

## SENATE COMMITTEE SUBSTITUTE

FOR

## HOUSE COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 567

AN ACT

To repeal sections 209.251, 214.275, 214.276, 214.367, 214.392, 256.459, 324.083, 324.086, 324.177, 324.212, 324.217, 324.243, 324.522, 326.011, 326.012, 326.021, 326.022, 326.040, 326.050, 326.055, 326.060, 326.100, 326.110, 326.120, 326.121, 326.125, 326.130, 326.131, 326.133, 326.134, 326.151, 326.160, 326.170, 326.180, 326.190, 326.200, 326.210, 326.230, 327.011, 327.031, 327.041, 327.081, 327.131, 327.314, 327.381, 327.600, 327.603, 327.605, 327.607, 327.609, 327.612, 327.615, 327.617, 327.621, 327.623, 327.625, 327.627, 327.629, 327.630, 327.631, 329.010, 329.040, 329.050, 329.085, 329.190, 329.210, 331.050, 331.090, 334.021, 334.047, 334.625, 334.749, 334.870, 334.880, 334.890, 337.612, 337.615, 337.618, 337.622, 339.090, 345.080 and 620.010, RSMo 2000, relating to the division of professional registration, and to enact in lieu thereof ninety-six new sections relating to the same subject, with penalty provisions.

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

Section A. Sections 209.251, 214.275, 214.276, 214.367, 214.392, 256.459, 324.083, 324.086, 324.177, 324.212, 324.217, 324.243, 324.522, 326.011, 326.012, 326.021, 326.022, 326.040, 326.050, 326.055, 326.060, 326.100, 326.110, 326.120, 326.121, 326.125, 326.130, 326.131, 326.133, 326.134, 326.151, 326.160, 326.170, 326.180, 326.190, 326.200, 326.210, 326.230, 327.011, 327.031, 327.041, 327.081, 327.131, 327.314, 327.381, 327.600, 327.603, 327.605, 327.607, 327.609, 327.612, 327.615, 327.617, 327.621, 327.623, 327.625, 327.627, 327.629, 327.630, 327.631,

329.010, 329.040, 329.050, 329.085, 329.190, 329.210, 331.050, 331.090, 334.021, 334.047, 334.625, 334.749, 334.870, 334.880, 334.890, 337.612, 337.615, 337.618, 337.622, 339.090, 345.080, and 620.010, RSMo 2000, are repealed and ninety-six new sections enacted in lieu thereof, to be known as sections 209.251, 214.209, 214.275, 214.276, 214.367, 214.392, 256.459, 324.086, 324.177, 324.212, 324.217, 324.243, 324.522, 324.530, 326.250, 326.253, 326.256, 326.259, 326.262, 326.265, 326.268, 326.271, 326.274, 326.277, 326.280, 326.283, 326.286, 326.289, 326.292, 326.295, 326.298, 326.304, 326.307, 326.310, 326.313, 326.316, 326.319, 326.322, 326.325, 326.328, 326.331, 327.011, 327.031, 327.041, 327.081, 327.131, 327.314, 327.381, 327.600, 327.603, 327.607, 327.612, 327.615, 327.617, 327.621, 327.623, 327.629, 327.630, 327.631, 329.010, 329.040, 329.050, 329.085, 329.190, 329.210, 331.032, 331.050, 331.090, 334.021, 334.047, 334.625, 334.720, 334.749, 334.870, 334.880, 334.890, 337.612, 337.615, 337.618, 337.622, 337.650, 337.653, 337.659, 337.662, 337.665, 337.668, 337.671, 337.674, 337.677, 337.680, 337.683, 337.686, 337.689, 339.090, 345.080 and 620.010, to read as follows:

209.251. As used in sections 209.251 to 209.259, the following terms mean:

(1) "Adaptive telecommunications equipment", equipment that translates, enhances or otherwise transforms the receiving or sending of telecommunications into a form accessible to individuals with disabilities. The term adaptive telecommunications equipment includes adaptive telephone equipment and other types of adaptive devices such as computer input and output adaptations necessary for telecommunications

access;

(2) "Basic telecommunications access line", a telecommunications line which provides service from the telephone company central office to the customer's premises which enables the customer to originate and terminate long distance and local telecommunications;

(3) "Commission", the public service commission;

(4) "Consumer support and outreach", services that include, but are not limited to, assisting individuals with disabilities or their families or caregivers in the selection of the most appropriate adaptive telecommunications equipment to meet their needs, providing basic training and technical assistance in the installation and use of adaptive telecommunications equipment, and development and dissemination of information to increase awareness and use of adaptive telecommunications equipment;

(5) "Department", the department of labor and industrial relations;

(6) "Eligible subscriber", any individual who has been certified as deaf, hearing-impaired, speech-impaired or as having another disability that causes the inability to use telecommunications equipment and services by a licensed physician, audiologist, speech pathologist, hearing instrument specialist or a qualified agency;

(7) "Missouri assistive technology advisory council" or "council", the body which directs the Missouri assistive technology program pursuant to sections 191.850 to 191.865, RSMo;

(8) "Program administrator", the entity or entities designated to design the statewide telecommunications equipment

distribution program, develop and implement the program policies and procedures, assure delivery of consumer support and outreach and account for and pay all program expenses;

(9) "Surcharge", an additional charge which is to be paid by local exchange telephone company subscribers pursuant to the rate recovery mechanism established pursuant to sections 209.255, 209.257 and 209.259 in order to implement the programs described in sections 209.251 to 209.259;

(10) "Telecommunications", the transmission of any form of information including, but not limited to, voice, graphics, text, dynamic content, and data structures of all types whether they are in electronic, visual, auditory, optical or any other form;

(11) "Telecommunications device for the deaf" or "TDD", a telecommunications device capable of allowing deaf, hearing-impaired or speech-impaired individuals to transmit messages over basic telephone access lines by sending and receiving typed messages.

214.209. 1. After a period of seventy-five years since the last recorded activity on a burial site and after a reasonable search for heirs and beneficiaries, the burial site shall be abandoned and the right of ownership in the burial site shall revert to the private or public cemetery, after the cemetery has met the requirements of this section.

2. A reasonable search for heirs and beneficiaries pursuant to this section shall include sending a letter of notice to the last known address of the record property owner; and publishing a copy of the description of the abandoned burial site in a newspaper qualified to publish public notices as provided in

chapter 493, RSMo, published in the county of the record property owner's last known address, for three weeks; and if no person proves ownership of the burial site within one year after such publication, the burial site shall be deemed abandoned.

3. If persons with a legitimate claim to the abandoned burial site present themselves after the abandoned burial site has been used or sold by the private or public cemetery, the person's claim shall be settled by providing an equal burial site in an equivalent location to the burial site that reverted to the private or public cemetery.

214.275. 1. No endowed care or nonendowed care cemetery shall be operated in this state unless the owner or operator thereof has a [certificate of authority] license issued by the division and complies with all applicable state, county or municipal ordinances and regulations.

2. [The cemetery complies with all applicable state, county or municipal ordinances and regulations.] It shall not be unlawful for a person who does not have a license to care for or maintain the cemetery premises, or to fulfill prior contractual obligations for the interment of human remains in burial spaces.

3. [The division shall grant or deny each application for a certificate of authority pursuant to this section within thirty days after it is filed, and no prosecution of any person who has filed an application for such certificate shall be initiated unless it is shown that such application was duly denied by the division and that the owner was duly notified thereof.] Applications for a license shall be in writing, submitted to the division on forms prescribed by the division. The application

shall contain such information as the division deems necessary and be accompanied by the required fee.

4. [The division may refuse to renew or may suspend or revoke any certificate pursuant to sections 214.270 to 214.516 if it finds, after hearing, that the cemetery does not meet the requirements set forth in sections 214.270 to 214.516 as conditions for the issuance of a certificate, or for the violation by the owner of the cemetery of any of the provisions of section 214.276. No new certificate shall be issued to the owner of a cemetery or to any corporation controlled by such owner for three years after the revocation of the certificate of the owner or of a corporation controlled by the owner. Before any action is taken pursuant to this subsection, the procedure for notice and hearing as prescribed by section 214.276 shall be followed.] Each license issued pursuant to sections 214.270 to 214.516 shall be renewed prior to the license renewal date established by the division. The division shall issue a new license upon receipt of a proper renewal application and the required renewal fee. The required renewal fee shall be fifty dollars, plus an assessment for each interment, inurnment or other disposition of human remains at a cemetery for which a charge is made, as the division shall by rule determine, not to exceed ten dollars per such disposition in the case of an endowed care cemetery, and six dollars for such disposition in the case of a nonendowed care cemetery. The division shall mail a renewal notice to the last known address of the holder of the license prior to the renewal date. The holder of a license shall keep the division advised of the holder's current address. The

license issued to the owner or operator of a cemetery which is not renewed within three months after the license renewal date shall be suspended automatically, subject to the right of the holder to have the suspended license reinstated within nine months of the date of suspension if the person pays the required reinstatement fee. Any license suspended and not reinstated within nine months of the suspension shall expire and be void and the holder of such license shall have no rights or privileges provided to holders of valid licenses. Any person whose license has expired may, upon demonstration of current qualifications and payment of required fees, be reregistered or reauthorized under the person's original license number.

5. The division shall grant or deny each application for a license pursuant to this section within ninety days after it is filed, and no prosecution of any person who has filed an application for such license shall be initiated unless it is shown that such application was denied by the division and the owner was notified thereof.

6. Upon the filing of a completed application, as defined by rule, the applicant may operate the business until the application is acted upon by the division.

7. Within thirty days after the sale or transfer of ownership or control of a cemetery, the transferor shall return his or her license to the division. A prospective purchaser or transferee of a cemetery shall file an application for a license at least thirty days prior to the sale or transfer of ownership or control of a cemetery and shall be in compliance with sections 214.270 to 214.516.

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

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

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

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

(3) Use of fraud, deception, misrepresentation or bribery in securing any [certificate of registration or authority] license, issued pursuant to sections 214.270 to 214.516 or in obtaining permission to take any examination given or required pursuant to sections 214.270 to 214.516;

(4) Obtaining or attempting to obtain any fee, charge[, tuition] or other compensation by fraud, deception or misrepresentation;

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

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

(7) Impersonation of any person holding a [certificate of registration or authority,] license or allowing any person to use his or her [certificate of registration or authority] license;

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

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

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections

214.270 to 214.516 who is not registered and currently eligible to practice pursuant to sections 214.270 to 214.516;

(11) Issuance of a [certificate of registration or authority] license based upon a material mistake of fact;

(12) Failure to display a valid [certificate] license;

(13) Violation of any professional trust or confidence;

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

(15) [Violation of any of the provisions of sections 214.270 to 214.516;

(16)] Willfully and through undue influence selling a [cemetery lot,] burial space, cemetery services or merchandise.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the [board] division may singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the division deems appropriate for a period not to exceed five years, or may suspend, or revoke the [certificate] license or permit. No new license shall be issued to the owner or operator of a cemetery or to any corporation controlled by such owner for three years after the revocation of the certificate of the owner or of a corporation controlled by the owner.

4. Operators of all existing endowed care or nonendowed care cemeteries shall, prior to August twenty-eighth following

August 28, 1999, apply for a [certificate of authority] license pursuant to this section. All endowed care or nonendowed care cemeteries operating in compliance with sections 214.270 to 214.516 prior to August twenty-eighth following August 28, 1999, shall be granted a [certificate of authority] license by the division upon receipt of application.

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

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

214.392. 1. The division shall:

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

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

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

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

(5) [Promulgate such rules and regulations as are necessary to administer the inspection and audit provisions of the endowed care cemetery law and as are necessary for the establishment and maintenance of the cemetery registry pursuant to section 214.280.] The division may promulgate rules necessary to implement the provisions of sections 214.270 to 214.516, including but not limited to:

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

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

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

2. [No rule or portion of a rule promulgated under the

authority of this chapter shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the senate and the house of representatives as provided herein.

3. Upon filing any proposed rule with the secretary of state, the filing agency shall concurrently submit such proposed rule to the committee, which may hold hearings upon any proposed rule or portion thereof at any time.

4. A final order of rulemaking shall not be filed with the secretary of state until thirty days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the thirty-day period. If the committee does not disapprove such order of rulemaking within the thirty-day period, the filing agency may file such order of rulemaking with the secretary of state and the order of rulemaking shall be deemed approved.

5. The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds:

(1) An absence of statutory authority for the proposed rule;

(2) An emergency relating to public health, safety or

welfare;

(3) The proposed rule is in conflict with state law;

(4) A substantial change in circumstance since enactment of the law upon which the proposed rule is based.

6. If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the secretary of state and the secretary of state shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

7. If the committee disapproves any rule or portion thereof, the committee shall report its findings to the senate and the house of representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the senate and the house of representatives ratify the act of the joint committee by resolution adopted in each house within thirty legislative days after such rule or portion thereof has been disapproved by the joint committee.

8. Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The secretary of state shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.] No rule or portion of a rule promulgated pursuant to the authority of sections 214.270 to 214.516 shall become

effective unless it has been promulgated pursuant to chapter 536, RSMo.

256.459. 1. The "Board of Geologist Registration" is hereby created to administer the provisions of sections 256.450 to 256.483. The official domicile of the board of geologist registration is the division of professional registration. The division shall provide necessary staff support services, but all administrative costs of board operation shall be paid, upon appropriation, by moneys in the board of geologist registration fund created in section 256.465.

2. The board shall be composed of eight members, seven of whom shall be voting members appointed by the governor with the advice and consent of the senate. The state geologist shall serve as "ex officio" nonvoting member.

3. Five of the appointed members shall be registered geologists, except that this requirement shall not apply for the initially appointed geologist members. Four members shall be chosen to represent experience in different geologic specialties. The fifth member shall be a geologist employed by the state or a city or county. The initially appointed geologist members must be eligible for registration [under] pursuant to sections 256.450 to 256.483 and must be registered [under] pursuant to sections 256.450 to 256.483 within twelve months following appointment to the board to maintain eligibility as a member of the board.

4. Two of the appointed members shall be public members. Each public member shall, at the time of appointment, be a citizen of the United States, a resident of Missouri for at least three years immediately preceding appointment, a registered

voter, a person who is not and never was a member of any profession licensed or regulated [under] pursuant to this chapter or the spouse of such person and a person who does not have and never has had a material, financial interest in either the providing of professional services regulated by this chapter or any activity or organization directly related to any profession licensed or regulated [under] pursuant to this chapter. The duties of the public members shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

5. Each geologist member of the board shall be a citizen of the United States and shall have been a resident of Missouri for at least three years immediately preceding appointment.

6. Appointed members of the board shall serve terms of three years except that two of the first appointed members shall be appointed to one-year terms and two of the first appointed members shall be appointed to two-year terms. Members shall hold office until the expiration of the terms for which they were appointed and until their successors have been appointed and duly qualified unless removed for cause by the governor. No person may serve more than two consecutive terms.

7. The board shall not be required to give any appeal bond in any cause arising under application of sections 256.450 to 256.483. The attorney general shall represent the board in all actions and proceedings to enforce the provisions of sections 256.450 to 256.483.

8. [Appointed board members shall be compensated only for actual expenses incurred while performing required functions of the board. The expenses shall be paid from the funds of the board.] Notwithstanding any other provision of law to the contrary, any appointed member of the board shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for board business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment.

324.086. [The division, in collaboration with the board, may discipline or sanction any holder of a license or permit issued pursuant to sections 324.050 to 324.089 for any one or any combination of the following:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's professional performance or responsibility;

(2) Finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state, the United States or any territory of the United States, for any offense reasonably related to the qualifications, functions or duties of an occupational therapist or occupational therapy assistant; for any offense for which an essential element is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any credential, license or permit, or to aid or abet

any person in a violation of this section;

(4) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of an occupational therapist or occupational therapy assistant or a violation of any professional trust or confidence;

(5) Violation of, or assisting or enabling any person to violate, any provision of sections 324.050 to 324.089 or any lawful rule or regulation promulgated thereunder;

(6) Impersonate, in any manner, or pretend to be any person holding a valid license or permit as an occupational therapist or occupational therapy assistant or allowing any other person to use such person's credentials;

(7) Finally adjudged incapacitated by a court of competent jurisdiction;

(8) Assisting or enabling any person to practice, or offer to practice, occupational therapy services if such person does not hold a valid license or permit issued pursuant to sections 324.050 to 324.089;

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

(10) Unethical conduct as defined in the ethical standards for occupational therapists and occupational therapy assistants adopted by the division and filed with the secretary of state;

(11) Failure to give notification of the suspension, probation or revocation of any past or currently held licenses, certificates or registrations required to practice occupational therapy in this or any other jurisdiction or the failure to renew

or surrender such license, certificate or registration;

(12) Discipline in another state or by a certifying body;

or

(13) Otherwise violate any provision of sections 324.050 to 324.089.] 1. The board may refuse to issue or renew any

certificate of registration or authority, permit or license required pursuant to sections 324.050 to 324.089 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by sections 324.050 to 324.089 or any person who has failed to renew or has surrendered his or her certificate of registration or authority, permit or license for any one or any combination of the following causes:

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

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications,

functions or duties of any profession licensed or regulated by sections 324.050 to 324.089, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate of registration or authority, permit or license issued pursuant to sections 324.050 to 324.089 or in obtaining permission to take any examination given or required pursuant to sections 324.050 to 324.089;

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

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions and duties of any profession licensed or regulated by sections 324.050 to 324.089;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 324.050 to 324.089 or any lawful rule or regulation adopted pursuant to sections 324.050 to 324.089;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

(8) Disciplinary action against the holder of a license or other right to practice any profession regulated by sections 324.050 to 324.089 granted by another state, territory, federal

agency or country upon grounds for which revocation or suspension is authorized in this state;

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

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by sections 324.050 to 324.089 who is not registered and currently eligible to practice pursuant to sections 324.050 to 324.089;

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

(12) Violation of any professional trust or confidence;

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

(14) Unethical conduct as defined in the ethical standards for occupational therapists and occupational therapy assistants adopted by the division and filed with the secretary of state;

(15) Violation of the drug laws or rules and regulations of this state, any other state or federal government.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation with such terms and conditions as the board deems appropriate for a period not to exceed five years, or

may suspend, for a period not to exceed three years, or may revoke the license, certificate or permit.

4. An individual whose license has been revoked shall wait at least one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the board after compliance with all requirements of sections 324.050 to 324.089 relative to the licensing of the applicant for the first time.

324.177. 1. There is hereby established an "Advisory Commission for Clinical Perfusionists" which shall guide, advise and make recommendations to the board. The commission shall approve the examination required by section 324.133 and shall assist the board in carrying out the provisions of sections 324.125 to 324.183.

2. The advisory commission shall consist of five perfusionist members and two public members which shall be appointed by the governor with the advice and consent of the senate. The members of the commission shall be appointed for terms of six years; except those first appointed, of which one shall be appointed for a term of one year, one shall be appointed for a term of two years, one shall be appointed for a term of three years, one shall be appointed for a term of four years, one shall be appointed for a term of five years and one shall be appointed for a term of six years. The nonpublic commission members shall be residents of the state of Missouri for at least one year, shall be United States citizens and shall meet all the requirements for licensing provided in sections 324.125 to 324.183, shall be licensed pursuant to sections 324.125 to

324.183, except the members of the first commission, who shall be licensed within six months of their appointment and are actively engaged in the practice of perfusion. If a member of the commission shall, during the member's term as a commission member, remove the member's domicile from the state of Missouri, then the commission shall immediately notify the governor and the seat of that commission member shall be declared vacant. All such vacancies shall be filled by appointment as in the same manner as the preceding appointment. The public members shall be at the time of the members' appointment citizens of the United States; residents of the state for a period of at least one year and registered voters; persons who are not and never were members of any profession licensed or regulated pursuant to sections 324.125 to 324.183 or the spouse of such person; persons who do not have and never have had a material, financial interest in either the provision of the professional services regulated by sections 324.125 to 324.183, or an activity or organization directly related to any profession licensed or regulated by sections 324.125 to 324.183.

3. [No member of the commission shall be entitled to any compensation for the performance of the member's official duties, but each member shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties.] Notwithstanding any other provision of law to the contrary, any appointed member of the commission shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary

expenses. The director of the division of professional registration shall establish by rule guidelines for payment. All staff for the commission shall be provided by the division of professional registration.

4. A member of the commission may be removed if, the member:

(1) Does not have, at the time of appointment, the qualifications required for appointment to the commission;

(2) Does not maintain during service on the commission the qualifications required for appointment to the commission;

(3) Violates any provision of sections 324.125 to 324.183;

(4) Cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) Is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year, unless the absence is excused by a majority vote of the commission.

324.212. 1. Applications for licensure as a dietitian shall be in writing, submitted to the committee on forms prescribed by the division and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the committee may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration.

Each application shall be accompanied by the fees required by the committee.

2. The division shall mail a renewal notice to the last known address of each licensee prior to the [licensure] renewal date. Failure to provide the committee with the information required for [licensure] renewal, or to pay the [licensure] renewal fee after such notice shall effect a noncurrent license. The license shall be [restored] reinstated if, within two years of the [licensure] renewal date, the applicant submits the required documentation and pays the applicable fees as approved by the committee.

3. A new [certificate] license to replace any [certificate] license lost, destroyed or mutilated may be issued subject to the rules of the committee upon payment of a fee.

4. The committee shall set by rule the appropriate amount of fees authorized herein. The fees shall be set at a level to produce revenue which shall not exceed the cost and expense of administering the provisions of sections 324.200 to 324.225. All fees provided for in sections 324.200 to 324.225 shall be collected by the director who shall transmit the funds to the director of revenue to be deposited in the state treasury to the credit of the "Dietitian Fund" which is hereby created.

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds three times the amount of the appropriation from the dietitian fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse

is that amount in the fund which exceeds the appropriate multiple of the appropriations from the dietitian fund for the preceding fiscal year.

324.217. 1. The committee may refuse to issue any license or renew any license required by the provisions of sections 324.200 to 324.225 for one or any combination of reasons stated in subsection 2 of this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against the holder of any license required by sections 324.200 to 324.225 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of fraud, deception, misrepresentation or bribery in securing a license issued pursuant to the provisions of sections 324.200 to 324.225 or in obtaining permission to take the examination required pursuant to sections 324.200 to 324.225;

(2) Impersonation of any person holding a license or allowing any person to use his or her license or diploma from any school;

(3) [Revocation or suspension] Disciplinary action against the holder of a license or other right to practice medical nutrition therapy by another state, territory, federal agency or country upon grounds for which revocation or suspension is

authorized in this state;

(4) [Obtaining] Issuance of a license based upon a material mistake of fact; or

(5) [Failure to display a valid license if so required by sections 324.200 to 324.225 or any rule promulgated pursuant thereto] The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or the United States, for any offense reasonably related to the qualifications, functions, or duties of the professional regulated pursuant to sections 324.200 to 324.225, for any offense an essential element of which is fraud, dishonesty or act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(6) Incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of the profession regulated by sections 324.200 to 324.225;

(7) Violation of, or assisting or enabling any person to violate, any provision of sections 324.200 to 324.225, or any lawful rule or regulation adopted pursuant to such sections;

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

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

(10) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or

misrepresentation;

(11) Use or unlawful possession of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of any profession licensed or regulated by sections 324.200 to 324.225;

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

(13) Violation of any professional trust or confidence.

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 324.200 to 324.225 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of a complaint pursuant to subsection 2 of this section, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed [three] five years, or may suspend, for a period not to exceed three years, or revoke the license of the person. An individual whose license has been revoked shall wait one year from the date of revocation to apply for relicensure. Relicensure shall be at the discretion of the committee after compliance with all requirements of sections 324.200 to 324.225

relative to the licensing of an applicant for the first time.

5. The committee shall maintain an information file containing each complaint filed with the committee relating to a holder of a license. [The committee, at least quarterly, shall notify the complainant and holder of a license of the complaint's status until final disposition.]

6. The committee shall recommend for prosecution violations of sections 324.200 to 324.225 to an appropriate prosecuting or circuit attorney.

324.243. 1. There is hereby established in the division of professional registration in the department of economic development the "Board of Therapeutic Massage" which shall guide, advise and make recommendations to the division and fulfill other responsibilities designated by sections 324.240 to 324.275. The board shall approve the examination required by section 324.265 and shall assist the division in carrying out the provisions of sections 324.240 to 324.275.

