of this section, "postexposure prophylaxis"
22 shall mean any drug approved by the Food and Drug Administration
23 that meets the same clinical eligibility recommendations provided
24 in CDC guidelines.

25 3. For purposes of this section, "CDC guidelines" shall
26 mean the current HIV guidelines published by the federal Centers
27 for Disease Control and Prevention.

1 4. The state board of registration for the healing arts and
2 the state board of pharmacy shall jointly promulgate rules and
3 regulations for the administration of this section. Neither
4 board shall separately promulgate rules governing a pharmacist's
5 authority to dispense HIV postexposure prophylaxis under this
6 section.

7 5. Any rule or portion of a rule, as that term is defined
8 in section 536.010, that is created under the authority delegated
9 in this section shall become effective only if it complies with
10 and is subject to all of the provisions of chapter 536 and, if
11 applicable, section 536.028. This section and chapter 536 are
12 nonseverable and if any of the powers vested with the general
13 assembly pursuant to chapter 536 to review, to delay the
14 effective date, or to disapprove and annul a rule are
15 subsequently held unconstitutional, then the grant of rulemaking
16 authority and any rule proposed or adopted after August 28, 2021,
17 shall be invalid and void.

18 339.100. 1. The commission may, upon its own motion, and
19 shall upon receipt of a written complaint filed by any person,
20 investigate any real estate-related activity of a licensee
21 licensed under sections 339.010 to 339.180 and sections 339.710
22 to 339.860 or an individual or entity acting as or representing
23 themselves as a real estate licensee. In conducting such
24 investigation, if the questioned activity or written complaint
25 involves an affiliated licensee, the commission may forward a
26 copy of the information received to the affiliated licensee's
27 designated broker. The commission shall have the power to hold

1 an investigatory hearing to determine whether there is a
2 probability of a violation of sections 339.010 to 339.180 and
3 sections 339.710 to 339.860. The commission shall have the power
4 to issue a subpoena to compel the production of records and
5 papers bearing on the complaint. The commission shall have the
6 power to issue a subpoena and to compel any person in this state
7 to come before the commission to offer testimony or any material
8 specified in the subpoena. Subpoenas and subpoenas duces tecum
9 issued pursuant to this section shall be served in the same
10 manner as subpoenas in a criminal case. The fees and mileage of
11 witnesses shall be the same as that allowed in the circuit court
12 in civil cases.

13 2. The commission may cause a complaint to be filed with
14 the administrative hearing commission as provided by the
15 provisions of chapter 621 against any person or entity licensed
16 under this chapter or any licensee who has failed to renew or has
17 surrendered his or her individual or entity license for any one
18 or any combination of the following acts:

19 (1) Failure to maintain and deposit in a special account,
20 separate and apart from his or her personal or other business
21 accounts, all moneys belonging to others entrusted to him or her
22 while acting as a real estate broker or as the temporary
23 custodian of the funds of others, until the transaction involved
24 is consummated or terminated, unless all parties having an
25 interest in the funds have agreed otherwise in writing;

26 (2) Making substantial misrepresentations or false promises
27 or suppression, concealment or omission of material facts in the

1 conduct of his or her business or pursuing a flagrant and
2 continued course of misrepresentation through agents,
3 salespersons, advertising or otherwise in any transaction;

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

7 (4) Representing to any lender, guaranteeing agency, or any
8 other interested party, either verbally or through the
9 preparation of false documents, an amount in excess of the true
10 and actual sale price of the real estate or terms differing from
11 those actually agreed upon;

12 (5) Failure to timely deliver a duplicate original of any
13 and all instruments to any party or parties executing the same
14 where the instruments have been prepared by the licensee or under
15 his or her supervision or are within his or her control,
16 including, but not limited to, the instruments relating to the
17 employment of the licensee or to any matter pertaining to the
18 consummation of a lease, listing agreement or the purchase, sale,
19 exchange or lease of property, or any type of real estate
20 transaction in which he or she may participate as a licensee;

21 (6) Acting for more than one party in a transaction without
22 the knowledge of all parties for whom he or she acts, or
23 accepting a commission or valuable consideration for services
24 from more than one party in a real estate transaction without the
25 knowledge of all parties to the transaction;

26 (7) Paying a commission or valuable consideration to any
27 person for acts or services performed in violation of sections

1 339.010 to 339.180 and sections 339.710 to 339.860;

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

5 (9) Having been finally adjudicated and been found guilty
6 of the violation of any state or federal statute which governs
7 the sale or rental of real property or the conduct of the real
8 estate business as defined in subsection 1 of section 339.010;

