

FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 273

101ST GENERAL ASSEMBLY

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0922S.04C

ADRIANE D. CROUSE, Secretary

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## AN ACT

To repeal sections 324.009, 324.012, 324.200, 324.206, 327.011, 327.091, 327.101, 327.131, 327.191, 327.241, 327.612, 334.104, 335.175, 337.068, 339.100, 436.218, 436.224, 436.227, 436.230, 436.236, 436.242, 436.245, 436.248, 436.254, 436.257, 436.260, 436.263, and 436.266, RSMo, and to enact in lieu thereof thirty new sections relating to professional registration, with penalty provisions.

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

Section A. Sections 324.009, 324.012, 324.200, 324.206,  
2 327.011, 327.091, 327.101, 327.131, 327.191, 327.241, 327.612,  
3 334.104, 335.175, 337.068, 339.100, 436.218, 436.224, 436.227,  
4 436.230, 436.236, 436.242, 436.245, 436.248, 436.254, 436.257,  
5 436.260, 436.263, and 436.266, RSMo, are repealed and thirty  
6 new sections enacted in lieu thereof, to be known as sections  
7 324.009, 324.012, 324.087, 324.200, 324.206, 327.011, 327.091,  
8 327.101, 327.131, 327.191, 327.241, 327.612, 329.034, 334.104,  
9 335.175, 337.068, 339.100, 375.029, 436.218, 436.224, 436.227,  
10 436.230, 436.236, 436.242, 436.245, 436.248, 436.254, 436.260,  
11 436.263, and 436.266, to read as follows:

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

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

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

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

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

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

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

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

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

41 3. The oversight body in this state shall:

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

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

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

71 criminal record that would disqualify him or her for  
72 licensure in Missouri; or who does not hold a valid current  
73 license in the other jurisdiction on the date the oversight  
74 body receives his or her application under this section.

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

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

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

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

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

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

101 10. The provisions of this section shall not apply to  
102 an oversight body that has entered into a licensing compact

103 with another state for the regulation of practice under the  
104 oversight body's jurisdiction. The provisions of this  
105 section shall not be construed to alter the authority  
106 granted by, or any requirements promulgated pursuant to, any  
107 interjurisdictional or interstate compacts adopted by  
108 Missouri statute or any reciprocity agreements with other  
109 states in effect on August 28, 2018, and whenever possible  
110 this section shall be interpreted so as to imply no conflict  
111 between it and any compact, or any reciprocity agreements  
112 with other states in effect on August 28, 2018.

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

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

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

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

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

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

9 (3) "Licensing authority", an agency, examining board,  
10 credentialing board, or other office of the state with the  
11 authority to impose occupational fees or licensing

12 requirements on any profession. **For purposes of the**  
13 **provisions of this section other than subsection 7 of this**  
14 **section**, the term "licensing authority" shall not include  
15 the state board of education's licensure of teachers  
16 pursuant to chapter 168, the Missouri state board of  
17 accountant's licensure of accountants pursuant to chapter  
18 326, the board of podiatric medicine's licensure of  
19 podiatrists pursuant to chapter 330, the Missouri dental  
20 board's licensure of dentists pursuant to chapter 332, the  
21 state board of registration for the healing art's licensure  
22 of physicians and surgeons pursuant to chapter 334, the  
23 Missouri state board of nursing's licensure of nurses  
24 pursuant to chapter 335, the board of pharmacy's licensure  
25 of pharmacists pursuant to chapter 338, the Missouri real  
26 estate commission's licensure of real estate brokers, real  
27 estate salespersons, or real estate broker-salespersons  
28 pursuant to sections 339.010 to 339.205, the Missouri  
29 veterinary medical board's licensure of veterinarian's  
30 pursuant to chapter 340, the Missouri director of finance  
31 appointed pursuant to chapter 361, or the peace officer  
32 standards and training commission's licensure of peace  
33 officers or other law enforcement personnel pursuant to  
34 chapter 590;

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

37 3. Notwithstanding any other provision of law,  
38 beginning January 1, 2021, no person shall be disqualified  
39 by a state licensing authority from pursuing, practicing, or  
40 engaging in any occupation for which a license is required  
41 solely or in part because of a prior conviction of a crime  
42 in this state or another state, unless the criminal  
43 conviction directly relates to the duties and

44 responsibilities for the licensed occupation as set forth in  
45 this section or is violent or sexual in nature.

46 4. Beginning August 28, 2020, applicants for  
47 examination of licensure who have pleaded guilty to, entered  
48 a plea of nolo contendere to, or been found guilty of any of  
49 the following offenses or offenses of a similar nature  
50 established under the laws of this state, any other state,  
51 United States, or any other country, notwithstanding whether  
52 sentence is imposed, shall be considered by state licensing  
53 authorities to have committed a criminal offense that  
54 directly relates to the duties and responsibilities of a  
55 licensed profession:

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

62 (2) Any of the following sexual offenses: rape in the  
63 first degree, forcible rape, rape, statutory rape in the  
64 first degree, statutory rape in the second degree, rape in  
65 the second degree, sexual assault, sodomy in the first  
66 degree, forcible sodomy, statutory sodomy in the first  
67 degree, statutory sodomy in the second degree, child  
68 molestation in the first degree, child molestation in the  
69 second degree, sodomy in the second degree, deviate sexual  
70 assault, sexual misconduct involving a child, sexual  
71 misconduct in the first degree under section 566.090 as it  
72 existed prior to August 28, 2013, sexual abuse under section  
73 566.100 as it existed prior to August 28, 2013, sexual abuse  
74 in the first or second degree, enticement of a child, or  
75 attempting to entice a child;

76           (3) Any of the following offenses against the family  
77 and related offenses: incest, abandonment of a child in the  
78 first degree, abandonment of a child in the second degree,  
79 endangering the welfare of a child in the first degree,  
80 abuse of a child, using a child in a sexual performance,  
81 promoting sexual performance by a child, or trafficking in  
82 children; and

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

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

99           (6) Any offense an essential element of which is fraud  
100 may be a disqualifying criminal offense for the following  
101 occupations: private investigators, licensed pursuant to  
102 sections 324.1100 to 324.1148; accountants, licensed  
103 pursuant to chapter 326; architects, licensed pursuant to  
104 sections 327.091 to 327.172; engineers, licensed pursuant to  
105 sections 327.181 to 327.271; land surveyors, licensed  
106 pursuant to sections 327.272 to 327.371; landscape  
107 architects, licensed pursuant to sections 327.600 to



108 327.635; chiropractors, licensed pursuant to chapter 331;  
109 embalmers and funeral directors, licensed pursuant to  
110 chapter 333; real estate appraisers and appraisal management  
111 companies, licensed pursuant to sections 339.500 to 339.549;  
112 and nursing home administrators, licensed pursuant to  
113 chapter 344.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

177 (2) Any written determination by the licensing  
178 authority that an applicant's criminal conviction is a  
179 specifically listed disqualifying conviction and is directly  
180 related to the duties and responsibilities for the licensed  
181 occupation shall be documented with written findings for  
182 each of the grounds or reasons under paragraph (a) of  
183 subdivision (1) of this subsection by clear and convincing  
184 evidence sufficient for a reviewing court.