2. The board shall consist of seven voting members, including one public member, and one nonvoting member, appointed by the governor with the advice and consent of the senate. Each member of the board shall be a citizen of the United States and a resident of this state and, except for the members first appointed, shall be licensed as a massage therapist by this state. The nonvoting member shall be a member of the massage education community in the state and shall serve a four-year term. Beginning with the appointments made after August 28, 1998, three voting members shall be appointed for four years, two voting members shall be appointed for three years and two voting

members shall be appointed for two years. Thereafter, all voting members shall be appointed to serve four-year terms. No person shall be eligible for reappointment who has served as a member of the board for a total of eight years. The membership of the board shall reflect the differences in work experience and the professional affiliations of therapists with consideration being given to race, gender and ethnic origins.

3. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

4. The board shall hold an annual meeting at which it shall elect from its membership a chairperson, vice chairperson and secretary. The board may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least three days prior to the date of the meeting. A quorum of the board shall consist of a majority of its voting members.

5. The governor may remove a board member for misconduct, incompetence or neglect of official duties after giving the board member written notice of the charges and allowing the board member an opportunity to be heard.

6. The public member shall be, at the time of appointment, a citizen of the United States; a resident of this state for a period of one year and a registered voter; but may not have been a member of any profession licensed or regulated pursuant to sections 324.240 to 324.275 or an immediate family member of such a person; and may not have had a material, financial interest in either the providing of massage therapy as defined in sections

324.240 to 324.275 or in an activity or organization directly related to any profession licensed or regulated pursuant to sections 324.240 to 324.275. The duties of the public member shall not include any determination of the technical requirements to be met for licensure, whether a candidate for licensure meets such technical requirements, or of the technical competence or technical judgment of a licensee or a candidate for licensure.

7. The professional members shall not be officers in a professional massage organization, nor may they be the owners or managers of any massage educational entity.

8. [No member of the board shall be entitled to any compensation for the performance of the member's official duties, but each member shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties.] Notwithstanding any other provision of law to the contrary, any appointed member of the board shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment. All staff for the board shall be provided by the division.

324.522. 1. No practitioner of tattooing, body piercing or branding shall practice and no establishment in which tattoos, body piercing or brandings are applied shall be operated without a license issued by the director of the division of professional registration. The license fee for each practitioner and each establishment shall be established by rule.

2. The director of the division of professional registration shall promulgate rules and regulations relative to the hygienic practice of tattooing, body piercing and branding, and sanitary operations of tattoo, body piercing and branding establishments. Such rules and regulations shall include:

(1) Standards of hygiene to be met and maintained by establishments and practitioners in order to receive and maintain a license for the practice of tattooing, body piercing and branding;

(2) Procedures to be used to grant, revoke or reinstate a license;

(3) Inspection of tattoo, body piercing and branding establishments; and

(4) Any other matter necessary to the administration of this section.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 324.520 to 324.524 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are

subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

324.530. Any person performing inspections for evidence of wood destroying insects at the request of the buyer, seller or lending institution for real estate transactions shall have in effect a valid Missouri certified commercial applicator's license, pesticide technician's license working under the direct supervision of a certified commercial applicator, certified noncommercial applicator's license or a certified public operator's license in subcategory 7b-termite pest control issued pursuant to chapter 281, RSMo.

326.250. The provisions of sections 326.250 to 326.331 shall be known and may be cited as the "Missouri Accountancy Act".

326.253. It is the policy of this state and the purpose of this chapter to promote the reliability of information that is used for guidance in financial transactions or for accounting for or assessing the financial status or performance of commercial, noncommercial and governmental enterprises. The protection of the public interest requires that persons professing special competence in accountancy or offering assurance as to the reliability or fairness of presentation of such information shall have demonstrated their qualifications to do so, and that persons who have not demonstrated and maintained such qualifications not be permitted to represent themselves as having such special competence or to offer such assurance; that the conduct of persons licensed as having special competence in accountancy be

regulated in all aspects of their professional work; that a public authority competent to prescribe and assess the qualifications and to regulate the conduct of certified public accountants be established; and that the use of titles that have a capacity or tendency to deceive the public as to the status or competence of the persons using such titles be prohibited.

326.256. 1. As used in this chapter, the following terms mean:

(1) "AICPA", the American Institute of Certified Public Accountants;

(2) "Attest", providing the following financial statement services:

(a) Any audit or other engagement to be performed in accordance with the Statements on Auditing Standards (SAS);

(b) Any examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements (SSAE);

(3) "Board", the Missouri state board of accountancy established pursuant to section 326.259 or its predecessor pursuant to prior law;

(4) "Certificate", a certificate issued pursuant to section 326.060 prior to August 28, 2001;

(5) "Certified public accountant" or "CPA", the holder of a certificate or license as defined in this section;

(6) "Certified public accountant firm", "CPA firm" or "firm", a sole proprietorship, a corporation, a partnership or any other form of organization issued a permit pursuant to section 326.289;

(7) "Client", a person or entity that agrees with a licensee or licensee's employer to receive any professional service;

(8) "Compilation", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is presented in the form of financial statements information that is the representation of management (owners) without undertaking to express any assurance on the statements;

(9) "License", a license issued pursuant to section 326.280, or a provisional license issued pursuant to section 326.283; or, in each case, an individual license or permit issued pursuant to corresponding provisions of prior law;

(10) "Licensee", the holder of a license as defined in this section;

(11) "Manager", a manager of a limited liability company;

(12) "Member", a member of a limited liability company;

(13) "NASBA", the National Association of State Boards of Accountancy;

(14) "Peer review", a study, appraisal or review of one or more aspects of the professional work of a licensee or certified public accountant firm that performs attest, review or compilation services, by licensees who are not affiliated either personally or through their certified public accountant firm being reviewed pursuant to the Standards for Performing and Reporting on Peer Reviews promulgated by the AICPA or such other standard adopted by regulation of the board which meets or exceeds the AICPA standards.

(15) "Permit", a permit to practice as a certified public accountant firm issued pursuant to section 326.289 or corresponding provisions of prior law or pursuant to corresponding provisions of the laws of other states;

(16) "Professional", arising out of or related to the specialized knowledge or skills associated with certified public accountants;

(17) "Public accountancy":

(a) Performing or offering to perform for an enterprise, client or potential client one or more services involving the use of accounting or auditing skills, or one or more management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters by a person, firm, limited liability company or professional corporation using the title "C.P.A" or "P.A." in signs, advertising, directory listing, business cards, letterheads or other public representations;

(b) Signing or affixing a name, with any wording indicating the person or entity has expert knowledge in accounting or auditing to any opinion or certificate attesting to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, rules, grants, loans and appropriations; or

(c) Offering to the public or to prospective clients to perform, or actually performing on behalf of clients, professional services that involve or require an audit or

examination of financial records leading to the expression of a written attestation or opinion concerning these records;

(18) "Report", when used with reference to financial statements, means an opinion, report or other form of language that states or implies assurance as to the reliability of any financial statements, and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is an accountant or auditor, or from the language of the report itself. The term report includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language, or both, and includes any other form of language that is conventionally understood to imply such assurance or such special knowledge or competence, or both;

(19) "Review", providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services (SSARS) that is performing inquiry and analytical procedures that provide the accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of

accounting;

(20) "State", any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that "this state" means the state of Missouri;

(21) "Substantial equivalency", a determination by the board of accountancy or its designee that the education, examination and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed the education, examination and experience requirements contained in this chapter or that an individual certified public accountant's education, examination and experience qualifications are comparable to or exceed the education, examination and experience requirements contained in this chapter;

(22) "Transmittal", any transmission of information in any form, including but not limited to any and all documents, records, minutes, computer files, disks or information.

2. The statements on standards specified in this section shall be adopted by reference by the board pursuant to rulemaking and shall be those developed for general application by the AICPA or other recognized national accountancy organization as prescribed by board rule.

326.259. 1. The "Missouri State Board of Accountancy" is hereby established and shall consist of seven members, one of whom shall be a voting public member, and shall have the functions, powers and duties prescribed in this chapter.

2. Each member of the board, except the public member, shall be a licensee pursuant to the laws of this state, and shall

at the time of his or her appointment be a citizen of the United States, a resident of this state for at least one year and have practiced continuously as a licensee for a period of at least five years immediately preceding his or her appointment. At the time of his or her appointment, the public member shall be a citizen of the United States, a resident of this state for a period of one year, a registered voter, a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the immediate family member of such a person, and a person who does not have and never has had a material financial interest in either providing professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter.

3. Members of the Missouri state board of accountancy appointed pursuant to section 326.160 prior to August 28, 2001, shall serve the remainder of their terms. Thereafter, the members of the board, including public members, shall be chosen by the governor with the advice and consent of the senate from lists submitted by the director of the division of professional registration. The chair of the largest membership state organization of certified public accountants which is dedicated to maintaining the high professional and ethical standards of accountants as well as protection of the public may submit a list of five licensees to the director of the division of professional registration for consideration as a board member, other than the public member. To be considered by the director of the division of professional registration, the list shall be submitted at

least ninety days prior to the expiration of the term of the board member or as soon as feasible after a vacancy on the board occurs. The duties of the public member shall not include the determination of the technical requirements for licensure, whether any person meets the technical requirements, or the technical competence or technical judgment of a certified public accountant or applicant for licensure.

4. The term of office of each board member appointed shall be five years. Vacancies shall be filled by the governor for the remainder of the unexpired term. No person shall serve more than two consecutive terms or eleven years, whichever is less; except that a member may hold office until his or her successor is appointed and qualified. Any member who has served two complete consecutive terms shall be ineligible to be reappointed until one year has lapsed. No member whose term has been terminated for any reason, other than the term's expiration, shall be eligible for reappointment until the lapse of one year. An appointment to fill an unexpired term shall not be considered a complete term.

5. The governor may remove any member of the board for misconduct, incompetency or neglect of official duties after giving the member written notice of the charges and an opportunity to be heard.

326.262. 1. The Missouri state board of accountancy shall have power by rule to adopt and use a seal; make and amend all rules deemed necessary for the proper administration of this chapter; conduct examinations; administer oaths and hear testimony regarding complaints, investigations and disciplinary actions or in pursuing settlement as provided by section 621.110,

RSMo, or preparatory to the filing of a complaint pursuant to section 621.045, RSMo; require by summons or subpoena the attendance and testimony of witnesses, and the production of books, papers and documents with respect to testimony regarding complaints, investigations and disciplinary actions or in pursuing settlement; and do and perform all other acts and things committed to its charge and administration, or incidental thereto.

2. The board shall maintain its office in Jefferson City, Missouri.

326.265. 1. The board shall elect annually one of its members as president, one as vice president, one as secretary and one as treasurer, and shall make an annual report to the governor and the general assembly. The board shall file and preserve all written applications, petitions, complaints, charges or requests made or presented to the board and all affidavits and other verified documents, and shall keep accurate records and minutes of its proceedings. A copy of any entry in the register, or of any records or minutes of the board, certified by the president or secretary of the board under its seal shall constitute and have the full force and effect of the original.

2. The board may employ legal counsel and board personnel as defined in subdivision (4) of subsection 15 of section 620.010, RSMo, and incur such travel and other expense as in its judgment shall be necessary for the effective administration of this chapter.

3. The board may also appoint a continuing education committee of not less than five members consisting of certified

public accountants of this state. Such committee shall:

(1) Evaluate continuing education programs to determine if they meet continuing education regulations adopted by the board;

(2) Consider applications for exceptions to continuing education regulations adopted pursuant to the provisions of section 326.271; and

(3) Consider other matters regarding continuing education as may be assigned by the board.

326.268. 1. The board may prescribe by rule the dates and places for holding regular meetings and regulate the call, notice and holding of special meetings. Four members of the board shall constitute a quorum at any regular meeting or special meeting.

2. The board shall determine by rule the dates and times of examination of applicants. Examination of applicants shall be held at least twice annually. The board may determine by rule the method for publicizing the times and places of the examination. The board may require any or all applicants to appear in person before the board to answer questions regarding their qualifications and may, in the board's discretion, require evidence in support of the statements of the applicant.

3. The required examination shall test the applicant's knowledge of the subjects of accounting and auditing, and such other related subjects as the board may specify by rule, including but not limited to business law and taxation. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading and passing grades; provided, however, that the board shall, to the extent possible, ensure the examination, grading of the

examination and the passing grades are uniform with those applicable in other states. The board may make use of all or any part of the Uniform Certified Public Accountant Examination and Advisory Grading Service of the American Institute of Certified Public Accountants and may contract with third parties to perform administrative services with respect to the examination as the board deems appropriate.

4. The board may determine by rule the examination fee.

5. Each member of the board shall receive as compensation an amount set by the board not to exceed seventy dollars for each day devoted to the affairs of the board, and shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. All claims for compensation and expenses shall be presented and allowed in open meetings of the board. No compensation or expenses of members of the board, its officers or employees shall be charged against the general funds of the state, but shall be paid out of the state board of accountancy fund.

326.271. 1. The board shall promulgate rules of procedure for governing the conduct of matters before the board.

2. The board shall promulgate rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public accountancy.

3. In promulgating rules and regulations regarding the requirements of continuing education, the board:

(1) May use and rely upon guidelines and pronouncements of recognized educational and professional associations;

(2) May prescribe for content, duration and organization of

courses;

(3) Shall consider applicant accessibility to continuing education as required by the board, and any impediments to the interstate practice of public accountancy which may result from differences in requirements in states;

(4) May in its discretion relax or suspend continuing education requirements for instances of individual hardship;

(5) Shall not require the completion of more than one hundred twenty hours of continuing education or its equivalent in any three-year period, not more than one-third of which shall be required in any one year. The continuing education requirements must be capable of being fulfilled in programs or courses reasonably available to licensees within the state.

4. The board may require by rule licensees to submit any continuing education reporting as the board deems necessary.

5. No rule or portion of a rule promulgated pursuant to the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

326.274. Upon receipt of a complaint or other information suggesting violations of this chapter or the rules of the board, the board may conduct investigations to determine if probable cause exists to institute proceedings pursuant to sections 326.295 to 326.316 against any person or firm for the violation, but an investigation pursuant to this section shall not be a prerequisite to initiate proceedings where a determination of probable cause can be made without investigation.

326.277. For an applicant to be eligible to apply for the examination, the applicant shall fulfill the education

requirements of subdivision (4) of subsection 1 of section 326.280.

326.280. 1. A license shall be granted by the board to any person who meets the requirements of this chapter and who:

(1) Is a resident of this state or has a place of business in this state or, as an employee, is regularly employed in this state;

(2) Has attained the age of twenty-one years;

(3) Is of good moral character;

(4) Either:

(a) Applied for the initial examination prior to June 30, 1999, and holds a baccalaureate degree conferred by an accredited college or university recognized by the board, with a concentration in accounting or the substantial equivalent of a concentration in accounting as determined by the board; or

(b) Applied for the initial examination on or after June 30, 1999, and has at least one hundred fifty semester hours of college education, including a baccalaureate or higher degree conferred by an accredited college or university recognized by the board, with the total educational program including an accounting concentration or equivalent as determined by board rule to be appropriate;

(5) Has passed an examination in accounting, auditing and such other related subjects as the board shall determine is appropriate; and

(6) Has had one year of experience. Experience shall be verified by a licensee and shall include any type of service or advice involving the use of accounting, attest, review,

compilation, management advisory, financial advisory, tax or consulting skills including governmental accounting, budgeting or auditing. The board shall promulgate rules and regulations concerning the verifying licensee's review of the applicant's experience.

2. The board shall prescribe by rule the terms and conditions for reexaminations and fees to be paid for reexaminations.

3. A person who, on August 28, 2001, holds an individual permit issued pursuant to the laws of this state shall not be required to obtain additional licenses pursuant to sections 326.280 to 326.286, and the licenses issued shall be considered licenses issued pursuant to sections 326.280 to 326.286. However, such persons shall be subject to the provisions of section 326.286 for renewal of licenses.

4. Upon application, the board may issue a temporary license to an applicant pursuant to this subsection for a person who has made a prima facie showing that the applicant meets all of the requirements for a license and possesses the experience required. The temporary license shall be effective only until the board has had the opportunity to investigate the applicant's qualifications for licensure pursuant to subsection 1 of this section and notify the applicant that the applicant's application for a license has been granted or rejected. In no event shall a temporary license be in effect for more than twelve months after the date of issuance nor shall a temporary license be reissued to the same applicant. No fee shall be charged for a temporary license. The holder of a temporary license which has not

expired, been suspended or revoked shall be deemed to be the holder of a license issued pursuant to this section until the temporary license expires, is terminated, suspended or revoked.

5. An applicant for an examination who meets the educational requirements of subdivision (4) of subsection 1 of this section or who reasonably expects to meet those requirements within sixty days after the examination shall be eligible for examination if the applicant also meets the requirements of subdivisions (1), (2) and (3) of subsection 1 of this section. For an applicant admitted to examination on the reasonable expectation that the applicant will meet the educational requirements within sixty days, no license shall be issued nor credit for the examination or any part thereof given unless the educational requirement is in fact met within the sixty-day period.

326.283. 1. (1) An individual whose principal place of business is not in this state and has a valid designation to practice public accountancy from any state which the board has determined by rule to be in substantial equivalence with the licensure requirements of sections 326.250 to 326.331, or if the individual's qualifications are substantially equivalent to the licensure requirements of sections 326.250 to 326.331, shall be presumed to have qualifications substantially equivalent to this state's requirements and shall have all the privileges of licensees of this state, provided the individual shall notify the board of his or her intent to engage in the practice of accounting with a client within this state whether in person, by electronic or technological means, or any other manner. The

board by rule may require individuals to obtain a license.

(2) Any individual of another state exercising the privilege afforded pursuant to this section consents as a condition of the grant of this privilege to:

(a) The personal and subject matter jurisdiction and disciplinary authority of the board;

(b) Comply with this chapter and the board's rules; and

(c) The appointment of the state board which issued the individual's license as his or her agent upon whom process may be served in any action or proceeding by this board against the individual.

2. A licensee of this state offering or rendering services or using his or her certified public accountant title in another state shall be subject to disciplinary action in this state for an act committed in another state for which the licensee would be subject to discipline for an act committed in the other state. Notwithstanding the provisions of section 326.274 to the contrary, the board may investigate any complaint made by the board of accountancy of another state.

326.286. 1. The board may grant or renew licenses to persons who make application and demonstrate that:

(1) Their qualifications, including the qualifications prescribed by section 326.280, are in accordance with this section; or

(2) They are eligible under the substantial equivalency standard pursuant to subsection 1 of section 326.283.

2. Licenses shall be initially issued and renewed for periods of not more than three years and shall expire on the

renewal date following issuance or renewal. Applications for licenses shall be made in such form, and in the case of applications for renewal, between such dates, as the board by rule shall specify. Application and renewal fees shall be determined by the board by rule.

3. With regard to applicants that do not qualify for reciprocity under the substantial equivalency standard set out in subsection 1 of section 326.283, the board may issue a license to an applicant upon a showing that:

(1) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state;

(2) The applicant had four years of experience outside of this state of the type described in subdivision (6) of subsection 1 of section 326.280 or meets equivalent requirements prescribed by the board by rule, after passing the examination upon which the applicant's license was based and within the ten years immediately preceding the application; and

(3) If the applicant's certificate, license or permit was issued more than four years prior to the application for issuance of a license pursuant to this section, the applicant has fulfilled the requirements of continuing professional education that would have been applicable pursuant to subsection 6 of this section.

4. As an alternative to the requirements of subsection 3 of this section, a certified public accountant licensed by another state who establishes a principal place of business in this state shall request the issuance of a license from the board prior to

establishing the principal place of business. The board may issue a license to the person who obtains verification from the NASBA National Qualification Appraisal Service that the individual's qualifications are substantially equivalent to the licensure requirements of sections 326.250 to 326.331.

5. An application pursuant to this section may be made through the NASBA Qualification Appraisal Service.

6. For renewal of a license pursuant to this section, each licensee shall participate in a program of learning designed to maintain professional competency. The program of learning shall comply with rules adopted by the board. The board may create by rule an exception to such requirement for licensees who do not perform or offer to perform for the public one or more kinds of services involving the use of accounting or auditing skills, including issuance of reports on financial statements or of one or more kinds of management advisory, financial advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters. Licensees granted an exception by the board shall place the word "inactive" adjacent to their certified public accountant title on any business card, letterhead or any other document or device, except their certified public accountant certificate, on which their certified public accountant title appears.

7. Applicants for initial issuance or renewal of licenses pursuant to this section shall list all states in which they have applied for or hold certificates, licenses or permits and list any past denial, revocation or suspension or any discipline of a certificate, license or permit. Each holder of or applicant for

a license shall notify the board in writing within thirty days after its occurrence of any issuance, denial, revocation or suspension or any discipline of a certificate, license or permit by another state.

8. The board may issue a license to a holder of a substantially equivalent foreign designation, provided that:

(1) The foreign authority which granted the designation makes similar provisions to allow a person who holds a valid license issued by this state to obtain such foreign authority's comparable designation; and

(2) The foreign designation:

(a) Was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;

(b) Entitles the holder to issue reports upon financial statements; and

(c) Was issued upon the basis of educational, examination and experience requirements established by the foreign authority or by law; and

(3) The applicant:

(a) Received the designation based on educational and examination standards substantially equivalent to those in effect in this state at the time the foreign designation was granted;

(b) Completed an experience requirement substantially equivalent to the requirement set out in subdivision (6) of subsection 1 of section 326.280 in the jurisdiction which granted the foreign designation or has completed four years of professional experience in this state, or meets equivalent

requirements prescribed by the board by rule within the ten years immediately preceding the application; and

(c) Passed a uniform qualifying examination in national standards and an examination on the laws, regulations and code of ethical conduct in effect in this state acceptable to the board.

9. An applicant pursuant to subsection 8 of this section shall list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy. Each holder of a license issued pursuant to this subsection shall notify the board in writing within thirty days after its occurrence of any issuance, denial, revocation, suspension or any discipline of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

10. The board has the sole authority to interpret the application of the provisions of subsections 8 and 9 of this section.

11. The board shall require by rule as a condition for renewal of a license by any licensee who performs review or compilation services for the public other than through a certified public accountant firm that the individual undergo, no more frequently than once every three years, a peer review conducted in a manner as the board by rule shall specify, and the review shall include verification that the individual has met the competency requirements set out in professional standards for such services.

326.289. 1. The board may grant or renew permits to practice as a certified public accounting firm to entities that make application and demonstrate their qualifications in

accordance with this section or to certified public accounting firms originally licensed in another state that establish an office in this state. A firm shall hold a permit issued pursuant to this section to provide attest, review or compilation services or to use the title certified public accountant or certified public accounting firm.

2. Permits shall be initially issued and renewed for periods of not more than three years or for a specific period as prescribed by board rule following issuance or renewal.

3. The board shall determine by rule the form for application and renewal of permits and shall annually determine the fees for permits and their renewals.

4. An applicant for initial issuance or renewal of a permit to practice pursuant to this section shall be required to show that:

(1) Notwithstanding any other provision of law to the contrary, a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, principals, shareholders, members or managers, belongs to licensees who are licensed in some state, and the partners, officers, principals, shareholders, members or managers, whose principal place of business is in this state and who perform professional services in this state are licensees pursuant to section 326.280 or the corresponding provision of prior law. Although firms may include nonlicensee owners, the firm and its ownership shall comply with rules promulgated by the board;

(2) Any certified public accounting firm may include owners who are not licensees, provided that:

(a) The firm designates a licensee of this state who is responsible for the proper registration of the firm and identifies that individual to the board;

(b) All nonlicensee owners are active individual participants in the certified public accounting firm or affiliated entities;

(c) The firm complies with other requirements as the board may impose by rule;

(3) Any licensee who is responsible for supervising attest, review or compilation services, or signs or authorizes someone to sign the licensee's report on the financial statements on behalf of the firm, shall meet competency requirements as determined by the board by rule which shall include one year of experience in addition to the experience required pursuant to subdivision (6) of subsection 1 of section 326.280 and shall be verified by a licensee. The additional experience required by this subsection shall include experience in attest work supervised by a licensee.

5. An applicant for initial issuance or renewal of a permit to practice shall register each office of the firm within this state with the board and show that all attest, review and compilation services rendered in this state are under the charge of a licensee.

6. No licensee or firm holding a permit pursuant to this chapter shall use a professional or firm name or designation that is misleading as to:

(1) The legal form of the firm;

(2) The persons who are partners, officers, members, managers or shareholders of the firm; or

(3) Any other matter.

The names of one or more former partners, members or shareholders may be included in the name of a firm or its successor unless the firm becomes a sole proprietorship because of the death or withdrawal of all other partners, officers, members or shareholders. A firm may use a fictitious name if the fictitious name is registered with the board and is not otherwise misleading. The name of a firm shall not include the name of an individual who is a present or a past partner, member or shareholder of the firm or its predecessor. The name of the firm shall not include the name of an individual who is not a licensee.