9 (10) Obtaining a certificate or registration of authority,
10 permit or license for himself or herself or anyone else by false
11 or fraudulent representation, fraud or deceit;

12 (11) Representing a real estate broker other than the
13 broker with whom associated without the express written consent
14 of the broker with whom associated;

15 (12) Accepting a commission or valuable consideration for
16 the performance of any of the acts referred to in section 339.010
17 from any person except the broker with whom associated at the
18 time the commission or valuable consideration was earned;

19 (13) Using prizes, money, gifts or other valuable
20 consideration as inducement to secure customers or clients to
21 purchase, lease, sell or list property when the awarding of such
22 prizes, money, gifts or other valuable consideration is
23 conditioned upon the purchase, lease, sale or listing; or
24 soliciting, selling or offering for sale real property by
25 offering free lots, or conducting lotteries or contests, or
26 offering prizes for the purpose of influencing a purchaser or
27 prospective purchaser of real property;

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

4 (15) Violation of, or attempting to violate, directly or
5 indirectly, or assisting or enabling any person to violate, any
6 provision of sections 339.010 to 339.180 and sections 339.710 to
7 339.860, or of any lawful rule adopted pursuant to sections
8 339.010 to 339.180 and sections 339.710 to 339.860;

9 (16) Committing any act which would otherwise be grounds
10 for the commission to refuse to issue a license under section
11 339.040;

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

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

22 (19) Any other conduct which constitutes untrustworthy,
23 improper or fraudulent business dealings, demonstrates bad faith
24 or incompetence, misconduct, or gross negligence;

25 (20) Disciplinary action against the holder of a license or
26 other right to practice any profession regulated under sections
27 339.010 to 339.180 and sections 339.710 to 339.860 granted by

1 another state, territory, federal agency, or country upon grounds
2 for which revocation, suspension, or probation is authorized in
3 this state;

4 (21) Been found by a court of competent jurisdiction of
5 having used any controlled substance, as defined in chapter 195,
6 to the extent that such use impairs a person's ability to perform
7 the work of any profession licensed or regulated by sections
8 339.010 to 339.180 and sections 339.710 to 339.860;

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

11 (23) Assisting or enabling any person to practice or offer
12 to practice any profession licensed or regulated under sections
13 339.010 to 339.180 and sections 339.710 to 339.860 who is not
14 registered and currently eligible to practice under sections
15 339.010 to 339.180 and sections 339.710 to 339.860;

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

17 (a) Is knowingly false, misleading or deceptive to the
18 general public or persons to whom the advertisement or
19 solicitation is primarily directed; or

20 (b) Includes a name or team name that uses the terms
21 "realty", "brokerage", "company", or any other terms that can be
22 construed to advertise a real estate company other than the
23 licensee or a business entity licensed under this chapter with
24 whom the licensee is associated. The context of the
25 advertisement or solicitation may be considered by the commission
26 when determining whether a licensee has committed a violation of
27 this paragraph;

1 (25) Making any material misstatement, misrepresentation,
2 or omission with regard to any application for licensure or
3 license renewal. As used in this section, "material" means
4 important information about which the commission should be
5 informed and which may influence a licensing decision;

6 (26) Engaging in, committing, or assisting any person in
7 engaging in or committing mortgage fraud, as defined in section
8 443.930.

9 3. After the filing of such complaint, the proceedings will
10 be conducted in accordance with the provisions of law relating to
11 the administrative hearing commission. A finding of the
12 administrative hearing commissioner that the licensee has
13 performed or attempted to perform one or more of the foregoing
14 acts shall be grounds for the suspension or revocation of his
15 license by the commission, or the placing of the licensee on
16 probation on such terms and conditions as the real estate
17 commission shall deem appropriate, or the imposition of a civil
18 penalty by the commission not to exceed two thousand five hundred
19 dollars for each offense. Each day of a continued violation
20 shall constitute a separate offense.