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

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

**324.087. SECTION 1. PURPOSE**

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

- 11           A. Increase public access to Occupational Therapy  
12 services by providing for the mutual recognition of other  
13 Member State licenses;
- 14           B. Enhance the States' ability to protect the public's  
15 health and safety;
- 16           C. Encourage the cooperation of Member States in  
17 regulating multi-State Occupational Therapy Practice;
- 18           D. Support spouses of relocating military members;
- 19           E. Enhance the exchange of licensure, investigative,  
20 and disciplinary information between Member States;
- 21           F. Allow a Remote State to hold a provider of services  
22 with a Compact Privilege in that State accountable to that  
23 State's practice standards; and
- 24           G. Facilitate the use of Telehealth technology in  
25 order to increase access to Occupational Therapy services.

26           SECTION 2. DEFINITIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

104 S. "Occupational Therapy Compact Commission" or  
105 "Commission" means the national administrative body whose  
106 membership consists of all States that have enacted the  
107 Compact.

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

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

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

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

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

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

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

136           SECTION 3. STATE PARTICIPATION IN THE COMPACT

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

138           1. License Occupational Therapists and Occupational  
139 Therapy Assistants;

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

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

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

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

157           a. A Member State shall, within a time frame  
158 established by the Commission, require a criminal background  
159 check for a Licensee seeking/applying for a Compact



160 Privilege whose Primary State of Residence is that Member  
161 State, by receiving the results of the Federal Bureau of  
162 Investigation criminal record search, and shall use the  
163 results in making licensure decisions.

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

171       6. Comply with the Rules of the Commission;

172       7. Utilize only a recognized national examination as a  
173 requirement for licensure pursuant to the Rules of the  
174 Commission; and

175       8. Have Continuing Competence/Education requirements  
176 as a condition for license renewal.

177       B. A Member State shall grant the Compact Privilege to  
178 a Licensee holding a valid unencumbered license in another  
179 Member State in accordance with the terms of the Compact and  
180 Rules.

181       C. Member States may charge a fee for granting a  
182 Compact Privilege.

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

186       E. Individuals not residing in a Member State shall  
187 continue to be able to apply for a Member State's Single-  
188 State License as provided under the laws of each Member  
189 State. However, the Single-State License granted to these  
190 individuals shall not be recognized as granting the Compact  
191 Privilege in any other Member State.

192 F. Nothing in this Compact shall affect the  
193 requirements established by a Member State for the issuance  
194 of a Single-State License.

195 SECTION 4. COMPACT PRIVILEGE

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

- 198 1. Hold a license in the Home State;
- 199 2. Have a valid United States Social Security Number  
200 or National Practitioner Identification number;
- 201 3. Have no encumbrance on any State license;
- 202 4. Be eligible for a Compact Privilege in any Member  
203 State in accordance with Section 4D, F, G, and H;
- 204 5. Have paid all fines and completed all requirements  
205 resulting from any Adverse Action against any license or  
206 Compact Privilege, and two years have elapsed from the date  
207 of such completion;
- 208 6. Notify the Commission that the Licensee is seeking  
209 the Compact Privilege within a Remote State(s);
- 210 7. Pay any applicable fees, including any State fee,  
211 for the Compact Privilege;
- 212 8. Complete a criminal background check in accordance  
213 with Section 3A(5);
  - 214 a. The Licensee shall be responsible for the payment  
215 of any fee associated with the completion of a criminal  
216 background check.
- 217 9. Meet any Jurisprudence Requirements established by  
218 the Remote State(s) in which the Licensee is seeking a  
219 Compact Privilege; and
- 220 10. Report to the Commission Adverse Action taken by  
221 any non-Member State within 30 days from the date the  
222 Adverse Action is taken.

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

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

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

234           E. A Licensee providing Occupational Therapy in a  
235 Remote State is subject to that State's regulatory  
236 authority. A Remote State may, in accordance with due  
237 process and that State's laws, remove a Licensee's Compact  
238 Privilege in the Remote State for a specific period of time,  
239 impose fines, and/or take any other necessary actions to  
240 protect the health and safety of its citizens. The Licensee  
241 may be ineligible for a Compact Privilege in any State until  
242 the specific time for removal has passed and all fines are  
243 paid.

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

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

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

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

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

261 2. All fines have been paid and all conditions have  
262 been met;

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

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

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

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

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

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

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

283 1. The Occupational Therapist or Occupational Therapy  
284 Assistant shall file an application for obtaining a new Home  
285 State license by virtue of a Compact Privilege, pay all  
286 applicable fees, and notify the current and new Home State

287 in accordance with applicable Rules adopted by the  
288 Commission.

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

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

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

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

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

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

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

315 C. If an Occupational Therapist or Occupational  
316 Therapy Assistant changes Primary State of Residence by  
317 moving from a Member State to a non-Member State, or from a  
318 non-Member State to a Member State, the State criteria shall

319 apply for issuance of a Single-State License in the new  
320 State.

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

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

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

330 A. Active Duty Military personnel, or their spouses,  
331 shall designate a Home State where the individual has a  
332 current license in good standing. The individual may retain  
333 the Home State designation during the period the service  
334 member is on active duty. Subsequent to designating a Home  
335 State, the individual shall only change their Home State  
336 through application for licensure in the new State or  
337 through the process described in Section 5.

338 SECTION 7. ADVERSE ACTIONS

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

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

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

349 2. Issue subpoenas for both hearings and  
350 investigations that require the attendance and testimony of

351 witnesses as well as the production of evidence. Subpoenas  
352 issued by a Licensing Board in a Member State for the  
353 attendance and testimony of witnesses or the production of  
354 evidence from another Member State shall be enforced in the  
355 latter State by any court of competent jurisdiction,  
356 according to the practice and procedure of that court  
357 applicable to subpoenas issued in proceedings pending before  
358 it. The issuing authority shall pay any witness fees,  
359 travel expenses, mileage and other fees required by the  
360 service statutes of the State in which the witnesses or  
361 evidence are located.