7. Applicants for initial issuance or renewal of permits shall list in their application all states in which they have applied for or hold permits as certified public accounting firms and list any past denial, revocation, suspension or any discipline of a permit by any other state. Each holder of or applicant for a permit pursuant to this section shall notify the board in writing within thirty days after its occurrence of any change in the identities of partners, principals, officers, shareholders, members or managers whose principal place of business is in this state; any change in the number or location of offices within this state; any change in the identity of the persons in charge of such offices; and any issuance, denial, revocation, suspension or any discipline of a permit by any other state.

8. Firms which fall out of compliance with the provisions

of this section due to changes in firm ownership or personnel after receiving or renewing a permit shall take corrective action to bring the firm back into compliance as quickly as possible. The board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the board may result in the suspension or revocation of the firm permit.

9. The board shall require by rule, as a condition to the renewal of permits, that firms undergo, no more frequently than once every three years, peer reviews conducted in a manner as the board shall specify. The review shall include a verification that individuals in the firm who are responsible for supervising attest, review and compilation services or sign or authorize someone to sign the accountant's report on the financial statements on behalf of the firm meet the competency requirements set out in the professional standards for such services, provided that any such rule:

(1) Shall include reasonable provision for compliance by a firm showing that it has within the preceding three years undergone a peer review that is a satisfactory equivalent to peer review generally required pursuant to this subsection;

(2) May require, with respect to peer reviews, that peer reviews be subject to oversight by an oversight body established or sanctioned by board rule, which shall periodically report to the board on the effectiveness of the review program under its charge and provide to the board a listing of firms that have participated in a peer review program that is satisfactory to the board; and

(3) Shall require, with respect to peer reviews, that the peer review processes be operated and documents maintained in a manner designed to preserve confidentiality, and that the board or any third party other than the oversight body shall not have access to documents furnished or generated in the course of the peer review of the firm except as provided in subdivision (2) of this subsection.

10. Prior to January 1, 2008, licensees who perform fewer than three attest services during each calendar year shall be exempt from the requirements of subsection 9 of this section.

11. The board may, by rule, charge a fee for oversight of peer reviews, provided that the fee charged shall be substantially equivalent to the cost of oversight.

12. In connection with proceedings before the board or upon receipt of a complaint involving the licensee performing peer reviews, the board shall not have access to any documents furnished or generated in the course of the performance of the peer reviews except for peer review reports, letters of comment and summary review memoranda. The documents shall be furnished to the board only in a redacted manner that does not specifically identify any firm or licensee being peer reviewed or any of their clients.

13. The peer review processes shall be operated and the documents generated thereby be maintained in a manner designed to preserve their confidentiality. No third party, other than the oversight body, the board, subject to the provisions of subsection 12 of this section or the organization performing peer review shall have access to documents furnished or generated in

the course of the review. All documents shall be privileged and closed records for all purposes and all meetings at which the documents are discussed shall be considered closed meetings pursuant to subdivision (1) of section 610.021, RSMo. The proceedings, records and work papers of the board and any peer review subjected to the board process shall be privileged and shall not be subject to discovery, subpoena or other means of legal process or introduction into evidence at any civil action, arbitration, administrative proceeding or board proceeding. No member of the board or person who is involved in the peer review process shall be permitted or required to testify in any civil action, arbitration, administrative proceeding or board proceeding as to any matters produced, presented, disclosed or discussed during or in connection with the peer review process or as to any findings, recommendations, evaluations, opinions or other actions of such committees or any of its members; provided, however, that information, documents or records that are publicly available shall not be subject to discovery or use in any civil action, arbitration, administrative proceeding or board proceeding merely because they were presented or considered in connection with the peer review process.

326.292. 1. Only licensees may issue a report on financial statements of any person, firm, organization or governmental unit or offer to render or render any attest service. Such restriction shall not prohibit any act of a public official or public employee in the performance of the person's duties as such; nor prohibit the performance by any nonlicensee of other services involving the use of accounting skills, including the

preparation of tax returns, management advisory services and the preparation of nonattest financial statements. Nonlicensees may prepare financial statements and issue nonattest transmittals or information thereon which do not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS).

2. Only certified public accountants shall use or assume the title certified public accountant, or the abbreviation CPA or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a certified public accountant. Nothing in this section shall prohibit:

(1) A certified public accountant whose certificate was in full force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who does not engage in the practice of public accounting, auditing, bookkeeping or any similar occupation, from using the title certified public accountant or abbreviation CPA;

(2) A person who holds a certificate, then in force and effect, issued pursuant to the laws of this state prior to August 28, 2001, and who is regularly employed by or is a director or officer of a corporation, partnership, association or business trust, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon relating to such corporation, partnership, association or business trust provided the capacity is so designated, and provided in the signature line the title CPA or certified public accountant is not designated.

3. No firm shall provide attest services or assume or use the title certified public accountants or the abbreviation CPAs, or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such firm is a certified public accounting firm unless:

(1) The firm holds a valid permit issued pursuant to section 326.289; and

(2) Ownership of the firm is in accord with section 326.289 and rules promulgated by the board.

4. Only persons holding a valid license or permit issued pursuant to section 326.280 or 326.289 shall assume or use the title certified accountant, chartered accountant, enrolled accountant, licensed accountant, registered accountant, accredited accountant or any other title or designation likely to be confused with the titles certified public accountant or public accountant, or use any of the abbreviations CA, LA, RA, AA or similar abbreviation likely to be confused with the abbreviation CPA or PA. The title enrolled agent or EA shall only be used by individuals so designated by the Internal Revenue Service. Nothing in this section shall prohibit the use or issuance of a title for nonattest services provided that the organization and the title issued by the organization existed prior to August 28, 2001.

5. (1) Nonlicensees shall not use language in any statement relating to the financial affairs of a person or entity that is conventionally used by certified public accountants in reports on financial statements. Nonlicensees may use the following safe harbor language:

(a) For compilations: "I (We) have prepared the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. This presentation is limited to preparing in the form of a financial statement information that is the representation of management (owners). I (We) have not audited or reviewed the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.";

(b) For reviews: "I (We) reviewed the accompanying (financial statements) of (name of entity) as of (time period) for the (period) then ended. These financial statements (information) are (is) the responsibility of the company's management. I (We) have not audited the accompanying financial statements and accordingly do not express an opinion or any other form of assurance on them.".

(2) Only persons or firms holding a valid license or permit issued pursuant to section 326.280 or 326.289 shall assume or use any title or designation that includes the words accountant or accounting in connection with any other language, including the language of a report, that implies that the person or firm holds a license or permit or has special competence as an accountant or auditor; provided, however, that this subsection shall not prohibit any officer, partner, principal, member, manager or employee of any firm or organization from affixing such person's own signature to any statement in reference to the financial affairs of the firm or organization with any wording designating the position, title or office that the person holds therein nor prohibit any act of a public official or employee in the

performance of the person's duties as such. Nothing in this subsection shall prohibit the singular use of "accountant" or "accounting" for nonattest purposes.

6. Licensees performing attest, review or compilation services shall provide those services in accordance with professional standards as determined by the board by rule.

7. No licensee or holder of a provisional license or firm holding a permit pursuant to sections 326.280 to 326.289 shall use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, principals, officers, members, managers or shareholders of the firm, or about any other matter.

8. None of the foregoing provisions of this section shall apply to a person or firm holding a certification, designation, degree or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in the country, whose activities in this state are limited to the provision of professional services to persons or firms who are residents of, governments of, or business entities of the country in which the person holds the entitlement, who performs no attest, review or compilation services and who issues no reports with respect to the financial statements of any other persons, firms or governmental units in this state, and who does not use in this state any title or designation other than the one under which the person practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.

9. No licensee whose license is issued pursuant to section 326.280 or issued pursuant to prior law shall perform attest services through any certified public accounting firm that does not hold a valid permit issued pursuant to section 326.289.

10. No individual licensee shall issue a report in standard form upon a compilation or review of financial information through any form of business that does not hold a valid permit issued pursuant to section 326.289 unless the report discloses the name of the business through which the individual is issuing the report, and the individual:

(1) Signs the compilation or review report identifying the individual as a licensee;

(2) Meets the competency requirement provided in applicable standards; and

(3) Undergoes, no less frequently than once every three years, a peer review conducted in a manner as the board by rule shall specify, and the review shall include verification that the individual has met the competency requirements set out in professional standards for such services.

11. Nothing herein shall prohibit a practicing attorney or firm of attorneys from preparing or presenting records or documents customarily prepared by an attorney or firm of attorneys in connection with the attorney's professional work in the practice of law.

12. Nothing herein shall prohibit any trustee, executor, administrator, referee or commissioner from signing and certifying financial reports incident to his or her duties in that capacity.

13. Nothing herein shall prohibit any director or officer of a corporation, partner or a partnership, sole proprietor of a business enterprise, member of a joint venture, member of a committee appointed by stockholders, creditors or courts, or an employee of any of the foregoing, in his or her capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon, relating to the corporation, partnership, business enterprise, joint venture or committee, provided the capacity is designated on the statement or report.

14. (1) A licensee shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee also performs for that client:

(a) An audit or review of a financial statement; or

(b) A compilation of a financial statement when the licensee expects, or reasonably may expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

(c) An examination of prospective financial information.

Such prohibition applies during the period in which the licensee is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in such listed services.

(2) A licensee who is not prohibited by this section from performing services for or receiving a commission and who is paid

or expects to be paid a commission shall disclose in writing that fact to any person or entity to whom the licensee recommends or refers a product or service to which the commission relates.

(3) Any licensee who accepts a referral fee for recommending or referring any service of a licensee to any person or entity or who pays a referral fee to obtain a client shall disclose in writing the acceptance or payment to the client.

15. (1) A licensee shall not:

(a) Perform for a contingent fee any professional services for, or receive a fee from, a client for whom the licensee or the licensee's firm performs:

a. An audit or review of a financial statement; or

b. A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

c. An examination of prospective financial information; or

(b) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

(2) The prohibition in subdivision (1) of this subsection applies during the period in which the licensee is engaged to perform any of those services and the period covered by any historical financial statements involved in any services.

(3) A contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of the service. Solely for

purposes of this section, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending, for example, on the complexity of services rendered.

16. Any person who violates any provision of subsections 1 to 5 of this section shall be guilty of a class A misdemeanor. Whenever the board has reason to believe that any person has violated this section it may certify the facts to the attorney general of this state or bring other appropriate proceedings.

326.295. 1. To assure a free flow of information for peer review pursuant to section 326.286 or 326.289, or proceedings before the board pursuant to section 326.310, all complaint files, investigation files, and all other investigation reports and other investigative information in the possession of the board or peer review committee or firm, acting pursuant to the authority of section 326.286, 326.289 or 326.310, or its employees or agents, which relate to the hearings or review shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person, other than the licensee and the board or peer review committee or firm or their employees and agents involved in such proceedings or be admissible in evidence in any judicial or administrative proceeding, other than the proceeding for which such material was prepared or assembled. A final written decision and finding of fact of the board, pursuant to section 326.310, shall be a public record.

2. No person shall be civilly liable as a result of his or her acts, omissions or decisions in good faith as a member of the board, a peer review committee or firm, or as an employee or agent thereof, in connection with such person's duties.

3. No person shall be civilly liable as a result of filing a report or complaint with the board or a peer review committee, or for the disclosure to the board or a peer review committee or its agents or employees, whether pursuant to a subpoena, of records, documents, testimony or other forms of information which constitute privileged matter in connection with proceedings of a peer review committee, or other board proceedings pursuant to section 326.310. Immunity from civil liability shall not apply if the act is done with malice.

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

(1) Offering to engage or engaging in the performance of any acts or practices for which a license or permit is required upon a showing that acts or practices were performed or offered to be performed without a license or permit; or

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

2. Any action shall be commenced either in the county in which such conduct occurred or in the county in which the

defendant resides.

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

326.304. At all proceedings for the enforcement of these or any other provisions of this chapter, the board shall, in its discretion as it deems necessary, select the attorney general or one of his or her designated assistants, or other legal counsel to appear and represent the board at each stage of the proceeding or trial until its conclusion.

326.307. The display or uttering by a person of a card, sign, advertisement or other printed, engraved or written instrument or device, printed or through electronic media, bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "public accountant" or any abbreviation thereof, shall be prima facie evidence in any action brought pursuant to section 326.298 that the person whose name is so displayed, caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device and that such person is holding himself or herself out to be a certified public accountant or a public accountant holding a license pursuant to section 326.280. In any such action evidence of the commission of a single act prohibited by this chapter shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.

326.310. 1. The board may refuse to issue any license or

permit required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The board may file a complaint with the administrative hearing commission as provided by chapter 621, RSMo, or may initiate settlement procedures as provided by section 621.045, RSMo, against any certified public accountant or permit holder required by this chapter or any person who fails to renew or surrenders the person's certificate, license or permit for any one or any combination of the following causes:

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

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

(3) Use of fraud, deception, misrepresentation or bribery in securing any certificate, permit or license issued pursuant to

this chapter or in obtaining permission to take any examination given or required pursuant to this chapter;

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

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter or any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate or permit or allowing any person to use his or her certificate or permit or diploma from any school;

(8) Revocation, suspension, restriction, modification, limitation, reprimand, warning, censure, probation or other final disciplinary action against the holder of or applicant for a license or other right to practice any profession regulated by this chapter by another state, territory, federal agency or country, whether voluntarily agreed to by the certified public accountant or applicant, including but not limited to the denial of licensure, surrender of a license, allowing a license to expire or lapse, or discontinuing or limiting the practice of accounting while subject to an investigation or while actually under investigation by any licensing authority, branch of the armed forces of the United States of America, court, agency of the state or federal government, or employer;

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

(10) Assisting or enabling any person to practice or offer to practice accountancy pursuant to this chapter who is not eligible to practice pursuant to this chapter;

(11) Issuance of a certificate or permit based upon a material mistake of fact;

(12) Failure to display a valid certificate or permit required by this chapter or any rule promulgated pursuant to this chapter;

(13) Violation of any professional trust or confidence;

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

(15) Violation of professional standards or rules of professional conduct applicable to the accountancy profession as promulgated by the board;

(16) Failure to comply with any final order of a court of competent jurisdiction enforcing a subpoena or subpoena duces tecum from the board;

(17) Failure to comply with any final order of the board;

(18) Failure to maintain documentation evidencing compliance with the board's continuing professional education requirements;

(19) Failure, on the part of a holder of a certificate, license or permit pursuant to section 326.280 or 326.289, to maintain compliance with the requirements for issuance or renewal of such certificate, license, permit or provisional license or to

report changes to the board pursuant to sections 326.280 to 326.289;

(20) Making any false or misleading statement or verification in support of an application for a certificate, license or permit filed by another.

3. Proceedings pursuant to this section shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination, assess an administrative penalty not to exceed two thousand dollars per violation, censure or place on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend for a period not to exceed three years or revoke the certificate, license or permit. In any order of revocation, the board may provide that the person shall not apply for a new license for a maximum of three years and one day following the date of the order of revocation. All stay orders shall toll this time period. In lieu of or in addition to any remedy specifically provided in subsection 1 of this section, the board may require of a licensee:

(1) A peer review conducted as the board may specify; or

(2) Satisfactory completion of continuing professional education programs as the board may specify; or

(3) A peer review conducted as the board may specify and satisfactory completion of continuing professional education programs as the board may specify.

326.313. After notice and hearings as provided in chapter

621, RSMo, the board may revoke the permit of a CPA firm if it does not have all the qualifications prescribed by section 326.289; or may revoke, suspend or censure the permit holder for any of the causes enumerated in section 326.310.

326.316. Upon application in writing and after hearing pursuant to notice, the board may issue a new license to a licensee whose license has been revoked, or may reissue or modify the suspension of any permit to practice public accounting which has been revoked or suspended.

326.319. 1. All moneys payable pursuant to the provisions of this chapter shall be collected by the division of professional registration who shall transmit them to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "State Board of Accountancy Fund" which is hereby created.

2. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, money in the fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule certificate or permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

3. In any proceeding in which a remedy provided by

subsection 1 or 2 of section 326.310 is imposed, the board may also require the respondent licensee to pay the costs of the proceeding if the board is a prevailing party or in settlement. The moneys shall be placed in the state treasury to the credit of the "Missouri State Board of Accountancy Investigation Fund", which is hereby created, to be used solely for investigations as provided in this chapter. The moneys shall not be considered in calculating amounts to be transferred to general revenue as provided in subsection 2 of this section. The fund shall be used solely for board investigations.

4. The board shall set the amount of the fees which this chapter authorizes and requires by rule pursuant to chapter 536, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.

326.322. 1. Except by permission of the client for whom a licensee performs services or the heirs, successors or personal representatives of such client, a licensee pursuant to this chapter shall not voluntarily disclose information communicated to the licensee by the client relating to and in connection with services rendered to the client by the licensee. The information shall be privileged and confidential, provided, however, that nothing herein shall be construed as prohibiting the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements or as prohibiting disclosures in investigations, in ethical investigations conducted by private professional organizations, or in the course of peer reviews, or

to other persons active in the organization performing services for that client on a need to know basis or to persons in the entity who need this information for the sole purpose of assuring quality control.

2. A licensee shall not be examined by judicial process or proceedings without the consent of the licensee's client as to any communication made by the client to the licensee in person or through the media of books of account and financial records, or the licensee's advice, reports or working papers given or made thereon in the course of professional employment, nor shall a secretary, stenographer, clerk or assistant of a licensee, or a public accountant, be examined, without the consent of the client concerned, regarding any fact the knowledge of which he or she has acquired in his or her capacity as a licensee. This privilege shall exist in all cases except when material to the defense of an action against a licensee.

326.325. 1. Subject to the provisions of section 326.322, all statements, records, schedules, working papers and memoranda made by a licensee or a partner, shareholder, officer, director, member, manager or employee of a licensee, incident to, or in the course of, rendering services to a client while a licensee, except the reports submitted by the licensee to the client and except for records that are part of the client's records, shall be and remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No statement, record, schedule, working paper or memorandum shall be sold, transferred or bequeathed without the consent of the client or the client's personal representative or

assignee to anyone other than one or more surviving partners, stockholders, members or new partners, new stockholders or new members of the licensee, or any combined or merged firm or successor in interest to the licensee. Nothing in this section should be construed as prohibiting any temporary transfer of work papers or other material necessary in the course of carrying out peer reviews or as otherwise interfering with the disclosure of information pursuant to section 326.322.

2. A licensee shall furnish to a client or former client, upon request and reasonable notice:

(1) A copy of the licensee's working papers to the extent that the working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(2) Any accounting or other records belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of such documents of the client when they form the basis for work done by the licensee.

3. Nothing in this section shall require a licensee to keep any paperwork beyond the period prescribed in any other applicable statute, nor shall it prohibit a licensee from charging a reasonable fee for furnishing the requested materials.

4. Notwithstanding the provisions of this chapter to the contrary, documents otherwise subject to lawful discovery in a court proceeding pursuant to the Missouri rules of civil procedure prior to August 28, 2001, shall remain subject to such

lawful discovery.

326.328. Application by a person or a firm not a resident of this state shall constitute and authorize appointment of the Missouri secretary of state as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incidental to services performed within this state.

326.331. If any provisions of sections 326.250 to 326.331 or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of the invalid provision to others or other circumstances shall not be affected.

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

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

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

(3) "Accredited school of engineering", any school or other institution which teaches engineering and whose curricula on the subjects in question are or have been, at the time in question

certified as accredited by the engineering accreditation commission of the accreditation board for engineering and technology or its successor organization;

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

[(4)] (5) "Board", the Missouri board for architects, professional engineers, [and] professional land surveyors and landscape architects;

[(5)] (6) "Corporation", any general business corporation, professional corporation or limited liability company;

(7) "Department", the department of economic development;

(8) "Division", the division of professional registration in the department of economic development;

(9) "Landscape architect", any person licensed pursuant to the provisions of sections 327.600 to 327.635 who is qualified to practice landscape architecture by reason of special knowledge and the use of biological, physical, mathematical and social sciences and the principles and methods of analysis and design of the land, has demonstrated knowledge and ability in such areas, and has been duly licensed as a landscape architect by the board on the basis of professional education, examination and experience in landscape architecture;

[(6)] (10) "Partnership", any partnership or limited liability partnership;

[(7)] (11) "Person", any person, corporation, firm, partnership, association or other entity;

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

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

327.031. 1. The "Missouri Board for Architects, Professional Engineers, [and] Professional Land Surveyors and Landscape Architects" is hereby established and shall consist of [eleven] fourteen members: a chairperson, who may be either an architect, a professional engineer or a professional land surveyor; three architects, who shall constitute the architectural division of the board; three professional engineers, who shall constitute its professional engineering division; three professional land surveyors, who shall constitute its professional land surveying division; three landscape architects, who shall constitute its landscape architecture division; and a voting public member.

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

3. The chairperson shall be the administrative and executive officer of the board, and it shall be his or her duty to supervise and expedite the work of the board and its

divisions, and, at his or her election, when a tie exists between the divisions of the board, to break the tie by recording his or her vote for or against the action upon which the divisions are in disagreement. Each member of the architectural division shall have one vote when voting on an action pending before the board; each member of the professional engineering division shall have one vote when voting on an action pending before the board; the chairperson of the landscape architecture division or the chairperson's designee shall have one vote when voting on an action pending before the board; and each member of the professional land surveying division shall have one vote when voting on an action pending before the board. Every motion or proposed action upon which the divisions of the board are tied shall be deemed lost, and the chairperson shall so declare, unless the chairperson shall elect to break the tie as provided in this section. [Six] Seven voting members of the board and two members of each division shall constitute a quorum, respectively, for the transaction of business.

4. Each division of the board shall, at its first meeting in each even-numbered year, elect one of its members as division chairperson for a term of two years. The chairpersons of the architectural division [and], professional engineering division and the professional land surveying division so elected shall be vice chairpersons of the board, and when the chairperson of the board is an architect, the chairperson of the architectural division shall be the ranking vice chairperson, and when the chairperson of the board is a professional engineer, the chairperson of the professional engineering division shall be the

ranking vice chairperson, and when the chairperson of the board is a professional land surveyor, the chairperson of the professional land surveying division shall be the ranking vice chairperson. The chairperson of each division shall be the administrative and executive officer of his or her division, and it shall be his or her duty to supervise and expedite the work of the division, and, in case of a tie vote on any matter, the chairperson shall, at his or her election, break the tie by his or her vote. Every motion or question pending before the division upon which a tie exists shall be deemed lost, and so declared by the chairperson of the division, unless the chairperson shall elect to break such tie by his or her vote.

5. Any person appointed to the board, except a public member, shall be a currently licensed architect, licensed professional engineer [or], licensed professional land surveyor or registered or licensed landscape architect in Missouri, as the vacancy on the board may require, who has been a resident of Missouri for at least five years, who has been engaged in active practice as an architect, professional engineer [or], professional land surveyor or landscape architect, as the case may be, for at least ten consecutive years immediately preceding such person's appointment and who is and has been a citizen of the United States for at least five years immediately preceding such person's appointment. Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of engineering shall be regarded as active practice of engineering, for the purposes of this chapter. Active service as a faculty member, after meeting the

qualifications required by section 327.314, while holding the rank of assistant professor or higher in an accredited school of engineering and teaching land surveying courses shall be regarded an active practice of land surveying for the purposes of this chapter. Active service as a faculty member while holding the rank of assistant professor or higher in an accredited school of architecture shall be regarded as active practice of architecture for the purposes of this chapter; provided, however, that no faculty member of an accredited school of architecture shall be eligible for appointment to the board unless such person has had at least three years' experience in the active practice of architecture other than in teaching. The public member shall be, at the time of appointment, a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

6. The governor shall appoint the chairperson and the other members of the board when a vacancy occurs either by the expiration of a term or otherwise, and each board member shall serve until such member's successor is appointed and has qualified. The position of chairperson shall alternate among an architect, a professional engineer and a professional land surveyor. All appointments, except to fill an unexpired term, shall be for terms of four years; but no person shall serve on the board for more than two consecutive four-year terms, and each four-year term shall be deemed to have begun on the date of the expiration of the term of the board member who is being replaced or reappointed, as the case may be. Any appointment to the board which is made when the senate is not in session shall be submitted to the senate for its advice and consent at its next session following the date of the appointment.