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

27 5. Notwithstanding other provisions of this section, a

1 broker or salesperson's license shall be revoked, or in the case
2 of an applicant, shall not be issued, if the licensee or
3 applicant has pleaded guilty to, entered a plea of nolo
4 contendere to, or been found guilty of any of the following
5 offenses or offenses of a similar nature established under the
6 laws of this, any other state, the United States, or any other
7 country, notwithstanding whether sentence is imposed:

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

10 (2) Any of the following sexual offenses: rape in the
11 first degree, forcible rape, rape, statutory rape in the first
12 degree, statutory rape in the second degree, rape in the second
13 degree, sexual assault, sodomy in the first degree, forcible
14 sodomy, statutory sodomy in the first degree, statutory sodomy in
15 the second degree, child molestation in the first degree, child
16 molestation in the second degree, sodomy in the second degree,
17 deviate sexual assault, sexual misconduct involving a child,
18 sexual misconduct in the first degree under section 566.090 as it
19 existed prior to August 28, 2013, sexual abuse under section
20 566.100 as it existed prior to August 28, 2013, sexual abuse in
21 the first or second degree, enticement of a child, or attempting
22 to entice a child;

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

1 performance by a child, or trafficking in children;

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

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

13 6. A person whose license was revoked under subsection 5 of
14 this section may appeal such revocation to the administrative
15 hearing commission. Notice of such appeal must be received by
16 the administrative hearing commission within ninety days of
17 mailing, by certified mail, the notice of revocation. Failure of
18 a person whose license was revoked to notify the administrative
19 hearing commission of his or her intent to appeal waives all
20 rights to appeal the revocation. Upon notice of such person's
21 intent to appeal, a hearing shall be held before the
22 administrative hearing commission.

23 339.150. 1. No real estate broker shall knowingly employ
24 or engage any person to perform any service to the broker for
25 which licensure as a real estate broker or a real estate
26 salesperson is required pursuant to sections 339.010 to 339.180
27 and sections 339.710 to 339.860, unless such a person is:

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

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

7 (a) Executed a brokerage agreement with the Missouri real
8 estate broker;

9 (b) Consented to the jurisdiction of Missouri and the
10 commission;

11 (c) Consented to disciplinary procedures under section
12 339.100; and

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

16 (3) For any other transaction, a person regularly engaged
17 in the real estate brokerage business outside of the state of
18 Missouri.

19
20 Any such action shall be unlawful as provided by section 339.100
21 and shall be grounds for investigation, complaint, proceedings
22 and discipline as provided by section 339.100.

23 2. No real estate licensee shall pay any part of a fee,
24 commission or other compensation received by the licensee to any
25 person for any service rendered by such person to the licensee in
26 buying, selling, exchanging, leasing, renting or negotiating a
27 loan upon any real estate, unless such a person is a licensed

1 real estate salesperson regularly associated with such a broker,
2 or a licensed real estate broker, or a person regularly engaged
3 in the real estate brokerage business outside of the state of
4 Missouri.

5 3. Notwithstanding the provisions of subsections 1 and 2 of
6 this section, any real estate broker who shall refuse to pay any
7 person for services rendered by such person to the broker, with
8 the consent, knowledge and acquiescence of the broker that such
9 person was not licensed as required by section 339.020, in
10 buying, selling, exchanging, leasing, renting or negotiating a
11 loan upon any real estate for which services a license is
12 required, and who is employed or engaged by such broker to
13 perform such services, shall be liable to such person for the
14 reasonable value of the same or similar services rendered to the
15 broker, regardless of whether or not the person possesses or
16 holds any particular license, permit or certification at the time
17 the service was performed. Any such person may bring a civil
18 action for the reasonable value of his services rendered to a
19 broker notwithstanding the provisions of section 339.160.

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

27 (1) Solely by the licensee;

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

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

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

10 (1) "Business entity", any corporation, partnership,
11 limited partnership, limited liability company, professional
12 corporation, or association;

13 (2) "Licensee", any real estate broker-salesperson or real
14 estate salesperson, as such terms are defined under section
15 339.010.

16 375.029. 1. As used in this section, the following terms
17 mean:

18 (1) "Director", the director of the department of commerce
19 and insurance;

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

23 2. (1) Subject to approval by the director, an insurance
24 producer's active participation as an individual member or
25 employee of a business entity producer member of a local,
26 regional, state, or national professional insurance association
27 may be approved for up to four hours of continuing education

1 credit per each biennial reporting period.

2 (2) An insurance producer shall not use continuing
3 education credit granted under this section to satisfy continuing
4 education hours required to be completed in a classroom or
5 classroom-equivalent setting or to satisfy any continuing
6 education ethics requirements.

7 (3) The continuing education hours referenced in
8 subdivision (1) of subsection 2 of this section shall be credited
9 upon the timely filing with the director by the insurance
10 producer of an appropriate written statement in a form acceptable
11 to the director or by a certification from the local, regional,
12 state, or national professional insurance association through
13 written form or electronic filing acceptable to the director.