362 C. For purposes of taking Adverse Action, the Home  
363 State shall give the same priority and effect to reported  
364 conduct received from a Member State as it would if the  
365 conduct had occurred within the Home State. In so doing,  
366 the Home State shall apply its own State laws to determine  
367 appropriate action.

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

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

382 taken against that Occupational Therapist or Occupational  
383 Therapy Assistant.

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

388 G. Joint Investigations

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

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

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

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



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

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

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

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

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

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

433 B. Membership, Voting, and Meetings

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

436 2. The delegate shall be either:

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

440 b. An administrator of the Licensing Board.

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

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

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

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

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

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

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

462           2. Establish the fiscal year of the Commission;

463           3. Establish bylaws;

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

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

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

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

476           8. Purchase and maintain insurance and bonds;

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

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

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

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

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

500           14. Establish a budget and make expenditures;

501           15. Borrow money;

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

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

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

514           D. The Executive Committee

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

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

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

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

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

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

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

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

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

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

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

- 541           c. Prepare and recommend the budget;
- 542           d. Maintain financial records on behalf of the  
543 Commission;
- 544           e. Monitor Compact compliance of Member States and  
545 provide compliance reports to the Commission;
- 546           f. Establish additional committees as necessary; and
- 547           g. Perform other duties as provided in Rules or bylaws.
- 548       E. Meetings of the Commission
- 549           1. All meetings shall be open to the public, and  
550 public notice of meetings shall be given in the same manner  
551 as required under the Rulemaking provisions in Section 10.
- 552           2. The Commission or the Executive Committee or other  
553 committees of the Commission may convene in a closed, non-  
554 public meeting if the Commission or Executive Committee or  
555 other committees of the Commission must discuss:
- 556           a. Non-compliance of a Member State with its  
557 obligations under the Compact;
- 558           b. The employment, compensation, discipline or other  
559 matters, practices or procedures related to specific  
560 employees or other matters related to the Commission's  
561 internal personnel practices and procedures;
- 562           c. Current, threatened, or reasonably anticipated  
563 litigation;
- 564           d. Negotiation of contracts for the purchase, lease,  
565 or sale of goods, services, or real estate;
- 566           e. Accusing any person of a crime or formally  
567 censuring any person;
- 568           f. Disclosure of trade secrets or commercial or  
569 financial information that is privileged or confidential;
- 570           g. Disclosure of information of a personal nature  
571 where disclosure would constitute a clearly unwarranted  
572 invasion of personal privacy;

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

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

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

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

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

595 F. Financing of the Commission

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

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

602 3. The Commission may levy on and collect an annual  
603 assessment from each Member State or impose fees on other  
604 parties to cover the cost of the operations and activities

605 of the Commission and its staff, which must be in a total  
606 amount sufficient to cover its annual budget as approved by  
607 the Commission each year for which revenue is not provided  
608 by other sources. The aggregate annual assessment amount  
609 shall be allocated based upon a formula to be determined by  
610 the Commission, which shall promulgate a Rule binding upon  
611 all Member States.

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

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

626 G. Qualified Immunity, Defense, and Indemnification

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

637 shall be construed to protect any such person from suit  
638 and/or liability for any damage, loss, injury, or liability  
639 caused by the intentional or willful or wanton misconduct of  
640 that person.

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

654 3. The Commission shall indemnify and hold harmless  
655 any member, officer, executive director, employee, or  
656 representative of the Commission for the amount of any  
657 settlement or judgment obtained against that person arising  
658 out of any actual or alleged act, error, or omission that  
659 occurred within the scope of Commission employment, duties,  
660 or responsibilities, or that such person had a reasonable  
661 basis for believing occurred within the scope of Commission  
662 employment, duties, or responsibilities, provided that the  
663 actual or alleged act, error, or omission did not result  
664 from the intentional or willful or wanton misconduct of that  
665 person.

666 SECTION 9. DATA SYSTEM

667 A. The Commission shall provide for the development,  
668 maintenance, and utilization of a coordinated database and



669 reporting system containing licensure, Adverse Action, and  
670 Investigative Information on all licensed individuals in  
671 Member States.

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

676 1. Identifying information;

677 2. Licensure data;

678 3. Adverse Actions against a license or Compact  
679 Privilege;

680 4. Non-confidential information related to Alternative  
681 Program participation;

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

684 6. Other information that may facilitate the  
685 administration of this Compact, as determined by the Rules  
686 of the Commission; and

687 7. Current Significant Investigative Information.

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

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

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

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

705 SECTION 10. RULEMAKING

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

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

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

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

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

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

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

737           F. The Notice of Proposed Rulemaking shall include:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

790           M. Upon determination that an emergency exists, the  
791 Commission may consider and adopt an emergency Rule without  
792 prior notice, opportunity for comment, or hearing, provided  
793 that the usual Rulemaking procedures provided in the Compact  
794 and in this section shall be retroactively applied to the  
795 Rule as soon as reasonably possible, in no event later than

796 ninety (90) days after the effective date of the Rule. For  
797 the purposes of this provision, an emergency Rule is one  
798 that must be adopted immediately in order to:

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

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

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

823 A. Oversight

824 1. The executive, legislative, and judicial branches  
825 of State government in each Member State shall enforce this  
826 Compact and take all actions necessary and appropriate to  
827 effectuate the Compact's purposes and intent. The

828 provisions of this Compact and the Rules promulgated  
829 hereunder shall have standing as statutory law.

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

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

841         B. Default, Technical Assistance, and Termination

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

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

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

852         2. If a State in default fails to cure the default,  
853 the defaulting State may be terminated from the Compact upon  
854 an affirmative vote of a majority of the Member States, and  
855 all rights, privileges and benefits conferred by this  
856 Compact may be terminated on the effective date of  
857 termination. A cure of the default does not relieve the  
858 offending State of obligations or liabilities incurred  
859 during the period of default.

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

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

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

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

881           C. Dispute Resolution

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

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

889           D. Enforcement

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

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

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

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

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

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



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

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

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

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

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

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

#### 943 SECTION 13. CONSTRUCTION AND SEVERABILITY

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

954 shall be held contrary to the constitution of any Member  
955 State, the Compact shall remain in full force and effect as  
956 to the remaining Member States and in full force and effect  
957 as to the Member State affected as to all severable matters.