7. In the event that a vacancy is to occur on the board because of the expiration of a term, then ninety days prior to the expiration, or as soon as feasible after a vacancy otherwise occurs, the president of the American Institute of Architects/Missouri if the vacancy to be filled requires the appointment of an architect, the president of the Missouri Association of Landscape Architects if the vacancy to be filled requires the appointment of a landscape architect, the president of the Missouri Society of Professional Engineers if the vacancy to be filled requires the appointment of an engineer, and the president of the Missouri [Association of Registered Land] Society of Professional Surveyors if the vacancy to be filled requires the appointment of a land surveyor, shall submit to the

director of the division of professional registration a list of five architects or five professional engineers, five landscape architects or five professional land surveyors, as the case may require, qualified and willing to fill the vacancy in question, with the recommendation that the governor appoint one of the five persons so listed; and with the list of names so submitted, the president of the appropriate organization shall include in a letter of transmittal a description of the method by which the names were chosen. This subsection shall not apply to public member vacancies.

8. The board may sue and be sued as the Missouri board for architects, professional engineers, [and] professional land surveyors and landscape architects, and its members need not be named as parties. Members of the board shall not be personally liable either jointly or severally for any act or acts committed in the performance of their official duties as board members, nor shall any board member be personally liable for any court costs which accrue in any action by or against the board.

9. Upon appointment by the governor and confirmation by the senate of the landscape architecture division, the landscape architectural council is hereby abolished and all of its powers, duties and responsibilities are transferred to and imposed upon the Missouri board for architects, professional engineers, professional land surveyors and landscape architects established pursuant to this section. Every act performed by or under the authority of the Missouri board for architects, professional engineers, professional land surveyors and landscape architects shall be deemed to have the same force and effect as if performed

by the landscape architectural council pursuant to sections 327.600 to 327.635. All rules and regulations of the landscape architectural council shall continue in effect and shall be deemed to be duly adopted rules and regulations of the Missouri board of architects, professional engineers, professional landscape architects and land surveyors until such rules and regulations are revised, amended or repealed by the board as provided by law, such action to be taken by the board on or before January 1, 2002.

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

327.041. 1. The board shall have the duty and the power to carry out the purposes and to enforce and administer the provisions of this chapter, to require, by summons or subpoena, with the advice of the attorney general and upon the vote of two-thirds of the voting board members, the attendance and testimony of witnesses, and the production of drawings, plans, plats, specifications, books, papers or any document representing any matter under hearing or investigation, pertaining to the issuance, probation, suspension or revocation of certificates of registration or certificates of authority provided for in this

chapter, or pertaining to the unlawful practice of architecture, professional engineering [or], professional land surveying or landscape architecture.

2. The board shall, within the scope and purview of the provisions of this chapter, prescribe the duties of its officers and employees and adopt, publish and enforce the rules and regulations of professional conduct which shall establish and maintain appropriate standards of competence and integrity in the professions of architecture, professional engineering [and], professional land surveying and landscape architecture, and adopt, publish and enforce procedural rules and regulations as may be considered by the board to be necessary or proper for the conduct of the board's business and the management of its affairs, and for the effective administration and interpretation of the provisions of this chapter. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held

unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

3. Rules promulgated by the board pursuant to sections 327.272 to [327.371] 327.635 shall be consistent with and shall not supersede the rules promulgated by the department of natural resources pursuant to chapter 60, RSMo.

327.081. 1. All funds received pursuant to the provisions of this chapter shall be deposited in the state treasury to the credit of the "State Board for Architects, Professional Engineers [and], Land Surveyors and Landscape Architects Fund" which is hereby established. All expenditures authorized by this chapter shall be paid from funds appropriated to the board by the general assembly from this fund.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

327.131. 1. Any person may apply to the board for examination and license as an architect who is over the age of twenty-one, is of good moral character, and is a graduate of and

holds [a degree in architecture from an accredited] an accredited degree from an accredited degree program from a school of architecture and has acquired at least three years of satisfactory architectural experience [after acquiring the degree aforesaid, or]. Prior to January 1, 2012, any applicant who possesses the age and character qualifications as provided in this subsection and who has acquired a combined total of twelve years of education, above the high school level, and satisfactory architectural experience may apply to the board for examination and license as an architect. Beginning January 1, 2012, all new applicants shall hold an accredited degree from an accredited degree program from a school of architecture.

2. The board shall provide by rule what shall constitute satisfactory architectural experience, based upon recognized education and training equivalents.

3. Beginning January 1, 2002, each applicant who has graduated with an accredited degree from an accredited degree program from a school of architecture shall complete the intern development program (IDP) as defined in the IDP Guidelines: Intern Development Program, 1994, as published by the National Council of Architectural Registration Boards, as amended. Completion of the intern development program shall be deemed to be satisfactory architectural experience.

327.314. [Any person may apply to the board for examination and license as a professional land surveyor who has been enrolled as a land surveyor-in-training for a period of not less than one year and who has presented evidence to the satisfaction of the board that such person has completed the following requirement:

a person who applied for enrollment as a land surveyor-in-training under the provisions of subsection 1 or 2 of section 327.312 must have acquired at least two years of satisfactory professional field and office experience in land surveying projects under the immediate personal supervision of a professional land surveyor in addition to the experience required for enrollment as a land surveyor-in-training. A person who applied for enrollment as a land surveyor-in-training under the provisions of subsection 3 of section 327.312 must have acquired at least one year of satisfactory professional field and office experience in land surveying projects under the immediate personal supervision of a professional land surveyor in addition to the experience required for enrollment as a land surveyor-in-training. At any time prior to January 1, 1991, any person possessing the experience qualifications above set forth may apply to the board for examination and license as a professional land surveyor if the applicant either:

(1) Is a graduate of and holds a degree in engineering from an accredited school of engineering and has acquired at least two years of satisfactory land surveying experience after such person has graduated and has received a degree as aforesaid; or

(2) Is a high school graduate, or holds a Missouri certificate of high school equivalence (GED), and after such graduation or after having acquired the certificate, has acquired at least eight years of satisfactory education and experience in land surveying.] 1. Any person may apply to the board for examination and licensure as a professional land surveyor who has been enrolled as a land surveyor-in-training and has presented

evidence to the satisfaction of the board that said person has acquired at least four years of satisfactory professional field and office experience in land surveying from the date of enrollment as a land surveyor-in-training. This experience shall have been under the immediate personal supervision of a professional land surveyor.

2. At any time prior to January 1, 2006, any applicant enrolled as a land surveyor-in-training under the provisions of subsections (1) or (2) of section 327.312, must have acquired at least two years of satisfactory professional field and office experience in land surveying under the immediate supervision of a professional land surveyor. Any person who applied for enrollment as a land surveyor-in-training under the provisions of subsection (3) of section 327.312, must have acquired at least one year of satisfactory professional field and office experience in land surveying under the immediate supervision of a professional land surveyor.

327.381. The board shall issue a license to any architect, professional engineer [or], professional land surveyor or landscape architect who has been licensed in another state, territory or possession of the United States, or in another country, provided that the board is satisfied by proof adduced by such applicant that the applicant's qualifications meet or exceed the requirements for initial licensure in Missouri at the time of the applicant's initial license, and provided further that the board may establish by rule the conditions under which it shall require any such applicant to take any examination it considers necessary, and provided further that the board is satisfied by

proof adduced by such applicant that the applicant is of good moral character, and provided further that any such application is accompanied by the required fee which shall be equal to the examination fee.

327.600. As used in sections 327.600 to 327.635, the following terms mean:

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

(2) "Council", the landscape architecture council;

(3) "Department", the department of economic development;

(4) "Division", the division of professional registration of the department of economic development;

(5) "Landscape architect", any person registered under the provisions of sections 327.600 to 327.635 who performs work consisting only of consultations concerning and preparation of master plans for parks, land areas or the preparation of plans for and the supervision of the planting and grading or the construction of walks and paving for parks or land areas and such other minor structural features as fences, steps, walls, small decorative pools and other construction not involving structural design or stability and which is usually and customarily included within the area or work of a landscape architect;

(6) "Person", any person, firm, corporation, partnership, association, or other entity] "Landscape architecture", the

performance of professional services, including but not limited to consultations, research, planning, design or responsible supervision in connection with the development of land, in which the dominant purpose of such professional services is the preservation, enhancement or determination of land uses, natural land features, ground cover and planting, naturalistic and esthetic value, settings and approaches to structures or other improvements, natural drainage and the consideration and determination of inherent problems of the land relating to erosion, wear and tear, blight or other hazard;

(2) "Practice of landscape architecture", the location and arrangement of such tangible objects and features as are incidental and necessary to the purposes specified in the definition of landscape architecture, but shall not include the design of structures or facilities with separate and self-contained purposes such as are ordinarily included in the practice of engineering or architecture, and shall not include the making of final land plats for official approval or recording.

327.603. 1. One year from the appointment of the landscape architecture division, no person shall [use the name or title landscape architect, landscape architecture, landscape architectural, or L.A. in this state unless he is registered as required by sections 327.600 to 327.635 provided, however, that nothing in sections 327.600 to 327.635 shall be construed as limiting or preventing the practice of a person's profession or restricting a person from providing landscape architectural services so long as such person does not hold himself out to the

public by title as being registered under sections 327.600 to 327.635] practice or offer to practice, or hold himself or herself out as a landscape architect or as being able to practice landscape architecture in this state or to use in connection with his or her name or otherwise assume, or advertise unless he or she is licensed as required by this chapter. Nothing in sections 327.600 to 327.635 shall be construed to require licensing of employees of the state of Missouri or its political subdivisions while engaged in the practice of landscape architecture for the state of Missouri or a political subdivision of the state, provided the project does not jeopardize the public health, safety and welfare. Sections 327.600 to 327.635 shall not be construed to prohibit those persons engaged in nursery occupations, gardeners, landscape contractors, home builders or residential developers from preparing planting plans and items incidental thereto, provided the project scope does not jeopardize the public health, safety and welfare; nor shall sections 327.600 to 327.635 be construed to prevent the practice of any other legally recognized profession as governed by applicable law. Nothing contained in this section shall under any circumstances be construed as in any way affecting the laws relating to the practice, licensing, certification or registration of architects, engineers and land surveyors. An architect, engineer or land surveyor licensed, certified or registered to practice his or her profession or occupation pursuant to the provisions of any law to regulate the practice of such profession or occupation is exempt from licensing as a landscape architect, and nothing contained in this section shall

under any circumstances be construed as in any way precluding an architect or engineer from performing any of the services included within the definition of the term landscape architecture in section 327.600.

2. The licensure requirement shall be waived for those persons who hold a current registration by the division as a landscape architect on or before August 28, 2001, provided that application is made on a form prescribed by the board on or before December 31, 2002. The licensure requirement shall be waived for those persons whose certificates of registration have expired on or before August 28, 2002, by being approved by the board for reinstatement of expired registration and then making application for licensure on a form prescribed by the board on or before December 31, 2002.

327.607. The [council] board shall conduct all examinations, determine which applicants have successfully passed the examinations and recommend each such applicant to the division for [registration] licensure as a landscape architect. The [council] board may obtain the services of specially trained and qualified persons or organizations to assist in conducting examinations of applicants for [registration] licensure. Certification of an applicant's technical qualifications by the council of landscape architectural registration boards may be accepted by this state's [council] board as establishing such qualifications and the applicant shall not be required to pass any further examination.

327.612. Any person who is of good moral character, has attained the age of twenty-one years, and has [either] a degree

in landscape architecture from an accredited school of landscape architecture and has acquired at least three years satisfactory landscape architectural experience after acquiring such a degree[, or has eight years or more of satisfactory training and experience, as defined by rule, in the practice of landscape architecture,] may apply to the [council] board for examination and [registration] licensure as a landscape architect.

327.615. Applications for examinations and [registration] licensure as a landscape architect shall be typewritten on [prescribed forms furnished to the applicant] forms approved by the board. The application shall contain the applicant's statements showing the applicant's education, experience, results of previous landscape architectural licensing examinations, if any, and such other pertinent information as the [council] board may require. Each application shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the application subject to the penalties of making a false affidavit or declaration, and shall be accompanied by the required fee.

327.617. 1. After the [council] board has determined upon such inquiry and by such methods as it may consider proper that an applicant possesses the qualifications entitling [him] the applicant to be examined, each applicant for examination and [registration] licensure as a landscape architect shall appear before the [council] board or its representatives for examination at the time and place specified by the [council] board in a written notice to each such applicant, provided that an

examination shall be given at least once in each calendar year.

2. The written examination shall be of such form, content and duration as determined by the [council] board to thoroughly test the qualifications of each applicant.

3. Any person who passes the examination prescribed by the [council] board shall be entitled to be [registered] licensed as a landscape architect in Missouri, subject to the other provisions of sections 327.600 to 327.635.

327.621. 1. The [certificate of registration] license issued to every [registered] landscape architect in Missouri shall be renewed on or before the [certificate] license renewal date, provided that the required fee is paid. The [certificate of registration] license of a landscape architect which is not renewed within three months of the [certificate] renewal date shall be suspended automatically, subject to the right of the holder thereof to have such suspended [certificate of registration] license reinstated within nine months of the date of suspension, if the reinstatement fee is paid. Any [certificate of registration] license suspended and not reinstated within nine months of the suspension date shall expire and be void and the holder thereof shall have no rights or privileges thereunder; provided, however, any person whose [certificate of registration] license has expired may within the discretion of the [council] board, upon payment of the fee [specified hereinafter] provided pursuant to section 327.625, be [reregistered] relicensed or reauthorized under his or its original [certificate of registration] license number.

2. Each application for the renewal of a [registration] licensure shall be on a form furnished to the applicant and shall be accompanied by the required fee.

327.623. The [council] board may [register] license, in its discretion and without examination, any landscape architect certified, licensed or registered in another state or territory of the United States when such applicant has qualifications which are at least equivalent to the requirements for [registration] licensure as a landscape architect in this state.

327.629. No person shall [use the designation] practice as a landscape architect in Missouri as defined in section 327.600 unless and until the [division] board has issued to him or her a [certificate of registration] license certifying that he or she has been duly [registered] licensed as a landscape architect in Missouri, and unless such [registration] licensure has been renewed as provided in section 327.621; provided, however, that nothing in sections 327.600 to 327.635 shall be construed as authorizing a landscape architect to engage in the practice of architecture, engineering, land surveying or to affect or prevent the practice of architecture by an architect licensed [under] pursuant to the laws of this state, or to affect or prevent the practice of engineering by a professional engineer licensed [under] pursuant to the laws of this state, or to affect or prevent the practice of land surveying by a land surveyor licensed [under] pursuant to the laws of this state; or to apply to any person licensed as an architect, professional engineer or land surveyor in this state except that no person shall [use the designation] landscape architect, landscape architectural or

landscape architecture or L.A. unless registered under] hold themselves out to be a landscape architect unless licensed pursuant to the provisions of sections 327.600 to 327.635.

327.630. The right to [use the designation of] practice as a landscape architect shall be deemed a personal right, based upon the qualifications of the individual, evidenced by his [certificate of registration] or her license and shall not be transferable; provided, however, that any [registered] licensed landscape architect may practice his or her profession through the medium of, or as a member or as an employee of, a partnership or corporation.

327.631. 1. The [council] board may refuse to issue any [certificate] license required pursuant to section 327.629, or renewal or reinstatement thereof, for one or any combination of causes stated in subsection 2 of this section. The [council] board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The [council] board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any [certificate of registration] license required by section 327.629 or any person who has failed to renew or has surrendered his [certificate of registration] or her license for any one or any combination of the following causes:

(1) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a

criminal prosecution [under] pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of the profession regulated [under] pursuant to sections 327.600 to 327.635, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(2) Use of fraud, deception, misrepresentation or bribery in securing any [certificate of registration] license or authority, permit or license issued pursuant to sections 327.600 to 327.635 or in obtaining permission to take any examination given or required pursuant to sections 327.600 to 327.635;

(3) Obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(4) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of the profession regulated by sections 327.600 to 327.635;

(5) Violation of, or assisting or enabling any person to violate, any provision of sections 327.600 to 327.635, or of any lawful rule or regulation adopted pursuant to such sections;

(6) Impersonation of any person holding a [certificate of registration] license or authority, permit or license allowing any person to use his or her certificate or diploma from any school;

(7) Disciplinary action against the holder of a [certificate of registration] license or other right to practice

the profession regulated by sections 327.600 to 327.635 granted by another state, territory, federal agency, or country upon grounds for which revocation or suspension is authorized in this state;

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

(9) Issuance of a [certificate of registration] license based upon a material mistake of fact;

(10) Use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapters 536 and 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the [council] board may censure or place the person named in the complaint on probation on such terms and conditions as the [council] board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the [certificate of registration] license.

329.010. As used in this chapter, unless the context clearly indicates otherwise, the following words and terms mean:

(1) "Apprentice" or "student", a person who is engaged in training within a cosmetology establishment or school, and while so training performs any of the practices of the classified occupations within this chapter under the immediate direction and supervision of a registered cosmetologist or instructor;

(2) "Board", the state board of cosmetology;

(3) "Cosmetologist", any person who, for compensation, engages in the practice of cosmetology, as defined in subdivision (4) of this section;

(4) "Cosmetology" includes performing or offering to engage in any acts of the classified occupations of cosmetology for compensation, which shall include:

(a) "Class CH - hairdresser" includes arranging, dressing, curling, singeing, waving, permanent waving, cleansing, cutting, bleaching, tinting, coloring or similar work upon the hair of any person by any means; or removing superfluous hair from the body of any person by means other than electricity, or any other means of arching or tinting eyebrows or tinting eyelashes. Class CH - hairdresser, also includes, any person who either with the person's hands or with mechanical or electrical apparatuses or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams engages for compensation in any one or any combination of the following: massaging, cleaning, stimulating, manipulating, exercising, beautifying or similar work[, ] upon the scalp, face, neck, arms or bust;

(b) "Class MO - manicurist" includes cutting, trimming, polishing, coloring, tinting, cleaning or otherwise beautifying a person's fingernails, applying artificial fingernails, massaging, cleaning a person's hands and arms; pedicuring, which includes, cutting, trimming, polishing, coloring, tinting, cleaning or otherwise beautifying a person's toenails, applying artificial toenails, massaging and cleaning a person's legs and feet;

(c) "Class CA - hairdressing and manicuring" includes all

practices of cosmetology, as defined in paragraphs (a) and (b) of this subdivision;

(d) "Class E - estheticians" includes the use of mechanical, electrical apparatuses or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, not to exceed ten percent phenol, engages for compensation, either directly or indirectly, in any one, or any combination, of the following practices: massaging, cleansing, stimulating, manipulating, exercising, beautifying or similar work upon the scalp, face, neck, ears, arms, hands, bust, torso, legs or feet and removing superfluous hair by means other than electric needle or any other means of arching or tinting eyebrows or tinting eyelashes, of any person;

(5) "Cosmetology establishment", that part of any building wherein or whereupon any of the classified occupations are practiced;

(6) "Hairdresser", any person who, for compensation, engages in the practice of cosmetology as defined in paragraph (a) of subdivision (4) of this section;

(7) "Instructor", any person who is licensed to teach cosmetology or any practices of cosmetology pursuant to this chapter;

(8) "Manicurist", any person who, for compensation, engages in any or all of the practices in paragraph (b) of subdivision (4) of this section;

(9) "School of cosmetology" or "school of manicuring", an establishment operated for the purpose of teaching cosmetology as defined in subdivision (4) of this section.

329.040. 1. Any person of good moral character may make application to the board for a license to own a school of cosmetology on a form provided upon request by the board. Every school of cosmetology in which any of the classified occupations of cosmetology are taught shall be required to obtain a license from the board prior to opening. The license shall be issued upon approval of the application by the board, the payment of the required fees, and the applicant meets other requirements provided in this chapter. The license shall be kept posted in plain view within the school at all times.

2. A school license renewal fee shall be due on or before the renewal date of any school license issued pursuant to this section. If the school license renewal fee is not paid on or before the renewal date, a late fee shall be added to the regular school license fee.

3. No school of cosmetology shall be granted a license [under] pursuant to this chapter unless it:

(1) Employs and has present in the school a competent licensed instructor for every twenty-five students [enrolled and scheduled to be] in attendance for a given class period and one to ten additional students may be [enrolled and] in attendance with the assistance of an instructor trainee. One instructor is authorized to teach up to three instructor trainees immediately after being granted an instructor's license;

(2) Requires all students to be enrolled in a course of study of no less than three hours per day and no more than [eight] twelve hours per day with a weekly total that is no less than fifteen hours and no more than [forty-eight] seventy-two

hours;

(3) Requires for the classified occupation of cosmetologist, the course of study shall be no less than one thousand five hundred hours or, for a student in public vocational/technical school no less than one thousand two hundred twenty hours; provided that, a school may elect to base the course of study on credit hours by applying the credit hour formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The student must earn a minimum of one hundred and sixty hours or equivalent credits of classroom training before the student may perform any of the acts of the classified occupation of cosmetology on any patron or customer of the school of cosmetology;

(4) Requires for the classified occupation of manicurist, the course of study shall be no less than [three hundred and ninety hours] four hundred hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The student must earn a minimum of fifty hours or equivalent credits of classroom training before the student may perform any of the acts of the classified occupation of manicurist on any patron or customer of the school of cosmetology;

(5) Requires for the classified occupation of esthetician, the course of study shall be no less than seven hundred fifty hours or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended. The student shall earn a minimum of seventy-five hours or equivalent credits of classroom training

before the student may perform any of the acts of the classified occupation of esthetics on any patron or customer of the school of cosmetology or an esthetics school;

4. The subjects to be taught for the classified occupation of cosmetology shall be as follows and the hours required for each subject shall be not less than those contained in this subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended:

- (1) Shampooing of all kinds, forty hours;
- (2) Hair coloring, bleaches and rinses, one hundred thirty hours;
- (3) Hair cutting and shaping, one hundred thirty hours;
- (4) Permanent waving and relaxing, one hundred twenty-five hours;
- (5) Hairsetting, pin curls, fingerwaves, thermal curling, two hundred twenty-five hours;
- (6) Combouts and hair styling techniques, one hundred five hours;
- (7) Scalp treatments and scalp diseases, thirty hours;
- (8) Facials, eyebrows and arches, forty hours;
- (9) Manicuring, hand and arm massage and treatment of nails, one hundred ten hours;
- (10) Cosmetic chemistry, twenty-five hours;
- (11) Salesmanship and shop management, ten hours;
- (12) Sanitation and sterilization, thirty hours;
- (13) Anatomy, twenty hours;
- (14) State law, ten hours;

(15) Curriculum to be defined by school, not less than four hundred seventy hours.

5. The subjects to be taught for the classified occupation of manicurist shall be as follows and the hours required for each subject shall be not less than those contained in this subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended:

(1) Manicuring, hand and arm massage and treatment of nails, two hundred twenty hours;

(2) Salesmanship and shop management, twenty hours;

(3) Sanitation and sterilization, twenty hours;

(4) Anatomy, ten hours;

(5) State law, ten hours;

(6) Study of the use and application of certain chemicals, forty hours; and

(7) Curriculum to be defined by school, not less than [seventy] eighty hours.

6. The subjects to be taught for the classified occupation of esthetician shall be as follows, and the hours required for each subject shall not be less than those contained in this subsection or the credit hours determined by the formula in Subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended:

(1) Facials, cleansing, toning, massaging, one hundred twenty hours;

(2) Makeup application, all phases, one hundred hours;

(3) Hair removal, thirty hours;

- (4) Body treatments, aromatherapy, wraps, one hundred twenty hours;
- (5) Reflexology, thirty-five hours;
- (6) Cosmetic sciences, structure, condition, disorder, eighty-five hours;
- (7) Cosmetic chemistry, products and ingredients, seventy-five hours;
- (8) Salon management and salesmanship, fifty-five hours;
- (9) Sanitation and sterilization, safety, forty-five hours;
- (10) State law, ten hours; and
- (11) Curriculum to be defined by school, not less than seventy-five hours.

7. Training for all classified occupations shall include practical demonstrations, written and/or oral tests, and practical instruction in sanitation, sterilization and the use of antiseptics, cosmetics and electrical appliances consistent with the practical and theoretical requirements as applicable to the classified occupations as provided in this chapter.

8. No school of cosmetology shall operate within this state unless a proper license [under] pursuant to this chapter has first been obtained.

9. Nothing contained in this chapter shall prohibit a licensee within a cosmetology establishment from teaching any of the practices of the classified occupations for which the licensee has been licensed for not less than two years in the licensee's regular course of business, if the owner or manager of the business does not hold himself or herself out as a school and does not hire or employ or personally teach regularly at any one

and the same time, more than one apprentice to each licensee regularly employed within the owner's business, not to exceed one apprentice per establishment, and the owner, manager, or trainer does not accept any fee for instruction.