14 3. The director may promulgate all necessary rules and
15 regulations for the administration of this section. Any rule or
16 portion of a rule, as that term is defined in section 536.010,
17 that is created under the authority delegated in this section
18 shall become effective only if it complies with and is subject to
19 all of the provisions of chapter 536 and, if applicable, section
20 536.028. This section and chapter 536 are nonseverable, and if
21 any of the powers vested with the general assembly pursuant to
22 chapter 536 to review, to delay the effective date, or to
23 disapprove and annul a rule are subsequently held
24 unconstitutional, then the grant of rulemaking authority and any
25 rule proposed or adopted after August 28, 2021, shall be invalid
26 and void.

27 436.218. As used in sections 436.215 to 436.272, the

1 following terms mean:

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

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

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

17 a. Directly or indirectly recruits or solicits a student
18 athlete to enter into an agency contract or, for compensation,
19 procures employment or offers, promises, attempts, or negotiates
20 to obtain employment for a student athlete as a professional
21 athlete or member of a professional sports team or organization;

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

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

1 institution for the benefit of the institution; or

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

4 or

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

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

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

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

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

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

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

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

24 (ii) For compensation, procures employment or offers,
25 promises, attempts, or negotiates to obtain employment for the
26 student athlete as a professional athlete or member of a
27 professional sports team or organization; or

1 (iii) Receives consideration for providing the services
2 calculated using a different method than for an individual who is
3 not a student athlete;

4 (3) "Athletic director", an individual responsible for
5 administering the overall athletic program of an educational
6 institution or if an educational institution has separately
7 administered athletic programs for male students and female
8 students, the athletic program for males or the athletic program
9 for females, as appropriate;

10 (4) [~~"Contact", a direct or indirect communication between~~
11 ~~an athlete agent and a student athlete to recruit or solicit the~~
12 ~~student athlete to enter into an agency contract;~~

13 ~~——(5)] "Director", the director of the division of
14 professional registration;~~

15 [~~(6)] (5) "Division", the division of professional
16 registration;~~

17 (6) "Educational institution", a public or private
18 elementary school, secondary school, technical or vocational
19 school, community college, college, or university;

20 (7) "Endorsement contract", an agreement under which a
21 student athlete is employed or receives consideration to use on
22 behalf of the other party any value that the student athlete may
23 have because of publicity, reputation, following, or fame
24 obtained because of athletic ability or performance;

25 (8) "Enrolled" or "enrolls", the act of registering, or
26 having already registered, for courses at an educational
27 institution and attending or planning to attend athletic practice

1 or class;

2 ~~[(8)]~~ (9) "Intercollegiate sport", a sport played at the
3 collegiate level for which eligibility requirements for
4 participation by a student athlete are established by a national
5 association for the promotion or regulation of collegiate
6 athletics;

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

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

19 ~~[(9)]~~ (12) "Person", an individual, corporation, business
20 trust, estate, trust, partnership, limited liability company,
21 association, joint venture, government, governmental subdivision,
22 agency, or instrumentality, public corporation, or any other
23 legal or commercial entity;

24 ~~[(10)]~~ (13) "Professional sports services contract", an
25 agreement under which an individual is employed ~~[or]~~ as a
26 professional athlete and agrees to render services as a player on
27 a professional sports team~~[7]~~ or with a professional sports

1 organization~~[, or as a professional athlete]~~;

2 ~~[(11)]~~ (14) "Record", information that is inscribed on a
3 tangible medium or that is stored in an electronic or other
4 medium and is retrievable in perceivable form;

5 (15) "Recruit or solicit", an attempt to influence the
6 choice of an athlete agent by a student athlete or, if the
7 student athlete is a minor, a parent or guardian of the student
8 athlete. "Recruit or solicit" does not include giving advice on
9 the selection of a particular agent in a family, coaching, or
10 social situation unless the individual giving the advice does so
11 because of the receipt or anticipated receipt of an economic
12 benefit, directly or indirectly, from the agent;

13 ~~[(12)]~~ (16) "Registration", registration as an athlete
14 agent under sections 436.215 to 436.272;

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

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

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

19 ~~[(13)]~~ (18) "State", a state of the United States, the
20 District of Columbia, Puerto Rico, the United States Virgin
21 Islands, or any territory or insular possession subject to the
22 jurisdiction of the United States;

23 ~~[(14)]~~ (19) "Student athlete", ~~[a current student who~~
24 ~~engages in, has engaged in, is eligible to engage in, or may be~~
25 ~~eligible in the future to engage in, any]~~ an individual who is
26 eligible to attend an educational institution and engages in, is
27 eligible to engage in, or may be eligible in the future to engage

1 in any interscholastic or intercollegiate sport. "Student
2 athlete" does not include an individual permanently ineligible to
3 participate in a particular interscholastic or intercollegiate
4 sport.

