

SECOND REGULAR SESSION
[PERFECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1689
91ST GENERAL ASSEMBLY

Reported from the Committee on Professional Registration and Licensing, March 7, 2002, with recommendation that the House Committee Substitute for House Bill No. 1689 Do Pass.

Taken up for Perfection March 19, 2002. House Committee Substitute for House Bill No. 1689 ordered Perfected and printed, as amended.

TED WEDEL, Chief Clerk

3595L.04P

AN ACT

To repeal sections 256.471, 326.256, 326.271, 326.280, 326.283, 326.286, 326.289, 326.292, 327.011, 327.031, 327.081, 332.051, 332.071, 332.081, 332.111, 332.121, 332.181, 332.261, 332.327, 332.341, 334.104, 334.720, 334.735, 335.016, 339.710, 339.720, 339.770, and 621.045, RSMo, and to enact in lieu thereof eighty-one new sections relating to professional licensing requirements.

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

Section A. Sections 256.471, 326.256, 326.271, 326.280, 326.283, 326.286, 326.289,
2 326.292, 327.011, 327.031, 327.081, 332.051, 332.071, 332.081, 332.111, 332.121, 332.181,
3 332.261, 332.327, 332.341, 334.104, 334.720, 334.735, 335.016, 339.710, 339.720, 339.770, and
4 621.045, RSMo, are repealed and eighty-one new sections enacted in lieu thereof, to be known
5 as sections 256.001, 256.002, 256.471, 324.278, 324.281, 324.442, 324.445, 324.448, 324.1100,
6 324.1102, 324.1104, 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118,
7 324.1120, 324.1122, 324.1124, 324.1126, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136,
8 324.1138, 324.1140, 326.256, 326.271, 326.280, 326.283, 326.286, 326.289, 326.292, 327.011,
9 327.031, 327.081, 328.001, 328.002, 328.003, 329.001, 329.002, 329.003, 331.001, 331.002,
10 331.003, 332.001, 332.002, 332.003, 332.051, 332.071, 332.081, 332.111, 332.121, 332.181,
11 332.261, 332.327, 332.332, 334.104, 334.720, 334.735, 335.016, 336.001, 336.002, 336.003,
12 337.002, 339.001, 339.002, 339.003, 339.710, 339.720, 339.770, 340.001, 340.002, 340.003,

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

13 346.001, 346.002, 346.003, and 621.045, to read as follows:

2 **256.001. Notwithstanding any law to the contrary, if in the determination of the**
3 **appropriate licensing board, another state is deemed to have substantially equivalent**
4 **certification or licensure requirements, an applicant who is certified or licensed under the**
5 **laws of the other state may obtain a license pursuant to this chapter upon the terms and**
6 **conditions as may be determined by the board, regardless of the minimum age**
7 **requirements of the other state; provided that the terms and conditions shall comply with**
8 **the minimum criteria for certification or licensure issued by the board.**

2 **256.002. 1. Notwithstanding any law to the contrary, any person licensed pursuant**
3 **to this chapter may apply to the appropriate licensing board for an inactive license status**
4 **on a form furnished by the board. Upon receipt of the completed inactive status**
5 **application form and the board's determination that the licensee meets the requirements**
6 **established by rule, the board shall declare the licensee inactive and shall place the licensee**
7 **on an inactive status list. A person whose license is inactive shall not practice his or her**
8 **profession within this state, but may continue to use the title of his or her profession or the**
9 **initials of his or her profession after such person's name.**

10 **2. If a licensee is granted inactive status, the licensee may return to active status by**
11 **notifying the board in advance of his or her intention, paying the appropriate fees, and**
12 **meeting all established requirements of the board as a condition of reinstatement.**

13 **3. Any licensee allowing his or her inactive license to lapse, may within five years**
14 **of the lapse return their license to active status by notifying the board in advance of such**
15 **intention, paying the appropriate fees, and meeting all established licensure requirements**
16 **of the appropriate licensing board, excluding the licensing examination, as a condition of**
17 **reinstatement.**

2 256.471. 1. Activities which are not regulated by sections 256.450 to 256.483 include
3 work by employees or subordinates of a registered geologist, provided that such work does not
4 include responsible charge of work, and such work is performed under the direct supervision of
5 a registered geologist who shall be responsible for such work.

6 2. [The practice of geology affecting public health, safety, and welfare by officers and
7 employees of the United States, solely as such officers and employees, shall not be regulated by
8 sections 256.450 to 256.483.

9 3.] Work of engineering and other licensed professions including the acquisition of
10 engineering data involving soil, rock, groundwater, and other earth materials and the use of these
11 data for engineering analysis, design, and construction by professional engineers appropriately
12 registered or licensed in Missouri is exempted from the provisions of sections 256.450 to
13 256.483.

13 **3. Licensed professional engineers who have fifteen semester hours of geology**
14 **course work and who have a master's degree in geotechnical engineering or licensed**
15 **professional engineers who have fifteen semester hours of geology course work and who**
16 **work for a firm legally authorized by the state that offers geotechnical or environmental**
17 **engineering services may perform the practice of geology, as defined in section 256.453.**

18 4. Work customarily performed by professionals such as chemists, archaeologists,
19 geographers, speleologists, pedologists, and soil scientists is exempt from the provisions of
20 sections 256.450 to 256.483.

21 5. The practice of geology not affecting public health, safety, and welfare within
22 Missouri as determined by the board is exempt from the provisions of sections 256.450 to
23 256.483.

324.278. Notwithstanding any law to the contrary, if in the determination of the
2 **appropriate licensing board, another state is deemed to have substantially equivalent**
3 **certification or licensure requirements, an applicant who is certified or licensed under the**
4 **laws of the other state may obtain a license pursuant to this chapter upon the terms and**
5 **conditions as may be determined by the board, regardless of the minimum age**
6 **requirements of the other state; provided that the terms and conditions shall comply with**
7 **the minimum criteria for certification or licensure issued by the board.**

324.281. 1. Notwithstanding any law to the contrary, any person licensed pursuant
2 **to this chapter may apply to the appropriate licensing board for an inactive license status**
3 **on a form furnished by the board. Upon receipt of the completed inactive status**
4 **application form and the board's determination that the licensee meets the requirements**
5 **established by rule, the board shall declare the licensee inactive and shall place the licensee**
6 **on an inactive status list. A person whose license is inactive shall not practice his or her**
7 **profession within this state, but may continue to use the title of his or her profession or the**
8 **initials of his or her profession after such person's name.**

9 **2. If a licensee is granted inactive status, the licensee may return to active status by**
10 **notifying the board in advance of his or her intention, paying the appropriate fees, and**
11 **meeting all established requirements of the board as a condition of reinstatement.**

12 **3. A license shall be restored if, within five years of the expiration date of the**
13 **license, the applicant provides written application to the board, pays the required fees, and**
14 **documents compliance with applicable licensure reinstatement requirements as defined by**
15 **the board.**

324.442. Notwithstanding any law to the contrary, if in the determination of the
2 **appropriate licensing board, another state is deemed to have substantially equivalent**
3 **certification or licensure requirements, an applicant who is certified or licensed under the**

4 laws of the other state may obtain a license pursuant to this chapter upon the terms and
5 conditions as may be determined by the board, regardless of the minimum age
6 requirements of the other state; provided that the terms and conditions shall comply with
7 the minimum criteria for certification or licensure issued by the board.

324.445. 1. Notwithstanding any law to the contrary, any person licensed pursuant
2 to this chapter may apply to the appropriate licensing board for an inactive license status
3 on a form furnished by the board. Upon receipt of the completed inactive status
4 application form and the board's determination that the licensee meets the requirements
5 established by rule, the board shall declare the licensee inactive and shall place the licensee
6 on an inactive status list. A person whose license is inactive shall not practice his or her
7 profession within this state, but may continue to use the title of his or her profession or the
8 initials of his or her profession after such person's name.

9 2. If a licensee is granted inactive status, the licensee may return to active status by
10 notifying the board in advance of his or her intention, paying the appropriate fees, and
11 meeting all established requirements of the board as a condition of reinstatement.

12 3. Any licensee allowing his or her inactive license to lapse, may within five years
13 of the lapse return their license to active status by notifying the board in advance of such
14 intention, paying the appropriate fees, and meeting all established licensure requirements
15 of the appropriate licensing board, excluding the licensing examination, as a condition of
16 reinstatement.

324.448. Notwithstanding any law to the contrary, if any holder of a temporary
2 permit or license is unable to complete the period of time granted by a temporary permit
3 or any authorized extension thereof, the applicant may place the temporary permit on
4 inactive status until such time as the individual reactivates the temporary permit for the
5 purpose of completing any unexpired period of time for the temporary permit and any
6 extension thereof.

324.1100. As used in sections 324.1100 to 324.1140, the following terms mean:

2 (1) "Board", the board of private investigator examiners established in section
3 324.1102;

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

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

6 (4) "Law enforcement officer", a law enforcement officer as defined in section
7 556.061, RSMo;

8 (5) "Organization", a corporation, trust, estate, partnership, cooperative, or
9 association;

10 (6) "Person", an individual or organization;

11 (7) "Private investigator", any person who receives any consideration, either
12 directly or indirectly, for engaging in the private investigator business;

13 (8) "Private investigator agency", a person who regularly employs any other
14 person, other than an organization, to engage in the private investigator business;

15 (9) "Private investigator business", the furnishing of, making of, or agreeing to
16 make, any investigation for the purpose of obtaining information pertaining to:

17 (a) Crimes or wrongs done or threatened against the United States or any state or
18 territory of the United States;

19 (b) The identity, habits, conduct, business, occupation, honesty, integrity,
20 credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement,
21 whereabouts, affiliations, associations, transactions, acts, reputation, or character of any
22 person;

23 (c) The location, disposition, or recovery of lost or stolen property;

24 (d) Securing evidence to be used before any court, board, officer, or investigating
25 committee;

26 (e) Sale of personal identifier information to the public; or

27 (f) The cause or responsibility for libel, losses, accident, or damage or injury to
28 persons or property or personal protection of life or property.

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

4 2. The board shall be composed of five members appointed by the governor with
5 the advice and consent of the senate. Each member of the board shall be a citizen of the
6 United States, a resident of Missouri, at least thirty years of age, and shall have been
7 actively engaged in the private investigator business for the previous five years. No more
8 than one board member may be employed by, or affiliated with, the same private
9 investigator agency. The initial board members shall not be required to be licensed but
10 shall obtain a license within one hundred eighty days after the effective date of the rules
11 promulgated pursuant to sections 324.1100 to 324.1140 regarding licensure.

12 3. The members shall be appointed for terms of four years, except those first
13 appointed, in which case two members, who shall be private investigators, shall be
14 appointed for terms of four years, two members shall be appointed for terms of three years
15 and one member shall be appointed for a one-year term. Any vacancy on the board shall
16 be filled for the unexpired term of the member and in the manner as the first appointment.

17 4. The members of the board may receive compensation, as determined by the
18 director for their services but shall be reimbursed for actual and necessary expenses

19 incurred in performing their official duties on the board.

20 **5. There is hereby created in the state treasury the "Board of Private Investigator**
21 **Examiners Fund", hereafter the fund, which shall consist of money collected pursuant to**
22 **sections 324.1100 to 324.1140. The fund shall be administered by the board of private**
23 **investigator examiners, which shall collect the fees authorized by sections 324.1100 to**
24 **324.1140 and transmit them to the director of revenue for deposit to the state treasury to**
25 **the credit of the fund. Money in the fund shall be used solely for the purposes of the board**
26 **of private investigator examiners, as authorized by sections 324.1100 to 324.1140.**

27 **6. Notwithstanding the provisions of section 33.080, RSMo, no portion of the fund**
28 **shall be transferred to the general revenue fund, and any appropriation made to the fund**
29 **shall not lapse. The state treasurer shall invest moneys in the fund in the same manner as**
30 **other funds are invested. Interest and moneys earned on such investments shall be credited**
31 **to the fund.**

324.1104. Unless expressly exempted from the provisions of sections 324.1100 to
2 **324.1140:**

3 **(1) It shall be unlawful for any person to engage in the private investigator business**
4 **in this state unless such person is licensed as a private investigator pursuant to sections**
5 **324.1100 to 324.1140;**

6 **(2) It shall be unlawful for any person to engage in business in this state as a private**
7 **investigator agency unless such person is licensed pursuant to sections 324.1100 to**
8 **324.1140.**

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

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

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

9 **(3) A consumer reporting agency as defined in 15 U.S.C. Section 1681(a) and its**
10 **contract and salaried employees;**

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

14 **(5) A collection agency or an employee thereof while acting within the scope of**
15 **employment, while making an investigation incidental to the business of the agency,**

16 including an investigation of the location of a debtor or a debtor's property where the
17 contract with an assignor creditor is for the collection of claims owed or due, or asserted
18 to be owed or due, or the equivalent thereof;

19 (6) Insurers, agents, and insurance brokers licensed by the state, performing duties
20 in connection with insurance transacted by them;

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

23 (8) An insurance adjuster. For the purposes of sections 324.1100 to 324.1140, an
24 "insurance adjuster" means any person who receives any consideration, either directly or
25 indirectly, for adjusting in the disposal of any claim under or in connection with a policy
26 of insurance or engaging in soliciting insurance adjustment business;

27 (9) Any private fire inspector whose primary purpose of employment is the
28 determination of the origin, nature, cause, or calculation of losses relevant to a fire; or

29 (10) Employees of a not-for-profit organization or its affiliate or subsidiary who
30 makes and processes requests on behalf of health care providers and facilities for employee
31 criminal and other background information pursuant to section 660.317, RSMo.

324.1108. 1. Every person desiring to be licensed in this state as a private
2 investigator or private investigator agency shall make application therefor to the board of
3 private investigator examiners. An application for a license pursuant to the provisions of
4 sections 324.1100 to 324.1140 shall be on a form prescribed by the board of private
5 investigator examiners and accompanied by the required application fee. An application
6 shall be verified and shall include:

7 (1) The full name and business address of the applicant;

8 (2) The name under which the applicant intends to do business;

9 (3) A statement as to the general nature of the business in which the applicant
10 intends to engage;

11 (4) A statement as to the classification or classifications under which the applicant
12 desires to be qualified;

13 (5) Two recent photographs of the applicant, of a type prescribed by the board of
14 private investigator examiners, and two classifiable sets of the applicant's fingerprints;

15 (6) A verified statement of the applicant's experience qualifications; and

16 (7) Such other information, evidence, statements, or documents as may be required
17 by the board of private investigator examiners.