10. Each licensed school of cosmetology shall provide a minimum of two thousand square feet of floor space, adequate rooms and equipment, including lecture and demonstration rooms, lockers, an adequate library and two restrooms. The minimum equipment requirements shall be: six shampoo bowls, ten hair dryers, two master dustproof and sanitary cabinets, wet sterilizers, and adequate working facilities for twenty students.

11. Each licensed school of cosmetology for manicuring only shall provide a minimum of one thousand square feet of floor space, adequate room for theory instruction, adequate equipment, lockers, an adequate library, two restrooms and a clinical working area for ten students. Minimum floor space requirement proportionately increases with student enrollment of over ten students.

12. Each licensed school of cosmetology for esthetics only shall provide a minimum of one thousand square feet of floor space, adequate room for theory instruction, adequate equipment, lockers, an adequate library, two restrooms and a clinical working area for ten students. Minimum floor space requirement increases fifty square feet per student with student enrollment of over ten.

13. No school of cosmetology may have a greater number of students enrolled and scheduled to be in attendance for a given class period than the total floor space of that school will

accommodate. Floor space required per student shall be no less than fifty square feet per additional student beyond twenty students for a school of cosmetology, beyond ten students for a school of manicuring and beyond ten students for a school of esthetics.

14. Each applicant for a new school shall file a written application with the board upon a form approved and furnished upon request by the board. The applicant shall include a list of equipment, the proposed curriculum, and the name and qualifications of any and all of the instructors.

15. Each school shall display in a conspicuous place, visible upon entry to the school, a sign stating that all cosmetology services in this school are performed by students, who are in training.

16. Any student who wishes to remain in school longer than the required training period may make application for an additional training license and remain in school. A fee is required for such additional training license.

17. All contractual fees that a student owes to any cosmetology school shall be paid before such student may be allowed to apply for any examination required to be taken by an applicant applying for a license [under] pursuant to the provisions of this chapter.

329.050. 1. Applicants for examination or licensure [under] pursuant to this chapter shall possess the following qualifications:

(1) They must be persons of good moral character, have an education equivalent to the successful completion of the tenth

grade and be at least seventeen years of age;

(2) If the applicants are apprentices, they shall have served and completed, as an apprentice under the supervision of a licensed cosmetologist, the time and studies required by the board which shall be no less than three thousand hours for cosmetologists, and no less than seven hundred eighty hours for manicurists and no less than fifteen hundred hours for esthetics. However, when the classified occupation of manicurist is apprenticed in conjunction with the classified occupation of cosmetologist, the apprentices shall be required to successfully complete the apprenticeship of no less than a total of three thousand hours;

(3) If the applicants are students, they shall have had the required time in a licensed school of no less than one thousand five hundred hours training or the credit hours determined by the formula in subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended for the classification of cosmetologist, with the exception of public vocational technical schools in which a student shall complete no less than one thousand two hundred twenty hours training. All students shall complete no less than [three] four hundred [ninety] hours or the credit hours determined by the formula in subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended for the classification of manicurist. All students shall complete no less than seven hundred fifty hours or the credit hours determined by the formula in subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended for the classification of

esthetician. However, when the classified occupation of manicurist is taken in conjunction with the classified occupation of cosmetologist, the student shall not be required to serve the extra [three] four hundred [ninety] hours or the credit hours determined by the formula in subpart A of Part 668 of Section 668.8 of Title 34 of the Code of Federal Regulations, as amended otherwise required to include manicuring of nails; and

(4) They shall have passed an examination to the satisfaction of the board.

2. A person may apply to take the examination required by subsection 1 of this section if the person is a graduate of a school of cosmetology or apprentice program in another state or territory of the United States which has substantially the same requirements as an educational establishment licensed pursuant to this chapter.

3. Each application shall contain a statement that, subject to the penalties of making a false affidavit or declaration, the application is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the application.

4. The sufficiency of the qualifications of applicants shall be determined by the board, but the board may delegate this authority to its executive director subject to such provisions as the board may adopt.

5. For the purpose of meeting the minimum requirements for examination, training completed by a student or apprentice shall be recognized by the board for a period of no more than five years from the date it is received.

329.085. 1. Any person desiring an instructor license shall submit to the board a written application on a form supplied by the board showing that the applicant has met the requirements set forth in section 329.080. An applicant who has met all requirements as determined by the board shall be allowed to take the instructor examination, including any person who has been licensed three or more years as a cosmetologist, manicurist or esthetician. If the applicant passes the examination to the satisfaction of the board, the board shall issue to the applicant an instructor license.

2. The instructor examination fee and the instructor license fee for an instructor license shall be nonrefundable.

3. The instructor license renewal fee shall be in addition to the regular cosmetologist, esthetician or manicurist license renewal fee. For each renewal the instructor shall submit proof of having attended a teacher training seminar or workshop at least once every two years, sponsored by any university, or Missouri vocational association, or bona fide state cosmetology association specifically approved by the board to satisfy the requirement for continued training of this subsection. Renewal fees shall be due and payable on or before the renewal date and, if the fee remains unpaid thereafter in such license period, there shall be a late fee in addition to the regular fee.

4. Instructors duly licensed as physicians or attorneys or lecturers on subjects not directly pertaining to the practice [under] pursuant to this chapter need not be holders of licenses provided for in this chapter.

5. The board shall grant instructor licensure upon

application and payment of a fee equivalent to the sum of the instructor examination fee and the instructor license fee, provided the applicant establishes compliance with the cosmetology instructor requirements of another state, territory of the United States, or District of Columbia wherein the requirements are substantially equal or superior to those in force in Missouri at the time the application for licensure is filed and the applicant holds a current instructor license in the other jurisdiction at the time of making application.

6. Any person licensed as a cosmetology instructor prior to the training requirements which became effective January 1, 1979, may continue to be licensed as such, provided such license is maintained and the licensee complies with the continued training requirements as provided in subsection 3 of this section. Any person with an expired instructor license that is not restored to current status within two years of the date of expiration, shall be required to meet the training and examination requirements as provided in this section and section 329.080.

329.190. 1. The state board of cosmetology shall be composed of seven members, including one voting public member and one member who is a licensed school owner pursuant to subsection 1 of section 329.040, appointed by the governor with the advice and consent of the senate. The term of office of each member shall be four years.

2. The members of the board shall receive as compensation for their services the sum set by the board not to exceed fifty dollars for each day actually spent in attendance at meetings of the board, within the state, not to exceed forty-eight days in

any calendar year, and in addition thereto they shall be reimbursed for all necessary expenses incurred in the performance of their duties as members of the board.

3. All members, except the public member, shall be cosmetologists and manicurists duly registered as such and licensed pursuant to the laws of this state, and shall be United States citizens and shall have been residents of this state for at least one year next preceding their appointments and shall have been actively engaged in the lawful practice of cosmetology for a period of at least five years. The public member shall be at the time of the person's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure. Any member who is a school owner shall not be allowed access to the testing and examination materials nor to attend the administration of the examinations, except when such member is

being examined for licensure.

329.210. 1. The board shall have power to:

(1) Prescribe by rule for the examinations of applicants for licensure to practice the classified occupation of cosmetology and issue licenses;

(2) Prescribe by rule for the inspection of cosmetology establishments and schools and appoint the necessary inspectors and examining assistants;

(3) Prescribe by rule for the inspection of establishments and schools of cosmetology [by persons licensed in cosmetology] as to their sanitary conditions and to appoint the necessary inspectors and, if necessary, examining assistants; and set the amount of the fees which this chapter authorizes and requires, by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level sufficient to produce revenue which shall not substantially exceed the cost and expense of administering this chapter;

(4) Employ and remove board personnel, as defined in subdivision (4) of subsection 15 of section 620.010, RSMo, as may be necessary for the efficient operation of the board, within the limitations of its appropriation;

(5) Elect one of its members president, one vice president and one secretary; [and]

(6) Determine the sufficiency of the qualifications of applicants; and

(7) Prescribe by rule the minimum standards and methods of accountability for the schools of cosmetology licensed pursuant to this chapter.

2. The board shall create no expense exceeding the sum received from time to time from fees imposed pursuant to this chapter.

3. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is promulgated under the authority of this chapter, shall become effective only if the agency has fully complied with all of the requirements of chapter 536, RSMo, including but not limited to, section 536.028, RSMo, if applicable, after August 28, 1998. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed as of August 28, 1998, however nothing in this act shall be interpreted to repeal or affect the validity of any rule adopted and promulgated prior to August 28, 1998. If the provisions of section 536.028, RSMo, apply, the provisions of this section are nonseverable and if any of the powers vested with the general assembly pursuant to section 536.028, RSMo, to review, to delay the effective date, or to disapprove and annul a rule or portion of a rule are held unconstitutional or invalid, the purported grant of rulemaking authority and any rule so proposed and contained in the order of rulemaking shall be invalid and void, except that nothing in this act shall affect the validity of any rule adopted and promulgated prior to August 28, 1998.

331.032. Notwithstanding any other provision of law to the contrary, the board of chiropractic examiners may issue a temporary license to practice chiropractic as follows:

(1) To a chiropractor holding a current and unrestricted license to practice chiropractic issued pursuant to the laws of a

state other than Missouri;

(2) A temporary license issued pursuant to this section shall be valid for a maximum period of ninety days and the board shall not issue more than two temporary licenses to an applicant during any calendar year;

(3) An applicant for a temporary license shall submit to the board a complete application on a form prescribed by the board, pay an application fee as determined by rule of the board and furnish proof satisfactory to the board that the applicant meets all requirements for licensure, or examination therefor, as set forth in section 331.030;

(4) In addition to all other requirements herein, an applicant for a temporary license pursuant to this section shall include with such applicant's application the name of the chiropractic school or college from which the applicant graduated and the date of such graduation, and evidence of such applicant's current and unrestricted licensure in another state, including the number of such license and a photocopy thereof along with any other evidence deemed necessary by the board;

(5) All provisions of this chapter that apply to applicants for and holders of licenses to practice chiropractic, other than as specified in this section, shall apply to applicants for and holders of temporary licenses, including the board's authority to conduct any investigation the board considers appropriate to verify an applicant's credentials, moral character and fitness to receive a temporary license and the board's authority to take actions pursuant to the provisions of this chapter or any other provision of state law. The board of chiropractic examiners may

adopt rules the board considers necessary to implement the provisions of this section. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.

331.050. 1. All persons once licensed to practice chiropractic in this state shall pay on or before the license renewal date a renewal license fee and shall furnish to the board satisfactory evidence of the completion of the requisite number of hours, which shall not be less than twelve hours nor more than twenty-four hours per year, of postgraduate study or not less than twenty-four hours nor more than forty-eight hours if renewal occurs biennially. The postgraduate study required shall be [that presented by a college of chiropractic accredited by the Council on Chiropractic Education or] a course of study approved by the board. The requisite number of hours is to be determined by the board. The board may set the requisite number of hours between the range of twelve to twenty-four hours, but may not increase the number of hours in excess of twelve hours by more than four hours in any two-year period. The board shall give advance notice of one year to all chiropractors licensed in the state before increasing the number of required hours. The educational requirements may be waived by the board upon presentation to it of satisfactory evidence of the illness of the chiropractor or for other good cause. A notice that the renewal fee will be due on the renewal date shall, on or before the first day of the month immediately preceding the renewal date, be mailed to all chiropractors licensed in the state for more than

three months. Each practitioner of chiropractic shall display in his or her office, in a conspicuous place, his or her renewal license together with his or her original license showing that such practitioner of chiropractic is lawfully entitled to practice chiropractic. Failure of the licensee to receive the renewal form shall not relieve the licensee of the duty to renew his or her license and pay the fee required by this chapter.

2. Any licensee who allows his or her license to lapse by failing to renew the license as provided in sections 331.010 to 331.100 may be reinstated upon satisfactory explanation of such failure to renew his or her license and the payment of a reactivation fee and the current renewal fee. Any delinquent licensee who has been out of active practice for more than three years shall be required to return to an accredited chiropractic college for a semester of additional study in the clinical subjects prior to the board reviewing his or her request for reinstatement, and to pass a practical examination administered by the board.

331.090. 1. The "Missouri State Board of Chiropractic Examiners" shall consist of five chiropractors, not more than two of whom shall be graduated from the same school or college of chiropractic, and one voting public member, to be appointed by the governor, with the advice and consent of the senate, from nominees submitted by the director of the division of professional registration, for a term of five years; except that, of the chiropractic members appointed for the terms which begin in 1989, one shall be appointed for a term of three years and one for a term of four years, of the chiropractic members appointed

for the terms which begin in 1990, one shall be appointed for a term of four years and one shall be appointed for a term of five years, and the chiropractic member appointed for the term which begins in 1991 shall be appointed for a term of five years. Beginning in 2002, all successors to members shall be appointed to terms of [five years. The person appointed to fill an unexpired term shall serve for the unexpired term only] four years from the date of their appointment and until their successors have been appointed and qualified. Each member shall be limited to two full consecutive terms. A member may be removed by the governor for incompetence or improper conduct. The chiropractors shall be United States citizens and shall have been residents of this state for one year and shall have practiced chiropractic continuously for a period of at least two years prior to such appointment. No person shall be appointed to the state board of chiropractic examiners who practices any other method of healing than chiropractic as defined in this chapter. The president of the Missouri State Chiropractors Association in office at the time shall, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five chiropractors qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri State Chiropractors Association shall include in his or her letter of transmittal a description of the method by which

the names were chosen by that association.

2. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

334.021. 1. Where other statutes of this state use the terms "physician", "surgeon", "practitioner of medicine", "practitioner of osteopathy", "board of medical examiners", or "board of osteopathic registration and examination" or similar terms, they shall be construed to mean physicians and surgeons licensed under this chapter or the state board of registration for the healing arts in the state of Missouri.

2. With the exception of section 197.700, RSMo, notwithstanding any other provision of law, no health facility, health benefit plan, managed care plan, or health carrier shall discriminate with respect to employment, staff, privileges, or the provision of professional services against a physician licensed to practice the healing arts in this state on the basis

of whether the physician holds a "medical doctor", "M.D." or "doctor of osteopathy", "D.O." degree.

3. Any reference in an executive order, an administrative regulation, or in the Missouri revised statutes to "medical doctor", "M.D.", or "physician" shall be deemed to include a "doctor of osteopathy" or "D.O." unless any of those terms are specifically excluded by reference to this section. Similarly, any reference to an "osteopath", "D.O." or "physician" shall be deemed to include a "medical doctor" or "M.D.", unless any of those terms are specifically excluded by reference to this section. Similarly, any reference to a specialist shall be deemed to include those specialists accredited by either the Accreditation Council for Graduate Medical Education or the American Osteopathic Association unless specifically excluded by reference to this section.

4. The provisions of subsection 3 of this section do not apply to the makeup of boards and commissions on which an unequal number of medical doctors or osteopaths serve.

334.047. 1. On the licenses issued by the board, the board shall enter after the name of the licensee the degree to which the licensee is entitled by reason of his diploma of graduation from a professional school approved and accredited as reputable by the American Medical Association or the Liaison Committee on Medical Education or approved and accredited as reputable by the American Osteopathic Association.

2. A licensee under this chapter shall, in any letter, business card, advertisement, prescription blank[, ] or sign, [or public listing or display of any nature whatsoever,] designate

the degree to which he is entitled by reason of his diploma of graduation from a professional school approved and accredited as reputable by the American Medical Association or the Liaison Committee on Medical Education or approved and accredited as reputable by the American Osteopathic Association.

3. On licenses issued by the board to foreign trained licensees, the board may enter the degree to which the licensee is entitled based upon the nature of the licensee's education and training and the licensee shall, in any writing or display, so designate this degree.

334.625. 1. There is hereby established an "Advisory Commission for Physical Therapists" which shall guide, advise and make recommendations to the board. The commission shall approve the examination required by section 334.530 and shall assist the board in carrying out the provisions of sections 334.500 to 334.620.

2. The commission shall be appointed no later than October 1, 1989, and shall consist of five members appointed by the governor with the advice and consent of the senate. Each member shall be a citizen of the United States and a resident of this state, and shall be licensed as a physical therapist by this state. Members shall be appointed to serve three-year terms, except that the first commission appointed shall consist of one member whose term shall be for one year; two members whose terms shall be for three years; and two members whose terms shall be for two years. The president of the Missouri Physical Therapy Association in office at the time shall, at least ninety days prior to the expiration of the term of a commission member or as

soon as feasible after a vacancy on the commission otherwise occurs, submit to the director of the division of professional registration a list of five physical therapists qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Physical Therapy Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. [No member of the commission shall be entitled to any compensation for the performance of the member's official duties, but each member shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties.] Notwithstanding any other provision of law to the contrary, any appointed member of the commission shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment. All staff for the commission shall be provided by the board of healing arts.

4. The commission shall hold an annual meeting at which it shall elect from its membership a chairman and secretary. The commission may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting must be given to each member at least ten days prior to the date of the meeting. A quorum of the board shall consist of

a majority of its members.

334.720. Notwithstanding any other provision of law to the contrary, any appointed member of the board shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for board business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment.

334.749. 1. There is hereby established an "Advisory Commission for Physician Assistants" which shall guide, advise and make recommendations to the board. The commission shall also be responsible for the ongoing examination of the scope of practice and promoting the continuing role of physician assistants in the delivery of health care services. The commission shall assist the board in carrying out the provisions of sections 334.735 to 334.749.

2. The commission shall be appointed no later than October 1, 1996, and shall consist of five members, one member of the board, two licensed physician assistants, one physician and one lay member. The two licensed physician assistant members, the physician member and the lay member shall be appointed by the governor with the advice and consent of the senate. Each licensed physician assistant member shall be a citizen of the United States and a resident of this state, and shall be licensed as a physician assistant by this state. The physician member shall be a United States citizen, a resident of this state, have an active Missouri license to practice medicine in this state and shall be a supervising physician, at the time of appointment, to

a licensed physician assistant. The lay member shall be a United States citizen and a resident of this state. The licensed physician assistant members shall be appointed to serve three-year terms, except that the first commission appointed shall consist of one member whose term shall be for one year and one member whose term shall be for two years. The physician member and lay member shall each be appointed to serve a three-year term. No physician assistant member nor the physician member shall be appointed for more than two consecutive three-year terms. The president of the Missouri Academy of Physicians Assistants in office at the time shall, at least ninety days prior to the expiration of a term of a physician assistant member of a commission member or as soon as feasible after such a vacancy on the commission otherwise occurs, submit to the director of the division of professional registration a list of five physician assistants qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Academy of Physicians Assistants shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. [No member of the commission shall be entitled to any compensation for the performance of his or her official duties, but each member shall be reimbursed for necessary and actual expenses incurred in the performance of his or her official duties.] Notwithstanding any other provision of law to the contrary, any appointed member of the commission shall receive as

compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment. All staff for the commission shall be provided by the state board of registration for the healing arts.

4. The commission shall hold an open annual meeting at which time it shall elect from its membership a chairman and secretary. The commission may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least ten days prior to the date of the meeting. A quorum of the commission shall consist of a majority of its members.

5. On August 28, 1998, all members of the advisory commission for registered physician assistants shall become members of the advisory commission for physician assistants and their successor shall be appointed in the same manner and at the time their terms would have expired as members of the advisory commission for registered physician assistants.

334.870. An applicant for a license to practice respiratory care may be issued a license which is valid until the expiration date as determined by the board after the following requirements have been met:

- (1) The applicant submits to the board:
  - (a) A completed application for licensure;
  - (b) Written evidence of:
    - a. Credentials from the certifying entity; or

b. Current licensure or registration as a respiratory care practitioner in another state, the District of Columbia or territory of the United States which requires standards for licensure or registration determined by the board to be equivalent to, or exceed, the requirements for licensure under sections 334.800 to 334.930;

(c) Payment of any required fees;

(2) The board requests and receives a complete background check and other information as may be deemed necessary to fulfill sections 334.800 to 334.910[.];

(3) An applicant who has completed the requirements of subdivision (1) of this section and has submitted the necessary information for the background check pursuant to subdivision (2) of this section may obtain a conditional license to practice as a respiratory care practitioner pending the outcome of the background check subject to the following restrictions:

(a) The conditional license shall only be issued if the applicant has made a prima facie showing that he or she meets all of the requirements for full licensure;

(b) The conditional license shall only be effective until the board has had an opportunity to investigate the applicant's qualifications for licensure pursuant to subdivisions (1) and (2) of this section and to notify the applicant that his or her application for licensure has been granted or denied;

(c) If the applicant provides false or misleading information to the board, the board may automatically terminate the conditional license. If the board automatically terminates a conditional license, the board shall notify the holder of the

board's decision by certified mail or personal service;

(d) In no event shall such conditional license be in effect for more than twelve months after the date of its issuance;

(e) A conditional license shall not be eligible for renewal; and

(f) No fee shall be charged for issuing a conditional license.

334.880. 1. A license issued pursuant to sections 334.800 to 334.930 shall be renewed biennially, except as provided in sections 334.800 to 334.930. The board shall mail a notice to each person licensed during the preceding licensing period at least thirty calendar days prior to the expiration date of the license. The board shall not renew any license unless the licensee shall provide satisfactory evidence of having complied with the board's minimum requirements for continuing education.

2. [A respiratory care practitioner may choose not to renew such person's license and allow such practitioner's licensure to lapse, or may ask to be put on inactive status, provided such person does not practice respiratory care during such period that the licensure is lapsed or the practitioner is on inactive status. If after sixty days a person with a lapsed license desires to resume the practice of respiratory care, the person shall apply for licensure under the licensing requirements in effect at the time the person applies to resume the practice of respiratory care and pay the required fee as established by the board. If the person wants to maintain such person's licensure on an inactive status and in order to avoid lapsing of such license, the person shall maintain continuing education and pay

the required fee as established by the board for maintaining an inactive license.] Failure of a licensee to renew his or her license prior to the expiration of the license shall result in the lapse of the license. A lapsed license may be reinstated by the board as provided by rule.

3. Each licensee may, in lieu of submitting proof of the completion of the required continuing education course, apply for an inactive license at the time of renewal and pay the required inactive fee. An inactive license shall be renewed biennially. An inactive license may be reactivated by the board as provided by rule.

4. Any person who practices as a respiratory care practitioner during the time his or her license is inactive or lapsed shall be considered an illegal practitioner and shall be subject to the penalties for violation of the respiratory care practice act.

334.890. 1. If an applicant submits an application, pays the required fees and provides documentation that the [person] applicant is enrolled in a nationally accredited respiratory care educational program and the board completes a background check, an applicant may be issued [a temporary] an educational permit to practice respiratory care [for a period] during the applicant's course of study and up to a period of [eighteen] six months after the date the applicant graduates from the program. If the holder of [a temporary] an educational permit issued pursuant to this [subsection] section discontinues courseware in the program prior to graduation, such holder's [temporary] educational permit shall be automatically revoked.

2. If an applicant graduates from a nationally accredited respiratory care educational program but does not obtain an educational permit during his or her course of study, then upon graduation the applicant may apply to the board for a temporary permit. If an applicant submits an application to the board, pays the required fees and the board completes a background check, the board may issue a one-time temporary permit to practice respiratory care for a period of six months from the date the applicant graduated from a nationally accredited respiratory care educational program. Temporary permits issued to applicants pursuant to this section shall automatically expire six months after the date the applicant graduated from a nationally accredited respiratory care education program or upon issuance or denial of a respiratory care practitioner license by the board, whichever first occurs.

3. If an applicant submits an application to the board, pays the required fees and the board completes a background check, the board may issue a one-time temporary permit to practice respiratory care for a period of [eighteen] six months from the date the [person applies] temporary permit is issued by the board. Such temporary permit shall [terminate] automatically expire at the end of the [eighteen-month] six-month period[, or at the time the holder of such temporary permit applies for a temporary educational permit issued pursuant to subsection 1 of this section] or upon issuance of a denial of a respiratory care practitioner license by the board, whichever first occurs. The board may issue the temporary permit provided by this [subsection] section if the applicant:

(1) [The applicant submits an application to the board and pays the required fees and:

(a)] Is a veteran of the United States military services and such applicant has a minimum of six months respiratory care experience during the previous eighteen months as a member of the military and such experience is verified; or

[(b) Such applicant has been performing the duties of a respiratory care practitioner in this state, any other state, the District of Columbia or territory of the United States, as defined in section 334.800, for the previous twelve months; or

(c) Is a graduate of a nationally accredited respiratory care educational program; and

(2) The board completes a background check.

3.] (2) Is duly licensed as a respiratory care practitioner pursuant to the laws of another state, the District of Columbia or territory of the United States, and submits an application for licensure as a respiratory care practitioner in this state.