5 436.224. 1. Except as otherwise provided in subsection 2
6 of this section, an individual may not act as an athlete agent in
7 this state ~~before~~ without being issued a certificate of
8 registration under section 436.230 or 436.236.

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

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

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

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

23 436.227. 1. An applicant for registration shall submit an
24 application for registration to the director in a form prescribed
25 by the director. The application ~~must~~ shall be in the name of
26 an individual and signed by the applicant under penalty of
27 perjury and ~~must~~ shall state or contain at least the following:

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

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

5 (3) The applicant's mobile telephone numbers and any means
6 of communicating electronically, including a facsimile number,
7 email address, and personal, business, or employer websites, as
8 applicable;

9 ~~[(2)]~~ (4) The name of the applicant's business or employer,
10 if applicable, including for each business or employer, the
11 mailing address, telephone number, organization form, and the
12 nature of the business;

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

15 ~~[(3)]~~ (6) Any business or occupation engaged in by the
16 applicant for the five years ~~[next]~~ preceding the date of
17 submission of the application, including self-employment and
18 employment by others, and any professional or occupational
19 license, registration, or certification held by the applicant
20 during that time;

21 ~~[(4)]~~ (7) A description of the applicant's:

22 (a) Formal training as an athlete agent;

23 (b) Practical experience as an athlete agent; and

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

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

1 ~~——(6)]~~ (8) The name ~~[, sport, and last known team for each~~
2 ~~individual]~~ of each student athlete for whom the applicant
3 ~~[provided services]~~ acted as an athlete agent during the five
4 years ~~[next]~~ preceding the date of submission of the application
5 or, if the student athlete is a minor, the name of the parent or
6 guardian of the minor, together with the student athlete's sport
7 and last known team;

8 ~~[(7)]~~ (9) The names and addresses of all persons who are:

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

13 (b) With respect to a corporation employing the ~~[athlete~~
14 ~~agent]~~ applicant, the officers, directors, and any shareholder of
15 the corporation with a five percent or greater interest;

16 (10) A description of the status of any application by the
17 applicant, or any person named under subdivision (9) of this
18 subsection, for a state or federal business, professional, or
19 occupational license, other than as an athlete agent, from a
20 state or federal agency, including any denial, refusal to renew,
21 suspension, withdrawal, or termination of the license and any
22 reprimand or censure related to the license;

23 ~~[(8)]~~ (11) Whether the applicant or any other person named
24 under subdivision ~~[(7)]~~ (9) of this ~~[section]~~ subsection has
25 ~~[been convicted]~~ pled guilty to or been found guilty of a crime
26 that if committed in this state would be a felony or other crime
27 involving moral turpitude, and ~~[a description of the crime]~~

1 information regarding the crime, including the crime, the law
2 enforcement agency involved, and, if applicable, the date of the
3 verdict and the penalty imposed;

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

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

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

19 ~~[(9)]~~ (15) Whether there has been any administrative or
20 judicial determination that the applicant or any other person
21 named under subdivision ~~[(7)]~~ (9) of this ~~[section]~~ subsection
22 has made a false, misleading, deceptive, or fraudulent
23 representation;

24 ~~[(10)]~~ (16) Any instance in which the prior conduct of the
25 applicant or any other person named under subdivision ~~[(7)]~~ (9)
26 of this ~~[section]~~ subsection resulted in the imposition of a
27 sanction, suspension, or declaration of ineligibility to

1 participate in an interscholastic or intercollegiate athletic
2 event on a student athlete or educational institution;

3 ~~[(11)]~~ (17) Any sanction, suspension, or disciplinary
4 action taken against the applicant or any other person named
5 under subdivision ~~[(7)]~~ (9) of this ~~[section]~~ subsection arising
6 out of occupational or professional conduct; ~~[and]~~

7 ~~[(12)]~~ (18) Whether there has been any denial of an
8 application for, suspension or revocation of, or refusal to renew
9 the registration or licensure of the applicant or any other
10 person named under subdivision ~~[(7)]~~ (9) of this ~~[section]~~
11 subsection as an athlete agent in any state;

12 (19) Each state in which the applicant is currently
13 registered as an athlete agent or has applied to be registered as
14 an athlete agent;

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

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

18 (b) The date of certification or registration, and the date
19 of expiration of the certification or registration, if any; and

20 (c) If applicable, the date of any denial of an application
21 for, suspension or revocation of, refusal to renew, withdrawal
22 of, or termination of the certification or registration or any
23 reprimand or censure related to the certification or
24 registration; and

25 (21) Any additional information as required by the
26 director.