18 2. Before an application for a license may be granted, the applicant shall:

19 (1) Be at least twenty-one years of age;

20 (2) Be a citizen of the United States;

21 **(3) Provide proof of insurance with amount to be no less than one million in**
22 **coverage for liability and proof of workers' compensation insurance as required in chapter**
23 **287, RSMo. The board shall have the authority to raise the requirements as deemed**
24 **necessary; and**

25 **(4) Comply with such other qualifications as the board adopts by rules and**
26 **regulations.**

324.1110. 1. The board of private investigator examiners shall require as a
2 **condition of licensure as a private investigator that the applicant:**

3 **(1) Successfully complete a course of training conducted by a trainer certified**
4 **pursuant to section 324.1132;**

5 **(2) Pass a written examination as evidence of knowledge of investigator business;**
6 **and**

7 **(3) Submit to an oral interview with the board.**

8 **2. The board shall conduct a complete investigation of the background of each**
9 **applicant for licensure as a private investigator to determine whether the applicant is**
10 **qualified for licensure pursuant to sections 324.1100 to 324.1140. The board will outline**
11 **basic qualification requirements for licensing as a private investigator and agency. The**
12 **board will waive testing requirements and issue a license to existing persons and agencies**
13 **who make application within one hundred eighty days after the rules go into effect and**
14 **meet the requirements of subsection 3 of this section.**

15 **3. In the event requirements have been met so that testing has been waived,**
16 **qualification is dependant on a showing of, for the two previous years:**

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

18 **(2) One quarter million dollars in business general liability insurance.**

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

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

3 **(1) Has committed any act which, if committed by a licensee, would be grounds for**
4 **the suspension or revocation of a license pursuant to the provisions of sections 324.1100 to**
5 **324.1140;**

6 **(2) Within two years prior to the effective date of this section:**

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

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

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

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

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

16 (3) Been refused a license pursuant to the provisions of sections 324.1100 to
17 324.1140 or had a license revoked in this state or in any other state;

18 (4) While unlicensed, committed or aided and abetted the commission of any act
19 for which a license is required by sections 324.1100 to 324.1140 after the effective date of
20 this section; or

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

324.1114. 1. Every application submitted pursuant to the provisions of sections
2 324.1100 to 324.1140 shall be accompanied by a fee as determined by the board as follows:

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

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

7 2. The board shall set fees as authorized by sections 324.1100 to 324.1140 at a level
8 to produce revenue which will not substantially exceed the cost and expense of
9 administering sections 324.1100 to 324.1140.

10 3. The fees prescribed by sections 324.1100 to 324.1140 shall be exclusive and
11 notwithstanding any other provision of law. No municipality may require any person
12 licensed pursuant to sections 324.1100 to 324.1140 to furnish any bond, pass any
13 examination, or pay any license fee or occupational tax relative to practicing the person's
14 profession.

15 4. A private investigator license shall allow only the individual licensed by the state
16 to conduct investigations. An agency license shall be applied for separately and held by an
17 individual who is licensed as a private investigator. The agency may hire individuals to
18 work for the agency conducting investigations for the agency only. Persons hired shall
19 make application as determined by the board and meet all requirements set forth by the
20 board except that they shall not be required to meet any experience requirements and shall
21 be allowed to begin working immediately upon the agency submitting their applications.
22 Employees shall attend a certified training program within a time frame to be determined
23 by the board.

324.1116. 1. The board of private investigator examiners shall determine the form

2 of the license which shall include the:

- 3 (1) Name of the licensee;
- 4 (2) Name under which the licensee is to operate; and
- 5 (3) Number and date of the license.

6 2. The license shall be posted at all times in a conspicuous place in the principal
7 place of business of the licensee. Upon the issuance of a license, a pocket card of such size,
8 design, and content as determined by the division shall be issued without charge to each
9 licensee. Such card shall be evidence that the licensee is licensed pursuant to the provisions
10 of sections 324.1100 to 324.1140. When any person to whom a card is issued terminates
11 such person's position, office, or association with the licensee, the card shall be surrendered
12 to the licensee and within five days thereafter shall be mailed or delivered by the licensee
13 to the board of private investigator examiners for cancellation. Within thirty days after
14 any change of address, a licensee shall notify the board of the address change. The
15 principal place of business may be at a residence or at a business address, but it shall be
16 the place at which the licensee maintains a permanent office.

324.1118. 1. Any license issued pursuant to sections 324.1100 to 324.1140 shall
2 expire two years after the date of its issuance. Renewal of any such license shall be made
3 in the manner prescribed for obtaining an original license, including payment of the
4 appropriate fee, except that:

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

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

10 (3) Additional information may be required by rules and regulations adopted by
11 the board of private investigator examiners.

12 2. A licensee shall at all times be legally responsible for the good conduct of each
13 of the licensee's employees or agents while engaged in the business of the licensee and the
14 licensee is legally responsible for any acts committed by such licensee's employees or agents
15 which are in violation of sections 324.1100 to 324.1140. A person receiving an agency
16 license shall directly manage the agency and employees.

17 3. A license issued pursuant to the provisions of sections 324.1100 to 324.1140 shall
18 not be assignable.

324.1120. 1. Any licensee may divulge to the board, any law enforcement officer,
2 or prosecuting attorney, or such person's representative, any information such person may
3 acquire as to any criminal offense, or instruct his or her client to do so if the client is the

4 victim but such person shall not divulge to any other person, except as he or she may be
5 required by law to do, any information acquired by such person at the direction of the
6 employer or client for whom the information was obtained.

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

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

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

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

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

20 (5) Manufacture false evidence; or

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

324.1122. Each licensee shall maintain a record containing such information
2 relative to the licensee's employees as may be prescribed by the board of private
3 investigator examiners. Such licensee shall file with the board the complete address of the
4 licensee's principal place of business including the name and number of the street. The
5 board may require the filing of other information for the purpose of identifying such
6 principal place of business.

324.1124. Every advertisement by a licensee soliciting or advertising business shall
2 contain the licensee's name, city, and state as it appears in the records of the board of
3 private investigator examiners. A licensee shall not advertise or conduct business from any
4 Missouri address other than that shown on the records of the board as the licensee's
5 principal place of business unless the licensee has received a branch office certificate for
6 such location after compliance with the provisions of sections 324.1100 to 324.1140 and
7 such additional requirements necessary for the protection of the public as the board may
8 prescribe by regulation. A licensee shall notify the board in writing within ten days after
9 closing or changing the location of a branch office.

324.1126. 1. The board of private investigator examiners may suspend or revoke

2 a license issued pursuant to sections 324.1100 to 324.1140 if, after notice and opportunity
3 for hearing in accordance with the provisions of chapter 621, RSMo, the board determines
4 that the licensee has:

5 (1) Made any false statement or given any false information in connection with an
6 application for a license or a renewal or reinstatement thereof;

7 (2) Violated any provision of sections 324.1100 to 324.1140;

8 (3) Violated any rule of the board of private investigator examiners adopted
9 pursuant to the authority contained in sections 324.1100 to 324.1140;

10 (4) Impersonated, or permitted or aided and abetted an employee to impersonate,
11 a law enforcement officer or employee of the United States of America, or of any state or
12 political subdivision thereof;

13 (5) Committed, or permitted any employee to commit any act, while the license was
14 expired, which would be cause for the suspension or revocation of a license, or grounds for
15 the denial of an application for a license;

16 (6) Knowingly violated, or advised, encouraged, or assisted the violation of, any
17 court order or injunction in the course of business as a licensee;

18 (7) Used any letterhead, advertisement, or other printed matter, or in any manner
19 whatever represented that such person is an instrumentality of the federal government, a
20 state, or any political subdivision thereof;

21 (8) Used a name different from that under which such person is currently licensed
22 in any advertisement, solicitation, or contract for business; or

23 (9) Committed any act which is grounds for denial of an application for a license
24 pursuant to the provisions of section 324.1112.

25 2. The record of conviction, or a certified copy thereof, shall be conclusive evidence
26 of such conviction, and a plea or verdict of guilty is deemed to be a conviction within the
27 meaning thereof.

28 3. The agency may continue under the direction of another employee if the
29 individual holding the license is suspended or revoked as approved by the board. The
30 board shall establish a time frame in which the agency shall identify an acceptable person
31 who is qualified to assume control of the agency, as required by the board.

32 4. After the filing of a complaint before the administrative hearing commission, the
33 proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo.
34 Upon a finding by the administrative hearing commission that the grounds in subsection
35 1 of this section for disciplinary action are met, the board may singly or in combination
36 censure or place the person named in the complaint on probation pursuant to such terms
37 and conditions as the board deems appropriate for a period not to exceed five years, may

38 suspend for a period not to exceed three years, or revoke the license.

324.1128. 1. Each private investigator or investigator agency operating pursuant
2 to the provisions of sections 324.1100 to 324.1140 shall be required to keep a complete
3 record of the business transactions of such investigator or investigator agency for a period
4 of seven years. Upon the service of a court order issued by a court of competent
5 jurisdiction or upon the service of a subpoena issued by the board which is based on a
6 complaint supported by oath or affirmation, and particularly describing the records and
7 reports, any licensed private investigator who is the owner, partner, director, corporate
8 officer, or custodian of business records shall provide an opportunity for the inspection of
9 the same and to inspect reports made; but any information obtained by the board shall be
10 kept confidential, except as may be necessary to commence and prosecute any legal
11 proceedings. The board shall not personally enter a licensee's place of business to inspect
12 records, but shall utilize an employee of the division of professional registration to act as
13 a gatherer of information and facts to present to the board regarding any complaint or
14 inspection they are looking into.

15 2. For the purpose of enforcing the provisions of sections 324.1100 to 324.1140, and
16 in making investigations relating to any violation thereof, the board shall have the power
17 to subpoena and bring before the board any person in this state and require the production
18 of any books, records, or papers which the board deems relevant to the inquiry. The board
19 also may administer an oath to and take the testimony of any person, or cause such
20 person's deposition to be taken, except that any applicant or licensee or officer, director,
21 partner, or associate thereof shall not be entitled to any fees or mileage. A subpoena issued
22 pursuant to this section shall be governed by the Missouri rules of civil procedure and shall
23 comply with any confidentiality standards or legal limitations imposed by privacy or open
24 records acts, fair credit reporting acts, polygraph acts, driver privacy protection acts,
25 judicially recognized privileged communications, and the bill of rights of both the United
26 States and Missouri Constitutions. Any person duly subpoenaed, who fails to obey such
27 subpoena without reasonable cause or without such cause refuses to be examined or to
28 answer any legal or pertinent question as to the character or qualification of such applicant
29 or licensee or such applicant's alleged unlawful or deceptive practices and methods or such
30 violations, shall be guilty of a class A misdemeanor. The testimony of witnesses in any
31 investigative proceeding shall be under oath.

324.1130. 1. The board shall adopt such rules and regulations as may be necessary
2 to carry out the provisions of sections 324.1100 to 324.1140.

3 2. No rule or portion of a rule promulgated pursuant to the authority of sections
4 324.1100 to 324.1140 shall become effective unless it has been promulgated pursuant to the

5 provisions of chapter 536, RSMo.

6 3. The department of public safety shall establish guidelines to permit a private
7 investigator to carry a concealed firearm, not to be greater than the firearm training
8 imposed on a peace officer standards and training (P.O.S.T.) commissioned officer of a
9 county of the first classification. Any private investigator holding a valid firearm permit
10 issued by any city not within county or any city with a population of at least four hundred
11 thousand inhabitants will be exempt from the requirements of this subsection.

 324.1132. 1. The board of private investigator examiners shall certify persons who
2 are qualified to train private investigators.

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

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

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

7 (3) Be personally licensed as a private investigator pursuant to sections 324.1100
8 to 324.1140 and qualified to train private investigators.

9 3. Persons wishing to become certified trainers shall make application to the board
10 of private investigator examiners on a form prescribed by the board and accompanied by
11 a fee determined by the board. The application shall contain a statement of the plan of
12 operation of the training offered by the applicant and the materials and aids to be used and
13 any other information required by the board.

14 4. A certificate shall be granted to a trainer if the board finds that the applicant:

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

16 (2) Has sufficient knowledge of private investigator business to be a suitable person
17 to train private investigators;

18 (3) Has supplied all required information to the board; and

19 (4) Has paid the required fee.

20 5. The certificate issued pursuant to this section shall expire on the third year after
21 the year in which it is issued and shall be renewable triennially upon application and
22 payment of a fee.

 324.1134. Any person who knowingly falsifies the fingerprints or photographs or
2 other information required to be submitted pursuant to sections 324.1100 to 324.1140 is
3 guilty of a class D felony; and any person who violates any of the other provisions of
4 sections 324.1100 to 324.1140 is guilty of a class A misdemeanor.

 324.1136. The board may negotiate and enter into reciprocal agreements with
2 appropriate officials in other states to permit licensed private investigator agencies and
3 licensed private investigators who meet or exceed the qualifications established in sections

4 **324.1100 to 324.1140 to operate across state lines under mutually acceptable terms.**

2 **324.1138. Law enforcement officers who perform private investigations shall be**
3 **licensed pursuant to this chapter subject to the following qualifications and limitations:**

4 **(1) The board may waive testing for law enforcement officers currently certified**
5 **pursuant to then existing peace officer standards and training requirements pursuant to**
6 **chapter 590, RSMo;**

7 **(2) Law enforcement officers shall pay the appropriate licensing fees;**

8 **(3) Law enforcement officers shall assume individual liability for their actions while**
9 **performing private investigations, complying with any insurance or bonding requirements**
10 **imposed pursuant to sections 324.1100 to 324.1140;**

11 **(4) Law enforcement officers shall not utilize their official capacity in the course**
12 **of a private investigation, including but not limited to:**

13 **(a) Accessing information intended only for police officials. Law enforcement**
14 **officers shall comply with the legal limits on access to information by a private citizen;**

15 **(b) Utilizing any official item, such as a uniform, badge, or vehicle, while**
16 **performing a private investigation. Law enforcement officers shall provide their own**
17 **equipment;**

18 **(c) Utilizing law enforcement officer arrest and use of force standards. Law**
19 **enforcement officers shall use private person arrest and use of force standards while**
20 **operating as a private investigator;**

21 **(5) Law enforcement officers shall produce evidence of training and experience**
22 **concerning the legal limits imposed on private investigations or pass a test on such subject**
23 **produced by the board; and**

24 **(6) The provisions of sections 324.1100 to 324.1140 shall not apply to law**
25 **enforcement officers who provide only private security services and not private**
investigator services.