4. The holder of an educational or a temporary permit [as provided by this section to practice respiratory care in this state] may only perform and provide such services of a respiratory care practitioner, as defined in section 334.800, under the direct clinical supervision of a person licensed as a respiratory care practitioner in this state as set forth by rule. The holder of a current and valid educational permit or temporary permit[, issued pursuant to this section,] may not represent himself or herself as a respiratory care practitioner, use the title [or term of] respiratory care practitioner or use the

abbreviation [of] "R.C.P.". Any holder of an educational permit or a temporary permit [issued pursuant to this section] shall show such permit upon request.

5. An applicant who completes the requirements of subsections 1 to 3 of this section and submits the necessary information for the background check required by this section may obtain a conditional permit to practice respiratory care in accordance with the provisions of sections 334.800 to 334.910 pending the outcome of the background check subject to the following restrictions:

(1) The conditional permit shall only be issued if the applicant has made a prima facie showing that he or she meets all of the requirements for an educational permit or temporary permit;

(2) The conditional permit shall only be effective until the board has had an opportunity to investigate the applicant's qualifications to hold a permit pursuant to subsections 1 to 3 of this section and to notify the applicant that his or her application for an educational or temporary permit has been granted or denied;

(3) If the applicant provides false or misleading information to the board, the board may automatically terminate the conditional permit. If the board automatically terminates a conditional permit, the board shall notify the holder of the board's decision by certified mail or personal service;

(4) In no event shall such conditional permit be in effect for more than twelve months after the date of its issuance;

(5) A conditional permit shall not be renewed; and

(6) No fee shall be charged for issuing a conditional permit.

337.612. 1. Applications for licensure as a clinical social worker shall be in writing, submitted to the committee on forms prescribed by the committee and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience, and such other information as the committee may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The committee shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the committee with the information required for licensure, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the licensure renewal date. The license shall be restored if, within two years of the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the committee, upon payment of a fee.

4. The committee shall set the amount of the fees which sections 337.600 to 337.639 authorize and require by rules and

regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.600 to 337.639. All fees provided for in sections 337.600 to 337.639 shall be collected by the director who shall deposit the same with the state treasurer in a fund to be known as the "Clinical Social Workers Fund".

5. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriations from the clinical social workers fund for the preceding fiscal year or, if the committee requires by rule renewal less frequently than yearly, then three times the appropriation from the committee's fund for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the clinical social workers fund for the preceding fiscal year.

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

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

(2) The applicant has twenty-four months of supervised clinical experience acceptable to the committee, as defined by rule;

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

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

2. Any person not a resident of this state holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same requirements as this state for clinical social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.612.

3. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.600 to 337.639 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subdivisions (1) to ~~[(3)]~~ (4) of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a provisional clinical social worker license to any applicant who meets all requirements of subdivisions (1) ~~[and]~~, (3) and (4) of subsection 1 of this section, but who has not completed the twenty-four months of supervised clinical experience required by subdivision

(2) of subsection 1 of this section, and such applicant may reapply for licensure as a clinical social worker upon completion of the twenty-four months of supervised clinical experience.

337.618. Each license issued pursuant to the provisions of sections 337.600 to 337.639 shall expire on a renewal date established by the director. The term of licensure shall be twenty-four months; however, the director may establish a shorter term for the first licenses issued pursuant to [this act] sections 337.600 to 337.639 in accordance with the provisions of subsection 14 of section 620.010, RSMo. The committee may require a specified number of continuing education units for renewal of a license issued pursuant to sections 337.600 to 337.639. The committee shall renew any license upon application for a renewal, completion of any required continuing education and upon payment of the fee established by the committee pursuant to the provisions of section 337.612.

337.622. 1. There is hereby established the "State Committee for Social Workers", which shall guide, advise, and make recommendations to the division and fulfill other responsibilities designated by sections 337.600 to 337.649 and sections 337.650 to 337.689. The committee shall approve any examination required by sections 337.600 to 337.649 and sections 337.650 to 337.689 and shall assist the division in carrying out the provisions of sections 337.600 to 337.649 and sections 337.650 to 337.689.

2. The committee shall consist of [seven] nine members, including a public member appointed by the governor with the advice and consent of the senate. Each member of the committee

shall be a citizen of the United States and a resident of this state. The committee shall consist of six licensed clinical social workers, two licensed baccalaureate social workers and one voting public member. At least two committee members shall be involved in the private practice of clinical social work. Any person who is a member of any clinical social worker advisory committee appointed by the director of the division of professional registration shall be eligible for appointment to the state committee for social work on August 28, 1997. The governor shall endeavor to appoint members from different geographic regions of the state and with regard to the pattern of distribution of social workers in the state. The term of office for committee members shall be four years and no committee member shall serve more than ten years. Of the members first appointed, the governor shall appoint [two] three members, one of whom shall be the public member, whose terms shall be four years; [two] three members whose terms shall be three years; two members whose terms shall be two years; and one member whose term shall be one year. The president of the National Association of Social Workers Missouri Chapter in office at the time shall, at least ninety days prior to the expiration of a term of a member of a clinical social worker or baccalaureate social worker committee member[, other than the public member,] or as soon as feasible after a vacancy on the committee otherwise occurs, submit to the director of the division of professional registration a list of five clinical social workers qualified or five baccalaureate social workers and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of

the five persons in each category so listed, and with the list so submitted, the president of the National Association of Social Workers Missouri Chapter shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. A vacancy in the office of a member shall be filled by appointment by the governor for the remainder of the unexpired term.

4. Notwithstanding any other provision of law to the contrary, any appointed member of the committee shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for committee business plus each member of the committee shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties. The director of the division of professional registration shall establish by rule guidelines for payment. All staff for the committee shall be provided by the division.

5. The committee shall hold an annual meeting at which it shall elect from its membership a chairperson and a secretary. The committee may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting must be given to each member at least three days prior to the date of the meeting. A quorum of the board shall consist of a majority of its members.

6. The governor may remove a committee member for misconduct, incompetency or neglect of the member's official duties after giving the committee member written notice of the

charges against such member and an opportunity to be heard thereon.

7. The public member shall be at the time of such member's appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 337.600 to 337.649 or sections 337.650 to 337.689, or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 337.600 to 337.649 or sections 337.650 to 337.689, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 337.600 to 337.649. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

337.650. As used in sections 337.650 to 337.689, the following terms mean:

(1) "Committee", the state committee for social work established in section 337.622;

(2) "Department", the Missouri department of economic development;

(3) "Director", the director of the division of professional registration in the department of economic development;

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

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

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

(7) "Provisional licensed baccalaureate social worker", any person who is a graduate of an accredited school of social work and meets all requirements of a licensed baccalaureate social worker, other than the supervised baccalaureate social work experience prescribed by subdivision (3) of subsection 1 of section 337.665, and who is supervised by a licensed clinical social worker or a licensed baccalaureate social worker, as defined by rule.

337.653. 1. No person shall use the title of "licensed baccalaureate social worker", or "provisional licensed baccalaureate social worker" and engage in the practice of baccalaureate social work in this state unless the person is licensed as required by the provisions of sections 337.650 to 337.689.

2. A licensed baccalaureate social worker may:

(1) Engage in psychosocial assessment and evaluation, excluding the diagnosis and treatment of mental illness and emotional disorders;

(2) Conduct basic data gathering of records and social problems of individuals, groups, families and communities, assess such data, and formulate and implement a plan to achieve specific goals;

(3) Serve as an advocate for clients, families, groups or communities for the purpose of achieving specific goals;

(4) Counsel, excluding psychotherapy;

(5) Perform crisis intervention, screening and resolution, excluding the use of psychotherapeutic techniques;

(6) Be a community supporter, organizer, planner or administrator for a social service program;

(7) Conduct crisis planning ranging from disaster relief planning for communities to helping individuals prepare for the death or disability of family members;

(8) Inform and refer clients to other professional services;

(9) Perform case management and outreach, including but not limited to planning, managing, directing or coordinating social services; and

(10) Engage in the training and education of social work students from an accredited institution and supervise other licensed baccalaureate social workers.

3. A licensed baccalaureate social worker shall not engage in the private practice of clinical social work.

337.659. No provision of sections 337.650 to 337.689 shall

be construed to require any agency, corporation or organization, not otherwise required by law, to employ licensed baccalaureate social workers.

337.662. 1. Applications for licensure as a baccalaureate social worker shall be in writing, submitted to the committee on forms prescribed by the committee and furnished to the applicant. The application shall contain the applicant's statements showing the applicant's education, experience and such other information as the committee may require. Each application shall contain a statement that it is made under oath or affirmation and that the information contained therein is true and correct to the best knowledge and belief of the applicant, subject to the penalties provided for the making of a false affidavit or declaration. Each application shall be accompanied by the fees required by the committee.

2. The committee shall mail a renewal notice to the last known address of each licensee prior to the licensure renewal date. Failure to provide the committee with the information required for licensure, or to pay the licensure fee after such notice shall effect a revocation of the license after a period of sixty days from the licensure renewal date. The license shall be restored if, within two years of the licensure date, the applicant provides written application and the payment of the licensure fee and a delinquency fee.

3. A new certificate to replace any certificate lost, destroyed or mutilated may be issued subject to the rules of the committee, upon payment of a fee.

4. The committee shall set the amount of the fees which

sections 337.650 to 337.689 authorize and require by rules and regulations promulgated pursuant to chapter 536, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 337.650 to 337.689. All fees provided for in sections 337.650 to 337.689 shall be collected by the director who shall deposit the same with the state treasurer in the clinical social workers fund established in section 337.612.

337.665. 1. Each applicant for licensure as a baccalaureate social worker shall furnish evidence to the committee that:

(1) The applicant has a baccalaureate degree in social work from an accredited social work degree program approved by the council of social work education;

(2) The applicant has achieved a passing score, as defined by the committee, on an examination approved by the committee. The eligibility requirements for such examination shall be determined by the state committee for social work;

(3) The applicant has completed three thousand hours of supervised baccalaureate experience with a licensed clinical social worker or licensed baccalaureate social worker in no less than twenty-four and no more than forty-eight consecutive calendar months;

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

(5) The applicant has submitted a written application on forms prescribed by the state board;

(6) The applicant has submitted the required licensing fee, as determined by the division.

2. Any applicant who answers in the affirmative to any question on the application that relates to possible grounds for denial of licensure pursuant to section 337.680 shall submit a sworn affidavit setting forth in detail the facts which explain such answer and copies of appropriate documents related to such answer.

3. Any person not a resident of this state holding a valid unrevoked and unexpired license, certificate or registration from another state or territory of the United States having substantially the same requirements as this state for baccalaureate social workers may be granted a license to engage in the person's occupation in this state upon application to the committee accompanied by the appropriate fee as established by the committee pursuant to section 337.662.

4. The committee shall issue a license to each person who files an application and fee as required by the provisions of sections 337.650 to 337.689 and who furnishes evidence satisfactory to the committee that the applicant has complied with the provisions of subsection 1 of this section or with the provisions of subsection 2 of this section. The committee shall issue a one-time provisional baccalaureate social worker license to any applicant who meets all requirements of subdivisions (1), (2), (4), (5) and (6) of subsection 1 of this section, but who has not completed the supervised baccalaureate experience

required by subdivision (3) of subsection 1 of this section, and such applicant may apply for licensure as a baccalaureate social worker upon completion of the supervised baccalaureate experience.

337.668. The term of each license issued pursuant to the provisions of sections 337.650 to 337.689 shall be no less than twenty-four and no more than forty-eight consecutive calendar months. All licensees shall annually complete fifteen hours of continuing education units. The committee shall renew any license, other than a provisional license, upon application for a renewal, submission of documentation of the completion of the required annual hours of continuing education and payment of the fee established by the committee pursuant to the provisions of section 337.662.

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

337.674. No part of this section or of chapter 354 or 375, RSMo, shall be construed to mandate benefits or third-party reimbursement for services of social workers in the policies or contracts of any insurance company, health services corporation, or other third-party payer.

337.677. 1. The committee shall promulgate rules and regulations pertaining to:

(1) The form and content of license applications required by the provisions of sections 337.650 to 337.689 and the procedures for filing an application for an initial or renewal license in this state;

(2) Fees required by the provisions of sections 337.650 to 337.689;

(3) The characteristics of "supervised baccalaureate experience" as that term is used in section 337.665;

(4) The standards and methods to be used in assessing competency as a licensed baccalaureate social worker, including the requirement for annual continuing education units;

(5) Establishment and promulgation of procedures for investigating, hearing and determining grievances and violations occurring pursuant to the provisions of sections 337.650 to 337.689;

(6) Development of an appeal procedure for the review of decisions and rules of administrative agencies existing pursuant to the constitution or laws of this state;

(7) Establishment of a policy and procedure for reciprocity with other states, including states which do not have baccalaureate or clinical social worker licensing laws or states whose licensing laws are not substantially the same as those of this state; and

(8) Any other policies or procedures necessary to the fulfillment of the requirements of sections 337.650 to 337.689.

2. No rule or portion of a rule promulgated pursuant to the authority of sections 337.650 to 337.689 shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

337.680. 1. The committee may refuse to issue or renew any license required by the provisions of sections 337.650 to 337.689 for one or any combination of causes stated in subsection 2 of

this section. The committee shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections 337.650 to 337.689 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to engage in the occupation of baccalaureate social work; except that the fact that a person has undergone treatment for past substance or alcohol abuse and/or has participated in a recovery program, shall not by itself be cause for refusal to issue or renew a license;

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a baccalaureate social worker; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of

sections 337.650 to 337.689 or in obtaining permission to take any examination given or required pursuant to the provisions of sections 337.650 to 337.689;

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

(5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a baccalaureate social worker;

(6) Violation of, or assisting or enabling any person to violate, any provision of sections 337.650 to 337.689, or of any lawful rule or regulation adopted pursuant to sections 337.650 to 337.689;

(7) Impersonation of any person holding a license or allowing any person to use the person's license or diploma from any school;

(8) Revocation or suspension of a license or other right to practice baccalaureate social work granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Final adjudication as incapacitated by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice baccalaureate social work who is not licensed and currently eligible to practice pursuant to the provisions of sections 337.650 to 337.689;

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

(12) Failure to display a valid license if so required by sections 337.650 to 337.689 or any rule promulgated hereunder;

(13) Violation of any professional trust or confidence;

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

(15) Being guilty of unethical conduct based on the code of ethics of the National Association of Social Workers.

3. Any person, organization, association or corporation who reports or provides information to the committee pursuant to the provisions of sections 337.650 to 337.689 and who does so in good faith shall not be subject to an action for civil damages as a result thereof.

4. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2 of this section, for disciplinary action are met, the committee may censure or place the person named in the complaint on probation on such terms and conditions as the committee deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license.

337.683. 1. Violation of any provision of sections 337.650 to 337.689 shall be a class B misdemeanor.

2. All fees or other compensation received for services which are rendered in violation of sections 337.650 to 337.689 shall be refunded.

3. The department on behalf of the committee may sue in its

own name in any court in this state. The department shall inquire as to any violations of sections 337.650 to 337.689, may institute actions for penalties herein prescribed, and shall enforce generally the provisions of sections 337.650 to 337.689.

4. Upon application by the committee, the attorney general may on behalf of the committee request that a court of competent jurisdiction grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

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

(2) Engaging in any practice of business authorized by a certificate of registration or authority, permit or license issued pursuant to sections 337.650 to 337.689 upon a showing that the holder presents a substantial probability of serious harm to the health, safety or welfare of any resident of this state or client or patient of the licensee.

5. Any action brought pursuant to the provisions of this section shall be commenced either in the county in which such conduct occurred or in the county in which the defendant resides.

6. Any action brought pursuant to this section may be in addition to or in lieu of any penalty provided by sections 337.650 to 337.689 and may be brought concurrently with other actions to enforce the provisions of sections 337.650 to 337.689.

337.686. Persons licensed pursuant to the provisions of

sections 337.650 to 337.689 may not disclose any information acquired from persons consulting them in their professional capacity, or be compelled to disclose such information except:

(1) With the written consent of the client, or in the case of the client's death or disability, the client's personal representative or other person authorized to sue, or the beneficiary of an insurance policy on the client's life, health or physical condition;

(2) When such information pertains to a criminal act;

(3) When the person is a child under the age of eighteen years and the information acquired by the licensee indicated that the child was the victim of a crime;

(4) When the person waives the privilege by bringing charges against the licensee;

(5) When the licensee is called upon to testify in any court or administrative hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of clients of the licensee; or

(6) When the licensee is collaborating or consulting with professional colleagues or an administrative superior on behalf of the client.

337.689. Nothing in sections 337.650 to 337.689 shall be construed to prohibit any person licensed pursuant to the provisions of sections 337.650 to 337.689 from testifying in court hearings concerning matters of adoption, adult abuse, child abuse, child neglect, or other matters pertaining to the welfare of children or any dependent person, or from seeking collaboration or consultation with professional colleagues or

administrative supervisors on behalf of the client.

339.090. The commission may prescribe necessary rules and regulations pursuant to chapter 536, RSMo, to provide for the licensure of nonresidents. Such rules shall require the nonresident to pay a fee [equal to the fee a Missouri resident would have to pay in the nonresident's state, for licensure in that state,] and may provide for licensure without examination if such reciprocity is extended to Missouri residents.

345.080. 1. There is hereby established an "Advisory Commission for Speech-Language Pathologists and Audiologists" which shall guide, advise and make recommendations to the board. The commission shall approve the examination required by section 345.050, and shall assist the board in carrying out the provisions of sections 345.010 to 345.075.

2. After August 28, 1997, the commission shall consist of seven members, one of whom shall be a voting public member, appointed by the board of registration for the healing arts. Each member shall be a citizen of the United States and a resident of this state. Three members of the commission shall be licensed speech-language pathologists and three members of the commission shall be licensed audiologists. The public member shall be at the time of appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to sections 345.010 to 345.080 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by

sections 345.010 to 345.080, or an activity or organization directly related to any profession licensed or regulated pursuant to sections 345.010 to 345.080. Members shall be appointed to serve three-year terms, except as provided in this subsection. Each member of the advisory commission for speech pathologists and clinical audiologists on August 28, 1995, shall become a member of the advisory commission for speech-language pathologists and clinical audiologists and shall continue to serve until the term for which the member was appointed expires. Each member of the advisory commission for speech-language pathologists and clinical audiologists on August 28, 1997, shall become a member of the advisory commission for speech-language pathologists and audiologists and shall continue to serve until the term for which the member was appointed expires. The first public member appointed pursuant to this subsection shall be appointed for a two-year term and the one additional member appointed pursuant to this subsection shall be appointed for a full three-year term. No person shall be eligible for reappointment who has served as a member of the advisory commission for speech pathologists and audiologists or as a member of the commission as established on August 28, 1995, for a total of six years. The membership of the commission shall reflect the differences in levels of education, work experience and geographic residence. The president of the Missouri Speech, Hearing and Language Association in office at the time shall, at least ninety days prior to the expiration of a term of a member of a commission member, other than the public member, or as soon as feasible after a vacancy on the commission otherwise occurs,

submit to the director of the division of professional registration a list of five persons qualified and willing to fill the vacancy in question, with the request and recommendation that the board of registration for the healing arts appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Speech, Hearing and Language Association shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. [No member of the commission shall be entitled to any compensation for the performance of the member's official duties, but each shall be reimbursed for necessary and actual expenses incurred in the performance of the member's official duties.] Notwithstanding any other provision of law to the contrary, any appointed member of the commission shall receive as compensation an amount established by the director of the division of professional registration not to exceed seventy dollars per day for commission business plus actual and necessary expenses. The director of the division of professional registration shall establish by rule guidelines for payment. All staff for the commission shall be provided by the board of registration for the healing arts.

4. The commission shall hold an annual meeting at which it shall elect from its membership a chairman and secretary. The commission may hold such additional meetings as may be required in the performance of its duties, provided that notice of every meeting shall be given to each member at least ten days prior to the date of the meeting. A quorum of the commission shall

consist of a majority of its members.

5. The board of registration for the healing arts may remove a commission member for misconduct, incompetency or neglect of the member's official duties after giving the member written notice of the charges against such member and an opportunity to be heard thereon.

620.010. 1. There is hereby created a "Department of Economic Development" to be headed by a director appointed by the governor, by and with the advice and consent of the senate. All of the general provisions, definitions and powers enumerated in section 1 of the Omnibus State Reorganization Act of 1974 shall continue to apply to this department and its divisions, agencies and personnel.

2. The office of director of the department of business and administration, chapter 35, RSMo, and others, is abolished and all powers, duties, personnel and property of that office, not previously reassigned by executive reorganization plan no. 1 of 1973 as submitted by the governor pursuant to chapter 26, RSMo, are transferred by type I transfer to the director of the department of economic development. The department of business and administration is hereby abolished.

3. The duties and responsibilities relating to subsection 2 of section 35.010, RSMo, are transferred by type I transfer to the personnel division, office of administration.

4. The powers, duties and functions vested in the public service commission, chapters 386, 387, 388, 389, 390, 392, and 393, RSMo, and others, and the administrative hearing commission, sections 621.015 to 621.198, RSMo, and others, are transferred by

type III transfers, and the state banking board, chapter 361, RSMo, and others, and the savings and loan commission, chapter 369, RSMo, and others, are transferred by type II transfers to the department of economic development. The director of the department is directed to provide and coordinate staff and equipment services to these agencies in the interest of facilitating the work of the bodies and achieving optimum efficiency in staff services common to all the bodies. Nothing in the Reorganization Act of 1974 shall prevent the chairman of the public service commission from presenting additional budget requests or from explaining or clarifying its budget requests to the governor or general assembly.

5. The powers, duties and functions vested in the office of the public counsel are transferred by type III transfer to the department of economic development. Funding for the general counsel's office shall be by general revenue.

6. The public service commission is authorized to employ such staff as it deems necessary for the functions performed by the general counsel other than those powers, duties and functions relating to representation of the public before the public service commission.

7. There is hereby created a "Division of Credit Unions" in the department of economic development, to be headed by a director, nominated by the department director and appointed by the governor with the advice and consent of the senate. All the powers, duties and functions vested in the state supervisor of credit unions in chapter 370, RSMo, and the powers and duties relating to credit unions vested in the commissioner of finance

in chapter 370, RSMo, are transferred to the division of credit unions of the department of economic development, by a type II transfer, and the office of the state supervisor of credit unions is abolished. The salary of the director of the division of credit unions shall be set by the director of the department within the limits of the appropriations therefor. The director of the division shall assume all the duties and functions of the state supervisor of credit unions and the commissioner of finance only where the director has duties and responsibilities relating to credit unions as set out in chapter 370, RSMo.

8. The powers, duties and functions vested in the division of finance, chapters 361, 362, 364, 365, 367, and 408, RSMo, and others, are transferred by type II transfer to the department of economic development. There shall be a director of the division who shall be nominated by the department director and appointed by the governor with the advice and consent of the senate.

9. All the powers, duties and functions vested in the director of the division of savings and loan supervision in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, or by any other provision of law are transferred to the division of finance of the department of economic development by a type I transfer. The position of the director of the division of savings and loan supervision is hereby abolished. The director of the division of finance shall assume all the duties and functions of the director of the division of savings and loan supervision as provided in chapter 369, RSMo, sections 443.700 to 443.712, RSMo, and by any other provision of law. The division of savings and loan is hereby abolished. The powers of the savings and loan commission

are hereby limited to hearing appeals from decisions of the director of the division of finance approving or denying applications to incorporate savings and loan associations or to establish branches of savings and loan associations and approving regulations pertaining to savings and loan associations. Any appeals shall be held in accordance with section 369.319, RSMo.

10. On and after August 28, 1990, the status of the division is modified under a specific type transfer pursuant to section 1 of the Omnibus Reorganization Act of 1974. The status of the division is modified from that of a division transferred to the department of economic development pursuant to a type II transfer, as provided for in this section, to that of an agency possessing the characteristics of a division transferred pursuant to a type III transfer; provided, however, that the division will remain within the department of economic development. The division of insurance shall be assigned to the department of economic development as a type III division, and the director of the department of economic development shall have no supervision, authority or control over the actions or decisions of the director of the division. All authority, records, property, personnel, powers, duties, functions, matter pending and all other pertinent vestiges pertaining thereto shall be retained by the division except as modified by this section. If the division of insurance becomes a department by operation of a constitutional amendment, the department of economic development shall continue until December 31, 1991, to provide at least the same assistance as was provided in previous fiscal years for personnel, data processing support and other benefits from

appropriations.

11. All the powers, duties and functions of the commerce and industrial development division and the industrial development commission, chapters 184 and 255, RSMo, and others, not otherwise transferred, are transferred by type I transfer to the department of economic development, and the industrial development commission is abolished. All powers, duties and functions of the division of commerce and industrial development and the division of community development are transferred by a type I transfer to the department of economic development, and the division of commerce and industrial development and the division of community development are abolished.