27 2. In lieu of submitting the application and information

1 required under subsection 1 of this section, an applicant who is
2 registered as an athlete agent in another state may apply for
3 registration as an athlete agent by submitting the following:

4 (1) A copy of the application for registration in the other
5 state;

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

9 (3) A copy of the certificate of registration from the
10 other state.

11 3. The director shall issue a certificate of registration
12 to an applicant who applies for registration under subsection 2
13 of this section if the director determines:

14 (1) The application and registration requirements of the
15 other state are substantially similar to or more restrictive than
16 the requirements provided under sections 436.215 to 436.272; and

17 (2) The registration has not been revoked or suspended and
18 no action involving the applicant's conduct as an athlete agent
19 is pending against the applicant or the applicant's registration
20 in any state.

21 4. For purposes of implementing subsection 3 of this
22 section, the director shall:

23 (1) Cooperate with national organizations concerned with
24 athlete agent issues and agencies in other states that register
25 athlete agents to develop a common registration form and
26 determine which states have laws that are substantially similar
27 to or more restrictive than sections 436.215 to 436.272; and

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

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

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

13 (1) Been finally adjudicated and found guilty, or entered a
14 plea of guilty or nolo contendere, in a criminal prosecution
15 under the laws of any state, of the United States, or of any
16 country, for any offense directly related to the duties and
17 responsibilities of the occupation, as set forth in section
18 324.012, regardless of whether or not sentence is imposed;

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

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

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

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

1 (6) Engaged in conduct or failed to engage in conduct the
2 consequence of which was that a sanction, suspension, or
3 declaration of ineligibility to participate in an interscholastic
4 or intercollegiate athletic event was imposed on a student
5 athlete or educational institution; or

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

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

10 (1) How recently the conduct occurred;

11 (2) The nature of the conduct and the context in which it
12 occurred; and

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

14 4. An athlete agent may apply to renew a registration by
15 submitting an application for renewal in a form prescribed by the
16 director. The application for renewal [~~must~~] shall be signed by
17 the applicant under penalty of perjury under section 575.040 and
18 shall contain current information on all matters required in an
19 original registration.

20 5. An athlete agent registered under subsection 3 of
21 section 436.227 may renew the registration by proceeding under
22 subsection 4 of this section or, if the registration in the other
23 state has been renewed, by submitting to the director copies of
24 the application for renewal in the other state and the renewed
25 registration from the other state. The director shall renew the
26 registration if the director determines:

27 (1) The registration requirements of the other state are

1 substantially similar to or more restrictive than the
2 requirements provided under sections 436.215 to 436.272; and

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

7 6. A certificate of registration or a renewal of a
8 registration is valid for two years.

9 436.236. The director may issue a temporary certificate of
10 registration [~~valid for sixty days~~] while an application for
11 registration or renewal is pending.

12 436.242. 1. An agency contract [~~must~~] shall be in a record
13 signed by the parties.

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

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

18 (2) The amount and method of calculating the consideration
19 to be paid by the student athlete for services to be provided by
20 the athlete agent under the contract and any other consideration
21 the athlete agent has received or will receive from any other
22 source for entering into the contract or for providing the
23 services;

24 [~~(2)~~] (3) The name of any person not listed in the
25 application for registration or renewal who will be compensated
26 because the student athlete signed the agency contract;

27 [~~(3)~~] (4) A description of any expenses that the student

1 athlete agrees to reimburse;

2 ~~[(4)]~~ (5) A description of the services to be provided to
3 the student athlete;

4 ~~[(5)]~~ (6) The duration of the contract; and

5 ~~[(6)]~~ (7) The date of execution.

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

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

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

12 (2) BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL
13 YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN
14 72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT OR BEFORE THE
15 NEXT ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS
16 FIRST, AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE
17 ATHLETE AGENT; AND

18 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
19 SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR
20 ELIGIBILITY."

21 4. An agency contract shall be accompanied by a separate
22 record signed by the student athlete or, if the student athlete
23 is a minor, the parent or guardian of the student athlete
24 acknowledging that signing the contract may result in the loss of
25 the student athlete's eligibility to participate in the student
26 athlete's sport.

27 5. An agency contract that does not conform to this section

1 is voidable by the student athlete or, if the student athlete is
2 a minor, by the parent or guardian of the student athlete. If
3 the contract is voided, any consideration received by the student
4 athlete from the athlete agent under the contract to induce
5 entering into the contract is not required to be returned.