2 **324.1140. Any person who violates sections 324.1100 to 324.1140 is guilty of a class**
3 **A misdemeanor. Any second or subsequent violation of sections 324.1100 to 324.1140 is**
4 **a class D felony.**

5 **326.256. 1. As used in this chapter, the following terms mean:**

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

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

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

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

- 8 (3) "Board", the Missouri state board of accountancy established pursuant to section
9 326.259 or its predecessor pursuant to prior law;
- 10 (4) "Certificate", a certificate issued pursuant to section 326.060 prior to August 28,
11 2001;
- 12 (5) "Certified public accountant" or "CPA", the holder of a certificate or license as
13 defined in this section;
- 14 (6) "Certified public accountant firm", "CPA firm" or "firm", a sole proprietorship, a
15 corporation, a partnership or any other form of organization issued a permit pursuant to section
16 326.289;
- 17 (7) "Client", a person or entity that agrees with a licensee or licensee's employer to
18 receive any professional service;
- 19 (8) "Compilation", providing a service to be performed in accordance with Statements
20 on Standards for Accounting and Review Services (SSARS) that is presented in the form of
21 financial statements information that is the representation of management (owners) without
22 undertaking to express any assurance on the statements;
- 23 (9) "License", a license issued pursuant to section 326.280, or a provisional license
24 issued pursuant to section 326.283; or, in each case, an individual license or permit issued
25 pursuant to corresponding provisions of prior law;
- 26 (10) "Licensee", the holder of a license as defined in this section;
- 27 (11) "Manager", a manager of a limited liability company;
- 28 (12) "Member", a member of a limited liability company;
- 29 (13) "NASBA", the National Association of State Boards of Accountancy;
- 30 (14) "Peer review", a study, appraisal or review of one or more aspects of the
31 professional work of a licensee or certified public accountant firm that performs attest, review
32 or compilation services, by licensees who are not affiliated either personally or through their
33 certified public accountant firm being reviewed pursuant to the Standards for Performing and
34 Reporting on Peer Reviews promulgated by the AICPA or such other standard adopted by
35 regulation of the board which meets or exceeds the AICPA standards;
- 36 (15) "Permit", a permit to practice as a certified public accountant firm issued pursuant
37 to section 326.289 or corresponding provisions of prior law or pursuant to corresponding
38 provisions of the laws of other states;
- 39 (16) "Professional", arising out of or related to the specialized knowledge or skills
40 associated with certified public accountants;
- 41 (17) "Public [accountancy] **accounting**":
- 42 (a) Performing or offering to perform for an enterprise, client or potential client one or
43 more services involving the use of accounting or auditing skills, or one or more management

44 advisory or consulting services, or the preparation of tax returns or the furnishing of advice on
45 tax matters by a person, firm, limited liability company or professional corporation using the title
46 "C.P.A." or "P.A." in signs, advertising, directory listing, business cards, letterheads or other
47 public representations;

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

53 (c) Offering to the public or to prospective clients to perform, or actually performing on
54 behalf of clients, professional services that involve or require an audit or examination of financial
55 records leading to the expression of a written attestation or opinion concerning these records;

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

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

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

76 (21) "Substantial equivalency", a determination by the board of accountancy or its
77 designee that the education, examination and experience requirements contained in the statutes
78 and administrative rules of another jurisdiction are comparable to or exceed the education,
79 examination and experience requirements contained in this chapter or that an individual certified

80 public accountant's education, examination and experience qualifications are comparable to or
81 exceed the education, examination and experience requirements contained in this chapter;

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

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

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

3 2. The board shall promulgate rules of professional conduct for establishing and
4 maintaining high standards of competence and integrity in the profession of public [accountancy]
5 **accounting**.

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

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

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

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

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

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

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

22 5. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
23 is created under the authority delegated in this chapter shall become effective only if it complies
24 with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
25 536.028, RSMo. This chapter and chapter 536, RSMo, are nonseverable and if any of the powers
26 vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the
27 effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the
28 grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be
29 invalid and void.

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] **may** 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

37 temporary license be in effect for more than twelve months after the date of issuance nor shall
38 a temporary license be reissued to the same applicant. No fee shall be charged for a temporary
39 license. The holder of a temporary license which has not expired, been suspended or revoked
40 shall be deemed to be the holder of a license issued pursuant to this section until the temporary
41 license expires, is terminated, suspended or revoked.

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

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

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

13 (a) The personal and subject matter jurisdiction and disciplinary authority of the board;
14 (b) Comply with this chapter and the board's rules; and
15 (c) The appointment of the state board which issued the individual's license as his or her
16 agent upon whom process may be served in any action or proceeding by this board against the
17 individual.

18 (3) **Nothing in this section shall prohibit temporary practice in this state for**
19 **professional business incidental to a CPA's regular practice outside this state. "Temporary**
20 **practice" means that practice which is a continuation or extension of an engagement for**
21 **a client located outside this state, which engagement began outside this state and extends**
22 **into this state through common ownership, existence of a subsidiary, assets or other**
23 **operations located within this state.**

24 2. A licensee of this state offering or rendering services or using his or her certified
25 public accountant title in another state shall be subject to disciplinary action in this state for an
26 act committed in another state for which the licensee would be subject to discipline for an act
27 committed in the other state. Notwithstanding the provisions of section 326.274 to the contrary,
28 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
2 demonstrate that[:

3 (1)] their qualifications, including the qualifications prescribed by section 326.280, are
4 in accordance with this section]; or

5 (2) They are eligible under the substantial equivalency standard pursuant to subsection
6 1 of section 326.283].

7 2. Licenses shall be initially issued and renewed for periods of not more than three years
8 and shall expire on the renewal date following issuance or renewal. Applications for licenses
9 shall be made in such form, and in the case of applications for renewal, between such dates, as
10 the board by rule shall specify. Application and renewal fees shall be determined by the board
11 by rule.

12 3. With regard to applicants that do not qualify for reciprocity [under] **pursuant to**
13 **subsection 1 of this section, or a provisional license through** the substantial equivalency
14 standard set out in subsection 1 of section 326.283, the board may issue a license to an applicant
15 upon a showing that:

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

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

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

26 4. As an alternative to the requirements of subsection 3 of this section, a certified public
27 accountant licensed by another state who establishes a principal place of business in this state
28 shall request the issuance of a license from the board prior to establishing the principal place of
29 business. The board may issue a license to the person who obtains verification from the NASBA
30 National Qualification Appraisal Service that the individual's qualifications are substantially
31 equivalent to the licensure requirements of sections 326.250 to 326.331.

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

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

45 7. Applicants for initial issuance or renewal of licenses pursuant to this section shall list
46 all states in which they have applied for or hold certificates, licenses or permits and list any past
47 denial, revocation or suspension or any discipline of a certificate, license or permit. Each holder
48 of or applicant for a license shall notify the board in writing within thirty days after its
49 occurrence of any issuance, denial, revocation or suspension or any discipline of a certificate,
50 license or permit by another state.

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

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

56 (2) The foreign designation:

57 (a) Was duly issued by a foreign authority that regulates the practice of public
58 [accountancy] **accounting** and the foreign designation has not expired or been revoked or
59 suspended;

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

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

63 (3) The applicant:

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

67 (b) Completed an experience requirement substantially equivalent to the requirement set

68 out in subdivision (6) of subsection 1 of section 326.280 in the jurisdiction which granted the
69 foreign designation or has completed four years of professional experience in this state, or meets
70 equivalent requirements prescribed by the board by rule within the ten years immediately
71 preceding the application; and

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

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

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

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

326.289. 1. The board may grant or renew permits to practice as a certified public
2 accounting firm to entities that make application and demonstrate their qualifications in
3 accordance with this section or to certified public accounting firms originally licensed in another
4 state that establish an office in this state. A firm shall hold a permit issued pursuant to this
5 section to provide attest, review or compilation services or to use the title certified public
6 accountant or certified public accounting firm.

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

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

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

13 (1) Notwithstanding any other provision of law to the contrary, a simple majority of the
14 ownership of the firm, in terms of financial interests and voting rights of all partners, officers,
15 principals, shareholders, members or managers, belongs to licensees who are licensed in some
16 state, and the partners, officers, principals, shareholders, members or managers, whose principal

17 place of business is in this state and who perform professional services in this state are licensees
18 pursuant to section 326.280 or the corresponding provision of prior law. Although firms may
19 include nonlicensee owners, the firm and its ownership shall comply with rules promulgated by
20 the board;

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

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

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

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

28 (3) Any licensee, **initially licensed on or after August 28, 2001**, who is responsible for
29 supervising attest[, review or compilation] services, or signs or authorizes someone to sign the
30 licensee's report on the financial statements on behalf of the firm, shall meet competency
31 requirements as determined by the board by rule which shall include one year of experience in
32 addition to the experience required pursuant to subdivision (6) of subsection 1 of section 326.280
33 and shall be verified by a licensee. The additional experience required by this subsection shall
34 include experience in attest work supervised by a licensee;

35 **(4) Any licensee who is responsible for supervising review services or signs or**
36 **authorizes someone to sign review reports shall meet the competency requirements as**
37 **determined by board by rule which shall include experience in review services.**

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

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

43 (1) The legal form of the firm;

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

46 (3) Any other matter.

47

48 The names of one or more former partners, members or shareholders may be included in the
49 name of a firm or its successor unless the firm becomes a sole proprietorship because of the
50 death or withdrawal of all other partners, officers, members or shareholders. A firm may use a
51 fictitious name if the fictitious name is registered with the board and is not otherwise misleading.
52 The name of a firm shall not include the name **or initials** of an individual who is **not** a present

53 or a past partner, member or shareholder of the firm or its predecessor. The name of the firm
54 shall not include the name of an individual who is not a licensee.

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

64 8. Firms which fall out of compliance with the provisions of this section due to changes
65 in firm ownership or personnel after receiving or renewing a permit shall take corrective action
66 to bring the firm back into compliance as quickly as possible. The board may grant a reasonable
67 period of time for a firm to take such corrective action. Failure to bring the firm back into
68 compliance within a reasonable period as defined by the board may result in the suspension or
69 revocation of the firm permit.

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

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

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

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

89 this subsection.

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

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

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

100 13. The peer review processes shall be operated and the documents generated thereby
101 be maintained in a manner designed to preserve their confidentiality. No third party, other than
102 the oversight body, the board, subject to the provisions of subsection 12 of this section, or the
103 organization performing peer review shall have access to documents furnished or generated in
104 the course of the review. All documents shall be privileged and closed records for all purposes
105 and all meetings at which the documents are discussed shall be considered closed meetings
106 pursuant to subdivision (1) of section 610.021, RSMo. The proceedings, records and workpapers
107 of the board and any peer review subjected to the board process shall be privileged and shall not
108 be subject to discovery, subpoena or other means of legal process or introduction into evidence
109 at any civil action, arbitration, administrative proceeding or board proceeding. No member of
110 the board or person who is involved in the peer review process shall be permitted or required to
111 testify in any civil action, arbitration, administrative proceeding or board proceeding as to any
112 matters produced, presented, disclosed or discussed during or in connection with the peer review
113 process or as to any findings, recommendations, evaluations, opinions or other actions of such
114 committees or any of its members; provided, however, that information, documents or records
115 that are publicly available shall not be subject to discovery or use in any civil action, arbitration,
116 administrative proceeding or board proceeding merely because they were presented or considered
117 in connection with the peer review process.

326.292. 1. Only licensees may issue a report on financial statements of any person,
2 firm, organization or governmental unit or offer to render or render any attest service. Such
3 restriction shall not prohibit any act of a public official or public employee in the performance
4 of the person's duties as such; nor prohibit the performance by any nonlicensee of other services
5 involving the use of accounting skills, including the preparation of tax returns, management
6 advisory services and the preparation of nonattest financial statements. Nonlicensees may
7 prepare financial statements and issue nonattest transmittals or information thereon which do not

8 purport to be in compliance with the Statements on Standards for Accounting and Review
9 Services (SSARS).

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

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

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

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

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

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

31 4. Only persons holding a valid license or permit issued pursuant to section 326.280 or
32 326.289 shall assume or use the title certified accountant, chartered accountant, enrolled
33 accountant, licensed accountant, registered accountant, accredited accountant or any other title
34 or designation likely to be confused with the titles certified public accountant or public
35 accountant, or use any of the abbreviations CA, LA, RA, AA or similar abbreviation likely to be
36 confused with the abbreviation CPA or PA. The title enrolled agent or EA shall only be used by
37 individuals so designated by the Internal Revenue Service. Nothing in this section shall prohibit
38 the use or issuance of a title for nonattest services provided that the organization and the title
39 issued by the organization existed prior to August 28, 2001.

40 5. (1) Nonlicensees shall not use language in any statement relating to the financial
41 affairs of a person or entity that is conventionally used by certified public accountants in reports
42 on financial statements. Nonlicensees may use the following safe harbor language:

43 (a) For compilations:

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

49 (b) For reviews:

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

54 (2) Only persons or firms holding a valid license or permit issued pursuant to section
55 326.280 or 326.289 shall assume or use any title or designation that includes the words
56 accountant or accounting in connection with any other language, including the language of a
57 report, that implies that the person or firm holds a license or permit or has special competence
58 as an accountant or auditor; provided, however, that this subsection shall not prohibit any officer,
59 partner, principal, member, manager or employee of any firm or organization from affixing such
60 person's own signature to any statement in reference to the financial affairs of the firm or
61 organization with any wording designating the position, title or office that the person holds
62 therein nor prohibit any act of a public official or employee in the performance of the person's
63 duties as such. Nothing in this subsection shall prohibit the singular use of "accountant" or
64 "accounting" for nonattest purposes.

65 6. Licensees **signing or authorizing someone to sign reports on financial statements**
66 **when** performing attest, review or compilation services shall provide those services in
67 accordance with professional standards as determined by the board by rule.