958 SECTION 14. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 assigned duties in the military service or a federal  
12 facility;

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

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

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

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

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

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

40 **2. A credentialed person not representing or holding**  
41 **himself or herself out as a dietitian, who performs any of**

42 the acts or services listed in subsection 1 of this section,  
43 shall provide, prior to performing such act or service for  
44 another, the following:

- 45 (1) The person's name and title;
- 46 (2) The person's business address and telephone number;
- 47 (3) A statement that the person is not a dietitian  
48 licensed by the state of Missouri;
- 49 (4) A statement that the information provided or  
50 advice given may be considered alternative care by licensed  
51 practitioners in the state of Missouri; and
- 52 (5) The person's qualifications for providing such  
53 information or advice, including educational background,  
54 training, and experience.

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

- 3 (1) "Accredited degree program from a school of  
4 architecture", a degree from any school or other institution  
5 which teaches architecture and whose curricula for the  
6 degree in question have been, at the time in question,  
7 certified as accredited by the National Architectural  
8 Accrediting Board;
- 9 (2) "Accredited school of engineering", any school or  
10 other institution which teaches engineering and whose  
11 curricula on the subjects in question are or have been, at  
12 the time in question certified as accredited by the  
13 engineering accreditation commission of the accreditation  
14 board for engineering and technology or its successor  
15 organization;
- 16 (3) "Accredited school of landscape architecture", any  
17 school or other institution which teaches landscape  
18 architecture and whose curricula on the subjects in question  
19 are or have been at the times in question certified as

20 accredited by the Landscape Architecture Accreditation Board  
21 of the American Society of Landscape Architects;

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

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

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

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

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

44 (9) "Incidental practice", the performance of other  
45 professional services licensed under chapter 327 that are  
46 related to a licensee's professional service, but are  
47 secondary and substantially less in scope and magnitude when  
48 compared to the professional services usually and normally  
49 performed by the licensee practicing in their licensed  
50 profession. This incidental professional service shall be  
51 safely and competently performed by the licensee without

52 jeopardizing the health, safety, and welfare of the public.  
53 The licensee shall be qualified by education, training, and  
54 experience as determined by the board and in sections  
55 327.091, 327.181, 327.272, and 327.600 and applicable board  
56 rules to perform such incidental professional service;

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

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

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

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

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

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

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

327.091. 1. [Any person practices as an architect in  
2 Missouri who renders or offers to render or represents



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

35 other consultants that pertain to the practice of  
36 architecture. A person shall be considered to be practicing  
37 architecture when such person uses the title "architect" or  
38 the terms "architect" or "architecture" or "architectural"  
39 alone or together with any words other than "landscape" to  
40 indicate or imply that such person is or holds himself or  
41 herself out to be an architect. Only a person with the  
42 required architectural education, practical training,  
43 relevant work experience, and licensure may practice as an  
44 architect in Missouri.

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

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

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

17 (1) Any person who is an employee of a person holding  
18 a currently valid license as an architect or who is an

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

24 (2) Any person who is a regular full-time employee who  
25 performs architectural work for the person's employer if and  
26 only if all such work and service so performed is in  
27 connection with a facility owned or wholly operated by the  
28 employer and which is occupied by the employer of the  
29 employee performing such work or service, and if and only if  
30 such work and service so performed do not endanger the  
31 public health or safety;

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

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

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

57           (a) A dwelling house; or

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

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

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

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

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

82 connection with such services that the person is not a  
83 licensed architect;

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

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

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

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

11 2. **Notwithstanding the provisions of subsection 1 of**  
12 **this section, the following persons may engage in actions**  
13 **defined as the practice of professional engineering in**

14 **section 327.181, provided that such persons shall not use**  
15 **the title "professional engineer" or "consulting engineer"**  
16 **or the word "engineer" alone or preceded by any word**  
17 **indicating or implying that such person is or holds himself**  
18 **or herself out to be a professional engineer, or use any**  
19 **word or words, letters, figures, degrees, titles, or other**  
20 **description indicating or implying that such person is a**  
21 **professional engineer or is willing or able to practice**  
22 **engineering:**

23 (1) Any person who is an employee of a person holding  
24 a currently valid license as a professional engineer or who  
25 is an employee of a person holding a currently valid  
26 certificate of authority pursuant to this chapter, and who  
27 performs professional engineering work under the direction  
28 and continuing supervision of and is checked by one holding  
29 a currently valid license as a professional engineer  
30 pursuant to this chapter;

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

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

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

53           (5) **Any person who renders engineering services in**  
54 **connection with the construction, remodeling, or repairing**  
55 **of any privately owned building described as follows, and**  
56 **who indicates on any drawings, specifications, estimates,**  
57 **reports, or other documents furnished in connection with**  
58 **such services that the person is not a licensed professional**  
59 **engineer:**

60           (a) A dwelling house;

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

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

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

77 **connection with such services that the person is not a**  
78 **licensed professional engineer;**

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

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

327.241. 1. After it has been determined that an  
2 applicant possesses the qualifications entitling the  
3 applicant to be examined, each applicant for examination and  
4 licensure as a professional engineer in Missouri shall  
5 appear before the board or its representatives for  
6 examination at the time and place specified.

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

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

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



21 an engineer-intern, subject to the other provisions of this  
22 chapter.

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

30 6. Notwithstanding the provisions of subsections 4 and  
31 5 of this section, the board may, in its discretion, provide  
32 by rule that any person who has graduated from and holds an  
33 engineering degree from an accredited school of engineering  
34 may thereupon be eligible to take both parts of the  
35 engineering examination and that upon passing said  
36 examination and acquiring four years of satisfactory  
37 engineering experience, after graduating and receiving a  
38 degree as aforesaid, shall be entitled to receive a license  
39 to practice as a professional engineer, subject, however, to  
40 the other provisions of this chapter.

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

50 [8. Any person entitled to be licensed as a  
51 professional engineer as provided in subsection 5, 6, or 7  
52 of this section must be so licensed within four years after

53 the date on which he or she was so entitled, and if one is  
54 not licensed within the time he or she is so entitled, the  
55 engineering division of the board may require him to take  
56 and satisfactorily pass such further examination as provided  
57 by rule before issuing to him a license.]

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

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

334.104. 1. A physician may enter into collaborative  
2 practice arrangements with registered professional nurses.  
3 Collaborative practice arrangements shall be in the form of  
4 written agreements, jointly agreed-upon protocols, or  
5 standing orders for the delivery of health care services.  
6 Collaborative practice arrangements, which shall be in  
7 writing, may delegate to a registered professional nurse the  
8 authority to administer or dispense drugs and provide

9 treatment as long as the delivery of such health care  
10 services is within the scope of practice of the registered  
11 professional nurse and is consistent with that nurse's  
12 skill, training and competence.