6 ~~[5.]~~ 6. The athlete agent shall give a copy of the signed
7 agency contract to the student athlete or, if the student athlete
8 is a minor, to the parent or guardian of the student athlete [at
9 ~~the time of signing]~~.

10 7. If a student athlete is a minor, an agency contract
11 shall be signed by the parent or guardian of the minor, and the
12 notice required by subsection 3 of this section shall be revised
13 accordingly.

14 436.245. 1. As used in this section, "communicating or
15 attempting to communicate" shall mean contacting or attempting to
16 contact by an in-person meeting, a record, or any other method
17 that conveys or attempts to convey a message.

18 2. Within seventy-two hours after entering into an agency
19 contract or before the next scheduled athletic event in which the
20 student athlete may participate, whichever occurs first, the
21 athlete agent shall give notice in [writing] a record of the
22 existence of the contract to the athletic director of the
23 educational institution at which the student athlete is enrolled
24 or the athlete agent has reasonable grounds to believe the
25 student athlete intends to enroll.

26 3. If an athlete agent enters into an agency contract with
27 a student athlete and the student athlete subsequently enrolls at

1 an educational institution, the athlete agent shall notify the
2 athletic director of the educational institution of the existence
3 of the contract within seventy-two hours after the agent knows or
4 should have known the student athlete enrolled.

5 4. If an athlete agent has a relationship with a student
6 athlete before the student athlete enrolls in an educational
7 institution and receives an athletic scholarship from the
8 educational institution, the athlete agent shall notify the
9 athletic director of the educational institution of the
10 relationship no later than ten days after the enrollment if the
11 athlete agent knows or should have known of the enrollment and:

12 (1) The relationship was motivated in whole or in part by
13 the intention of the athlete agent to recruit or solicit the
14 student athlete to enter an agency contract in the future; or

15 (2) The athlete agent directly or indirectly recruited or
16 solicited the student athlete to enter an agency contract before
17 the enrollment.

18 5. An athlete agent shall give notice in a record to the
19 athletic director of any educational institution at which a
20 student athlete is enrolled before the agent communicates or
21 attempts to communicate with:

22 (1) The student athlete or, if the student athlete is a
23 minor, a parent or guardian of the student athlete to influence
24 the student athlete or parent or guardian to enter into an agency
25 contract; or

26 (2) Another individual to have that individual influence
27 the student athlete or, if the student athlete is a minor, the

1 parent or guardian of the student athlete to enter into an agency
2 contract.

3 6. If a communication or attempted communication with an
4 athlete agent is initiated by a student athlete or another
5 individual on behalf of the student athlete, the athlete agent
6 shall give notice in a record to the athletic director of any
7 educational institution at which the student athlete is enrolled.
8 The notification shall be made no later than ten days after the
9 communication or attempted communication.

10 7. An educational institution that becomes aware of a
11 violation of sections 436.215 to 436.272 by an athlete agent
12 shall notify the director of the violation and any professional
13 league or players' association with which the educational
14 institution is aware the agent is licensed or registered.

15 ~~[2.]~~ 8. Within seventy-two hours after entering into an
16 agency contract or before the next athletic event in which the
17 student athlete may participate, whichever occurs first, the
18 student athlete shall in ~~[writing]~~ a record inform the athletic
19 director of the educational institution at which the student
20 athlete is enrolled that he or she has entered into an agency
21 contract and the name and contact information of the athlete
22 agent.

23 436.248. 1. A student athlete or, if the student athlete
24 is a minor, the parent or guardian of the student athlete may
25 cancel an agency contract by giving notice in writing to the
26 athlete agent of the cancellation within fourteen days after the
27 contract is signed.

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

4 3. If a student athlete, parent, or guardian cancels an
5 agency contract within fourteen days of signing the contract, the
6 student athlete, parent, or guardian is not required to pay any
7 consideration under the contract or to return any consideration
8 received from the agent to induce the student athlete to enter
9 into the contract.