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

72 8. None of the foregoing provisions of this section shall apply to a person or firm holding
73 a certification, designation, degree or license granted in a foreign country entitling the holder to
74 engage in the practice of public [accountancy] **accounting** or its equivalent in the country whose
75 activities in this state are limited to the provision of professional services to persons or firms who
76 are residents of, governments of, or business entities of the country in which the person holds
77 the entitlement, who performs no attest, review or compilation services and who issues no
78 reports with respect to the financial statements of any other persons, firms or governmental units
79 in this state, and who does not use in this state any title or designation other than the one under

80 which the person practices in such country, followed by a translation of such title or designation
81 into the English language, if it is in a different language, and by the name of such country.

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

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

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

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

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

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

98 [12.] 11. Nothing herein shall prohibit any trustee, executor, administrator, referee or
99 commissioner from signing and certifying financial reports incident to his or her duties in that
100 capacity.

101 [13.] 12. Nothing herein shall prohibit any director or officer of a corporation, partner
102 or a partnership, sole proprietor of a business enterprise, member of a joint venture, member of
103 a committee appointed by stockholders, creditors or courts, or an employee of any of the
104 foregoing, in his or her capacity as such, from signing, delivering or issuing any financial,
105 accounting or related statement, or report thereon, relating to the corporation, partnership,
106 business enterprise, joint venture or committee, provided the capacity is designated on the
107 statement or report.

108 [14.] 13. (1) A licensee shall not for a commission recommend or refer to a client any
109 product or service, or for a commission recommend or refer any product or service to be supplied
110 by a client, or receive a commission, when the licensee also performs for that client:

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

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

115 (c) An examination of prospective financial information.

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

119 (2) A licensee who is not prohibited by this section from performing services for or
120 receiving a commission and who is paid or expects to be paid a commission shall disclose in
121 writing that fact to any person or entity to whom the licensee recommends or refers a product or
122 service to which the commission relates.

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

126 [15.] 14. (1) A licensee shall not:

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

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

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

133 c. An examination of prospective financial information; [or]

134 (b) Prepare an original [or amended] tax return or claim for a tax refund for a contingent
135 fee for any client; **or**

136 **(c) Prepare an amended tax return or claim for a tax refund for a contingent fee**
137 **for any client, unless permitted by board rule.**

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

141 (3) A contingent fee is a fee established for the performance of any service pursuant to
142 an arrangement in which no fee will be charged unless a specified finding or result is attained,
143 or in which the amount of the fee is otherwise dependent upon the finding or result of the service.
144 Solely for purposes of this section, fees are not regarded as being contingent if fixed by courts
145 or other public authorities, or, in tax matters, if determined based on the results of judicial
146 proceedings or the findings of governmental agencies. A licensee's fees may vary depending,
147 for example, on the complexity of services rendered.

148 [16.] 15. Any person who violates any provision of subsections 1 to 5 of this section
149 shall be guilty of a class A misdemeanor. Whenever the board has reason to believe that any
150 person has violated this section it may certify the facts to the attorney general of this state or
151 bring other appropriate proceedings.

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;

(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;

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

(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;

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

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

(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;

(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

37 surveying is defined in section 327.272.

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

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

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

26 4. Each division of the board shall, at its first meeting in each even-numbered year, elect
27 one of its members as division chairperson for a term of two years. The chairpersons of the
28 architectural division, professional engineering division and the professional land surveying
29 division so elected shall be vice chairpersons of the board, and when the chairperson of the board
30 is an architect, the chairperson of the architectural division shall be the ranking vice chairperson,
31 and when the chairperson of the board is a professional engineer, the chairperson of the
32 professional engineering division shall be the ranking vice chairperson, and when the chairperson
33 of the board is a professional land surveyor, the chairperson of the professional land surveying
34 division shall be the ranking vice chairperson. The chairperson of each division shall be the
35 administrative and executive officer of his or her division, and it shall be his or her duty to

36 supervise and expedite the work of the division, and, in case of a tie vote on any matter, the
37 chairperson shall, at his or her election, break the tie by his or her vote. Every motion or
38 question pending before the division upon which a tie exists shall be deemed lost, and so
39 declared by the chairperson of the division, unless the chairperson shall elect to break such tie
40 by his or her vote.

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

70 6. The governor shall appoint the chairperson and the other members of the board when
71 a vacancy occurs either by the expiration of a term or otherwise, and each board member shall

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

80 7. In the event that a vacancy is to occur on the board because of the expiration of a term,
81 then ninety days prior to the expiration, or as soon as feasible after a vacancy otherwise occurs,
82 the president of the American Institute of Architects/Missouri if the vacancy to be filled requires
83 the appointment of an architect, the president of the Missouri Association of Landscape
84 Architects if the vacancy to be filled requires the appointment of a landscape architect, the
85 president of the Missouri Society of Professional Engineers if the vacancy to be filled requires
86 the appointment of an engineer, and the president of the Missouri Society of Professional
87 Surveyors if the vacancy to be filled requires the appointment of a land surveyor, shall submit
88 to the director of the division of professional registration a list of five architects or five
89 professional engineers, five landscape architects or five professional land surveyors, as the case
90 may require, qualified and willing to fill the vacancy in question, with the recommendation that
91 the governor appoint one of the five persons so listed; and with the list of names so submitted,
92 the president of the appropriate organization shall include in a letter of transmittal a description
93 of the method by which the names were chosen. This subsection shall not apply to public
94 member vacancies.

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

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

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

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

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

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

**328.001. Notwithstanding any law to the contrary, if in the determination of the
2 appropriate licensing board, another state is deemed to have substantially equivalent
3 certification or licensure requirements, an applicant who is certified or licensed under the
4 laws of the other state may obtain a license pursuant to this chapter upon the terms and
5 conditions as may be determined by the board, regardless of the minimum age
6 requirements of the other state; provided that the terms and conditions shall comply with
7 the minimum criteria for certification or licensure issued by the board.**

**328.002. 1. Notwithstanding any law to the contrary, any person licensed pursuant
2 to this chapter may apply to the appropriate licensing board for an inactive license status
3 on a form furnished by the board. Upon receipt of the completed inactive status
4 application form and the board's determination that the licensee meets the requirements**

5 established by rule, the board shall declare the licensee inactive and shall place the licensee
6 on an inactive status list. A person whose license is inactive shall not practice his or her
7 profession within this state, but may continue to use the title of his or her profession or the
8 initials of his or her profession after such person's name.

9 2. If a licensee is granted inactive status, the licensee may return to active status by
10 notifying the board in advance of his or her intention, paying the appropriate fees, and
11 meeting all established requirements of the board as a condition of reinstatement.

12 3. Any licensee allowing his or her inactive license to lapse, may within five years
13 of the lapse return their license to active status by notifying the board in advance of such
14 intention, paying the appropriate fees, and meeting all established licensure requirements
15 of the appropriate licensing board, excluding the licensing examination, as a condition of
16 reinstatement.

328.003. Notwithstanding any law to the contrary, if any holder of a temporary
2 permit or license is unable to complete the period of time granted by a temporary permit
3 or any authorized extension thereof, the applicant may place the temporary permit on
4 inactive status until such time as the individual reactivates the temporary permit for the
5 purpose of completing any unexpired period of time for the temporary permit and any
6 extension thereof.

329.001. Notwithstanding any law to the contrary, if in the determination of the
2 appropriate licensing board, another state is deemed to have substantially equivalent
3 certification or licensure requirements, an applicant who is certified or licensed under the
4 laws of the other state may obtain a license pursuant to this chapter upon the terms and
5 conditions as may be determined by the board, regardless of the minimum age
6 requirements of the other state; provided that the terms and conditions shall comply with
7 the minimum criteria for certification or licensure issued by the board.

329.002. 1. Notwithstanding any law to the contrary, any person licensed pursuant
2 to this chapter may apply to the appropriate licensing board for an inactive license status
3 on a form furnished by the board. Upon receipt of the completed inactive status
4 application form and the board's determination that the licensee meets the requirements
5 established by rule, the board shall declare the licensee inactive and shall place the licensee
6 on an inactive status list. A person whose license is inactive shall not practice his or her
7 profession within this state, but may continue to use the title of his or her profession or the
8 initials of his or her profession after such person's name.

9 2. If a licensee is granted inactive status, the licensee may return to active status by
10 notifying the board in advance of his or her intention, paying the appropriate fees, and
11 meeting all established requirements of the board as a condition of reinstatement.

12 **3. Any licensee allowing his or her inactive license to lapse, may within five years**
13 **of the lapse return their license to active status by notifying the board in advance of such**
14 **intention, paying the appropriate fees, and meeting all established licensure requirements**
15 **of the appropriate licensing board, excluding the licensing examination, as a condition of**
16 **reinstatement.**

329.003. Notwithstanding any law to the contrary, if any holder of a temporary
2 **permit or license is unable to complete the period of time granted by a temporary permit**
3 **or any authorized extension thereof, the applicant may place the temporary permit on**
4 **inactive status until such time as the individual reactivates the temporary permit for the**
5 **purpose of completing any unexpired period of time for the temporary permit and any**
6 **extension thereof.**

331.001. Notwithstanding any law to the contrary, if in the determination of the
2 **appropriate licensing board, another state is deemed to have substantially equivalent**
3 **certification or licensure requirements, an applicant who is certified or licensed under the**
4 **laws of the other state may obtain a license pursuant to this chapter upon the terms and**
5 **conditions as may be determined by the board, regardless of the minimum age**
6 **requirements of the other state; provided that the terms and conditions shall comply with**
7 **the minimum criteria for certification or licensure issued by the board.**

331.002. 1. Notwithstanding any law to the contrary, any person licensed pursuant
2 **to this chapter may apply to the appropriate licensing board for an inactive license status**
3 **on a form furnished by the board. Upon receipt of the completed inactive status**
4 **application form and the board's determination that the licensee meets the requirements**
5 **established by rule, the board shall declare the licensee inactive and shall place the licensee**
6 **on an inactive status list. A person whose license is inactive shall not practice his or her**
7 **profession within this state, but may continue to use the title of his or her profession or the**
8 **initials of his or her profession after such person's name.**

9 **2. If a licensee is granted inactive status, the licensee may return to active status by**
10 **notifying the board in advance of his or her intention, paying the appropriate fees, and**
11 **meeting all established requirements of the board as a condition of reinstatement.**

12 **3. Any licensee allowing his or her inactive license to lapse, may within five years**
13 **of the lapse return their license to active status by notifying the board in advance of such**
14 **intention, paying the appropriate fees, and meeting all established licensure requirements**
15 **of the appropriate licensing board, excluding the licensing examination, as a condition of**
16 **reinstatement.**

331.003. Notwithstanding any law to the contrary, if any holder of a temporary
2 **permit or license is unable to complete the period of time granted by a temporary permit**

3 or any authorized extension thereof, the applicant may place the temporary permit on
4 inactive status until such time as the individual reactivates the temporary permit for the
5 purpose of completing any unexpired period of time for the temporary permit and any
6 extension thereof. A person whose temporary permit or license is inactive shall not
7 practice his or her profession in this state.

332.001. Notwithstanding any law to the contrary, if in the determination of the
2 appropriate licensing board, another state is deemed to have substantially equivalent
3 certification or licensure requirements, an applicant who is certified or licensed under the
4 laws of the other state may obtain a license pursuant to this chapter upon the terms and
5 conditions as may be determined by the board, regardless of the minimum age
6 requirements of the other state; provided that the terms and conditions shall comply with
7 the minimum criteria for certification or licensure issued by the board.

332.002. 1. Notwithstanding any law to the contrary, any person licensed pursuant
2 to this chapter may apply to the appropriate licensing board for an inactive license status
3 on a form furnished by the board. Upon receipt of the completed inactive status
4 application form and the board's determination that the licensee meets the requirements
5 established by rule, the board shall declare the licensee inactive and shall place the licensee
6 on an inactive status list. A person whose license is inactive shall not practice his or her
7 profession within this state, but may continue to use the title of his or her profession or the
8 initials of his or her profession after such person's name.

9 2. If a licensee is granted inactive status, the licensee may return to active status by
10 notifying the board in advance of his or her intention, paying the appropriate fees, and
11 meeting all established requirements of the board as a condition of reinstatement.

12 3. Any licensee allowing his or her inactive license to lapse, may within five years
13 of the lapse return their license to active status by notifying the board in advance of such
14 intention, paying the appropriate fees, and meeting all established licensure requirements
15 of the appropriate licensing board, excluding the licensing examination, as a condition of
16 reinstatement.

332.003. Notwithstanding any law to the contrary, if any holder of a temporary
2 permit or license is unable to complete the period of time granted by a temporary permit
3 or any authorized extension thereof, the applicant may place the temporary permit on
4 inactive status until such time as the individual reactivates the temporary permit for the
5 purpose of completing any unexpired period of time for the temporary permit and any
6 extension thereof.

332.051. 1. The board shall establish and maintain an office at Jefferson City, Missouri,
2 where its records and files shall be kept.

3 2. Investigators employed by the board shall, among other duties, have the power in the
4 name of the board to investigate alleged violations of this chapter including the right to inspect,
5 on order of the board, dental offices, including records, dental laboratories, dental equipment and
6 instruments, **and not-for-profit corporations licensed to practice dentistry in this state,**
7 **including patient records, records of the not-for-profit corporation, and locations where**
8 **not-for-profit corporations practice dentistry,** with respect to violations of the provisions of
9 this chapter.