13 2. Collaborative practice arrangements, which shall be  
14 in writing, may delegate to a registered professional nurse  
15 the authority to administer, dispense or prescribe drugs and  
16 provide treatment if the registered professional nurse is an  
17 advanced practice registered nurse as defined in subdivision  
18 (2) of section 335.016. Collaborative practice arrangements  
19 may delegate to an advanced practice registered nurse, as  
20 defined in section 335.016, the authority to administer,  
21 dispense, or prescribe controlled substances listed in  
22 Schedules III, IV, and V of section 195.017, and Schedule  
23 II - hydrocodone; except that, the collaborative practice  
24 arrangement shall not delegate the authority to administer  
25 any controlled substances listed in Schedules III, IV, and V  
26 of section 195.017, or Schedule II - hydrocodone for the  
27 purpose of inducing sedation or general anesthesia for  
28 therapeutic, diagnostic, or surgical procedures. Schedule  
29 III narcotic controlled substance and Schedule II -  
30 hydrocodone prescriptions shall be limited to a one hundred  
31 twenty-hour supply without refill. Such collaborative  
32 practice arrangements shall be in the form of written  
33 agreements, jointly agreed-upon protocols or standing orders  
34 for the delivery of health care services. An advanced  
35 practice registered nurse may prescribe buprenorphine for up  
36 to a thirty-day supply without refill for patients receiving  
37 medication-assisted treatment for substance use disorders  
38 under the direction of the collaborating physician.

39 3. The written collaborative practice arrangement  
40 shall contain at least the following provisions:

41           (1) Complete names, home and business addresses, zip  
42 codes, and telephone numbers of the collaborating physician  
43 and the advanced practice registered nurse;

44           (2) A list of all other offices or locations besides  
45 those listed in subdivision (1) of this subsection where the  
46 collaborating physician authorized the advanced practice  
47 registered nurse to prescribe;

48           (3) A requirement that there shall be posted at every  
49 office where the advanced practice registered nurse is  
50 authorized to prescribe, in collaboration with a physician,  
51 a prominently displayed disclosure statement informing  
52 patients that they may be seen by an advanced practice  
53 registered nurse and have the right to see the collaborating  
54 physician;

55           (4) All specialty or board certifications of the  
56 collaborating physician and all certifications of the  
57 advanced practice registered nurse;

58           (5) The manner of collaboration between the  
59 collaborating physician and the advanced practice registered  
60 nurse, including how the collaborating physician and the  
61 advanced practice registered nurse will:

62           (a) Engage in collaborative practice consistent with  
63 each professional's skill, training, education, and  
64 competence;

65           (b) Maintain geographic proximity, except the  
66 collaborative practice arrangement may allow for geographic  
67 proximity to be waived for a maximum of twenty-eight days  
68 per calendar year for rural health clinics as defined by  
69 P.L. 95-210, as long as the collaborative practice  
70 arrangement includes alternative plans as required in  
71 paragraph (c) of this subdivision. This exception to  
72 geographic proximity shall apply only to independent rural

73 health clinics, provider-based rural health clinics where  
74 the provider is a critical access hospital as provided in 42  
75 U.S.C. Section 1395i-4, and provider-based rural health  
76 clinics where the main location of the hospital sponsor is  
77 greater than fifty miles from the clinic. The collaborating  
78 physician is required to maintain documentation related to  
79 this requirement and to present it to the state board of  
80 registration for the healing arts when requested; and

81 (c) Provide coverage during absence, incapacity,  
82 infirmity, or emergency by the collaborating physician;

83 (6) A description of the advanced practice registered  
84 nurse's controlled substance prescriptive authority in  
85 collaboration with the physician, including a list of the  
86 controlled substances the physician authorizes the nurse to  
87 prescribe and documentation that it is consistent with each  
88 professional's education, knowledge, skill, and competence;

89 (7) A list of all other written practice agreements of  
90 the collaborating physician and the advanced practice  
91 registered nurse;

92 (8) The duration of the written practice agreement  
93 between the collaborating physician and the advanced  
94 practice registered nurse;

95 (9) A description of the time and manner of the  
96 collaborating physician's review of the advanced practice  
97 registered nurse's delivery of health care services. The  
98 description shall include provisions that the advanced  
99 practice registered nurse shall submit a minimum of ten  
100 percent of the charts documenting the advanced practice  
101 registered nurse's delivery of health care services to the  
102 collaborating physician for review by the collaborating  
103 physician, or any other physician designated in the  
104 collaborative practice arrangement, every fourteen days; and

105           (10) The collaborating physician, or any other  
106 physician designated in the collaborative practice  
107 arrangement, shall review every fourteen days a minimum of  
108 twenty percent of the charts in which the advanced practice  
109 registered nurse prescribes controlled substances. The  
110 charts reviewed under this subdivision may be counted in the  
111 number of charts required to be reviewed under subdivision  
112 (9) of this subsection.

113           4. The state board of registration for the healing  
114 arts pursuant to section 334.125 and the board of nursing  
115 pursuant to section 335.036 may jointly promulgate rules  
116 regulating the use of collaborative practice arrangements.  
117 Such rules shall be limited to specifying geographic areas  
118 to be covered, the methods of treatment that may be covered  
119 by collaborative practice arrangements and the requirements  
120 for review of services provided pursuant to collaborative  
121 practice arrangements including delegating authority to  
122 prescribe controlled substances. Any rules relating to  
123 dispensing or distribution of medications or devices by  
124 prescription or prescription drug orders under this section  
125 shall be subject to the approval of the state board of  
126 pharmacy. Any rules relating to dispensing or distribution  
127 of controlled substances by prescription or prescription  
128 drug orders under this section shall be subject to the  
129 approval of the department of health and senior services and  
130 the state board of pharmacy. In order to take effect, such  
131 rules shall be approved by a majority vote of a quorum of  
132 each board. Neither the state board of registration for the  
133 healing arts nor the board of nursing may separately  
134 promulgate rules relating to collaborative practice  
135 arrangements. Such jointly promulgated rules shall be  
136 consistent with guidelines for federally funded clinics.

137 The rulemaking authority granted in this subsection shall  
138 not extend to collaborative practice arrangements of  
139 hospital employees providing inpatient care within hospitals  
140 as defined pursuant to chapter 197 or population-based  
141 public health services as defined by 20 CSR 2150-5.100 as of  
142 April 30, 2008.