10 436.254. ~~[1.]~~ An athlete agent ~~[may]~~ shall not
11 intentionally ~~[do any of the following with the intent to induce~~
12 ~~a student athlete to enter into an agency contract]:~~

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

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

24 (a) The athlete agent notifies the athletic director of the
25 educational institution at which the student athlete is enrolled
26 or at which the athlete agent has reasonable grounds to believe
27 the student athlete intends to enroll, no later than seventy-two

1 hours after giving the thing of value; and

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

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

9 ~~2. An athlete agent may not intentionally:~~

10 ~~—(1)] Initiate contact, directly or indirectly, with a~~
11 ~~student athlete or, if the student athlete is a minor, a parent~~
12 ~~or guardian of the student athlete to recruit or solicit the~~
13 ~~student athlete, parent, or guardian to enter into an agency~~
14 ~~contract unless registered under sections 436.215 to 436.272;~~

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

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

19 ~~[(4)] (6) Provide materially false or misleading~~
20 ~~information in an application for registration or renewal of~~
21 ~~registration;~~

22 ~~[(5)] (7) Predate or postdate an agency contract; ~~or~~~~

23 ~~—(6)] (8) Fail to notify a student athlete or, if the~~
24 ~~student athlete is a minor, a parent or guardian of the student~~
25 ~~athlete [prior to] before the student [athlete's] athlete,~~
26 ~~parent, or guardian [signing] signs an agency contract for a~~
27 ~~particular sport that the signing ~~[by the student athlete]~~ may~~

1 ~~[make the student athlete ineligible]~~ result in loss of the
2 student athlete's eligibility to participate ~~[as a student~~
3 ~~athlete in that]~~ in the student athlete's sport;

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

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

10 436.260. 1. An educational institution ~~[has a right of]~~ or
11 a student athlete may bring an action for damages against an
12 athlete agent ~~[or a former student athlete for damages caused by~~
13 ~~a]~~ if the institution or student athlete is adversely affected by
14 an act or omission of the athlete agent in violation of sections
15 436.215 to 436.272. [In an action under this section, the court
16 may award to the prevailing party costs and reasonable attorney's
17 fees.]

18 (1) In order for a student athlete to qualify as "adversely
19 affected by an act or omission of the athlete agent" under this
20 section, the student athlete shall demonstrate that he or she was
21 a student athlete and enrolled at the institution at the time the
22 act or omission of the athlete agent occurred and that he or she:

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

27 (b) Suffered financial damage.

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

5 (a) Was disqualified from participation in an
6 interscholastic or intercollegiate sports event by a state or
7 national federation or association that promotes or regulates
8 interscholastic or intercollegiate sports; or

9 (b) Suffered financial damage.

10 2. ~~【Damages of an educational institution under subsection~~
11 ~~1 of this section include losses and expenses incurred because as~~
12 ~~a result of the activities of an athlete agent or former student~~
13 ~~athlete the educational institution was injured by a violation of~~
14 ~~sections 436.215 to 436.272 or was penalized, disqualified, or~~
15 ~~suspended from participation in athletics by a national~~
16 ~~association for the promotion and regulation of athletics, by an~~
17 ~~athletic conference, or by reasonable self-imposed disciplinary~~
18 ~~action taken to mitigate sanctions.】 A plaintiff who prevails in~~
19 an action under this section may recover actual damages, costs,
20 and reasonable attorney's fees. An athlete agent found liable
21 under this section forfeits any right of payment for anything of
22 benefit or value provided to the student athlete and shall refund
23 any consideration paid to the athlete agent by or on behalf of
24 the student athlete.

25 3. ~~【A right of action under this section does not accrue~~
26 ~~until the educational institution discovers or by the exercise of~~
27 ~~reasonable diligence would have discovered the violation by the~~

1 ~~athlete agent or former student athlete.~~

2 ~~4. Any liability of the athlete agent or the former student~~
3 ~~athlete under this section is several and not joint.~~

4 ~~5. Sections 436.215 to 436.272 do not restrict rights,~~
5 ~~remedies, or defenses of any person under law or equity.] A~~
6 violation of any provision of sections 436.215 to 436.272 is an
7 unfair trade practice for purposes of sections 375.930 to
8 375.948.

9 436.263. 1. Any [person] individual who violates any
10 [provisions] provision of sections 436.215 to [436.269] 436.272
11 is guilty of a class A misdemeanor and liable for a civil penalty
12 not to exceed one hundred thousand dollars.

13 2. Any individual who knowingly violates any provision of
14 sections 436.215 to 436.272 is guilty of a class E felony and
15 liable for a civil penalty not to exceed one hundred thousand
16 dollars.

17 436.266. In applying and construing sections 436.215 to
18 436.272, consideration ~~[must]~~ shall be given to the need to
19 promote uniformity of the law with respect to the subject matter
20 of sections 436.215 to 436.272 among states that enact it.

21 ~~[436.257. The commission of any act prohibited by~~
22 ~~section 436.254 by an athlete agent is a class B~~
23 ~~misdemeanor.]~~

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27 ✓
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1 _____
2 Representative Tom Hannegan Senator Jeanie Riddle