 332.071. A person or other entity "practices dentistry" within the meaning of this chapter
2 who:

- 3 (1) Undertakes to do or perform dental work or dental services or dental operations or
4 oral surgery, by any means or methods, gratuitously or for a salary or fee or other reward, paid
5 directly or indirectly to the person or to any other person or entity;
- 6 (2) Diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats
7 or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition of
8 human teeth or adjacent structures or treats or professes to treat any disease or disorder or lesions
9 of the oral regions;
- 10 (3) Attempts to or does replace or restore a part or portion of a human tooth;
- 11 (4) Attempts to or does extract human teeth or attempts to or does correct malformations
12 of human teeth or jaws;
- 13 (5) Attempts to or does adjust an appliance or appliances for use in or used in connection
14 with malposed teeth in the human mouth;
- 15 (6) Interprets or professes to interpret or read dental radiographs;
- 16 (7) Administers an anesthetic in connection with dental services or dental operations or
17 dental surgery;
- 18 (8) Undertakes to or does remove hard and soft deposits from or polishes natural and
19 restored surfaces of teeth;
- 20 (9) Uses or permits to be used for the person's benefit or for the benefit of any other
21 person or other entity the following titles or words in connection with the person's name:
22 "Doctor", "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters, titles, degrees or
23 descriptive matter which directly or indirectly indicate or imply that the person is willing or able
24 to perform any type of dental service for any person or persons, or uses or permits the use of for
25 the person's benefit or for the benefit of any other person or other entity any card, directory,
26 poster, sign or any other means by which the person indicates or implies or represents that the
27 person is willing or able to perform any type of dental services or operation for any person;
- 28 (10) Directly or indirectly owns, leases, operates, maintains, manages or conducts an
29 office or establishment of any kind in which dental services or dental operations of any kind are

30 performed for any purpose; but this section shall not be construed to prevent owners or lessees
31 of real estate from lawfully leasing premises to those who are qualified to practice dentistry
32 within the meaning of this chapter;

33 (11) Constructs, supplies, reproduces or repairs any prosthetic denture, bridge, artificial
34 restoration, appliance or other structure to be used or worn as a substitute for natural teeth,
35 except when one, not a registered and licensed dentist, does so pursuant to a written uniform
36 laboratory work order, in the form to be prescribed by the board and copies of which shall be
37 retained by the nondentist for two years, of a dentist registered and currently licensed in Missouri
38 and which the substitute in this subdivision described is constructed upon or by use of casts or
39 models made from an impression furnished by a dentist registered and currently licensed in
40 Missouri;

41 (12) Attempts to or does place any substitute described in subdivision (11) of this section
42 in a human mouth or attempts to or professes to adjust any substitute or delivers any substitute
43 to any person other than the dentist upon whose order the work in producing the substitute was
44 performed;

45 (13) Advertises, solicits, or offers to or does sell or deliver any substitute described in
46 subdivision (11) of this section or offers to or does sell the person's services in constructing,
47 reproducing, supplying or repairing the substitute to any person other than a registered and
48 licensed dentist in Missouri;

49 (14) Undertakes to do or perform any physical evaluation of a patient in the person's
50 office or in a hospital, clinic, or other medical or dental facility prior to or incident to the
51 performance of any dental services, dental operations, or dental surgery;

52 **(15) Reviews examination findings, x-rays, or other patient data to make**
53 **judgements or decisions about the dental care of a patient in this state.**

332.081. 1. No person, **corporation, or entity** shall practice dentistry in Missouri as
2 defined in section 332.071 unless and until the board has issued to the person a certificate
3 certifying that the person has been duly registered as a dentist in Missouri and unless and until
4 the board has issued to the person a license, to be renewed each period as provided in this
5 chapter, to practice dentistry in Missouri; but nothing in this chapter shall be so construed as to
6 make it unlawful for a legally qualified and licensed physician or surgeon, who does not practice
7 dentistry as a specialty, from extracting teeth, or to make it unlawful for a dentist licensed in a
8 state other than Missouri from making a clinical demonstration before a meeting of dentists in
9 Missouri, or to make it unlawful for dental students in any accredited dental school to practice
10 dentistry under the personal direction of instructors, or to make it unlawful for any duly
11 registered and licensed dental hygienist in Missouri to practice as a dental hygienist as defined
12 in section 332.091, or to make it unlawful for dental assistants, certified dental assistants or

13 expanded functions dental assistants to be delegated duties as defined in section 332.093, or to
14 make it unlawful for persons to practice dentistry in the United States armed services or in or for
15 the United States Public Health Service, or in or for the United States Veterans Bureau, or to
16 make it unlawful to teach in an accredited dental school, or to make it unlawful for a duly
17 qualified anesthesiologist or anesthesiologist to administer an anesthetic in connection with dental
18 services or dental surgery.

19 2. No corporation shall practice dentistry as defined in section 332.071 unless that
20 corporation is organized as a **not-for-profit corporation under the provisions of chapter 355,**
21 **RSMo, and has the status of an organization under 26 U.S.C. Section 501(c)(3), or is**
22 **organized** under the provisions of chapter 356, RSMo.

23 3. A **not-for-profit corporation organized under the provisions of chapter 355,**
24 **RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3) shall:**

25 (1) **Only provide dental services to Medicaid recipients and individuals who have**
26 **income below two hundred percent of the federal poverty level unless mandated by federal**
27 **law;**

28 (2) **Only practice dentistry in this state so long as at least ninety percent of the**
29 **corporation's patient census consists of Medicaid recipients or patients with an income**
30 **below two hundred percent of the federal poverty level unless mandated by law;**

31 (3) **Only employ dentists and dental hygienists licensed in this state and dental**
32 **assistants to render dental services; and**

33 (4) **Be organized for health purposes only.**

34 4. **No not-for-profit corporation organized under the provisions of chapter 355,**
35 **RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3) or any other**
36 **person may direct or interfere or attempt to direct or interfere with a licensed dentist's**
37 **professional judgment and competent practice of dentistry.**

38 5. **A not-for-profit corporation organized under the provisions of chapter 355,**
39 **RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3) may apply for**
40 **a license to practice dentistry in this state so long as the corporation applies for licensure**
41 **in writing on forms provided by the Missouri dental board.**

42 6. **Any not-for-profit corporation that obtains a license to practice dentistry in this**
43 **state is subject to discipline pursuant to section 332.321. If the board concludes that a not-**
44 **for-profit corporation has committed an act or is engaging in a course of conduct that**
45 **would be grounds for disciplinary action, the board may file a complaint before the**
46 **administrative hearing commission. The board may refuse to issue or renew the license of**
47 **a not-for-profit corporation for one or any combination of causes stated in subsection 2 of**
48 **section 332.321. The board shall notify the applicant in writing of the reasons for the**

49 **refusal and shall advise the applicant of their right to file a complaint with the**
50 **administrative hearing commission as provided by chapter 621, RSMo.**

51 **7. The board shall promulgate rules and regulations to ensure not-for-profit**
52 **corporations are rendering care to the patient population as set forth herein, including**
53 **requirements for not-for-profit corporations to report patient census data to the board.**

54 **8. All not-for-profit corporations organized and operated as migrant, community,**
55 **or homeless health centers pursuant to 42 U.S.C. Section 254(b) or 254(c), or federally**
56 **qualified health centers pursuant to 42 U.S.C. Section 13996(d), or as otherwise authorized**
57 **herein, shall practice dentistry in accordance with the law of this state, except as**
58 **specifically preempted by federal law.**

332.111. Any person [who], **corporation, or entity that** practices dentistry as defined
2 in section 332.071 [who] **that** is not a duly registered and currently licensed dentist in Missouri
3 as hereinafter provided, or any person who practices as a dental hygienist as defined in section
4 332.091 who is not a duly registered and currently licensed dental hygienist in Missouri as
5 hereinafter provided is guilty of a class A misdemeanor.

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

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

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

12 **(3) Directing, interfering with, or attempting to direct or interfere with licensed**
13 **dentist's professional judgement or competent practice of dentistry.**

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

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

332.181. 1. No person shall engage in the practice of dentistry in Missouri without
2 having first secured a license as provided for in this chapter.

3 2. Any person desiring a license to practice dentistry in Missouri shall make application

4 to the board on a form prescribed by the board pursuant to section 332.141. An application for
5 licensure shall be active for one year after the date it is received by the board. The application
6 becomes void if not completed within such one-year period.

7 3. All persons once licensed to practice dentistry in Missouri shall renew his or her
8 license to practice dentistry in Missouri on or before the license renewal date and shall display
9 his or her license for each current licensing period in the office in which he or she practices or
10 offers to practice dentistry.

11 4. Effective with the licensing period beginning on December 1, 2002, a license shall be
12 renewed every two years. [The board shall not renew the license of any dentist unless the
13 licensee provides satisfactory evidence that he or she has completed fifty hours of continuing
14 education within a two-year period.] **To renew a license, each dentist shall submit satisfactory**
15 **evidence of completion of fifty hours of continuing education during the two-year period**
16 **immediately preceding the renewal period. Each dentist shall maintain documentation of**
17 **completion of the required continuing education hours as provided by rule. Failure to**
18 **obtain the required continuing education hours, failure to submit satisfactory evidence, or**
19 **failure to maintain documentation is a violation of section 332.321. As provided by rule,**
20 the board may extend the time requirements for completion of continuing education up to six
21 months for reasons related to health, military service, foreign residency or for other good cause.
22 All requests for extensions of time shall be made in writing and submitted to the board before
23 the renewal date. [The board may waive the requirements for continuing education for retired
24 or disabled dentists or for other good cause.]

25 5. Any licensed dentist who fails to renew his or her license on or before the renewal
26 date may apply to the board for renewal of his or her license within four years subsequent to the
27 date of the license expiration, provided that any such applicant shall pay a reinstatement fee for
28 the license.

29 6. The license of any dentist who fails to renew within four years of the time his or her
30 license has expired shall be void. The dentist may reapply for a license, provided that, unless
31 application is made pursuant to section 332.211, he or she shall pay the same fees and be
32 examined in the same manner as an original applicant for licensure as a dentist. A currently
33 licensed dentist in Missouri may apply to the board to be placed on an inactive list of dentists,
34 and during the time his or her name remains on the inactive list, he or she shall not practice
35 dentistry. If a dentist wishes to be removed from the inactive list, unless he or she applies
36 pursuant to section 332.211, he or she shall apply for a current license and pay the license fees
37 for the years between the date of the entry of his or her name on the inactive list and the date of
38 issuance of his current license. If the dentist has been on the inactive list for more than four
39 years, he or she shall be examined in the same manner as an original applicant for licensure as

40 a dentist.

41 7. A currently licensed dentist in Missouri who does not maintain a practice in this state
42 or does not reside in this state may apply to the board to be placed on an out-of-state licensee list
43 of dentists. Any dentist applying to be so licensed shall accompany his or her application with
44 a fee not greater than the licensure fee for a licensee who maintains a practice in this state or who
45 resides in this state. The required fee shall be established by the board, by rule, as with other
46 licensing fees.

 332.261. 1. No person shall engage in the practice of dental hygiene without having first
2 secured a license as provided for in this chapter.

3 2. Any person desiring a license to practice dental hygiene in Missouri shall make
4 application to the board on a form prescribed by the board pursuant to section 332.241. An
5 application for licensure shall be active for one year after the date it is received by the board.
6 The application becomes void if not completed within such one-year period.

7 3. All persons once licensed to practice as a dental hygienist in Missouri shall renew his
8 or her license to practice on or before the renewal date and shall display his or her license for
9 each current licensing period in the office in which he or she practices or offers to practice as a
10 dental hygienist.

11 4. Effective with the licensing period beginning on December 1, 2002, a license shall be
12 renewed every two years. [The board shall not renew the license of any hygienist unless the
13 licensee provides satisfactory evidence that he or she has completed thirty hours of continuing
14 education within a two-year period.] **To renew a license, each dental hygienist shall submit**
15 **satisfactory evidence of completion of thirty hours of continuing education during the two-**
16 **year period immediately preceding the renewal period. Each dental hygienist shall**
17 **maintain documentation of completion of the required continuing education hours as**
18 **provided by rule. Failure to obtain the required continuing education hours, failure to**
19 **submit satisfactory evidence, or failure to maintain documentation is a violation of section**
20 **332.321. As provided by rule,** the board may extend the time requirements for completion of
21 the continuing education up to six months for reasons related to health, military service, foreign
22 residency or for other good cause. All requests for extensions of time shall be made in writing
23 and submitted to the board before the renewal date. [The board may waive the requirements for
24 continuing education for retired or disabled hygienists or for other good cause.]

25 5. Any licensed dental hygienist who fails to renew his or her license on or before the
26 renewal date may apply to the board for renewal of his or her license within four years
27 subsequent to the date of the license expiration, provided that any such applicant shall pay a
28 reinstatement fee for the license.

29 6. The license of any dental hygienist who fails to renew within four years of the time

30 that his or her license expired shall be void. The dental hygienist may apply for a new license,
31 provided that, unless application is made pursuant to section 332.281, he or she shall pay the
32 same fees and be examined in the same manner as an original applicant for licensure as a dental
33 hygienist. A currently licensed dental hygienist in Missouri may apply to the board to be placed
34 on an inactive list of dental hygienists, and during the time his or her name remains on the
35 inactive list, he or she shall not practice as a dental hygienist. If a dental hygienist wishes to be
36 removed from the inactive list, unless he or she applies pursuant to section 332.281, he or she
37 shall apply for a current license and pay the license fees for the years between the date of the
38 entry of his or her name on the inactive list and the date of issuance of his or her current license.
39 If the dental hygienist has been on the inactive list for more than four years, he or she shall be
40 examined in the same manner as an original applicant for licensure as a dental hygienist.

41 7. A currently licensed dental hygienist in Missouri who does not practice in this state
42 or who does not reside in this state may apply to the board to be placed on an out-of-state
43 registration list of dental hygienists. Any dental hygienist applying to be so licensed shall
44 accompany his or her application with a fee not greater than the license fee for a licensee who
45 practices in this state or resides in this state. The required fee shall be established by the board,
46 by rule, as with other licensing fees.

332.327. 1. The board may establish an impaired dentist or dental hygienist committee,
2 to be designated as the well-being committee, to promote the early identification, intervention,
3 treatment and rehabilitation of dentists or dental hygienists who may be impaired by reasons of
4 illness, substance abuse, or as a result of any physical or mental condition. The board may enter
5 into a contractual agreement with a nonprofit corporation or a dental association for the purpose
6 of creating, supporting and maintaining a committee to be designated as the well-being
7 committee. The board may promulgate administrative rules subject to the provisions of this
8 section and chapter 536, RSMo, to effectuate and implement any committee formed pursuant to
9 this section. The board may expend appropriated funds necessary to provide for operational
10 expenses of the committee formed pursuant to this section. Any member of the well-being
11 committee, as well as any administrator, staff member, consultant, agent or employee of the
12 committee, acting within the scope of his or her duties and without actual malice and, all other
13 persons who furnish information to the committee in good faith and without actual malice, shall
14 not be liable for any claim of damages as a result of any statement, decision, opinion,
15 investigation or action taken by the committee, or by any individual member of the committee.