143         5. The state board of registration for the healing  
144 arts shall not deny, revoke, suspend or otherwise take  
145 disciplinary action against a physician for health care  
146 services delegated to a registered professional nurse  
147 provided the provisions of this section and the rules  
148 promulgated thereunder are satisfied. Upon the written  
149 request of a physician subject to a disciplinary action  
150 imposed as a result of an agreement between a physician and  
151 a registered professional nurse or registered physician  
152 assistant, whether written or not, prior to August 28, 1993,  
153 all records of such disciplinary licensure action and all  
154 records pertaining to the filing, investigation or review of  
155 an alleged violation of this chapter incurred as a result of  
156 such an agreement shall be removed from the records of the  
157 state board of registration for the healing arts and the  
158 division of professional registration and shall not be  
159 disclosed to any public or private entity seeking such  
160 information from the board or the division. The state board  
161 of registration for the healing arts shall take action to  
162 correct reports of alleged violations and disciplinary  
163 actions as described in this section which have been  
164 submitted to the National Practitioner Data Bank. In  
165 subsequent applications or representations relating to his  
166 medical practice, a physician completing forms or documents  
167 shall not be required to report any actions of the state

168 board of registration for the healing arts for which the  
169 records are subject to removal under this section.

170         6. Within thirty days of any change and on each  
171 renewal, the state board of registration for the healing  
172 arts shall require every physician to identify whether the  
173 physician is engaged in any collaborative practice  
174 agreement, including collaborative practice agreements  
175 delegating the authority to prescribe controlled substances,  
176 or physician assistant agreement and also report to the  
177 board the name of each licensed professional with whom the  
178 physician has entered into such agreement. The board may  
179 make this information available to the public. The board  
180 shall track the reported information and may routinely  
181 conduct random reviews of such agreements to ensure that  
182 agreements are carried out for compliance under this chapter.

183         7. Notwithstanding any law to the contrary, a  
184 certified registered nurse anesthetist as defined in  
185 subdivision (8) of section 335.016 shall be permitted to  
186 provide anesthesia services without a collaborative practice  
187 arrangement provided that he or she is under the supervision  
188 of an anesthesiologist or other physician, dentist, or  
189 podiatrist who is immediately available if needed. Nothing  
190 in this subsection shall be construed to prohibit or prevent  
191 a certified registered nurse anesthetist as defined in  
192 subdivision (8) of section 335.016 from entering into a  
193 collaborative practice arrangement under this section,  
194 except that the collaborative practice arrangement may not  
195 delegate the authority to prescribe any controlled  
196 substances listed in Schedules III, IV, and V of section  
197 195.017, or Schedule II - hydrocodone.

198         8. A collaborating physician shall not enter into a  
199 collaborative practice arrangement with more than six full-



200 time equivalent advanced practice registered nurses, full-  
201 time equivalent licensed physician assistants, or full-time  
202 equivalent assistant physicians, or any combination  
203 thereof. This limitation shall not apply to collaborative  
204 arrangements of hospital employees providing inpatient care  
205 service in hospitals as defined in chapter 197 or population-  
206 based public health services as defined by 20 CSR 2150-5.100  
207 as of April 30, 2008, or to a certified registered nurse  
208 anesthetist providing anesthesia services under the  
209 supervision of an anesthesiologist or other physician,  
210 dentist, or podiatrist who is immediately available if  
211 needed as set out in subsection 7 of this section.

212 9. It is the responsibility of the collaborating  
213 physician to determine and document the completion of [at  
214 least a one-month] a period of time during which the  
215 advanced practice registered nurse shall practice with the  
216 collaborating physician continuously present before  
217 practicing in a setting where the collaborating physician is  
218 not continuously present. This limitation shall not apply  
219 to collaborative arrangements of providers of population-  
220 based public health services as defined by 20 CSR 2150-5.100  
221 as of April 30, 2008.

222 10. No agreement made under this section shall  
223 supersede current hospital licensing regulations governing  
224 hospital medication orders under protocols or standing  
225 orders for the purpose of delivering inpatient or emergency  
226 care within a hospital as defined in section 197.020 if such  
227 protocols or standing orders have been approved by the  
228 hospital's medical staff and pharmaceutical therapeutics  
229 committee.

230 11. No contract or other agreement shall require a  
231 physician to act as a collaborating physician for an

232 advanced practice registered nurse against the physician's  
233 will. A physician shall have the right to refuse to act as  
234 a collaborating physician, without penalty, for a particular  
235 advanced practice registered nurse. No contract or other  
236 agreement shall limit the collaborating physician's ultimate  
237 authority over any protocols or standing orders or in the  
238 delegation of the physician's authority to any advanced  
239 practice registered nurse, but this requirement shall not  
240 authorize a physician in implementing such protocols,  
241 standing orders, or delegation to violate applicable  
242 standards for safe medical practice established by  
243 hospital's medical staff.

244 12. No contract or other agreement shall require any  
245 advanced practice registered nurse to serve as a  
246 collaborating advanced practice registered nurse for any  
247 collaborating physician against the advanced practice  
248 registered nurse's will. An advanced practice registered  
249 nurse shall have the right to refuse to collaborate, without  
250 penalty, with a particular physician.

335.175. 1. No later than January 1, 2014, there is  
2 hereby established within the state board of registration  
3 for the healing arts and the state board of nursing the  
4 "Utilization of Telehealth by Nurses". An advanced practice  
5 registered nurse (APRN) providing nursing services under a  
6 collaborative practice arrangement under section 334.104 may  
7 provide such services outside the geographic proximity  
8 requirements of section 334.104 if the collaborating  
9 physician and advanced practice registered nurse utilize  
10 telehealth in the care of the patient [and if the services  
11 are provided in a rural area of need]. Telehealth providers  
12 shall be required to obtain patient consent before

13 telehealth services are initiated and ensure confidentiality  
14 of medical information.

15 2. As used in this section, "telehealth" shall have  
16 the same meaning as such term is defined in section 191.1145.

17 3. (1) The boards shall jointly promulgate rules  
18 governing the practice of telehealth under this section.  
19 Such rules shall address, but not be limited to, appropriate  
20 standards for the use of telehealth.

21 (2) Any rule or portion of a rule, as that term is  
22 defined in section 536.010, that is created under the  
23 authority delegated in this section shall become effective  
24 only if it complies with and is subject to all of the  
25 provisions of chapter 536 and, if applicable, section  
26 536.028. This section and chapter 536 are nonseverable and  
27 if any of the powers vested with the general assembly  
28 pursuant to chapter 536 to review, to delay the effective  
29 date, or to disapprove and annul a rule are subsequently  
30 held unconstitutional, then the grant of rulemaking  
31 authority and any rule proposed or adopted after August 28,  
32 2013, shall be invalid and void.