12. All the powers, duties and functions vested in the tourism commission, chapter 258, RSMo, and others, are transferred to the "Division of Tourism", which is hereby created, by type III transfer.

13. All the powers, duties and functions of the department of community affairs, chapter 251, RSMo, and others, not otherwise assigned, are transferred by type I transfer to the department of economic development, and the department of community affairs is abolished. The director of the department of economic development may assume all the duties of the director of community affairs or may establish within the department such subunits and advisory committees as may be required to administer the programs so transferred. The director of the department shall appoint all members of such committees and heads of subunits.

14. (1) There is hereby established a "Division of

Professional Registration" assigned to the department of economic development as a type III division, headed by a director appointed by the [director of the department] governor with the advice and consent of the senate.

(2) The director of the division of professional registration shall promulgate rules and regulations which designate for each board or commission assigned to the division the renewal date for licenses or certificates. After the initial establishment of renewal dates, no director of the division shall promulgate a rule or regulation which would change the renewal date for licenses or certificates if such change in renewal date would occur prior to the date on which the renewal date in effect at the time such new renewal date is specified next occurs. Each board or commission shall by rule or regulation establish licensing periods of one, two, or three years. Registration fees set by a board or commission shall be effective for the entire licensing period involved, and shall not be increased during any current licensing period. Persons who are required to pay their first registration fees shall be allowed to pay the pro rata share of such fees for the remainder of the period remaining at the time the fees are paid. Each board or commission shall provide the necessary forms for initial registration, and thereafter the director may prescribe standard forms for renewal of licenses and certificates. Each board or commission shall by rule and regulation require each applicant to provide the information which is required to keep the board's records current. Each board or commission shall issue the original license or certificate.

(3) The division shall provide clerical and other staff services relating to the issuance and renewal of licenses for all the professional licensing and regulating boards and commissions assigned to the division. The division shall perform the financial management and clerical functions as they each relate to issuance and renewal of licenses and certificates. "Issuance and renewal of licenses and certificates" means the ministerial function of preparing and delivering licenses or certificates, and obtaining material and information for the board or commission in connection with the renewal thereof. It does not include any discretionary authority with regard to the original review of an applicant's qualifications for licensure or certification, or the subsequent review of licensee's or certificate holder's qualifications, or any disciplinary action contemplated against the licensee or certificate holder. The division may develop and implement microfilming systems and automated or manual management information systems.

(4) The director of the division shall establish a system of accounting and budgeting, in cooperation with the director of the department, the office of administration, and the state auditor's office, to ensure proper charges are made to the various boards for services rendered to them. The general assembly shall appropriate to the division and other state agencies from each board's funds, moneys sufficient to reimburse the division and other state agencies for all services rendered and all facilities and supplies furnished to that board.

(5) For accounting purposes, the appropriation to the division and to the office of administration for the payment of

rent for quarters provided for the division shall be made from the "Professional Registration Fees Fund", which is hereby created, and is to be used solely for the purpose defined in subdivision (4) of subsection 14 of this section. The fund shall consist of moneys deposited into it from each board's fund. Each board shall contribute a prorated amount necessary to fund the division for services rendered and rent based upon the system of accounting and budgeting established by the director of the division as provided in subdivision (4) of this subsection. Transfers of funds to the professional registration fees fund shall be made by each board on July first of each year; provided, however, that the director of the division may establish an alternative date or dates of transfers at the request of any board. Such transfers shall be made until they equal the prorated amount for services rendered and rent by the division. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue.

(6) The director of the division shall be responsible for collecting and accounting for all moneys received by the division or its component agencies. Any money received by a board or commission shall be promptly given, identified by type and source, to the director. The director shall keep a record by board and state accounting system classification of the amount of revenue the director receives. The director shall promptly transmit all receipts to the department of revenue for deposit in the state treasury to the credit of the appropriate fund. The director shall provide each board with all relevant financial

information in a timely fashion. Each board shall cooperate with the director by providing necessary information.

(7) All educational transcripts, test scores, complaints, investigatory reports, and information pertaining to any person who is an applicant or licensee of any agency assigned to the division of professional registration by statute or by the department of economic development are confidential and may not be disclosed to the public or any member of the public, except with the written consent of the person whose records are involved. The agency which possesses the records or information shall disclose the records or information if the person whose records or information is involved has consented to the disclosure. Each agency is entitled to the attorney-client privilege and work-product privilege to the same extent as any other person. Provided, however, that any board may disclose confidential information without the consent of the person involved in the course of voluntary interstate exchange of information, or in the course of any litigation concerning that person, or pursuant to a lawful request, or to other administrative or law enforcement agencies acting within the scope of their statutory authority. Information regarding identity, including names and addresses, registration, and currency of the license of the persons possessing licenses to engage in a professional occupation and the names and addresses of applicants for such licenses is not confidential information.

15. (1) The division of registration and examination, department of education, within chapter 161, RSMo, and others, is abolished and the following boards and commissions are

transferred by specific type transfers to the division of professional registration, department of economic development: state board of accountancy, chapter 326, RSMo; state board of barber examiners, chapter 328, RSMo; state board of registration for architects, professional engineers and land surveyors, chapter 327, RSMo; state board of chiropractic examiners, chapter 331, RSMo; state board of cosmetology, chapter 329, RSMo; state board of healing arts, chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of embalmers and funeral directors, chapter 333, RSMo; state board of optometry, chapter 336, RSMo; state board of nursing, chapter 335, RSMo; board of pharmacy, chapter 338, RSMo; state board of podiatry, chapter 330, RSMo; Missouri real estate commission, chapter 339, RSMo; and Missouri veterinary medical board chapter 340, RSMo. The governor shall appoint members of these boards by and with the advice and consent of the senate from nominees submitted by the director of the department.

(2) The boards and commissions assigned to the division shall exercise all their respective statutory duties and powers, except those clerical and other staff services involving collecting and accounting for moneys and financial management relating to the issuance and renewal of licenses, which services shall be provided by the division, within the appropriation therefor.

All clerical and other staff services relating to the issuance and renewal of licenses of the individual boards and commissions are abolished. All clerical and other staff services pertaining to collecting and accounting for moneys and to financial

management relative to the issuance and renewal of licenses of the individual boards and commissions are abolished. Nothing herein shall prohibit employment of professional examining or testing services from professional associations or others as required by the boards or commissions on contract. Nothing herein shall be construed to affect the power of a board or commission to expend its funds as appropriated. However, the division shall review the expense vouchers of each board. The results of such review shall be submitted to the board reviewed and to the house and senate appropriations committees annually.

(3) Notwithstanding any other provisions of law, the director of the division shall exercise only those management functions of the boards and commissions specifically provided in the Reorganization Act of 1974, and those relating to the allocation and assignment of space, personnel other than board personnel, and equipment.

(4) "Board personnel", as used in this section or chapters 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 338, 339 and 340, RSMo, shall mean personnel whose functions and responsibilities are in areas not related to the clerical duties involving the issuance and renewal of licenses, to the collecting and accounting for moneys, or to financial management relating to issuance and renewal of licenses; specifically included are executive secretaries (or comparable positions), consultants, inspectors, investigators, counsel, and secretarial support staff for these positions; and such other positions as are established and authorized by statute for a particular board or commission. Boards and commissions may employ legal counsel, if authorized by

law, and temporary personnel if the board is unable to meet its responsibilities with the employees authorized above. Any board or commission which hires temporary employees shall annually provide the division director and the appropriation committees of the general assembly with a complete list of all persons employed in the previous year, the length of their employment, the amount of their remuneration and a description of their responsibilities.

(5) Board personnel for each board or commission shall be employed by and serve at the pleasure of the board or commission, shall be supervised as the board or commission designates, and shall have their duties and compensation prescribed by the board or commission, within appropriations for that purpose, except that compensation for board personnel shall not exceed that established for comparable positions as determined by the board or commission pursuant to the job and pay plan of the department of economic development. Nothing herein shall be construed to permit salaries for any board personnel to be lowered except by board action.

(6) Each board or commission shall receive complaints concerning its licensees' business or professional practices. Each board or commission shall establish by rule a procedure for the handling of such complaints prior to the filing of formal complaints before the administrative hearing commission. The rule shall provide, at a minimum, for the logging of each complaint received, the recording of the licensee's name, the name of the complaining party, the date of the complaint, and a brief statement of the complaint and its ultimate disposition.

The rule shall provide for informing the complaining party of the progress of the investigation, the dismissal of the charges or the filing of a complaint before the administrative hearing commission.

16. All the powers, duties and functions of the division of athletics, chapter 317, RSMo, and others, are transferred by type I transfer to the division of professional registration. The athletic commission is abolished.

17. The state council on the arts, chapter 185, RSMo, and others, is transferred by type II transfer to the department of economic development, and the members of the council shall be appointed by the director of the department.

18. The Missouri housing development commission, chapter 215, RSMo, is assigned to the department of economic development, but shall remain a governmental instrumentality of the state of Missouri and shall constitute a body corporate and politic.

19. All the authority, powers, duties, functions, records, personnel, property, matters pending and other pertinent vestiges of the division of manpower planning of the department of social services are transferred by a type I transfer to the "Division of Job Development and Training", which is hereby created, within the department of economic development. The division of manpower planning within the department of social services is abolished. The provisions of section 1 of the Omnibus State Reorganization Act of 1974, Appendix B, relating to the manner and procedures for transfers of state agencies shall apply to the transfers provided in this section.

20. Any rule or portion of a rule, as that term is defined

in section 536.010, RSMo, that is created under the authority delegated in this chapter shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All rulemaking authority delegated prior to August 28, 1999, is of no force and effect and repealed. Nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1999, if it fully complied with all applicable provisions of law. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1999, shall be invalid and void.

[324.083. 1. The division, in collaboration with the board, may refuse to issue or renew, suspend or revoke a license or permit, or place a license or permit holder on probation or otherwise reprimand a licensee or permit holder, when the licensee, permit holder or applicant has been found guilty of unprofessional conduct which has endangered, or is likely to endanger, the health, welfare or safety of any person, as provided in sections 324.050 to 324.089 or by any rule or regulation promulgated by the division, in collaboration with the board.

2. If the division, in collaboration with the board, refuses to issue or renew a license or permit, the person shall be notified in writing of the reasons for such refusal and shall advise the person of the person's right to file a complaint with the administrative hearing commission as provided in chapter 621, RSMo.

3. The division, in collaboration with the board, may cause a complaint to be filed concerning a person who is the holder of a license or permit issued pursuant to sections 324.050 to 324.089 or any complaint regarding any professional practice regulated by sections 324.050 to 324.089 shall be recorded as

received and the date received. The division, in collaboration with the board:

(1) Shall investigate all complaints concerning alleged violations of the provisions of sections 324.050 to 324.089. Division investigators shall investigate complaints and make inspections and any inquiries as, in the judgment of the division, are appropriate to enforce the provisions of sections 324.050 to 324.089;

(2) May, if the evidence supports such action, cause a complaint to be filed with the administrative hearing commission as provided in chapter 621, RSMo, against any holder of any license or permit issued pursuant to sections 324.050 to 324.089.]

[326.011. 1. As used in sections 326.011 to 326.230, the following words mean:

(1) "Attestation", the opinion of a certified public accountant or public accountant as to the reliability or fairness of information which is used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public or private, following the completion of an audit, in accordance with generally accepted accounting and auditing standards;

(2) "Board", the Missouri state board of accountancy;

(3) "Live permit", a permit issued pursuant to section 326.210 which has not expired or been revoked or suspended;

(4) "State", the term "state" when used herein includes any state, territory or insular possession of the United States or the District of Columbia.

2. Masculine terms when used herein shall also include the feminine.]

[326.012. Nothing contained in sections 326.011 to 326.230 shall prohibit:

(1) A certified public accountant of another state, or any accountant who holds a certificate, degree or license in a foreign country, constituting a recognized qualification for the practice of public accountancy in such country, from temporarily practicing in this state on professional business incident to his regular practice outside this state; except that, such temporary practice shall be conducted in conformity with the laws of Missouri and the regulations and rules of professional conduct promulgated by the board;

(2) Any person from signing, delivering or issuing financial, accounting or related statements or

reports thereon prepared by him, or under his supervision, if he in no way indicates, or implies, that he is attesting to such statements or reports; or from preparation of tax returns and schedules relative thereto and representation before appropriate governmental agencies with respect to the tax returns, including the preparation of any schedules required for the representation before such agencies;

(3) Any person not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant or public accountant or partnership or corporation composed of certified public accountants or public accountants holding a permit to practice issued under section 326.210; provided that such employee or assistant shall not issue any accounting or financial statement over his name;

(4) Any trustee, executor, administrator, referee or commissioner from signing and certifying financial reports incident to his duties in such capacity;

(5) Any attorney at law, or partnership of attorneys at law, or professional corporation of attorneys at law from signing a financial, accounting or related statement, or report thereon, prepared by him, or them, as an incident to the practice of law;

(6) A person who holds a certificate as a certified public accountant, then in full force and effect, issued under the laws of this or any other state or foreign country, and who does not engage in the practice of public accounting, auditing, bookkeeping or any similar occupation, from using the title "certified public accountant" or abbreviation "C.P.A.", or in the case of a foreign accountant, the title under which he is generally known in his country;

(7) Any director or officer of a corporation, partner of a partnership, sole proprietor of a business enterprise, member of a joint venture, member of a committee appointed by stockholders, creditors or the courts, or an employee of any of the foregoing, in his capacity as such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon, relating to such corporation, partnership, business enterprise, joint venture or committee, provided such capacity is so designated on such statement or report;

(8) A person who holds a certificate as a certified public accountant, then in force and effect, issued under the laws of this or any other state or foreign country and who is regularly employed by, or is a director or officer of, a corporation, partnership, association, or business trust, in his capacity as

such, from signing, delivering or issuing any financial, accounting or related statement, or report thereon relating to such corporation, partnership, association, or business trust provided such capacity is so designated thereon, and provided in the signature line the title "C.P.A.", or "certified public accountant" is not designated thereon.]

[326.021. 1. No person shall assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under section 326.060, holds a live permit issued under section 326.210, and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under section 326.055; provided, however, that a foreign accountant who holds a live permit issued under section 326.210 may use the title under which he is generally known in his country, followed by the name of the country from which he received his certificate, license or degree.

2. No partnership or corporation shall assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership or corporation is composed of certified public accountants unless such partnership or corporation is registered as a partnership or corporation of certified public accountants under section 326.040 or 326.050, holds a live permit issued under section 326.210, and all offices of such partnership or corporation in this state for the practice of public accounting are maintained and registered as required under section 326.055.

3. No person shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a public accountant, unless such person has received a certificate as a certified public accountant under section 326.060 and holds a live permit issued under section 326.210, and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under section 326.055; provided, however, persons who, on September 28, 1977, held public accountant certificates theretofore issued under the laws of this state and who

shall hold a live permit shall not be prohibited from using such title or designation.

4. No partnership or corporation shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership or corporation is composed of public accountants, unless such partnership or corporation is registered as a partnership or corporation of public accountants or certified public accountants under section 326.040 or 326.050 and holds a live permit issued under section 326.210, and all offices of such partnership or corporation in this state for the practice of public accounting are maintained and registered as required under section 326.055.

5. No person, partnership or corporation shall assume or use the title or designation "certified accountant", or "public accountant", or any other title or designation likely to be confused with "certified public accountant" or "public accountant", or the abbreviations "C.P.A." or "P.A." or similar abbreviations likely to be confused with "C.P.A." or "P.A."; except any one who holds a live permit issued under section 326.210 and all of whose offices in this state for the practice of public accounting are maintained and registered as required under section 326.055 and provided further that a foreign accountant who holds a live permit issued under section 326.210 and all of whose offices in this state for the practice of public accounting are maintained and registered as required under section 326.055, may use the title under which he is generally known in his country, followed by the name of the country from which he received his certificate, license or degree.

6. No person shall sign or affix his name or any trade or assumed name used by him in his profession or business with any wording indicating that he is a certified public accountant or public accountant, or with any wording indicating that he has expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (1) financial information or (2) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless he holds a live permit issued under section 326.210 and all of his offices in this state for the practice of public accounting are maintained and registered under section 326.055; provided, however, that the provisions of this

subsection shall not prohibit any officer, employee, partner or principal of any organization from affixing his signature to any statement or report in reference to the affairs of said organization with any wording designating the position, title or office which he holds in said organization; nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his duties as such.

7. No person shall sign or affix a partnership or corporate name with any wording indicating that it is a partnership or corporation composed of certified public accountants, public accountants or persons having expert knowledge in accounting or auditing, to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing (1) financial information or (2) facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, unless the partnership or corporation holds a live permit issued under section 326.210 and all of its offices in this state for the practice of public accounting are maintained and registered as required under section 326.055.

8. No person or partnership or corporation not holding a live permit issued under section 326.210 shall hold himself or itself out to the public as a "certified public accountant" or "public accountant" by use of any such words on any sign, card, letterhead or in any advertisement or directory, without indicating thereon or therein, prominently displayed, that such person, partnership or corporation does not hold such a permit; provided, that this subsection shall not prohibit any officer, employee, partner or principal of any organization from describing himself by the position, title or office he holds in such organization; nor shall this subsection prohibit any act of public official or public employee in the performance of his duties as such.

9. No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership or corporation, or in conjunction with the designation "and company", "and Co." or "and associates" or a similar designation if, in any such case, there is in fact no bona fide partnership or corporation registered under section 326.040 or 326.050; provided that a sole proprietor or partnership lawfully using such title or designation in

conjunction with such names or designation on September 28, 1977, may continue to do so if he or it otherwise complies with the provisions of sections 326.011 to 326.230.]

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

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

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

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

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

[326.040. 1. The board shall authorize the registration, as certified public accountants, of firms and partnerships, provided it be shown to the board that:

(1) Each member or partner of the firm or partnership, resident, or engaged in the practice of public accountancy in the United States is in good standing as a certified public accountant in one or more states; and

(2) Either:

(a) Each resident or local member or partner is the holder of a valid certificate and live permit as a certified public accountant issued under the laws of this state; or

(b) If there be no resident or local member or partner, each resident or local manager is the holder of a valid certificate and live permit as a certified public accountant issued under the laws of this state.

2. After the registration of a firm or

partnership with the board, and the obtention of a permit, and not otherwise, the firm or partnership shall be entitled to use the designation "certified public accountant" in connection with the firm or partnership name. When firms or partnerships so registered shall secure permits, the name of the firm or partnership shall be listed in the register, together with the names of the members and managers thereof, who are local or resident in this state, with the designation "C.P.A." after each name; and the names of nonresident members who hold valid certificates issued under the laws of this state may also be listed.

3. The board shall authorize the registration, as public accountants, of firms or partnerships, and issue to them permits to practice as such; provided, the resident or local partner or partners, or, if there be no resident or local partner, the resident or local manager or managers hold a valid certificate and live permit as a public accountant or as a certified public accountant issued under the laws of this state. After the registration of the firm or partnership with the board, and the obtention of a permit, and not otherwise, the firm shall be entitled to use the designation "public accountant" in connection with the firm or partnership name. When firms or partnerships so registered secure permits, the name of the firm or partnership shall be listed in the register, together with the names of the partners or managers thereof, local or resident in this state, with the appropriate title or initials representing their respective capacities under this chapter. The names of nonresident partners who hold valid certificates issued under the laws of this state may also be listed.

4. The term "local", as used herein, is intended to denote persons engaged in practicing public accountancy in this state, who spend all or the greater part of their time during business hours in this state, but reside in another state.]

[326.050. 1. No corporation, whether organized under the laws of this, or any other state, shall be entitled to registration as a certified public accountant, except a corporation formed pursuant to the professional corporation law of Missouri, or pursuant to the laws of another jurisdiction authorized to practice accounting in such jurisdiction and qualified to do business in this state under the professional corporation law of this state, and which conforms to such corporate practice rules as the board may promulgate, provided further that the president or other managing officer is the holder of a valid

certificate and live permit as a certified public accountant in this state.

2. The board is authorized to register corporations as public accountants, and to issue to them permits to practice as such, provided, that such corporations on September 28, 1977, were legally organized under the laws of this state, and are entitled under their articles of incorporation and in accordance with the laws of this state, to practice public accountancy, within the meaning of sections 326.011 to 326.230; and provided further, that the president or other managing officer is the holder of a valid certificate as a certified public accountant or as a public accountant, and an unexpired permit to practice as such.

3. A corporation referred to in subsection 2 of this section, when duly registered and holding a valid and effective permit, may use the designation "public accountants" in connection with its corporate name and a corporation registered pursuant to subsection 1 of this section may use the designation "certified public accountant"; provided, however, that whenever the corporate name is used with one of such designation, save in directory listings, the names of the president, secretary and manager of its public accounting department shall also be stated or signed.

4. It is further provided that agricultural nonprofit associations which, on the twenty-third day of November, 1943, were engaged in rendering accounting services to members of their association, to other agricultural or farmers' associations, or to agricultural cooperative associations, shall be registered by the board as a public accountant, under the provisions of sections 326.011 to 326.230, and issued a permit to practice as such; provided, however, such registration and permit shall not authorize such associations to render accounting services to others than its members, other agricultural or farmers' associations, and agricultural cooperative associations.]

[326.055. 1. Each office established and maintained in this state for the practice of public accounting in this state by a certified public accountant or partnership or corporation of certified public accountants, or by a public accountant or a partnership or corporation of public accountants shall be registered under sections 326.011 to 326.230 with the board but no fee shall be charged for such registration. Each such office shall be under the direct supervision of a resident manager who may be

either a principal shareholder or a staff employee holding a certificate as a certified public accountant under section 326.060 and a live permit under section 326.210.

2. As a condition of registering an office under this section the board may, after November 30, 1982, and after a hearing with the licensee in accordance with section 326.132, for those licensees who have issued reports on financial statements, during the preceding five-year period, which the board has determined to have been substandard, require such licensee applying for registration, to submit to a review and evaluation of the system of quality control (peer review) of the accounting and auditing practice of the licensee. Such reviews shall be made by committees or other certified public accountant firms nominated by the Missouri Society of Certified Public Accountants and accredited by the board in accordance with regulations promulgated by the board. The board shall accept peer review reports filed with federal regulatory agencies, other state boards or professional associations to meet such review requirement if the report on such review conforms to board regulations. However, an addendum to such peer review reports may be required by the board to include any Missouri office of a multistate firm which has issued financial reports or financial statements described in this section.]

[326.060. 1. The certificate of "certified public accountant" shall be granted by the board to any person:

- (1) Who is a resident of this state or has a place of business in this state or, as an employee, is regularly employed in this state;
- (2) Who has attained the age of twenty-one years;
- (3) Who is of good moral character;
- (4) Who either:
  - (a) Applies for the initial examination referred to in subdivision (5) of this subsection prior to June 30, 1999, and holds a baccalaureate degree conferred by an accredited college or university recognized by the board, with a concentration in accounting, or what the board determines to be substantially the equivalent of a concentration in accounting; or
  - (b) Applies for the initial examination referred to in subdivision (5) of this subsection on or after June 30, 1999, and has at least one hundred fifty semester hours of college education including a baccalaureate or higher degree conferred by an accredited college or university recognized by the board, the total educational program to include an

accounting concentration or equivalent as determined by board rule to be appropriate; and

(5) Who shall have passed a written examination in accounting, auditing, and such other related subjects as the board shall determine to be appropriate.

2. The board shall by regulation prescribe the terms and conditions, which shall be substantially the same as any established in subsection 3 of this section, under which credit will be granted to a candidate for the candidate's satisfactory completion of a written examination in any one or more of the subjects specified in subdivision (5) of subsection 1 of this section, given by the licensing authority in any other state; provided that when the candidate took such examination in such other state the candidate was not a resident in this state, had no place of business in this state, or, as an employee, was not regularly employed in this state. Such regulations shall include such requirements as the board shall determine to be appropriate in order that any examination approved as a basis for any such credit shall, in the judgment of the board, be at least as thorough as the most recent examination given by the board at the time of the granting of such credit.

3. The board shall by regulation prescribe the terms and conditions under which a candidate who passes the examination in one or more of the subjects indicated in subdivision (5) of subsection 1 of this section, may be reexamined in only the remaining subjects, with credit for the subjects previously passed. A candidate shall be entitled to any number of reexaminations pursuant to subdivision (5) of subsection 1 of this section. A candidate who fails to pass any section or sections of the examination may pay the fee and take such sections of the examination as the board by rule prescribes again at any regularly scheduled examination.