16 2. All information, interviews, reports, statements, memoranda or other documents
17 furnished to or produced by the well-being committee, as well as communications to or from the
18 committee, any findings, conclusions, interventions, treatment, rehabilitation or other
19 proceedings of the committee which in any way pertain to a licensee who may be, or who

20 actually is, impaired shall be privileged and confidential.

21 3. All records and proceedings of the well-being committee which pertain or refer to a
22 licensee who may be, or who actually is, impaired shall be privileged and confidential and shall
23 be used by the committee and its members only in the exercise of the proper function of the
24 committee and shall not be considered public records pursuant to chapter 610, RSMo, and shall
25 not be subject to court subpoena or subject to discovery or introduction as evidence in any civil,
26 criminal or administrative proceedings except as provided in subsection 4 of this section.

27 4. The well-being committee may disclose information relative to an impaired licensee
28 only when:

29 (1) It is essential to disclose the information to further the intervention, treatment or
30 rehabilitation needs of the impaired licensee and only to those persons or organization with a
31 need to know;

32 (2) Its release is authorized in writing by the impaired licensee;

33 (3) The committee is required to make a report to the board; or

34 (4) The information is subject to a court order.

35 **5. In lieu of pursuing discipline against a dentist or dental hygienist for violating**
36 **one or more causes stated in subsection 2 of section 332.321, the board may enter into a**
37 **diversion agreement with a dentist or dental hygienist to refer the licensee to the dental**
38 **well-being committee under such terms and conditions as are agreed to by the board and**
39 **licensee for a period not to exceed five years. The board shall enter into no more than two**
40 **diversion agreements with any individual licensee. If the licensee violates a term or**
41 **condition of a diversion agreement entered into pursuant to this section, the board may**
42 **elect to pursue discipline against the licensee pursuant to chapter 621, RSMo, for the**
43 **original conduct that resulted in the diversion agreement, or for any subsequent violation**
44 **of subsection 2 of section 332.321. While the licensee participates in the well-being**
45 **committee, the time limitations of section 620.154, RSMo, shall toll pursuant to subsection**
46 **7 of section 620.154, RSMo. All records pertaining to diversion agreements are**
47 **confidential and may only be released pursuant to subdivision (7) of subsection 14 of**
48 **section 620.010, RSMo.**

2 **332.332. 1. Upon unanimous consent of the members of the board participating in**
3 **the vote, the president or secretary of the board shall administer oaths, subpoena witnesses,**
4 **issue subpoenas duces tecum and require production of documents and records.**
5 **Subpoenas, including subpoena duces tecum, shall be served by a person authorized to**
6 **serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce**
7 **original documents in response to a subpoena duces tecum, the board may require sworn**
8 **copies of such documents to be filed with it or delivered to its designated representative.**

8 **2. The board may enforce its subpoenas, including subpoenas duces tecum, by**
9 **applying to a circuit court of Cole County, the county of the investigation, hearing, or**
10 **proceeding, or any county where the person resides or may be found, for an order upon**
11 **any person who shall fail to obey a subpoena to show cause why such subpoena should not**
12 **be enforced, which such order and a copy of the application thereof shall be served upon**
13 **the person in the same manner as a summons in a civil action and if the circuit court shall,**
14 **after a hearing, determine that the subpoena should be sustained and enforced, such court**
15 **shall proceed to enforce the subpoena in the same manner as though the subpoena had**
16 **been issued in a civil case in the circuit court.**

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

9 2. Collaborative practice arrangements, which shall be in writing, may delegate to a
10 registered professional nurse the authority to administer, dispense or prescribe drugs and provide
11 treatment if the registered professional nurse is an advanced practice nurse as defined in
12 subdivision (2) of section 335.016, RSMo. Such collaborative practice arrangements shall be
13 in the form of written agreements, jointly agreed-upon protocols or standing orders for the
14 delivery of health care services.

15 3. The state board of registration for the healing arts pursuant to section 334.125 and the
16 board of nursing pursuant to section 335.036, RSMo, may jointly promulgate rules regulating
17 the use of collaborative practice arrangements. Such rules shall be limited to specifying
18 geographic areas to be covered, the methods of treatment that may be covered by collaborative
19 practice arrangements and the requirements for review of services provided pursuant to
20 collaborative practice arrangements. Any rules relating to dispensing or distribution of
21 medications or devices by prescription or prescription drug orders under this section shall be
22 subject to the approval of the state board of pharmacy. In order to take effect, such rules shall
23 be approved by a majority vote of a quorum of each board. Neither the state board of registration
24 for the healing arts nor the board of nursing may separately promulgate rules relating to
25 collaborative practice arrangements. Such jointly promulgated rules shall be consistent with
26 guidelines for federally funded clinics. The rulemaking authority granted in this subsection shall
27 not extend to collaborative practice arrangements of hospital employees providing inpatient care

28 within hospitals as defined pursuant to chapter 197, RSMo.

29 4. The state board of registration for the healing arts shall not deny, revoke, suspend or
30 otherwise take disciplinary action against a physician for [acts arising out of an agreement, which
31 on or after August 28, 1993, shall be a written agreement, with] **health care services delegated**
32 **to** a registered professional nurse[, a pharmacist or registered physician assistant practicing
33 within the scope of his license or registration] **provided the provisions of this section and the**
34 **rules promulgated thereunder are satisfied.** Upon the written request of [the] a physician
35 subject to [the] a **disciplinary** action[, the record of any such disciplinary licensure action]
36 imposed as a result of an agreement between a physician and a registered professional nurse or
37 registered physician assistant, whether written or not, prior to August 28, 1993, **all records of**
38 **such disciplinary licensure action** and all records pertaining to the filing, investigation or
39 review of an alleged violation of this chapter incurred as a result of such an agreement shall be
40 removed from the records of the state board of registration for the healing arts and the division
41 of professional registration and shall not be disclosed to any public or private entity seeking such
42 information from the board or the division. The state board of registration for the healing arts
43 shall take action to correct reports of alleged violations and disciplinary actions as described in
44 this section which have been submitted to the National Practitioner Data Bank. In subsequent
45 applications or representations relating to his medical practice, a physician completing forms or
46 documents shall not be required to report any actions of the state board of registration for the
47 healing arts for which the records are subject to removal under this section.

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

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

- 2 (1) "Applicant", any individual who seeks to become licensed as a physician assistant;
- 3 (2) "Certification" or "registration", a process by a certifying entity that grants
4 recognition to applicants meeting predetermined qualifications specified by such certifying
5 entity;
- 6 (3) "Certifying entity", the nongovernmental agency or association which certifies or
7 registers individuals who have completed academic and training requirements;
- 8 (4) "Department", the department of economic development or a designated agency
9 thereof;
- 10 (5) "License", a document issued to an applicant by the department acknowledging that
11 the applicant is entitled to practice as a physician assistant;

12 (6) "Physician assistant", a person who has graduated from a physician assistant program
13 accredited by the American Medical Association's Committee on Allied Health Education and
14 Accreditation or by its successor agency, who has passed the certifying examination administered
15 by the National Commission on Certification of Physician Assistants and has active certification
16 by the National Commission on Certification of Physician Assistants who provides health care
17 services delegated by a licensed physician. A person who has been employed as a physician
18 assistant for three years prior to August 28, 1989, who has passed the National Commission on
19 Certification of Physician Assistants examination, and has active certification of the National
20 Commission on Certification of Physician Assistants;

21 (7) "Recognition", the formal process of becoming a certifying entity as required by the
22 provisions of sections 334.735 to 334.749;

23 (8) "Supervision", [control exercised over a physician assistant working within the same
24 office facility of the supervising physician except a physician assistant may make follow-up
25 patient examinations in hospitals, nursing homes and correctional facilities, each such
26 examination being reviewed, approved and signed by the supervising physician] **overseeing the**
27 **activities of, and accepting responsibility for, the medical services rendered by a physician**
28 **assistant. The supervising physician shall at all times be immediately available to the**
29 **physician assistant for consultation, assistance or intervention either personally or via**
30 **telecommunications. A supervising physician shall be personally present for practice**
31 **supervision and collaboration a minimum of twenty percent of clinic hours in any clinic**
32 **location utilizing physicians assistants. The physician assistant shall be limited to practice**
33 **at locations where the supervising physician is no further than thirty miles by road using**
34 **the most direct route available, or in any other fashion so distanced as to create an**
35 **impediment to effective intervention and supervision of patient care or adequate review**
36 **of services; except that, physician assistants practicing in federally designated health**
37 **professional shortage areas (HPSA) shall be limited to practice at locations where the**
38 **supervising physician is no further than fifty miles by road, using the most direct route**
39 **available.** The board shall promulgate rules pursuant to chapter 536, RSMo, for the [proximity
40 of practice between the physician assistant and the supervising physician and] documentation of
41 joint review of the physician assistant activity by the supervising physician and the physician
42 assistant.

43 2. The scope of practice of a physician assistant shall consist only of the following
44 services and procedures:

45 (1) Taking patient histories;

46 (2) Performing physical examinations of a patient;

47 (3) Performing or assisting in the performance of routine office laboratory and patient

- 48 screening procedures;
- 49 (4) Performing routine therapeutic procedures;
- 50 (5) Recording diagnostic impressions and evaluating situations calling for attention of
51 a physician to institute treatment procedures;
- 52 (6) Instructing and counseling patients regarding mental and physical health using
53 procedures reviewed and approved by a licensed physician;
- 54 (7) Assisting the supervising physician in institutional settings, including reviewing of
55 treatment plans, ordering of tests and diagnostic laboratory and radiological services, and
56 ordering of therapies, using procedures reviewed and approved by a licensed physician;
- 57 (8) Assisting in surgery;
- 58 (9) Performing such other tasks not prohibited by law under the supervision of a licensed
59 physician as the [physician's] **physician** assistant has been trained and is proficient to perform;
- 60 (10) Physician assistants shall not perform abortions.
- 61 3. Physician assistants shall not prescribe nor dispense any drug, medicine, device or
62 therapy independent of consultation with the supervising physician, nor prescribe lenses, prisms
63 or contact lenses for the aid, relief or correction of vision or the measurement of visual power
64 or visual efficiency of the human eye, nor administer or monitor general or regional block
65 anesthesia during diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing
66 of drugs, medications, devices or therapies by a physician assistant shall be pursuant to a
67 physician assistant supervision agreement which is specific to the clinical conditions treated by
68 the supervising physician and the physician assistant shall be subject to the following:
- 69 (1) A physician assistant shall not prescribe controlled substances;
- 70 (2) The types of drugs, medications, devices or therapies prescribed or dispensed by a
71 physician assistant shall be consistent with the scopes of practice of the physician assistant and
72 the supervising physician;
- 73 (3) All prescriptions shall conform with state and federal laws and regulations and shall
74 include the name, address and telephone number of the physician assistant and the supervising
75 physician;
- 76 (4) A physician assistant or advanced practice nurse as defined in section 335.016,
77 RSMo, may request, receive and sign for noncontrolled professional samples and may distribute
78 professional samples to patients;
- 79 (5) A physician assistant shall not prescribe any drugs, medicines, devices or therapies
80 the supervising physician is not qualified or authorized to prescribe; and
- 81 (6) A physician assistant may only dispense starter doses of medication to cover a period
82 of time for seventy-two hours or less.
- 83 4. A physician assistant shall clearly identify himself or herself as a physician assistant

84 and shall not use or permit to be used in the physician assistant's behalf the terms "doctor", "Dr."
85 or "doc" nor hold himself or herself out in any way to be a physician or surgeon. No physician
86 assistant shall practice or attempt to practice without physician supervision or in any location
87 where the supervising physician is not immediately available for consultation, assistance and
88 intervention, except in an emergency situation, nor shall any physician assistant bill a patient
89 independently or directly for any services or procedure by the physician assistant.

90 5. The physician assistant shall be a person who is a graduate of a physician assistant
91 program accredited by the American Medical Association's Committee on Allied Health
92 Education and Accreditation or its successor or is certified by a national nongovernmental
93 agency or association, who has passed the National Commission on Certification of Physician
94 Assistants examination and has active certification by the National Commission on Certification
95 of Physician Assistants or its successor. A person who has been employed as a physician
96 assistant for three years prior to August 28, 1989, and has passed the National Commission on
97 Certification of Physician Assistants examination shall be deemed to have met the academic
98 requirements necessary for licensing. **All applicants for physician assistant licensure who**
99 **complete their physician assistant training program after January 1, 2005, must have a**
100 **master's degree in a health or medical science related field.**

101 6. For purposes of this section, the licensing of physician assistants shall take place
102 within processes established by the state board of registration for the healing arts through rule
103 and regulation. The board of healing arts is authorized to establish rules pursuant to chapter 536,
104 RSMo, establishing licensing and renewal procedures, supervision, supervision agreements, fees,
105 and addressing such other matters as are necessary to protect the public and discipline the
106 profession. An application for licensing may be denied or the license of a physician assistant
107 may be suspended or revoked by the board in the same manner and for violation of the standards
108 as set forth by section 334.100, or such other standards of conduct set by the board by rule or
109 regulation. Persons licensed pursuant to the provisions of chapter 335, RSMo, shall not be
110 required to be licensed as physician assistants.

111 7. "Physician assistant supervision agreement" means a written agreement, jointly agreed
112 upon protocols or standing order between a supervising physician and a physician assistant,
113 which provides for the delegation of health care services from a supervising physician to a
114 physician assistant and the review of such services.

115 8. When a physician assistant supervision agreement is utilized to provide health care
116 services for conditions other than acute self-limited or well-defined problems, the supervising
117 physician or other physician designated in the supervision agreement, shall see the patient for
118 evaluation and approve or formulate the plan of treatment for new or significantly changed
119 conditions as soon as practical, but in no case more than two weeks after the patient has been

120 seen by the physician assistant.