33 [4. For purposes of this section, "rural area of need"  
34 means any rural area of this state which is located in a  
35 health professional shortage area as defined in section  
36 354.650.]

337.068. 1. If the [board] **committee** finds merit to a  
2 complaint by an individual incarcerated or under the care  
3 and control of the department of corrections or who has been  
4 ordered to be taken into custody, detained, or held under  
5 sections 632.480 to 632.513, **or who has been ordered to be**  
6 **evaluated under chapter 552**, and takes further investigative  
7 action, no documentation may appear on file or disciplinary  
8 action may be taken in regards to the licensee's license

9 unless the provisions of subsection 2 of section 337.035  
10 have been violated. Any case file documentation that does  
11 not result in the **[board] committee** filing an action  
12 pursuant to subsection 2 of section 337.035 shall be  
13 destroyed within three months after the final case  
14 disposition by the **[board] committee**. No notification to  
15 any other licensing board in another state or any national  
16 registry regarding any investigative action shall be made  
17 unless the provisions of subsection 2 of section 337.035  
18 have been violated.

19 2. Upon written request of the psychologist subject to  
20 a complaint, prior to August 28, 1999, by an individual  
21 incarcerated or under the care and control of the department  
22 of corrections or prior to August 28, 2008, by an individual  
23 who has been ordered to be taken into custody, detained, or  
24 held under sections 632.480 to 632.513, **or prior to August**  
25 **28, 2021, by an individual who has been ordered to be**  
26 **evaluated under chapter 552**, that did not result in the  
27 **[board] committee** filing an action pursuant to subsection 2  
28 of section 337.035, the **[board] committee** and the division  
29 of professional registration, shall in a timely fashion:

30 (1) Destroy all documentation regarding the complaint;

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

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

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

          339.100. 1. The commission may, upon its own motion,  
2 and shall upon receipt of a written complaint filed by any  
3 person, investigate any real estate-related activity of a  
4 licensee licensed under sections 339.010 to 339.180 and  
5 sections 339.710 to 339.860 or an individual or entity  
6 acting as or representing themselves as a real estate  
7 licensee. In conducting such investigation, if the  
8 questioned activity or written complaint involves an  
9 affiliated licensee, the commission may forward a copy of  
10 the information received to the affiliated licensee's  
11 designated broker. The commission shall have the power to  
12 hold an investigatory hearing to determine whether there is  
13 a probability of a violation of sections 339.010 to 339.180  
14 and sections 339.710 to 339.860. The commission shall have  
15 the power to issue a subpoena to compel the production of  
16 records and papers bearing on the complaint. The commission  
17 shall have the power to issue a subpoena and to compel any  
18 person in this state to come before the commission to offer  
19 testimony or any material specified in the subpoena.  
20 Subpoenas and subpoenas duces tecum issued pursuant to this  
21 section shall be served in the same manner as subpoenas in a  
22 criminal case. The fees and mileage of witnesses shall be  
23 the same as that allowed in the circuit court in civil cases.  
24           2. The commission may cause a complaint to be filed  
25 with the administrative hearing commission as provided by  
26 the provisions of chapter 621 against any person or entity  
27 licensed under this chapter or any licensee who has failed

28 to renew or has surrendered his or her individual or entity  
29 license for any one or any combination of the following acts:

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

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

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

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

52 (5) Failure to timely deliver a duplicate original of  
53 any and all instruments to any party or parties executing  
54 the same where the instruments have been prepared by the  
55 licensee or under his or her supervision or are within his  
56 or her control, including, but not limited to, the  
57 instruments relating to the employment of the licensee or to  
58 any matter pertaining to the consummation of a lease,  
59 listing agreement or the purchase, sale, exchange or lease

60 of property, or any type of real estate transaction in which  
61 he or she may participate as a licensee;

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

150           **(b) Includes a name or team name that uses the terms**  
151 **"realty", "brokerage", "company", or any other terms that**  
152 **can be construed to advertise a real estate company other**  
153 **than the licensee or a business entity licensed under this**

154 **chapter with whom the licensee is associated. The context**  
155 **of the advertisement or solicitation may be considered by**  
156 **the commission when determining whether a licensee has**  
157 **committed a violation of this paragraph;**

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

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

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

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

185 new or changed rules adopted by the commission and other  
186 information of significance to licensees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 **then the grant of rulemaking authority and any rule proposed**  
40 **or adopted after August 28, 2021, shall be invalid and void.**

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

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

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

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

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

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

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

31 an employee of the institution for the benefit of the  
32 institution; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

85           (8) **"Enrolled" or "enrolls", the act of registering,**  
86 **or having already registered, for courses at an educational**  
87 **institution and attending or planning to attend athletic**  
88 **practice or class;**

89           [(8)] (9) "Intercollegiate sport", a sport played at  
90 the collegiate level for which eligibility requirements for  
91 participation by a student athlete are established by a  
92 national association for the promotion or regulation of  
93 collegiate athletics;



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

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

107           [(9)] (12) "Person", an individual, corporation,  
108 business trust, estate, trust, partnership, limited  
109 liability company, association, joint venture, government,  
110 governmental subdivision, agency, or instrumentality, public  
111 corporation, or any other legal or commercial entity;

112           [(10)] (13) "Professional sports services contract",  
113 an agreement under which an individual is employed [or] **as a**  
114 **professional athlete and** agrees to render services as a  
115 player on a professional sports team[, ] **or** with a  
116 professional sports organization[, or as a professional  
117 athlete];

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

121           (15) "Recruit or solicit", an attempt to influence the  
122 choice of an athlete agent by a student athlete or, if the  
123 student athlete is a minor, a parent or guardian of the  
124 student athlete. "Recruit or solicit" does not include  
125 giving advice on the selection of a particular agent in a

126 family, coaching, or social situation unless the individual  
127 giving the advice does so because of the receipt or  
128 anticipated receipt of an economic benefit, directly or  
129 indirectly, from the agent;

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

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

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

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

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

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

436.224. 1. Except as otherwise provided in  
2 subsection 2 of this section, an individual may not act as  
3 an athlete agent in this state [before] **without** being issued  
4 a certificate of registration under section 436.230 or  
5 436.236.