4. The board shall charge each candidate a fee, as prescribed in section 326.200. Fees for reexamination pursuant to subdivision (5) of subsection 1 of this section shall also be charged by the board as prescribed in section 326.200. The applicable fee shall be paid by the candidate at the time the candidate applies for examination or reexamination.

5. Any person who has received from the board a certificate as a certified public accountant and who holds a permit issued pursuant to section 326.210, which is in full force and effect, shall be styled and known as a "certified public accountant" and may also use the abbreviation "C.P.A.". Any certified public

accountant may also be known as a "public accountant".

6. Persons who, on September 28, 1977, held certified public accountant certificates or public accountant certificates theretofore issued pursuant to the laws of this state shall not be required to obtain additional certificates pursuant to sections 326.011 to 326.230, but shall otherwise be subject to all provisions of sections 326.011 to 326.230; and such certificates theretofore issued shall, for all purposes, be considered certificates issued pursuant to sections 326.011 to 326.230 and subject to the provisions of sections 326.011 to 326.230.

7. The board shall waive the examination pursuant to subdivision (5) of subsection 1 of this section, and shall issue a certificate as a "certified public accountant" to any person paying a fee equal to the total examination fee as provided in section 326.200 and possessing the qualifications specified in subdivisions (1), (2), and (3) of subsection 1 of this section and what the board determines to be substantially the equivalent of the applicable qualifications pursuant to subdivision (4) of subsection 1 of this section who is either the holder of a:

(1) Certificate as a certified public accountant, then in full force and effect, issued under the laws of any state; or

(2) Designation in a foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a certified public accountant of this state, which is then in full force and effect; provided that:

(a) The foreign authority which granted the designation makes similar provisions to allow a person who holds a valid certificate and permit to practice issued by this state to obtain such foreign authority's comparable designation and the foreign designation:

a. Was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended;

b. Entitles the holder to issue reports upon financial statements; and

c. Was issued upon the basis of educational and examination requirements established by the foreign authority or by law; and

(b) The applicant:

a. Received the designation, based on educational and examination standards substantially equivalent to those in effect in this state, at the time the foreign designation was granted; and

b. Passed a uniform qualifying examination in national standards acceptable to the board;

(3) An applicant pursuant to subdivision (1) or (2) of this subsection shall, in the application, list all jurisdictions, foreign and domestic, in which the applicant has applied for, or holds a designation to practice public accounting, and each holder of a certificate issued pursuant to this subsection shall notify the board in writing, within thirty days after its occurrence, of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

8. Upon application, the board shall issue a temporary permit and certificate to an applicant pursuant to this subsection for a certificate as a certified public accountant who has made a prima facie showing that the applicant meets all of the requirements for such a certificate and possesses the experience required for issuance of a permit. The temporary permit and certificate shall be effective only until the board shall have had the opportunity to investigate the applicant's qualifications for licensure pursuant to subsection 1 of this section and to notify the applicant that the applicant's application for a certificate and permit has been either granted or rejected. In no event shall such temporary certificate and temporary permit be in effect for more than twelve months after the date of issuance nor shall a temporary certificate or temporary permit be reissued to the same applicant. No fee shall be charged for such temporary certificate or temporary permit. The holder of a temporary certificate and temporary permit which has not expired, or been suspended or revoked, shall be deemed to be the holder of a certificate issued pursuant to this section and the holder of a permit issued pursuant to section 326.210 until such temporary certificate and temporary permit expires, is terminated, or is suspended or revoked.

9. A candidate submitting an application for a certificate by examination who has met the educational requirements of subdivision (4) of subsection 1 of this section or who reasonably expects to meet the requirement within sixty days after the examination shall be eligible for examination pursuant to subdivision (5) of subsection 1 of this section if the candidate also meets the requirements of subdivisions (1), (2), and (3) of subsection 1 of this section. In the case of a candidate admitted to examination on the reasonable expectation that the candidate will meet the educational requirements within sixty days, no

certificate shall be issued, nor credit for the examination or any part thereof given unless the educational requirement is in fact met within the sixty-day period.]

[326.100. All statements, records, schedules and memoranda, commonly known as working papers, made by a certified public accountant or a public accountant, or by an employee of either, incident to or in the course of professional service to clients, except reports delivered to a client, shall be and remain the property of such certified public accountant or public accountant, in the absence of a written agreement between the accountant and the client to the contrary.]

[326.110. 1. The board shall prescribe rules and regulations consistent with the provisions of sections 326.011 to 326.230; provided, however, nothing herein contained shall be construed as conferring upon the board the authority to issue rules or regulations on any subject affecting the practice of public accountancy by a person previously licensed as a certified public accountant unless specifically authorized by the general assembly. Such rules and regulations may include:

(1) Rules of procedure for governing the conduct of matters before the board;

(2) Rules of professional conduct for establishing and maintaining high standards of competence and integrity in the profession of public accountancy;

(3) Regulations governing educational requirements for issuance of the certificate of "certified public accountant" and prescribing further educational requirements, known as "requirements of continuing education", to be met from time to time by the holders of such certificates and by the holders of public accountant certificates, in order to maintain their professional knowledge and competence, as a condition to continuing in the practice of public accountancy;

(4) Regulations governing corporations practicing public accounting, including but not limited to rules concerning their style, name, title, and affiliation with any other organization; and establishing reasonable standards with respect to professional liability insurance and unimpaired capital, and prescribing joint and several liability for torts relating to professional services for shareholders of any such corporation failing to comply with such standards;

(5) Regulations governing peer review committee accreditation and requirements for registration of an office and issuance of permits;

(6) Regulations prohibiting competitive bidding which is declared to be contrary to the public interest for professional engagement of certified public accountants or public accountants which regulations are not in conflict with other provisions of law.

2. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

3. In promulgating rules and regulations in respect to the requirements of continuing education as authorized by the provisions of subdivision (3) of subsection 1 of this section, the board:

(1) May, among other things, use and rely upon guidelines and pronouncements of recognized educational and professional associations;

(2) May prescribe for content, duration and organization of courses;

(3) Shall take into account the accessibility to applicants of such continuing education as the board may require, and any impediments to the interstate practice of public accountancy which may result from differences in such requirements in states;

(4) May provide for relaxation or suspension of such requirements for instances of individual hardship;

(5) Shall not, in establishing requirements for continuing education, require in excess of one hundred twenty hours of continuing education in any three-year period, not more than one-third of which shall be required in any one year, and such requirements of continuing education must be susceptible of being fulfilled in programs or courses reasonably available to certificate holders within the state.

4. The board may by rule require such reports concerning continuing education as it deems necessary from holders of permits granted under the provisions of section 326.210.]

[326.120. Any person who violates any provision of section 326.021 shall be guilty of a class A misdemeanor. Whenever the board has reason to believe that any person is liable to punishment under this section it may certify the facts to the attorney general of this state or bring other appropriate proceedings.]

[326.121. The display or uttering by a person of a card, sign, advertisement or other printed, engraved

or written instrument or device bearing a person's name in conjunction with the words "certified public accountant" or any abbreviation thereof, or "public accountant" or any abbreviation thereof, shall be prima facie evidence in any action brought under section 326.022 or section 326.120 that the person whose name is so displayed, caused or procured the display or uttering of such card, sign, advertisement or other printed, engraved or written instrument or device and that such person is holding himself out to be a certified public accountant or a public accountant holding a permit to practice under section 326.210. In any such action evidence of the commission of a single act prohibited by sections 326.011 to 326.230 shall be sufficient to justify an injunction or a conviction without evidence of a general course of conduct.]

[326.125. At all proceedings for the enforcement of these or any other provisions of this chapter the board shall, as it deems necessary, select, in its discretion, either (1) the attorney general or one of his assistants designated by him or (2) other legal counsel to appear and represent the board at each stage of such proceeding or trial until its conclusion.]

[326.130. 1. The board may refuse to issue any certificate of registration or authority, permit or license required pursuant to this chapter for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

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

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

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of

any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated pursuant to this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

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

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

(5) Incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of any profession licensed or regulated by this chapter;

(6) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter;

(7) Impersonation of any person holding a certificate of registration or authority, permit or license or allowing any person to use his or her certificate of registration or authority, permit, license or diploma from any school;

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

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

(10) Assisting or enabling any person to practice or offer to practice any profession licensed or regulated by this chapter who is not registered and currently eligible to practice pursuant to this chapter;

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

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

(13) Violation of any professional trust or confidence;

(14) Use of any advertisement or solicitation which is false, misleading or deceptive to the general

public or persons to whom the advertisement or solicitation is primarily directed.

3. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds, provided in subsection 2, for disciplinary action are met, the board may, singly or in combination, censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years, or may suspend, for a period not to exceed three years, or revoke the license, certificate, or permit.]

[326.131. After notice and hearings as provided in chapter 621, RSMo, the board shall revoke the registration and permit to practice of a partnership or corporation if at any time it does not have all the qualifications prescribed by sections 326.040 and 326.050. After notice and hearings as provided in chapter 621, RSMo, the board may revoke or suspend the registration of a partnership or corporation or may revoke or suspend its permit under section 326.210 to practice or may censure the holder of any such permit for any of the causes enumerated in section 326.130.]

[326.133. Upon application in writing and after hearing pursuant to notice, the board may issue a new certificate to a certified public accountant whose certificate shall have been revoked, or may permit the reregistration of anyone whose registration has been revoked or may reissue or modify the suspension of any permit to practice public accounting which has been revoked or suspended.]

[326.134. 1. In order to assure a free flow of information for peer review pursuant to section 326.055, or proceedings before the board pursuant to section 326.132, all complaint files, investigation files, and all other investigation reports and other investigative information in the possession of the board or peer review committee or firm, acting under the authority of section 326.055 or 326.132, or its employees or agents, which relate to such hearings or review shall be privileged and confidential, and shall not be subject to discovery, subpoena, or other means of legal compulsion for their release to any person, other than the permit or certificate holder and the board or peer review committee or firm or their employees and agents involved in such proceedings, or be admissible in evidence in any judicial or

administrative proceeding, other than the proceeding for which such material was prepared or assembled. A final written decision and finding of fact of the board, pursuant to section 326.132, shall be a public record.

2. A person shall not be civilly liable as a result of his or her acts, omissions, or decisions in good faith as a member of the board, a peer review committee or firm, or as an employee or agent thereof, in connection with such person's duties.

3. A person shall not be civilly liable as a result of filing a report or complaint with the board or a peer review committee, or for the disclosure to the board or a peer review committee or its agents or employees, whether or not pursuant to a subpoena, of records, documents, testimony or other forms of information which constitute privileged matter in connection with proceedings of a peer review committee, or other board proceedings pursuant to section 326.132. However, such immunity from civil liability shall not apply if such act is done with malice.]

[326.151. A certified public accountant or a public accountant shall not be examined by judicial process or proceedings without the consent of his client as to any communication made by the client to him in person or through the media of books of account and financial records, or his advice, reports or working papers given or made thereon in the course of professional employment, nor shall a secretary, stenographer, clerk or assistant of a certified public accountant, or a public accountant, be examined, without the consent of the client concerned, concerning any fact the knowledge of which he has acquired in his capacity. This privilege shall exist in all cases except when material to the defense of an action against an accountant.]

[326.160. 1. The "Missouri State Board of Accountancy" shall consist of seven members, one of whom shall be a voting public member, appointed by the governor, by and with the advice and consent of the senate, and shall have the functions, powers and duties prescribed in this chapter.

2. Each member of the board, except the public member, shall be the holder of a certificate as a certified public accountant, issued pursuant to and pursuant to the laws of this state, and shall at the time of his or her appointment be a citizen of the United States and a resident of this state for a period of at least one year, and have practiced continuously

as and under the designation of a certified public accountant, or as a public accountant, for a period of at least five years immediately preceding his or her appointment. The public member shall be at the time of his or her appointment a citizen of the United States; a resident of this state for a period of one year and a registered voter; a person who is not and never was a member of any profession licensed or regulated pursuant to this chapter or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by this chapter, or an activity or organization directly related to any profession licensed or regulated pursuant to this chapter. The president of the Missouri Society for Certified Public Accountants in office at the time shall, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five certified public accountants qualified and willing to fill the vacancy in question, with the request and recommendation that the governor appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Society for Certified Public Accountants shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association. All members, including public members, shall be chosen from lists submitted by the director of the division of professional registration. The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The term of office of each member appointed shall be five years. Vacancies shall be filled by the governor for the unexpired term. Every member shall, however, hold office until his or her successor is appointed and qualified. No member whose term shall have expired, or been terminated for any reason, shall be eligible for reappointment until the lapse of one year. Appointment to fill an unexpired term shall not be considered as a complete term.

4. To every member appointed by the governor there shall be issued a commission or certificate of appointment; and every appointee, before entering upon the member's duties, shall take the oath of office required by the constitution of all officers under the

authority of this state.

5. Any member of the board may be removed by the governor for misconduct, incompetency or neglect of duty; provided, the member shall first be given an opportunity to be heard in his or her own behalf.]

[326.170. 1. The Missouri state board of accountancy shall have power to adopt and use a seal; to make and amend all rules deemed necessary for the proper administration of this chapter; conduct examinations; to administer oaths and hear testimony regarding disciplinary actions as provided by section 621.110, RSMo, or preparatory to the filing of a complaint pursuant to section 621.045, RSMo; to require, by summons or subpoena, the attendance and testimony of witnesses, and the production of books, papers and documents with respect to such testimony; and to do and perform all other acts and things herein committed to their charge and administration, or incidental thereto.

2. Said board shall maintain its office in Jefferson City, Missouri.]

[326.180. 1. The board hereby created shall annually elect one of its members as president, another as vice president, another as secretary, and another as treasurer. It shall make an annual report to the governor. It shall file and preserve all written applications, petitions, complaints, charges or requests made or presented to it, and all affidavits and other verified documents; and shall cause to be kept accurate records and minutes of its proceedings. A copy of any entry in the register, or of any records or minutes of the board, certified by the president or secretary of the board under its seal, shall constitute and be received in evidence with like effect as the original. The board may employ legal counsel and such board personnel as defined in subdivision (4) of subsection 16 of section 620.010, RSMo, and incur such travel and other expense, as, in its judgment, shall be necessary for the effectual administration of this law.

2. The board may also appoint a continuing education committee of not less than five members consisting of certified public accountants of this state holding a live permit who need not be members of the board. This committee shall:

(1) Evaluate continuing education programs to determine if they meet continuing education regulations adopted by the board;

(2) Consider applications for exceptions to continuing education regulations adopted pursuant to

the provisions of section 326.110; and

(3) Consider such other matters regarding continuing education as may be assigned to it by the board.]

[326.190. 1. The board may by rule prescribe the dates and places for holding regular meetings; as well as regulate the call, notice and holding of special meetings. Three members of the board shall constitute a quorum at any regular meeting; and at any special meeting of which due notice has been given.

2. Examination of applicants shall be held at least once in each year at such times and places as the board shall determine. Notice of the time and place for holding any such examination shall be published at least once, not less than sixty days before the date of examination, in a newspaper published and circulating in St. Louis, a newspaper published and circulating in Kansas City, and in such other newspapers, and in such other manner, as shall, in the opinion of the board, be necessary to notify those desirous of applying for examination. The board may require, by general rule or special order, any or all applicants to appear in person before the board, and to answer questions touching their qualifications; and may, in its discretion, require evidence in support of the statements of the applicant.]

[326.200. 1. Every application for the granting of a certified public accountant certificate, or of a public accountant registration certificate, shall be made on a form furnished to the applicant, contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing same, subject to the penalties of making a false affidavit or declaration, and be accompanied by an examination fee for each subject upon which the person is to be examined. For each subsequent sitting, the applicant shall pay a fee, as determined by the board, for each subject upon which the applicant is to be examined, not to exceed the original examination fee. For the issue of each certified public accountant certificate, the grantee shall pay a certificate fee.

2. An individual permit fee shall be charged for the issuance of each permit to practice public accountancy issued to any holder of a certified public accountant certificate or of a public accountant certificate whether the holder is in practice as an individual, or as a partner or firm member or as an employee of a corporation, firm or partnership, and a

corporate permit fee shall be charged for the issuance of each permit to practice accountancy issued to any registered corporation. All fees payable pursuant to the provisions of this chapter shall be collected by the division of professional registration, who shall transmit them to the department of revenue for deposit in the state treasury to the credit of a fund to be known as the "State Board of Accountancy Fund".

3. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

4. Each member of the board shall receive as compensation an amount set by the board not to exceed fifty dollars for each day devoted to the affairs of the board, and shall be entitled to reimbursement of the member's expenses necessarily incurred in the discharge of the member's official duties. All claims for compensation and expenses shall be presented and allowed in open meetings of the board. No compensation or expenses of members of the board, its officers or employees shall be charged against the general funds of the state, but shall be paid out of the state board of accountancy fund.

5. The board shall set the amount of the fees which this chapter authorizes and requires by rules and regulations promulgated pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering this chapter.]

[326.210. 1. Permits to engage in the practice of public accounting in this state shall be issued by the board, upon payment of the fee as prescribed pursuant to section 326.200, to holders of the certificates of certified public accountants issued pursuant to section 326.060, and to holders of public accountant certificates, who shall have furnished evidence satisfactory to the board of compliance with the requirements of subsection 2 of this section, and to firms, partnerships and corporations registered pursuant to section 326.040 or 326.050. All permits

shall expire on the permit renewal date and may be renewed for each licensing period upon payment of the renewal fee as prescribed pursuant to section 326.200. A permit holder whose permit has expired and who has not renewed the person's permit within two months of the permit renewal date may renew the person's permit upon payment of the permit fee together with a delinquent fee. No permit shall be renewed more than two years after expiration. Permits to engage in the practice of public accounting shall not be issued to the holder of a certificate issued by this state pursuant to section 326.060 until such person shall have had:

(1) Two years' experience acceptable to the board in the practice of public accounting under the supervision of a certified public accountant holding a certificate and live permit from this or another state, which experience shall include, but not be limited to, two years' experience in the practice of public accounting under the supervision of the state auditor who is a certified public accountant holding a certificate and live permit from this or another state; or

(2) At least two years of satisfactory experience acceptable to the board as a certified public accountant in the legal practice of public accounting in another state while holding a live permit to practice from the other state; or

(3) Four years' experience acceptable to the board in the practice of governmental accounting, budgeting or auditing, including auditing of tax returns, as an employee of the state of Missouri, a political subdivision of this state, or the United States government, under the supervision of a certified public accountant acceptable to the board holding a certificate and live permit from this or another state, who is the head of the department, division or unit in which such person is employed. Only one year of public accounting experience shall be required of an internal revenue agent who has been issued a certificate by this state pursuant to section 326.060 and who has had at least four years' experience as an employee of the federal government as an internal revenue agent in the Internal Revenue Service, of which at least two years is certified by a district director of Internal Revenue Service as having been of field agent experience at the journeyman level, grade GS-512-11 or above, as specified in the United States Civil Service Commission's qualification standard as of December 1, 1975; or

(4) Four years' experience acceptable to the

board in the practice of accounting for a corporation, partnership or other business entity, other than a governmental entity described in subdivision (3) of this subsection, under the supervision of a certified public accountant, acceptable to the board, holding a certificate and live permit from this or another state and who is head of the department, division or unit in which such person is employed; or

(5) Experience substantially equivalent to the experience requirement of this state as the holder of a certificate, license or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country.

2. After the expiration of the three-year period immediately following the effective date of board regulations establishing requirements of continuing education, every application for renewal of an annual permit to practice by any person who has held a certificate as a certified public accountant for three years or more shall be accompanied or supported by such evidence, as the board shall prescribe, of satisfaction of such requirements during the last three years preceding the application. Failure by an applicant for renewal of an annual permit to furnish such evidence shall constitute grounds for revocation, suspension or refusal to renew such permit in a proceeding pursuant to section 326.130, unless the board, in its discretion, shall determine such failure to have been due to reasonable cause or excusable neglect. The board, in its discretion, may renew an annual permit to practice despite failure to furnish evidence of satisfaction of requirements of continuing education upon condition that the applicant follow a particular program or schedule of continuing education.

3. The attestation or opinion concerning the presentation of financial or other quantitative data shall be restricted to those holding a live permit pursuant to this section.

4. Refusal by the resident manager of an office, registered pursuant to section 326.055, to submit such office to peer review, if required by the board, shall constitute grounds for revocation, suspension or refusal to renew the manager's permit in a proceeding pursuant to section 326.130.]

[326.230. If any provision of sections 326.011 to 326.230 or the application thereof to anyone or to any circumstances is held invalid, the remainder of those sections and the application of such provision to others or other circumstances shall not be affected thereby.]

[327.605. 1. There is hereby created within the division of professional registration a council to be known as the "Landscape Architectural Council". The council shall consist of four landscape architects and one public member appointed by the director of the division. Council members shall serve for a term of four years, except that the first council appointed shall consist of one member whose initial term shall be four years, one member whose initial term shall be for three years, one member whose initial term shall be for two years and one member whose initial term shall be for one year. No member of the council shall serve more than two consecutive four-year terms.

2. Each council member, other than the public member, shall be a citizen of the United States, a resident of the state of Missouri for at least one year, no younger than thirty years of age, have at least ten years of active experience in the professional practice of landscape architecture as his or her principal livelihood and, except for the first council appointed, be registered as a landscape architect. The president of the Missouri Association of Landscape Architects in office at the time shall, at least ninety days prior to the expiration of the term of a board member, other than the public member, or as soon as feasible after a vacancy on the board otherwise occurs, submit to the director of the division of professional registration a list of five landscape architects qualified and willing to fill the vacancy in question, with the request and recommendation that the director appoint one of the five persons so listed, and with the list so submitted, the president of the Missouri Association of Landscape Architects shall include in his or her letter of transmittal a description of the method by which the names were chosen by that association.

3. The public member shall be, at the time of his or her appointment, a citizen of the United States, a resident of this state for a period of one year, a registered voter, a person who is not and never was a member of the profession regulated pursuant to sections 327.600 to 327.635 or the spouse of such person, and a person who does not have and never has had a material financial interest in either the providing of the professional services regulated by sections 327.600 to 327.635 or an activity or organization directly related to the profession regulated pursuant to sections 327.600 to 327.635. The duties of the public member shall not include the determination of the technical requirements to be met for certification. The public member is subject to the provisions of section 620.132,

RSMo.

4. Members of the council may be removed from office for cause. Upon the death, resignation or removal from office of any member of the council, the appointment to fill the vacancy shall be for the unexpired portion of the term so vacated and shall be made within sixty days after the vacancy occurs. Any such vacancy shall be filled by the director of the division of professional registration.

5. Each member of the council may receive as compensation an amount set by the division not to exceed fifty dollars per day for each day devoted to council affairs and shall be reimbursed for their reasonable and necessary expenses incurred in the performance of their duties.

6. The council shall meet with the division at least twice each year and advise the division on matters within the scope of sections 327.600 to 327.635. The organization of the council shall be established by the members of the council.

7. The council may sue and be sued as the landscape architecture council, and its members need not be named as parties. Members of the council shall not be personally liable either jointly or severally for any act committed in the performance of their official duties as council members, nor shall any council member be personally liable for any costs which accrue in any action by or against the council.]

[327.609. The division shall:

(1) Recommend prosecution for violations of the provisions of sections 327.600 to 327.635 to the appropriate prosecuting or circuit attorney;

(2) Employ, within limits of the funds appropriated, such employees as are necessary to carry out the provisions of sections 327.600 to 327.635;

(3) Exercise all budgeting, purchasing, reporting and other related management functions;

(4) Promulgate, in collaboration with the council, such rules and regulations as are necessary to administer the provisions of sections 327.600 to 327.635. These rules and regulations shall be filed in the office of the secretary of state in accordance with chapter 536, RSMo. No rule or portion of a rule promulgated under the authority of this chapter shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

[327.625. 1. The division shall set the amount of the fees which sections 327.600 to 327.635 authorize and require by rules and regulations promulgated

pursuant to section 536.021, RSMo. The fees shall be set at a level to produce revenue which shall not substantially exceed the cost and expense of administering sections 327.600 to 327.635. All fees provided for in this section shall be paid to and collected by the division of professional registration and transmitted to the department of revenue for deposit in the state treasury to the credit of the fund to be known as the "Landscape Architectural Council Fund" which is hereby created.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation to the council for the preceding fiscal year or, if the council requires by rule, registration renewal less frequently than yearly, then three times the appropriations to the council for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations to the council for the preceding fiscal year.]

[327.627. One year after August 28, 1989, it shall be unlawful for any person to advertise or indicate to the public that he is a landscape architect in this state, unless he has been registered as a landscape architect by the division and is in good standing on its records.]