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

123 **10. No physician may be designated to serve as supervising physician for more than**
124 **three full-time equivalent licensed physician assistants. This information shall not apply**
125 **to physician assistant agreements of hospital employees providing in-patient care services**
126 **in hospitals as defined in chapter 197, RSMo.**

127 **11. It is the responsibility of the supervising physician to determine and document**
128 **the completion of at least-one month period of time during which the licensed physician**
129 **assistant shall practice with a supervising physician continuously present before practicing**
130 **in a setting where a supervising physician is not continuously present.**

335.016. As used in [sections 335.011 to 335.096] **this chapter**, unless the context
2 clearly requires otherwise, the following words and terms mean:

3 (1) "Accredited", the official authorization or status granted by an agency for a program
4 through a voluntary process;

5 (2) "Advanced practice nurse", a nurse who has had education beyond the basic nursing
6 education and is certified by a nationally recognized professional organization as having a
7 nursing specialty, or who meets criteria for advanced practice nurses established by the board of
8 nursing. The board of nursing may promulgate rules specifying which professional nursing
9 organization certifications are to be recognized as advanced practice nurses, and may set
10 standards for education, training and experience required for those without such specialty
11 certification to become advanced practice nurses;

12 (3) "Approval", official recognition of nursing education programs which meet standards
13 established by the board of nursing;

14 (4) "Board" or "state board", the state board of nursing;

15 (5) "Executive director", a qualified [registered professional nurse] **individual** employed
16 by the board as executive secretary or otherwise to administer the provisions of [sections 335.011
17 to 335.096] **this chapter** under the board's direction. Such person employed as executive
18 director shall not be a member of the board;

19 (6) "Inactive nurse", as defined by rule pursuant to section 335.061;

20 (7) A "licensed practical nurse" or "practical nurse", a person licensed pursuant to the
21 provisions of [sections 335.011 to 335.096] **this chapter** to engage in the practice of practical
22 nursing;

23 (8) "Licensure", the issuing of a license to practice professional or practical nursing to
24 candidates who have met the specified requirements and the recording of the names of those
25 persons as holders of a license to practice professional or practical nursing;

26 (9) "Practical nursing", the performance for compensation of selected acts for the
27 promotion of health and in the care of persons who are ill, injured, or experiencing alterations
28 in normal health processes. Such performance requires substantial specialized skill, judgment
29 and knowledge. All such nursing care shall be given under the direction of a person licensed by
30 a state regulatory board to prescribe medications and treatments or under the direction of a
31 registered professional nurse. For the purposes of this chapter, the term "direction" shall mean
32 guidance or supervision provided by a person licensed by a state regulatory board to prescribe
33 medications and treatments or a registered professional nurse, including, but not limited to, oral,
34 written, or otherwise communicated orders or directives for patient care. When practical nursing
35 care is delivered pursuant to the direction of a person licensed by a state regulatory board to
36 prescribe medications and treatments or under the direction of a registered professional nurse,
37 such care may be delivered by a licensed practical nurse without direct physical oversight;

38 (10) "Professional nursing", the performance for compensation of any act which requires
39 substantial specialized education, judgment and skill based on knowledge and application of
40 principles derived from the biological, physical, social and nursing sciences, including, but not
41 limited to:

42 (a) Responsibility for the teaching of health care and the prevention of illness to the
43 patient and his or her family;

44 (b) Assessment, nursing diagnosis, nursing care, and counsel of persons who are ill,
45 injured or experiencing alterations in normal health processes;

46 (c) The administration of medications and treatments as prescribed by a person licensed
47 by a state regulatory board to prescribe medications and treatments;

48 (d) The coordination and assistance in the delivery of a plan of health care with all
49 members of a health team;

50 (e) The teaching and supervision of other persons in the performance of any of the
51 foregoing;

52 (11) A "registered professional nurse" or "registered nurse", a person licensed pursuant
53 to the provisions of [sections 335.011 to 335.096] **this chapter** to engage in the practice of
54 professional nursing.

**336.001. Notwithstanding any law to the contrary, if in the determination of the
2 appropriate licensing board, another state is deemed to have substantially equivalent
3 certification or licensure requirements, an applicant who is certified or licensed under the
4 laws of the other state may obtain a license pursuant to this chapter upon the terms and
5 conditions as may be determined by the board, regardless of the minimum age
6 requirements of the other state; provided that the terms and conditions shall comply with
7 the minimum criteria for certification or licensure issued by the board.**

336.002. 1. Notwithstanding any law to the contrary, any person licensed pursuant to this chapter may apply to the appropriate licensing board for an inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form and the board's determination that the licensee meets the requirements established by rule, the board shall declare the licensee inactive and shall place the licensee on an inactive status list. A person whose license is inactive shall not practice his or her profession within this state, but may continue to use the title of his or her profession or the initials of his or her profession after such person's name.

2. If a licensee is granted inactive status, the licensee may return to active status by notifying the board in advance of his or her intention, paying the appropriate fees, and meeting all established requirements of the board as a condition of reinstatement.

3. Any licensee allowing his or her inactive license to lapse, may within five years of the lapse return their license to active status by notifying the board in advance of such intention, paying the appropriate fees, and meeting all established licensure requirements of the appropriate licensing board, excluding the licensing examination, as a condition of reinstatement.

336.003. Notwithstanding any law to the contrary, if any holder of a temporary permit or license is unable to complete the period of time granted by a temporary permit or any authorized extension thereof, the applicant may place the temporary permit on inactive status until such time as the individual reactivates the temporary permit for the purpose of completing any unexpired period of time for the temporary permit and any extension thereof.

337.002. 1. Notwithstanding any law to the contrary, any person licensed pursuant to this chapter may apply to the appropriate licensing board for an inactive license status on a form furnished by the board. Upon receipt of the completed inactive status application form and the board's determination that the licensee meets the requirements established by rule, the board shall declare the licensee inactive and shall place the licensee on an inactive status list. A person whose license is inactive shall not practice his or her profession within this state, but may continue to use the title of his or her profession or the initials of his or her profession after such person's name.

2. If a licensee is granted inactive status, the licensee may return to active status by notifying the board in advance of his or her intention, paying the appropriate fees, and meeting all established requirements of the board as a condition of reinstatement.

3. Any licensee allowing his or her inactive license to lapse, may within five years of the lapse return their license to active status by notifying the board in advance of such intention, paying the appropriate fees, and meeting all established licensure requirements

15 of the appropriate licensing board, excluding the licensing examination, as a condition of
16 reinstatement.

339.001. Notwithstanding any law to the contrary, if in the determination of the
2 appropriate licensing board, another state is deemed to have substantially equivalent
3 certification or licensure requirements, an applicant who is certified or licensed under the
4 laws of the other state may obtain a license pursuant to this chapter upon the terms and
5 conditions as may be determined by the board, regardless of the minimum age
6 requirements of the other state; provided that the terms and conditions shall comply with
7 the minimum criteria for certification or licensure issued by the board.

339.002. 1. Notwithstanding any law to the contrary, any person licensed pursuant
2 to this chapter may apply to the appropriate licensing board for an inactive license status
3 on a form furnished by the board. Upon receipt of the completed inactive status
4 application form and the board's determination that the licensee meets the requirements
5 established by rule, the board shall declare the licensee inactive and shall place the licensee
6 on an inactive status list. A person whose license is inactive shall not practice his or her
7 profession within this state, but may continue to use the title of his or her profession or the
8 initials of his or her profession after such person's name.

9 2. If a licensee is granted inactive status, the licensee may return to active status by
10 notifying the board in advance of his or her intention, paying the appropriate fees, and
11 meeting all established requirements of the board as a condition of reinstatement.

12 3. Any licensee allowing his or her inactive license to lapse, may within five years
13 of the lapse return their license to active status by notifying the board in advance of such
14 intention, paying the appropriate fees, and meeting all established licensure requirements
15 of the appropriate licensing board, excluding the licensing examination, as a condition of
16 reinstatement.

339.003. Notwithstanding any law to the contrary, if any holder of a temporary
2 permit or license is unable to complete the period of time granted by a temporary permit
3 or any authorized extension thereof, the applicant may place the temporary permit on
4 inactive status until such time as the individual reactivates the temporary permit for the
5 purpose of completing any unexpired period of time for the temporary permit and any
6 extension thereof.

339.710. For purposes of sections 339.710 to 339.860, the following terms mean:

2 (1) "Adverse material fact", a fact related to the physical condition of the property not
3 reasonably ascertainable or known to a party which negatively affects the value of the property.

4 Adverse material facts may include matters pertaining to:

5 (a) Environmental hazards affecting the property;

- 6 (b) Physical condition of the property which adversely affects the value of the property;
- 7 (c) Material defects in the property;
- 8 (d) Material defects in the title to the property;
- 9 (e) Material limitation of the party's ability to perform under the terms of the contract;
- 10 (2) "Affiliated licensee", any broker or salesperson who works under the supervision of
- 11 a designated broker;
- 12 (3) "Agent", a person or entity acting pursuant to the provisions of this chapter;
- 13 (4) "Broker disclosure form", the current form prescribed by the commission for
- 14 presentation to a seller, landlord, buyer or tenant who has not entered into a written agreement
- 15 for brokerage services;
- 16 (5) "Brokerage relationship", the relationship created between a designated broker, the
- 17 broker's affiliated licensees, and a client relating to the performance of services of a broker as
- 18 defined in section 339.010, and sections 339.710 to 339.860. If a designated broker makes an
- 19 appointment of an affiliated licensee or affiliated licensees pursuant to section 339.820, such
- 20 brokerage relationships are created between the appointed licensee or licensees and the client.
- 21 Nothing in this subdivision shall:
- 22 (a) Alleviate the designated broker from duties of supervision of the appointed licensee
- 23 or licensees; or
- 24 (b) Alter the designated broker's underlying contractual agreement with the client;
- 25 (6) "Client", a seller, landlord, buyer, or tenant who has entered into a brokerage
- 26 relationship with a licensee pursuant to sections 339.710 to 339.860;
- 27 (7) **"Commercial real estate", any real estate other than real estate containing one**
- 28 **to four residential units, real estate on which no buildings or structures are located, or real**
- 29 **estate classified as agricultural and horticultural property for assessment purposes**
- 30 **pursuant to section 137.016, RSMo. Commercial real estate does not include single family**
- 31 **residential units including condominiums, townhouses, or homes in a subdivision when**
- 32 **that real estate is sold, leased, or otherwise conveyed on a unit-by-unit basis even though**
- 33 **the units may be part of a larger building or parcel of real estate containing more than four**
- 34 **units.**
- 35 (8) "Commission", the Missouri real estate commission;
- 36 [(8)] (9) "Confidential information", information obtained by the licensee from the client
- 37 and designated as confidential by the client, information made confidential by sections 339.710
- 38 to 339.860 or any other statute or regulation, or written instructions from the client unless the
- 39 information is made public or becomes public by the words or conduct of the client to whom the
- 40 information pertains or by a source other than the licensee;
- 41 [(9)] (10) "Customer", an actual or potential seller, landlord, buyer, or tenant in a real

42 estate transaction in which a licensee is involved but who has not entered into a brokerage
43 relationship with a licensee;

44 [(10)] (11) "Designated agent", a licensee named by a designated broker as the limited
45 agent of a client as provided for in section 339.820;

46 [(11)] (12) "Designated broker", any individual licensed as a broker who is operating
47 pursuant to the definition of "real estate broker" as defined in section 339.010, or any individual
48 licensed as a broker who is appointed by a partnership, association, limited liability corporation,
49 or a corporation engaged in the real estate brokerage business to be responsible for the acts of
50 the partnership, association, limited liability corporation, or corporation. Every real estate
51 partnership, association, or limited liability corporation, or corporation shall appoint a designated
52 broker;

53 [(12)] (13) "Designated transaction broker", a licensee named by a designated broker or
54 deemed appointed by a designated broker as the transaction broker for a client pursuant to section
55 339.820;

56 [(13)] (14) "Dual agency", a form of agency which may result when an agent licensee
57 or someone affiliated with the agent licensee represents another party to the same transaction;

58 [(14)] (15) "Dual agent", a limited agent who, with the written consent of all parties to
59 a contemplated real estate transaction, has entered into an agency brokerage relationship, and not
60 a transaction brokerage relationship, with and therefore represents both the seller and buyer or
61 both the landlord and tenant;

62 [(15)] (16) "Licensee", a real estate broker or salesperson as defined in section 339.010;

63 [(16)] (17) "Limited agent", a licensee whose duties and obligations to a client are those
64 set forth in sections 339.730 to 339.750;

65 [(17)] (18) "Ministerial acts", those acts that a licensee may perform for a person or
66 entity that are informative in nature and do not rise to the level which requires the creation of a
67 brokerage relationship. Examples of these acts include, but are not limited to:

68 (a) Responding to telephone inquiries by consumers as to the availability and pricing of
69 brokerage services;

70 (b) Responding to telephone inquiries from a person concerning the price or location of
71 property;

72 (c) Attending an open house and responding to questions about the property from a
73 consumer;

74 (d) Setting an appointment to view property;

75 (e) Responding to questions of consumers walking into a licensee's office concerning
76 brokerage services offered on particular properties;

77 (f) Accompanying an appraiser, inspector, contractor, or similar third party on a visit to

78 a property;

79 (g) Describing a property or the property's condition in response to a person's inquiry;

80 (h) Showing a customer through a property being sold by an owner on his or her own
81 behalf; or

82 (i) Referral to another broker or service provider;

83 **(19) "Residential real estate", all real property improved by a structure that is used**
84 **or intended to be used primarily for residential living by human occupants and that**
85 **contains not more than four dwelling units or that contains single dwelling units owned as**
86 **a condominium or in a cooperative housing association, and vacant land classified as**
87 **residential property. The term "cooperative housing association", means an association,**
88 **whether incorporated or unincorporated, organized for the purpose of owning and**
89 **operating residential real property in Missouri, the shareholders or members of which, by**
90 **reason of their ownership of a stock or membership certificate, a proprietary lease, or**
91 **other evidence of membership, are entitled to occupy a dwelling unit pursuant to the terms**
92 **of a proprietary lease or occupancy agreement;**

93 [(18)] **(20)** "Single agent", a licensee who has entered into a brokerage relationship with
94 and therefore represents only one party in a real estate transaction. A single agent may be one
95 of the following:

96 (a) "Buyer's agent", which shall mean a licensee who represents the buyer in a real estate
97 transaction;

98 (b) "Seller's agent", which shall mean a licensee who represents the seller in a real estate
99 transaction; and

100 (c) "Landlord's agent", which shall mean a licensee who represents a landlord in a leasing
101 transaction;

102 (d) "Tenant's agent", which shall mean a licensee who represents the tenant in a leasing
103 transaction;

104 [(19)] **(21)** "Subagent", a designated broker, together with the broker's affiliated
105 licensees, engaged by another designated broker, together with the broker's affiliated or
106 appointed affiliated licensees, to act as a limited agent for a client, or a designated broker's
107 unappointed affiliated licensees engaged by the designated broker, together with the broker's
108 appointed affiliated licensees, to act as a limited agent for a client. A subagent owes the same
109 obligations and responsibilities to the client pursuant to sections 339.730 to 339.740 as does the
110 client's designated broker;

111 [(20)] **(22)** "Transaction broker", any licensee acting pursuant to sections 339.710 to
112 339.860, who:

113 (a) Assists the parties to a transaction without an agency or fiduciary relationship to

114 either party and is, therefore, neutral, serving neither as an advocate or advisor for either party
115 to the transaction;

116 (b) Assists one or more parties to a transaction and who has not entered into a specific
117 written agency agreement to represent one or more of the parties; or

118 (c) Assists another party to the same transaction either solely or through licensee
119 affiliates. Such licensee shall be deemed to be a transaction broker and not a dual agent,
120 provided that, notice of assumption of transaction broker status is provided to the buyer and
121 seller immediately upon such default to transaction broker status, to be confirmed in writing prior
122 to execution of the contract.