6 2. [An individual with a temporary license] **Before**  
7 **being issued a certificate of registration** under section  
8 436.236, **an individual** may act as an athlete agent [before

9 being issued a certificate of registration] for all purposes  
10 except signing an agency contract if:

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

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

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

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

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

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

11 (3) **The applicant's mobile telephone numbers and any**  
12 **means of communicating electronically, including a facsimile**  
13 **number, email address, and personal, business, or employer**  
14 **websites, as applicable;**

15 [(2)] (4) The name of the applicant's business or  
16 employer, if applicable, **including for each business or**  
17 **employer, the mailing address, telephone number,**  
18 **organization form, and the nature of the business;**

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

21            [(3)] (6) Any business or occupation engaged in by the  
22 applicant for the five years [next] preceding the date of  
23 submission of the application, **including self-employment and**  
24 **employment by others, and any professional or occupational**  
25 **license, registration, or certification held by the**  
26 **applicant during that time;**

27            [(4)] (7) A description of the applicant's:  
28            (a) Formal training as an athlete agent;  
29            (b) Practical experience as an athlete agent; and  
30            (c) Educational background relating to the applicant's  
31 activities as an athlete agent;

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

35            [(6)] (8) The name[, sport, and last known team for  
36 each individual] **of each student athlete** for whom the  
37 applicant [provided services] **acted** as an athlete agent  
38 during the five years [next] preceding the date of  
39 submission of the application **or, if the student athlete is**  
40 **a minor, the name of the parent or guardian of the minor,**  
41 **together with the student athlete's sport and last known**  
42 **team;**

43            [(7)] (9) The names and addresses of all persons who  
44 are:

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

50            (b) With respect to a corporation employing the  
51 [athlete agent] **applicant,** the officers, directors, and any

52 shareholder of the corporation with a five percent or  
53 greater interest;

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

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

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

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

82 (14) Whether, within ten years before the date of  
83 application, the applicant or any person named under

84 **subdivision (9) of this subsection was adjudicated bankrupt**  
85 **or was an owner of a business that was adjudicated bankrupt;**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

140 (1) The application and registration requirements of  
141 the other state are substantially similar to or more  
142 restrictive than the requirements provided under sections  
143 436.215 to 436.272; and

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

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

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

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

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

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

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

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



- 21           (3) Engaged in conduct that would disqualify the  
22 applicant from serving in a fiduciary capacity;
- 23           (4) Engaged in conduct prohibited by section 436.254;
- 24           (5) Had a registration or licensure as an athlete  
25 agent suspended, revoked, or denied or been refused renewal  
26 of registration or licensure in any state;
- 27           (6) Engaged in conduct or failed to engage in conduct  
28 the consequence of which was that a sanction, suspension, or  
29 declaration of ineligibility to participate in an  
30 interscholastic or intercollegiate athletic event was  
31 imposed on a student athlete or educational institution; or
- 32           (7) Engaged in conduct that significantly adversely  
33 reflects on the applicant's credibility, honesty, or  
34 integrity.

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

- 37           (1) How recently the conduct occurred;
- 38           (2) The nature of the conduct and the context in which  
39 it occurred; and
- 40           (3) Any other relevant conduct of the applicant.

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

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

53 state and the renewed registration from the other state.  
54 The director shall renew the registration if the director  
55 determines:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44            5. An agency contract that does not conform to this  
45 section is voidable by the student athlete **or, if the**  
46 **student athlete is a minor, by the parent or guardian of the**  
47 **student athlete. If the contract is voided, any**  
48 **consideration received by the student athlete from the**

49 athlete agent under the contract to induce entering into the  
50 contract is not required to be returned.

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

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

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

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

15 3. If an athlete agent enters into an agency contract  
16 with a student athlete and the student athlete subsequently  
17 enrolls at an educational institution, the athlete agent  
18 shall notify the athletic director of the educational  
19 institution of the existence of the contract within seventy-  
20 two hours after the agent knows or should have known the  
21 student athlete enrolled.

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

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

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

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

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

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

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

54 **athlete is enrolled. The notification shall be made no**  
55 **later than ten days after the communication or attempted**  
56 **communication.**

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

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

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

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

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

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

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

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

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

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

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

29 2. An athlete agent may not intentionally:

30 (1)] Initiate contact, **directly or indirectly,** with a  
31 student athlete **or, if the student athlete is a minor, a**  
32 **parent or guardian of the student athlete to recruit or**

33 **solicit the student athlete, parent, or guardian to enter**  
34 **into an agency contract** unless registered under sections  
35 436.215 to 436.272;

36 [(2) Refuse or willfully] **(4) Fail to create, retain,**  
37 **or permit inspection of the records required by section**  
38 **436.251;**

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

41 [(4)] **(6) Provide materially false or misleading**  
42 **information in an application for registration or renewal of**  
43 **registration;**

44 [(5)] **(7) Predate or postdate an agency contract; [or**  
45 **(6)] (8) Fail to notify a student athlete or, if the**  
46 **student athlete is a minor, a parent or guardian of the**  
47 **student athlete [prior to] before the student [athlete's]**  
48 **athlete, parent, or guardian [signing] signs an agency**  
49 **contract for a particular sport that the signing [by the**  
50 **student athlete] may [make the student athlete ineligible]**  
51 **result in loss of the student athlete's eligibility to**  
52 **participate [as a student athlete in that] in the student**  
53 **athlete's sport;**

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

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

436.260. 1. An educational institution [has a right  
2 of] **or a student athlete may bring an action for damages**  
3 **against an athlete agent [or a former student athlete for**  
4 **damages caused by a] if the institution or student athlete**



5 **is adversely affected by an act or omission of the athlete**  
6 **agent in** violation of sections 436.215 to 436.272. [In an  
7 action under this section, the court may award to the  
8 prevailing party costs and reasonable attorney's fees.]

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

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

19 (b) Suffered financial damage.

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

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

28 (b) Suffered financial damage.

29 2. [Damages of an educational institution under  
30 subsection 1 of this section include losses and expenses  
31 incurred because as a result of the activities of an athlete  
32 agent or former student athlete the educational institution  
33 was injured by a violation of sections 436.215 to 436.272 or  
34 was penalized, disqualified, or suspended from participation  
35 in athletics by a national association for the promotion and  
36 regulation of athletics, by an athletic conference, or by

37 reasonable self-imposed disciplinary action taken to  
38 mitigate sanctions.] **A plaintiff who prevails in an action**  
39 **under this section may recover actual damages, costs, and**  
40 **reasonable attorney's fees. An athlete agent found liable**  
41 **under this section forfeits any right of payment for**  
42 **anything of benefit or value provided to the student athlete**  
43 **and shall refund any consideration paid to the athlete agent**  
44 **by or on behalf of the student athlete.**

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

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

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

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

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

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

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

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