339.720. 1. A licensee's general duties and obligations arising from the limited agency
2 relationship shall be disclosed in writing to the seller and the buyer or to the landlord and the
3 tenant pursuant to sections 339.760 to 339.780. Alternatively, when engaged in any of the
4 activities enumerated in section 339.010, a licensee may act as an agent in any transaction in
5 accordance with a written agreement as described in section 339.780.

6 2. A licensee shall be considered a transaction broker unless:

7 (1) The designated broker enters into a written seller's agent or landlord's agent
8 agreement with the party or parties to be represented pursuant to subsection 2 of section 339.780;

9 (2) The designated broker enters into a subagency agreement with another designated
10 broker pursuant to subsection 5 of section 339.780;

11 (3) The designated broker [enters into a written buyer's agent or tenant's agent agreement
12 with the party or parties to be represented pursuant to subsection 3 of section 339.780]
13 **establishes a buyer's or tenant's agency relationship pursuant to subsection 3 of section**
14 **339.780;**

15 (4) The designated broker enters into a written agency agreement pursuant to subsection
16 7 of section 339.780;

17 (5) The designated broker and the affiliated licensees are performing ministerial acts;

18 (6) The designated broker enters into a written dual agency agreement with the parties
19 pursuant to subsection 4 of section 339.780;

20 (7) The designated broker is acting in a manner described in paragraph (c) of subdivision
21 [(20)] **(22)** of section 339.710 without proper notice of assumption of transaction broker status;
22 or

23 (8) The licensee is making a listing presentation, which may include pricing and
24 marketing advice about a potential future transaction, to a customer in anticipation of entering
25 into a signed agency brokerage service agreement as a direct result of the presentation.

26 3. Sections 339.710 to 339.860 do not obligate any buyer or tenant to pay compensation
27 to a designated broker unless the buyer or tenant has entered into a written agreement with the

28 designated broker specifying the compensation terms in accordance with subsection 3 of section
29 339.780.

30 4. A licensee may work with a single party in separate transactions pursuant to different
31 relationships, including, but not limited to, selling one property as a transaction broker or a
32 seller's agent working with that seller in buying another property as a buyer's agent, as a subagent
33 or as a transaction broker if the licensee complies with sections 339.710 to 339.860 in
34 establishing the relationships for each transaction.

339.770. 1. **In a residential real estate transaction**, at the earliest practicable
2 opportunity during or following the first substantial contact by the designated broker or the
3 affiliated licensees with a seller, landlord, buyer, or tenant who has not entered into a written
4 agreement for services as described in subdivision (5) of section 339.710, the licensee shall
5 provide that person with a written copy of the current broker disclosure form which has been
6 prescribed by the commission.

7 2. When a seller, landlord, buyer, or tenant has already entered into a written agreement
8 for services with a designated broker, no other licensee shall be required to make the disclosures
9 required by this section.

10 3. Disclosures made in accordance with sections 339.710 to 339.860 shall be sufficient
11 as a matter of law to disclose brokerage relationships to the public.

340.001. Notwithstanding any law to the contrary, if in the determination of the
2 **appropriate licensing board, another state is deemed to have substantially equivalent**
3 **certification or licensure requirements, an applicant who is certified or licensed under the**
4 **laws of the other state may obtain a license pursuant to this chapter upon the terms and**
5 **conditions as may be determined by the board, regardless of the minimum age**
6 **requirements of the other state; provided that the terms and conditions shall comply with**
7 **the minimum criteria for certification or licensure issued by the board.**

340.002. 1. Notwithstanding any law to the contrary, any person licensed pursuant
2 **to this chapter may apply to the appropriate licensing board for an inactive license status**
3 **on a form furnished by the board. Upon receipt of the completed inactive status**
4 **application form and the board's determination that the licensee meets the requirements**
5 **established by rule, the board shall declare the licensee inactive and shall place the licensee**
6 **on an inactive status list. A person whose license is inactive shall not practice his or her**
7 **profession within this state, but may continue to use the title of his or her profession or the**
8 **initials of his or her profession after such person's name.**

9 2. **If a licensee is granted inactive status, the licensee may return to active status by**
10 **notifying the board in advance of his or her intention, paying the appropriate fees, and**
11 **meeting all established requirements of the board as a condition of reinstatement.**

12 **3. Any licensee allowing his or her inactive license to lapse, may within five years**
13 **of the lapse return their license to active status by notifying the board in advance of such**
14 **intention, paying the appropriate fees, and meeting all established licensure requirements**
15 **of the appropriate licensing board, excluding the licensing examination, as a condition of**
16 **reinstatement.**

340.003. Notwithstanding any law to the contrary, if any holder of a temporary
2 **permit or license is unable to complete the period of time granted by a temporary permit**
3 **or any authorized extension thereof, the applicant may place the temporary permit on**
4 **inactive status until such time as the individual reactivates the temporary permit for the**
5 **purpose of completing any unexpired period of time for the temporary permit and any**
6 **extension thereof.**

346.001. Notwithstanding any law to the contrary, if in the determination of the
2 **appropriate licensing board, another state is deemed to have substantially equivalent**
3 **certification or licensure requirements, an applicant who is certified or licensed under the**
4 **laws of the other state may obtain a license pursuant to this chapter upon the terms and**
5 **conditions as may be determined by the board, regardless of the minimum age**
6 **requirements of the other state; provided that the terms and conditions shall comply with**
7 **the minimum criteria for certification or licensure issued by the board.**

346.002. 1. Notwithstanding any law to the contrary, any person licensed pursuant
2 **to this chapter may apply to the appropriate licensing board for an inactive license status**
3 **on a form furnished by the board. Upon receipt of the completed inactive status**
4 **application form and the board's determination that the licensee meets the requirements**
5 **established by rule, the board shall declare the licensee inactive and shall place the licensee**
6 **on an inactive status list. A person whose license is inactive shall not practice his or her**
7 **profession within this state, but may continue to use the title of his or her profession or the**
8 **initials of his or her profession after such person's name.**

9 **2. If a licensee is granted inactive status, the licensee may return to active status by**
10 **notifying the board in advance of his or her intention, paying the appropriate fees, and**
11 **meeting all established requirements of the board as a condition of reinstatement.**

12 **3. Any licensee allowing his or her inactive license to lapse, may within five years**
13 **of the lapse return their license to active status by notifying the board in advance of such**
14 **intention, paying the appropriate fees, and meeting all established licensure requirements**
15 **of the appropriate licensing board, excluding the licensing examination, as a condition of**
16 **reinstatement.**

346.003. Notwithstanding any law to the contrary, if any holder of a temporary
2 **permit or license is unable to complete the period of time granted by a temporary permit**

3 **or any authorized extension thereof, the applicant may place the temporary permit on**
 4 **inactive status until such time as the individual reactivates the temporary permit for the**
 5 **purpose of completing any unexpired period of time for the temporary permit and any**
 6 **extension thereof.**

621.045. 1. The administrative hearing commission shall conduct hearings and make
 2 findings of fact and conclusions of law in those cases when, under the law, a license issued by
 3 any of the following agencies may be revoked or suspended or when the licensee may be placed
 4 on probation or when an agency refuses to permit an applicant to be examined upon his
 5 qualifications or refuses to issue or renew a license of an applicant who has passed an
 6 examination for licensure or who possesses the qualifications for licensure without examination:

- 7 Missouri State Board of Accountancy
- 8 Missouri Board of Registration for Architects, Professional Engineers and [Land]
- 9 Surveyors
- 10 Board of Barber Examiners
- 11 Board of Cosmetology
- 12 Board of Chiropody and Podiatry
- 13 Board of Chiropractic Examiners
- 14 Missouri Dental Board
- 15 Board of Embalmers and Funeral Directors
- 16 Board of Registration for the Healing Arts
- 17 Board of Nursing
- 18 Board of Optometry
- 19 Board of Pharmacy
- 20 Missouri Real Estate Commission
- 21 Missouri Veterinary Medical Board
- 22 Supervisor of Liquor Control
- 23 Department of Health
- 24 Department of Insurance
- 25 Department of Mental Health
- 26 **Board of Private Investigators**

27 2. If in the future there are created by law any new or additional administrative agencies
 28 which have the power to issue, revoke, suspend, or place on probation any license, then those
 29 agencies are under the provisions of this law.

30 3. Notwithstanding any other provision of this section to the contrary, after August 28,
 31 1995, in order to encourage settlement of disputes between any agency described in subsection
 32 1 of this section and its licensees, any such agency shall:

33 (1) Provide the licensee with a written description of the specific conduct for which
34 discipline is sought and a citation to the law and rules allegedly violated, together with copies
35 of any documents which are the basis thereof, or file a contested case against the licensee, at least
36 thirty days prior to offering the licensee a settlement proposal, and provide the licensee with an
37 opportunity to respond to the allegations;

38 (2) If no contested case has been filed against the licensee, allow the licensee at least
39 sixty days, from the date of mailing, during which to consider the agency's initial settlement offer
40 and discuss the terms of such settlement offer with the agency;

41 (3) If no contested case has been filed against the licensee, advise the licensee that the
42 licensee may, either at the time the settlement agreement is signed by all parties, or within fifteen
43 days thereafter, submit the agreement to the administrative hearing commission for determination
44 that the facts agreed to by the parties to the settlement constitute grounds for denying or
45 disciplining the license of the licensee; and

46 (4) In any contact pursuant to this subsection by the agency or its counsel with a licensee
47 who is not represented by counsel, advise the licensee that the licensee has the right to consult
48 an attorney at the licensee's own expense.

49 4. If the licensee desires review by the administrative hearing commission pursuant to
50 subdivision (3) of subsection 3 of this section at any time prior to the settlement becoming final,
51 the licensee may rescind and withdraw from the settlement and any admissions of fact or law in
52 the agreement shall be deemed withdrawn and not admissible for any purposes under the law
53 against the licensee. Any settlement submitted to the administrative hearing commission shall
54 not be effective and final unless and until findings of fact and conclusions of law are entered by
55 the administrative hearing commission that the facts agreed to by the parties to the settlement
56 constitute grounds for denying or disciplining the license of the licensee.

57 5. As to a matter settled prior to August 28, 1995, by consent agreement or agreed
58 settlement, any party to a consent agreement or agreed settlement, other than a state agency, after
59 having received written notice at their last known address known to the agency from the
60 respective licensing agency of a person's rights under this section, shall have six months to file
61 an action in the circuit court of Cole County contesting the authority of any agency described in
62 subsection 1 of this section to enter into such consent agreement or agreed settlement. Any
63 consent agreement or agreed settlement which is not invalidated by the court pursuant to this
64 subsection shall be given full force and effect by all courts and agencies.

2 [332.341. 1. Any person or other entity who believes that a registered and
3 licensed dentist or a registered and licensed dental hygienist has so acted or failed to
4 act that his certificate of registration or license or both should, under the provisions
5 of this chapter, be suspended or revoked, or who believes that any applicant for a
certificate of registration or license to practice dentistry or to practice as a dental

6 hygienist is not entitled thereto under the provisions of this chapter, may file a
7 complaint with the secretary-treasurer of the board.

8 2. If the complaint so filed does not contain statements of fact which if true
9 would authorize, under the provisions of this chapter, suspension or revocation of the
10 accused's certificate or license, or does not contain statements of fact which if true
11 would authorize, under the provisions of this chapter, the refusal to issue a certificate
12 or license to an applicant, the board shall either forthwith dismiss the charge or the
13 charges or, within its discretion, cause an investigation to be made of the charges
14 contained in the complaint; after which investigation the board shall either dismiss
15 the charge or charges or proceed against the accused by written complaint as
16 hereinafter provided.

17 3. If the complaint so filed contains statements of fact which if true would
18 authorize, under the provisions of this chapter, the revocation or suspension of an
19 accused's certificate or license, or both, the board shall cause an investigation to be
20 made of the charge or charges contained in the complaint and unless the investigation
21 discloses the falsity of the facts upon which the charge or charges in the complaint
22 are based, the board shall file with and in the administrative hearing commission a
23 written complaint against the accused setting forth the cause or causes for which his
24 certificate of registration or license or both should be suspended or revoked.
25 Thereafter the board shall be governed by and shall proceed in accordance with the
26 provisions of chapter 621, RSMo.

27 4. If the charges contained in the complaint filed with the board (after the
28 investigation as aforesaid), if true, would constitute a cause or causes for which,
29 under the provisions of this chapter, an accused's license should not be issued or
30 renewed or a cause or causes for which under the provisions of this chapter a
31 certificate of registration should not be issued, the board shall cause an investigation
32 to be made of the charge or charges and unless the investigation discloses the falsity
33 of the facts upon which the charge or charges contained in the complaint are based,
34 the board shall refuse to permit an applicant to be examined upon his qualifications
35 for licensure or shall refuse to issue a certificate or license or to renew a license, as
36 the case may require.

37 5. The provisions of this section shall not be so construed as to prevent the
38 board on its own initiative from instituting and conducting investigations and based
39 thereon to make written complaints in and to the hearing commission.

40 6. If for any reason the provisions of chapter 621, RSMo, become
41 inapplicable to the board, then, and in that event, the board shall proceed to charge,
42 adjudicate and otherwise act in accordance with the provisions of chapter 536,
43 RSMo.]